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Maritime Work Law Fundamentals: Responsible Shipowners, Reliable Seafarers

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Foreword

The importance of international maritime labour law - both as a component of international maritime law, and in socio-political and economic terms - has been recognised by the IMO International Maritime Law Institute for a number of years. Indeed, the Institute has annually organised a course on maritime labour law with the participation of *inter alia* the International Maritime Organization, the International Labour Organization, the International Transport Workers' Federation, and the German Shipowners' Association.

It was therefore a great pleasure when the authors invited me to introduce their forthcoming monograph on *Maritime Work Law Fundamentals: Responsible Shipowners Reliable Seafarers*. As the title suggests, a fundamental challenge of this branch of international maritime law is to achieve a balance between the interests of the two main stakeholders. Institutionally, the effort to achieve this balance dates back a number of decades with its genesis mainly found in the work of the International Labour Organization. It has to be said that whilst this effort achieved great progress, it has led to a haphazard, plethora of legal instruments.

Between 1920 and 1996, the International Labour Organization adopted some sixty-six instruments relating to seafarers' conditions of work. These texts were criticised as a number became less relevant over the years. These doubts are reflected in the fact that the instruments were unevenly enforced and very often not widely adhered to. This precarious situation led the International Labour Organization - some ten years ago - to review its maritime labour instruments with the scope of making them more relevant to the contemporary needs of stakeholders. This process culminated in the *Maritime Labour Convention* of 2006, which consolidated the pre-existing legal texts on maritime labour and brought clarity and order in this branch of international maritime law.

There are other important institutional sources of international maritime labour law which complement the work of the International Labour Organization. The International Maritime Organization has developed over the years important treaties - such as the *Standards of Training, Certification and Watchkeeping Convention* - dealing with the human dimension of international maritime law and consequently relevant to maritime labour law. In fact, one is able to trace strong influences of IMO's treaty practice in the *Maritime Labour Convention*. These efforts to harmonize the work of the International Labour Organization and the International Maritime Organization are most welcome and augur well for the future stability and security of international maritime labour law.

Complementing the universal work of these UN Specialized Agencies are important regional initiatives which may also have global importance, given the international nature of shipping. In particular, reference can be made to the series of

Memoranda of Understanding on Port State Control and the growing EU regimes protecting maritime labour.

Given the numerous texts which the abovementioned processes have produced, the stakeholder, academic, practitioner and student will find this book of great utility and assistance. The authors have compiled in one convenient volume the most relevant maritime labour instruments in a clear and logical manner. Particularly useful are the 'guides' which introduce each Chapter. The readers will also find excellent references to bibliographical sources, and relevant case-law of various maritime jurisdictions.

The vital role of maritime labour law, in the proper and effective governance of shipping, is not adequately reflected in the literature of the law. Its comprehensive treatment by the authors is thus particularly welcome. I am confident that their work's prime goal of contributing to a better understanding of maritime labour instruments will be achieved.

David J. Attard
Director
IMO International Maritime Law Institute

Malta
11th June 2007

Preface

The pathway to acceptable maritime labour standards has been a long and constructive one. The interest seems to have shifted nowadays from theory to practice. Adequate norms do exist; the challenge is knowledge thereof and the will of all those concerned to effectively implement them. In this context, *The Maritime Work Law Fundamentals: Responsible Shipowners, Reliable Seafarers* answers a need and endeavours to fill a gap in existing documentation.

The Maritime Work Law Fundamentals answers the need for reflection on contemporary maritime labour standards, beyond the dichotomy of the opposing interests between the employer and the employee. Qualitative shipping should place itself in a long-term perspective where the high standards of its human component would also constitute its competitive advantage. Credible shipowners appear to share this concern.

Not only does *The Maritime Work Law Fundamentals* answers a theoretical need, it also aspires to furthering practical application. This is pursued by presenting, in a global and accessible manner, existing maritime instruments which have an impact not only on maritime labour but also on shipowners, flag States and port States and which stem from the International Labour Organization (ILO), the International Maritime Organization (IMO) and the European Union (EU); moreover, the Paris Memorandum of Understanding on Port State Control (Paris MOU), the Memorandum of Understanding on Port State Control in the Asia-Pacific Region (Tokyo MOU) and the Memorandum of Understanding on Port State Control in the Black Sea (Black Sea MOU) have been included. It would have been a vain effort to consider rendering this book exhaustive, owing to the plethora of material available. However, we have incorporated some of the most important instruments - including recently adopted ones - which influence the regulatory framework of maritime work, such as the new consolidated Convention of the ILO on maritime work (adopted in February 2006).

This work also aims to render the instruments both accessible and comprehensible, in the form of a compilation of reasonable length. The jurist, the lawyer, the drafter, the maritime administrator, the social partner, the researcher, the university lecturer and the student should find the work a useful tool.

Since it is intended to be used as both a reference book and an introductory guide containing comments from the authors, this work does not diminish the need for recourse to the original instruments, which stem from the organizations that have elaborated them and which are, of course, the original texts. On the contrary, it provides the reader with the opportunity to learn how to use the aforementioned instruments more effectively.

The reader will find herein an overview of the above-mentioned instruments as well as comments with references to bibliography sources and case-law. The sources which are referred to stem notably from British, French, Greek, North-American and Russian literature.

The editors and authors would like to express their gratitude to the ILO, which granted copyright permission for the reproduction of the instruments concerned; they would also like to extend their thanks to the IMO, the Paris MOU, the Tokyo MOU, the Black Sea MOU and the European Commission for providing guidance on legal issues concerning the reproduction of relevant instruments. Professor Patrick Chaumette of the Université de Nantes provided guidance at various stages of Dr. Christodoulou-Varotsi's research on maritime labour issues, for which she is grateful; Professor Erik Rosaeg of the Scandinavian Institute of Maritime Law provided useful comments on the legal implications of the International Safety Management Code; mention should be made of Dr. Anthony Madella, Mrs. Lydia Markari-Kyriakou and Mr. Panayiotis Pacoutas from the Department of Merchant Shipping of the Republic of Cyprus for providing access to IMO documents, as well as of Commander (H.C.G.) George Boumpopoulos, from the Greek Ministry of Mercantile Marine, who has also offered useful guidance on IMO sources. The officers of the Division on Maritime Work of the same Ministry are also acknowledged.

Mr. Panayiotis Toyias's help with the text processing was invaluable, as well as Mrs. Agatha Kopsidis' comments on language improvements and Ms. Antigone Gaitana's further assistance on the accurate reproduction of the texts.

Last but not least, the co-editors and co-authors would like to extend their thanks to Ms. Brigitte Reschke, in her capacity as Senior Editor Law of Springer, Heidelberg, for having demonstrated confidence in the qualities of the proposal submitted to her in view of the present publication and to Professor David J. Atard, Director of the International Maritime Law Institute (IMLI), which operates under the auspices of the IMO in Malta, for having honoured this work with his preface.

Given the concern to have a collection of a reasonable volume, international conventions or regional instruments are reproduced in whole or in parts.

This book is the result of a collaborative effort. Dr. Iliana Christodoulou-Varotsi is primarily responsible for editing and/or writing the sections on the IMO, the Memoranda of Understanding and the EU; Mr Dmitry A. Pentsov is primarily responsible for developments relating to the ILO.

Should this book contribute to a better understanding of maritime labour instruments, it will have achieved its primary goal.

Dr. Iliana Christodoulou-Varotsi

Dmitry A. Pentsov

Athens (N. Psychiko)-Geneva
August 2007

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**Part I:
Standards of the International
Labour Organization (ILO)**

**by
*Dmitry A. Pentsov***

1. General overview

1.1. The ILO: its aims and purposes

International labour standards for seafarers are adopted by the International Labour Organization (ILO). The ILO itself was established in 1919 in accordance with Part XIII “Labour” of the Treaty of Versailles and other Peace Treaties.¹ Its aims and purposes, as defined in the Declaration of Philadelphia, appended to the ILO Constitution, include furthering among the nations of the world programmes which will achieve: (a) full employment and the raising of standards of living; (b) the employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being; (c) the provision, as a means to the attainment of this end and under adequate guarantees for all concerned, of facilities for training and the transfer of labour, including migration for employment and settlement; (d) policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection; (e) the effective recognition of the right of collective bargaining, the cooperation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures; (f) the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care; (g) adequate protection for the life and health of workers in all occupations; (h) provision for child welfare and maternity protection; (i) the provision of adequate nutrition, housing and facilities for recreation and culture; (j) the assurance of equality of educational and vocational opportunity.²

¹ The Treaty of Peace between the Allied and Associated Powers and Germany, and other Treaty Engagements, signed at Versailles, 28 June 1919 (London, HMSO, 1920). *See, also*, The International Labour Organization: The first decade (London, 1931); Nicolas Valticos & Geraldo von Pototsky, *International Labour Law* 18 (Kluwer, 1995).

² *See*, Constitution of the International Labour Organization and Standing orders of the International Labour Conference. (ILO, Geneva, 2004). *Available at*: <http://www.ilo.org/public/english/about/iloconst.htm> (last visit 27 March 2007).

1.2. The ILO standard-setting activities

One of the main functions of the ILO is the elaboration of the international labour standards in the form of Conventions or Recommendations. Both kinds of instrument are adopted by the International Labour Conference.³ Unlike Conventions, designed to create legal obligations for the States which ratify them, recommendations are not open to ratification, but give guidance as to policy, legislation and practice.⁴

Depending on the scope of their coverage, two major groups of the ILO Conventions and Recommendations may be distinguished. The first group consists of Conventions and Recommendations applicable to all categories of workers, regardless of the particular occupational sector.⁵ The Conventions and Recommendations within the second group deal with certain specific categories of workers, such as women,⁶ children and young persons,⁷ older workers,⁸ migrant workers,⁹ indigenous workers and tribal populations,¹⁰ as well as workers in particular occupational sectors, notably, seafarers, fishermen,¹¹ dock workers,¹² plantation workers,¹³ tenants and sharecroppers,¹⁴ and nursing personnel.¹⁵ The need for adopting the ILO Conventions and Recommendations dealing separately with these specific categories is usually justified by either the unique conditions of their work or the necessity for their special protection.¹⁶

³ Constitution of the ILO, Article 19.

⁴ As of March 1, 2007, one hundred eighty seven Conventions and one hundred ninety eight Recommendations have been adopted. English versions of the ILO Conventions and Recommendations as well as the lists of ratifications of Conventions are available at: <http://www.ilo.org/ilolex/english/index.htm> (last visit 27 March 2007).

⁵ Among the instruments of this group are the Forced Labour Convention, 1929 (No. 30); the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); the Equal Remuneration Convention, 1951 (No. 100); the Abolition of Forced Labour Convention, 1957 (No. 105); and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

⁶ See, e.g., the Maternity Protection Convention, 2000 (No. 183).

⁷ See, e.g., the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182).

⁸ See, the Older Workers Recommendation, 1980 (No. 162).

⁹ See, e.g., the Migration for Employment Convention (Revised), 1949 (No. 97).

¹⁰ See, e.g., the Indigenous and Tribal People Convention, 1989 (No. 169).

¹¹ See, e.g., the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126). See, also, Dmitri A. Pentsov, *Fishermen, in* ILO, International Labour Standards: A Global Approach 575-586 (ILO, Geneva, 2001) available at: <http://www.ilo.org/public/english/standards/norm/download/resources/globale.pdf> (last visit 27 March 2007).

¹² See, e.g., the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152).

¹³ See, e.g., the Plantations Convention, 1958 (No. 110).

¹⁴ See, the Tenants and Sharecroppers Recommendation, 1968 (No. 132).

¹⁵ See, e.g., the Nursing Personnel Convention, 1977 (No. 149).

¹⁶ See, Nicolas Valticos & Geraldo von Potobsky, *International Labour Law* 228 (Kluwer, 1995).

1.3. The ILO supervisory machinery

1.3.1. Types of supervision

There are two types of ILO supervision over the observance by ILO members of their standard-relating obligations: (i) the regular machinery for supervising the observance of obligations; and (ii) special procedures.¹⁷

The regular machinery for supervising the observance by ILO member States of their obligations deriving from Conventions and Recommendations is composed of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and the International Labour Conference Committee on the Application of Standards.¹⁸

The special ILO procedures are: (i) representations as to the observance of ratified Conventions;¹⁹ (ii) complaints as to the observance of ratified Conventions;²⁰ (iii) complaints as to the infringement of freedom of association;²¹ and (iv) procedures related to the failure to submit Conventions and Recommendations to the competent authorities.²²

1.3.2. The Committee of Experts on the Application of Conventions and Recommendations

The ILO Committee of Experts on the Application of Conventions and Recommendations meets once a year in November-December in Geneva, Switzerland. Its Members are appointed by the ILO Governing Body on the proposal of the Director-General for renewable periods of three years. Appointments are made in a personal capacity among completely impartial persons of technical competence and independent standing. They are drawn from all parts of the world, in order that the Committee may enjoy first-hand experience of different legal, economic and social systems.²³

¹⁷ See, also, Jean-Michel Servais, *International Labour Law* 289-293 (Kluwer, 2005); Nicolas Valticos & Geraldo von Potobsky, *International Labour Law* 284-294 (Kluwer, 1995).

¹⁸ See, ILO: Handbook of procedures relating to international labour Conventions and Recommendations, Section VI: Regular machinery for supervising the observance of obligations deriving from Conventions and Recommendations (ILO, Geneva, 2006), available at: <http://www.ilo.org/ilolex/english/manualq.htm> or at: <http://www.ilo.org/public/english/standards/norm/download/resources/handbook2006.pdf> (last visit 27 March 2007).

¹⁹ Constitution of the ILO, Article 24; Handbook of Procedures, Section XI, A: Representations as to the observance of ratified Conventions.

²⁰ Constitution of the ILO, Article 26; Handbook of Procedures, Section XI, B: Complaints as to the observance of ratified Conventions.

²¹ Handbook of Procedures, Section XI, C: Complaints as to the infringement of freedom of association.

²² Constitution of the ILO, Article 30; Handbook of Procedures, Section XI, D: Failure to submit Conventions and Recommendations to the competent authorities.

²³ ILO Handbook of Procedures, Article 55.

The Committee's fundamental principles are those of independence, impartiality and objectivity in noting the extent to which the position in each State appears to conform to the terms of the Conventions and the obligations accepted under the ILO Constitution. In this spirit, the Committee is called on to examine:

- (i) the annual reports under article 22 of the Constitution on the measures taken by Members to give effect to the provisions of Conventions to which they are parties, and the information furnished by Members concerning the results of inspection;
- (ii) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution;
- (iii) information and reports on the measures taken by Members in accordance with article 35 of the ILO Constitution.²⁴

The report of the Committee is in the first place submitted to the Governing Body (at its session in March-April) for transmission to the Conference (which usually meets in June each year). The final findings take the form of:

Part I: a general report (giving an overview of the Committee's work and drawing the attention of the Governing Body, the Conference and member States to matters of general interest or special concern);

Part II: individual *observations* on: (i) the application of ratified Conventions in member States; (ii) the application of Conventions in non-metropolitan territories, for whose international relations member States are responsible; and (iii) the submission of Conventions and Recommendations to the competent national authorities;

- a series of *direct requests*: further individual comments addressed to governments by the Director-General of the ILO on behalf of the Committee;
- a series of *acknowledgements*: when a government has given a full reply to a direct request asking for further information and there is no need for further comment;

Part III: a *General Survey* of national law and practice in regard to the instruments on which reports have been supplied on unratified Conventions and on Recommendations under article 19 of the Constitution.²⁵

²⁴ ILO Handbook of Procedures, Article 55.

²⁵ ILO Handbook of Procedures, Article 56(k). The comments of the Committee of Experts could be found in the ILO ILOLEX database at: <http://www.ilo.org/ilolex/english/iloquery.htm> or in the ILO APPLIS database at: <http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm?lang=EN> (last visit 27 March 2007).

1.3.3. The International Labour Conference Committee on the Application of Standards

The Conference Committee on the Application of Standards operates within the framework of a session of the International Labour Conference, which takes place in June of every year in Geneva, Switzerland. This Committee is set up under article 7 of the Standing Orders of the Conference.²⁶ It is tripartite, consisting of representatives of governments, employers and workers. The Committee holds elections from among each of the three groups to the Chairperson and two Vice-Chairpersons and to the office of Reporter.²⁷

The Committee has to consider:

- (a) the measures taken by Members to give effect to the provisions of Conventions to which they are parties and the information furnished by Members concerning the results of inspections;²⁸
- (b) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution;²⁹
- (c) the measures taken by Members in accordance with article 35 of the Constitution.³⁰

The Committee has to submit a report to the Conference.³¹

The Officers of the Committee prepare a list of observations, contained in the Committee of Experts report, in respect of which they consider it desirable to invite governments to supply information to the Committee. The list is submitted to the Committee for approval.³² Governments addressed by the observations in the approved list have a further opportunity to submit written replies, the substance of which will appear in a document for the information of the Committee. The Committee may then decide whether or not it wishes to receive supplementary oral information from a representative of the government concerned.³³

The Committee invites representatives of the governments concerned to attend one of its sittings to discuss the observations in question.³⁴ Following statements of government representatives, members of the Committee may put questions or make comments, and the Committee may reach conclusions on the case.³⁵

A summary of the governments' statements and the ensuing discussion is reproduced in an appendix to the Committee's report to the Conference. In addition,

²⁶ Standing orders of the International Labour Conference, Article 7. Constitution of the International Labour Organization and Standing orders of the International Labour Conference (ILO, Geneva, 2004), available at: <http://www.ilo.org/public/english/standards/relm/ilc/ilc-so.htm> (last visit 27 March 2007).

²⁷ ILO Handbook of Procedures, Article 58.

²⁸ ILO Handbook of Procedures, Article 59(i)(a).

²⁹ ILO Handbook of Procedures, Article 59(i)(b).

³⁰ ILO Handbook of Procedures, Article 59(i)(c).

³¹ ILO Handbook of Procedures, Article 59(i)(a).

³² ILO Handbook of Procedures, Article 60(c)(i).

³³ ILO Handbook of Procedures, Article 60(c)(ii).

³⁴ ILO Handbook of Procedures, Article 60(c)(iii).

³⁵ ILO Handbook of Procedures, Article 60(c)(iv).

the Committee includes in the body of its report information on its discussions as to various States' compliance with specific obligations: submission to the competent authorities; failure to comply with reporting obligations; mention of cases of progress, in which the Committee notes changes in law and practice which overcome difficulties previously discussed by it; paragraphs drawing the Conference's attention to discussions of certain special cases; other paragraphs drawing attention to cases discussed previously by the Committee where there has been continued failure over several years to eliminate serious deficiencies in the application of ratified Conventions; communication of copies of reports to employers' and workers' organizations; and participation in the work of the Committee.³⁶

The report of the Conference Committee is submitted to the Conference and discussed in plenary, which gives delegates a further opportunity to draw attention to particular aspects of the Committee's work. The report is published in the *Record of Proceedings* of the Conference and separately for circulation to governments. The attention of governments is drawn to any particular points raised by the Committee for their consideration, as well as to the discussions of individual cases, so that due account may be taken in the preparation of subsequent reports.³⁷

³⁶ ILO Handbook of Procedures, Article 60(c)(v).

³⁷ ILO Handbook of the Procedures, Article 60(d). The Conference Committee observations concerning individual countries can be found in the ILO ILOLEX database at: <http://www.ilo.org/ilolex/english/iloquery.htm> (last visit 27 March 2007).

2. ILO maritime labour Conventions and Recommendations

2.1. Overview

2.1.1. The need for separate ILO maritime labour Conventions and Recommendations

Both of the factors justifying the need for adoption of separate Conventions and Recommendations dealing with a specific group of workers, namely the unique conditions of their work and the necessity for their special protection, are fully applicable in the case of seafarers. This is primarily because, for seafarers, the ship is both a workplace and a home. Such a phenomenon is sometimes illustrated by the sociological concept of a “total institution”, defined as “a place of residence and work where a large number of like-situated individuals, cut off from the wider society for an appreciable period of time, together lead an enclosed formally administered round of life”.³⁸ As a result, work on board ship at sea, without the possibility of going onshore for prolonged periods of time, requires the establishment of certain standards, such as crew accommodation, food and catering.³⁹

Furthermore, the maintenance of ships, which are in constant operation not only at sea but also in port, as well as work in shifts (watches), has resulted in special regulations for hours of work and rest. In addition, the possibility faced by seafarers of the termination of their employment relationship in a location other than their place of residence requires consideration of the issue of transportation to that place of residence, especially for foreign seafarers.⁴⁰

The fact that the conditions of work of seafarers are quite different from those of land workers also explains the existence of a special system of inspection of seafarers’ working and living conditions and, respectively, of special ILO instruments dealing with this matter. Since seafarers and their ships are constantly mov-

³⁸ Erwin Goffman, *Asylums: essays on the social situation of mental patients and other inmates* xiii (Anchor Books, 1961).

³⁹ See, also, Michael Bloor, Helen Sampson & Michelle Thomas, *Shipboard Life and Work-II*, in *The global seafarer: Living and working conditions in a globalized industry* 121-122 (Geneva, ILO, 2004).

⁴⁰ See, also, Dmitri A. Pentsov, *Seafarers*, in ILO, *International Labour Standards: A Global Approach* 506-507 (ILO, Geneva, 2001), available at: <http://www.ilo.org/public/english/standards/norm/download/resources/globale.pdf> (last visit 27 March 2007).

ing about, work at sea cannot, like work on land, be subjected to administrative supervision while it is taking place.⁴¹ Another factor is the specific character of laws and regulations dealing with maritime employment, which is distinct from that of the laws and regulations dealing with land occupations. This may require specific knowledge and qualifications on the part of the inspection staff, which are not readily available to general inspection staff dealing with the land occupations.⁴²

The natural, technical and social risks inherent in maritime employment explain why it has been felt necessary to provide special protection to seafarers. Natural risks are caused by the perils of the sea; a vessel may suffer maritime casualty or even sink, unless it is properly maintained and operated. In addition, seafarers' constant exposure to extreme temperatures, strong winds and humidity when at sea may adversely affect their health unless adequate protection is ensured. For this reason, it has been necessary to establish standards concerning crew accommodation and personal protective equipment for seafarers.

These natural risks, in turn, are significantly increased by the so-called "human factor", which still remains one of the major factors in maritime accidents.⁴³ Recent studies have suggested that there is a link between shipboard living conditions, that is work organization, manning, hours of work and the health of crews, and human error.⁴⁴ The need to prevent fatigue and overwork therefore requires the establishment of standards for manning, hours of work and the rest and health of seafarers.

Since a modern vessel is a sophisticated mechanical structure, seafarers are constantly exposed to many particular technical risks stemming from the operation of their vessels. In addition to accidents caused by mechanical and electrical equipment, seafarers may also be exposed to toxic and carcinogenic materials which, as recent studies have suggested, have been responsible for significant numbers of deaths of seafarers and acute and chronic illnesses.⁴⁵

In addition to this, seafarers are also subject to numerous social risks. Throughout history, seafarers have been viewed as "easy targets": they have been routinely

⁴¹ ILO: *General principles for the inspection of the conditions of work of seamen*, ILC, 9th Session, 1926, Questionnaire II 14-15 (ILO, Geneva, 1926).

⁴² See, also, Michael Bloor, Dmitri Pentsov, Michael Levi & Tom Horlick-Jones, *Problems of Global Governance of Seafarers' Health and Safety* 23-26 (Seafarers International Research Centre, 2004), available at: <http://www.sirc.cf.ac.uk/pdf/ProblemsGlobalGovernance.pdf> (last visit 27 March 2007).

⁴³ According to some estimates, 80 per cent of maritime casualties can be blamed on human error. See, e.g., Paul K. Chapman, *Trouble on board: the plight of international seafarers* 62 (1992).

⁴⁴ C. Battut, "Opinion on merchant seafarers working and employment conditions", in ILO, *The impact on seafarers' living and working conditions of changes in the structure of the shipping industry*. Report for discussion at the 29th Session of the Joint Maritime Commission 100 (ILO, Geneva, 2001) (doc. JMC/29/2001/3), available at: <http://www.ilo.org/public/english/dialogue/sector/techmeet/jmc01/jmc-r3.pdf> (last visit 27 March 2007).

⁴⁵ For example, the Norwegian Cancer Research Institute has found that mesothelioma deaths are six times more common among Norwegian ship engineers and engine ratings than among the general population. This is most probably a consequence of past asbestos exposure. See, ILO: *The impact on seafarers' living and working conditions of changes in the structure of the shipping industry*, at 86.

cheated and abused (both on board and offshore), abandoned, refused repatriation and cheated on wages, intimidated, refused medical treatment, received poor food, subjected to non-compliance with their contracts and suffered from illegal practices by employment agencies.⁴⁶ The excessive number of seafarers and, correspondingly, the shortage of employment opportunities for them create continued favorable conditions for such abuses.⁴⁷

2.1.2. History of adoption and consolidation of ILO maritime labour Conventions and Recommendations

The special conditions of maritime work, along with the need for the special protection of seafarers against the specific risks inherent in maritime employment, helps to explain why the regulation of the conditions of seafarers' work occupies such a unique place in the ILO's standards.⁴⁸ As early as 1919, the Commission on International Labour Legislation, appointed by the 1919 Paris Peace Conference, adopted a resolution to the effect that seamen might be dealt with at a special meeting of the International Labour Conference devoted exclusively to the affairs of seamen.⁴⁹ By the end of the twentieth century, there have been 11 maritime sessions of the International Labour Conference,⁵⁰ and 40 maritime labour Conventions, one Protocol and 29 maritime labour Recommendations had been adopted, covering a wide variety of issues, including recruitment and placement, minimum age, hours of work, safety, health and welfare, labour inspection and social security.

Although this body of standards represented a considerable achievement for the protection of the seafarers and for the industry as a whole, in January 2001 the Joint Maritime Commission (JMC) has unanimously adopted the resolution, known as the Geneva Accord between the Shipowner and Seafarer representatives, concerning the review of relevant ILO maritime instruments.⁵¹ While not calling into question the validity of the existing maritime labour standards, the representatives expressed serious concern about the current situation with these instruments. The main concern was that these international standards were still not

⁴⁶ See, e.g., International Commission on Shipping: Ships, Slaves and Competition 50-57 (2000); A.D. Couper, C.J. Walsh, B.A. Standberry and G.L. Boerne, *Voyages of abuse* 41-59 (Pluto Press, 1999); P.K. Chapman, op. cit., at 37-73; J. Stevenson, The London "Crimp" Riots of 1794, XVI International Review of Social History 40-58 (1971).

⁴⁷ The 2000 BIMCO/ISF study of the global supply of seafarers estimated that there are 404,000 officers and 823,000 ratings available, while the worldwide demand for seafarers is estimated to be 420,000 officers and 599,000 ratings. See, ILO: *The impact on seafarers' living and working conditions of changes in the structure of the shipping industry*, at 33, quoting BIMCO/ISF: 2000 Manpower Update (University of Warwick, 2000).

⁴⁸ Cf., Nicolas Valticos & Geraldo von Potobsky, International Labour Law 228 (Kluwer, 1995).

⁴⁹ Report and Minutes of the Commission on International Labour Legislation, Peace Conference, Paris, 1919, 42 (Rome, Tipografia "Italia", 1921).

⁵⁰ In 1920, 1926, 1929, 1936 (two sessions), 1946, 1958, 1970, 1976, 1987 and 1996.

⁵¹ ILO, Joint Maritime Commission (29th Session): Final Report. 28-29 (ILO, Geneva, 2001) (doc. JMC/29/2001/14), available at: <http://www.ilo.org/public/english/dialogue/sector/techmeet/jmc01/jmcfr.pdf> (last visit 27 March 2007).

having a sufficient “on the ground” impact on the working and living conditions experienced by seafarers. The relevant Conventions, many of which dealt with a single issue, were unevenly ratified and even more unevenly implemented and enforced.⁵²

One of the problems for ratification was the excessive detail of some Conventions, which created a barrier for certain countries interested in ratifying them, even though the level of protection in the areas covered might have been at least as strong in the countries concerned as that required under the relevant Conventions. The Conventions, moreover, had no legal mechanisms to provide for rapid changes to their standards to keep pace with developments in the shipping industry. Finally, the standards were often difficult to understand, as they were set out in complex, uncoordinated and overlapping provisions. As a result, the ILO’s numerous, but fragmented and disparate, maritime Conventions, despite the continuing validity of their substantive content, had significantly less impact than other widely ratified Conventions in the maritime sector addressing the areas of safety at sea and protection of the marine environment.⁵³

Correspondingly, the JMC recommended that the ILO Governing Body convene a Maritime Session of the International Labour Conference in 2005 (deferred until the beginning of 2006 for budgetary reasons) to adopt a single instrument consolidating as much as possible of the existing body of ILO maritime standards.⁵⁴ Following more than five years of preparatory work, such instrument, known as the Maritime Labour Convention, 2006, was finally adopted at the 94th (Maritime) Session of the International Labour Conference, held in Geneva on February 7-23, 2006.⁵⁵

2.1.3. Classification of ILO maritime labour Conventions and Recommendations

Based on their subject-matter, all existing ILO maritime labour Conventions and Recommendations can be subdivided into seven major groups. The *first* group, “Standards of a General Character”, consists of Conventions and Recommendations which establish general rules applicable to all aspects of maritime employment. This group includes Conventions Nos. 145, 147, the Protocol of 1996 to Convention No. 147, as well as Recommendations Nos. 9, 107, 108, 154, and 155. The *second* group, “Access to Employment”, consists of those instruments which

⁵² ILO: Adoption of an instrument to consolidate maritime labour standards, Report I (1A), International Labour Conference, 94th (Maritime) Session, Geneva 7-23 February 2006, 4-5 (Geneva, 2006), available at: <http://www.ilo.org/public/english/dialogue/sector/techmeet/jmc01/jmcfr.pdf> (last visit 27 March 2007).

⁵³ ILO: Adoption of an instrument to consolidate maritime labour standards, Report I (1A), at 4-5.

⁵⁴ ILO: Adoption of an instrument to consolidate maritime labour standards, Report I (1A), at 1.

⁵⁵ 314 votes in favor, 0 against and four abstentions (two governmental delegates of Lebanon and two governmental delegates of Venezuela, respectively). See, International Labour Conference, 94th (Maritime) Session, Provisional Record 17/17 (Geneva, 2006), available at: <http://www.ilo.org/public/english/standards/relm/ilc/ilc94/pr-17.pdf> (last visit 27 March 2007).

establish: (i) minimum age requirements for access to maritime employment (Conventions Nos. 7 and 58); (ii) standards of medical examination (Conventions Nos. 16 and 73); (iii) standards of training for obtaining the qualifications necessary to access maritime employment (Recommendation No. 137); (iv) qualification requirements (Conventions Nos. 53, 69 and 74); (v) standards concerning seafarers' identity documents (Conventions Nos. 108 and 185); and (vi) standards of recruitment and placement of seafarers (Convention No. 179 and Recommendation No. 186). The *third* group, "Conditions of Work", comprises Conventions and Recommendations which govern: (i) the procedure for determining conditions of work (Convention No. 22); (ii) hours of work, rest and annual leave (Conventions Nos. 180 and 146; Recommendations Nos. 187 and 153); and (iii) repatriation (Convention No. 166 and Recommendation No. 174). The *fourth* group, "Safety, Health and Welfare", includes Conventions and Recommendations dealing with: (i) safety (Conventions Nos. 68 and 134; Recommendation No. 142), (ii) health (Convention No. 164); (iii) welfare (Convention No. 163 and Recommendation No. 173); and (iv) accommodation of seafarers (Conventions Nos. 92 and 133; Recommendations Nos. 78, 140 and 141). The *fifth* group, "Labour inspection" consists of Convention No. 178 and Recommendation No. 185 concerning the inspection of seafarers' working and living conditions. The *sixth* group, "Social Security", is made up of those instruments which deal with the social security of seafarers (Conventions Nos. 8, 55, 71 and 165; Recommendations Nos. 10, 75 and 76). Finally, the Maritime Labour Convention, 2006, a comprehensive instrument consolidating all existing maritime labour Conventions and Recommendations, with the exception of Convention No. 185, stands alone.

2.2. Conventions and Recommendations of a General Character

2.2.1. Content and practical application of standards

2.2.1.1. *The National Seamen's Codes Recommendation, 1920 (No. 9)*

The National Seamen's Codes Recommendation, 1920 (No. 9) proposes that each Member of the International Labour Organisation undertake the embodiment in a seamen's code of all its laws and regulations relating to seamen in their activities as such, in order that, as a result of the clear and systematic codification of the national law in each country, the seamen of the world, whether engaged on ships of their own or foreign countries, may have a better comprehension of their rights and obligations, and in order that the task of establishing an International Seamen's Code may be advanced and facilitated.

2.2.1.2. The Seafarers' Engagement (Foreign Vessels) Recommendation, 1958 (No. 107)

The Seafarers' Engagement (Foreign Vessels) Recommendation, 1958 (No. 107) recommends that the ILO Members do everything in their power to discourage seafarers within their territory from joining or agreeing to join vessels registered in a foreign country unless the conditions under which such seafarers are to be engaged are generally equivalent to those applicable under collective agreements and social standards accepted by bona fide organisations of shipowners and seafarers of maritime countries where such agreements and standards are traditionally observed.⁵⁶

2.2.1.3. The Social Conditions and Safety (Seafarers) Recommendation, 1958 (No. 108)

The Social Conditions and Safety (Seafarers) Recommendation, 1958 (No. 108) provides that the country of registration should accept the full obligations implied by registration, should exercise effective jurisdiction and control for the purpose of the safety and welfare of seafarers in its sea-going merchant ships and, in particular, should: (a) make and adopt regulations designed to ensure that all ships on its register observe internationally accepted safety standards; (b) make arrangements for a proper ship-inspection service adequate to the requirements of the tonnage on its register and ensure that all ships on its register are regularly inspected to ensure conformity with regulations issued under (a) above; (c) establish both in its territory and abroad the requisite government-controlled agencies to supervise the signing on and signing off of seafarers; (d) ensure or satisfy itself that the conditions under which the seafarers serve are in accordance with the standards generally accepted by the traditional maritime countries; (e) by regulations or legislation, if not already otherwise provided for, ensure freedom of association for the seafarers serving on board its ships; (f) ensure by regulations or legislation that proper repatriation for the seafarers serving on board its ships is provided in accordance with the practice followed in traditional maritime countries; (g) ensure that proper and satisfactory arrangements are made for the examination of candidates for certificates of competency and for the issuing of such certificates.

2.2.1.4. The Employment of Seafarers (Technical Developments) Recommendation, 1970 (No. 139)

The Employment of Seafarers (Technical Developments) Recommendation, 1970 (No. 139) provides that each Member which has a maritime industry should ensure the establishment of national manpower plans for that industry within the framework of its national employment policy.⁵⁷ Such manpower plans should be designed to obtain for shipowners and seafarers as well as for the community as a whole the greatest benefits from technical progress, and to protect from hardship

⁵⁶ Recommendation No. 107, section 1.

⁵⁷ Recommendation No. 139, section 1.

seafarers whose employment is affected thereby.⁵⁸ In addition to that, where changes in functions and required skills arising from technical developments are likely to affect seafarers, basic training of those concerned, including certificated personnel, should be reviewed to take account of these changes and to ensure that seafarers are adequately trained for the functions they will be required to carry out.⁵⁹ Where the nature of technical developments so requires, consideration should be given to the possibility of retraining seafarers to enable them to take full advantage of the opportunities offered by these developments.⁶⁰

2.2.1.5. The Continuity of Employment (Seafarers) Convention, 1976 (No. 145)

The Continuity of Employment (Seafarers) Convention, 1976 (No. 145) provides that in each member State which has a maritime industry it shall be national policy to encourage all concerned to provide continuous or regular employment for qualified seafarers in so far as this is practicable and, in so doing, to provide shipowners with a stable and competent workforce.⁶¹ Every effort shall be made for seafarers 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.⁶²

Measures to achieve these objectives might include: (a) contracts or agreements providing for continuous or regular employment with a shipping undertaking or an association of shipowners; or (b) arrangements for the regularisation of employment by means of the establishment and maintenance of registers or lists, by categories, of qualified seafarers.⁶³ Where the continuity of employment of seafarers is assured solely by the establishment and maintenance of registers or lists, these shall include all occupational categories of seafarers in a manner determined by national law or practice or by collective agreement.⁶⁴ Seafarers on such a register or list shall have priority of engagement for seafaring and they shall be required to be available for work in a manner to be determined by national law or practice or by collective agreement.⁶⁵

Analysis of the comments of the Committee of Experts shows three major issues relating to the application of the Convention. The first concerns the requirement of a national policy for the encouragement of continuous or regular employment for qualified seafarers, and the assurance of a minimum income or monetary allowance.⁶⁶ The second area of concern relates to the responsibility of governments, under Articles 2 and 3, of the Convention towards all seafarers to take measures to encourage their continuous or regular employment,

⁵⁸ Recommendation No. 139, section 3.

⁵⁹ Recommendation No. 139, section 10.

⁶⁰ Recommendation No. 139, section 11.

⁶¹ Convention No. 145, Article 2(1).

⁶² Convention No. 145, Article 2(2).

⁶³ Convention No. 145, Article 3.

⁶⁴ Convention No. 145, Article 4(1).

⁶⁵ Convention No. 145, Article 4(2) and (3).

⁶⁶ See, **New Zealand** (CEACR, 1998/69th session: Observation).

regardless of their nationality,⁶⁷ age,⁶⁸ coverage by the respective collective agreements,⁶⁹ perceived negotiating strength,⁷⁰ or work on board ship entered into national or “second” (“international”) registry.⁷¹ The third issue concerns the keeping of registers or lists of seafarers, by categories, and the need to review their strength periodically so as to achieve levels adapted to the needs of the maritime industry.⁷²

2.2.1.6. The Continuity of Employment (Seafarers) Recommendation, 1976 (No. 154)

The Continuity of Employment (Seafarers) Recommendation, 1976 (No. 154) recommends that, in so far as practicable, continuous or regular employment should be provided for all qualified seafarers.⁷³ Where continuous or regular employment is not practicable, guarantees of employment and/or income should be provided in a manner and to an extent depending on the economic and social situation of the country concerned.⁷⁴ Where the measures to obtain regular employment for seafarers provide for the establishment and maintenance of registers or lists of qualified seafarers, criteria should be laid down for determining the seafarers to be included in such registers or lists.⁷⁵ Such criteria might include the following: (a) residence in the country concerned; (b) age and medical fitness; (c) competence and skill; and (d) previous service at sea.⁷⁶ When the strength of such registers or lists is reviewed by the parties concerned, account should be taken of all relevant

⁶⁷ See, **Finland** (CEACR, 2001/72nd session: Observation; CEACR, 2005/76th session: Direct request); **France** (CEACR, 1995/65th session: Direct request); **Netherlands** (CEACR 1996/67th session: Observation; CEACR, 1998/69th session: Observation).

⁶⁸ See, **Italy** (CEACR, 1991/61st session: Direct request; CEACR 1992/62nd session: Direct request; CEACR 1993/66th session: Direct request).

⁶⁹ See, **Netherlands** (CEACR, 1991/61st session, Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Direct request; CEACR 1995/66th session: Direct request; CEACR, 1996/67th session: Observation; CEACR, 1998/69th session: Observation); **New Zealand** (CEACR, 2001/72nd session: Observation).

⁷⁰ See, **Norway** (CEACR 1996/67th session: Direct request; CEACR 2001/72nd session: Direct request).

⁷¹ See, **Norway** (CEACR, 1992/62nd session: Direct request; CEACR, 1995/66th session: Direct request; CEACR 1996/67th session: Direct request; CEACR, 2001/72nd session: Direct request). The Norwegian International Ship Register (NIS), established by Norway in 1987, was intended to offer a quality register, founded on all the existing international commitments of the Norwegian government and on its reputation as a responsible maritime power, under which certain cost and tax advantages could be obtained. While it was open to non-Norwegian owned and controlled shipping, it was aimed primarily at attracting back to Norway those Norwegian owners who had left the national flag during the previous years. See, e.g., Bruce Farthing and Mark Brownrigg, Farthing on International Shipping 189-190 (3rd ed., 1997); N.P. Ready, Ship Registration 29-31 (3rd ed., 1998).

⁷² See, **Poland** (CEACR 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request).

⁷³ Recommendation No. 154, section 2.

⁷⁴ Recommendation No. 154, section 5(1).

⁷⁵ Recommendation No. 154, section 6(1).

⁷⁶ Recommendation No. 154, section 6(2).

factors, including the long-term factors such as the modernisation of the maritime industry and changing trends in trade.⁷⁷

2.2.1.7. The Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)

The Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) establishes the minimum internationally acceptable labour and social security standards for all merchant vessels regardless of their place of registration, including, but not limited to, vessels flying flags of convenience.⁷⁸

Each Member of the ILO which ratifies this Convention undertakes to have laws or regulations laying down, for ships registered in its territory (i) safety standards, including standards of competency, hours of work and manning, so as to ensure the safety of life on board ship; (ii) appropriate social security measures; and (iii) shipboard conditions of employment and shipboard living arrangements, in so far as these, in the opinion of the Member, are not covered by collective agreements or laid down by competent courts in a manner equally binding on the shipowners and seafarers concerned; and to satisfy itself that the provisions of such laws and regulations are substantially equivalent to the Conventions or Arti-

⁷⁷ Recommendation No. 154, section 7.

⁷⁸ Despite the absence of a generally recognized definition of this concept in literature, the countries of “flag of convenience” or, as they are also called, countries of “open registry”, are usually understood to be those countries that satisfy one or more of the following criteria, laid down by a British Committee of Inquiry in 1970 (the Rochdale Criteria): (i) it allows ownership or control of its merchant vessels by non-citizens; (ii) access to the registry is easy (a ship may usually be registered at a council’s office abroad), and transfer from the registry at the owner’s option is not restricted; (iii) taxes on the income from shipping are not levied locally or are low – a registry fee and an annual fee, based on tonnage are normally the only charges made (a guarantee or acceptable understanding regarding future freedom from taxation may also be given); (iv) the country of registry is a small power with no national requirement under any foreseeable circumstances for all the shipping registered, but receipts from very small charges on a large tonnage may produce a substantial effect on its national income and balance of payments; (v) manning of ships by non-nationals is freely permitted; and (v) the country of registry has neither the power nor the administrative machinery effectively to impose any government or international regulations; nor has the country the wish or the power to control the companies themselves. See, Committee of Inquiry into Shipping, London, H.M.S.O. 1970 Cmdn. 4337, 51 (the “Rochdale Report”). See, also, Appave D., Convention No. 147: Contents, Aspects of Ratification and Implementation Including the Inspection of Labour Conditions on Board Ship, in International Maritime Labour Standards for the Caribbean, Report of the ILO Regional Seminar, 9-13 December 1991 46-65 (1992); Argiroffo E., Flags of convenience and substandard vessels: A review of the ILO’s approach to the problem, 110 International Labour Review 439 (1974); Boleslav Adam Boczek, *Flags of Convenience: An International Labour Study* 1-26 (Harvard University Press, 1962); Rodney P. Carlisle, *Sovereignty for Sale: the origins and evolution of the Panamanian and Liberian flags of convenience* 1-19 (1981); Iliana Christodoulou Varotsi & Dmitri A. Pentsov, *Labour Standards on Cypriot Ships: Myth and Reality*, 37 Vanderbilt Journal of Transnational Law 649-652 (2004), available at SSRN: <http://ssrn.com/abstract=617942> (last visit 27 March 2007); International Commission on Shipping, *Ships, Slaves and Competition* 87-98 (2000); International Transport Workers’ Federation: *Flags of Convenience: The ITF’s Campaign* 24-25 (1993); Herbert R. Northrup & Richard L. Ro-van, *The International Transport Workers’ Federation and Flag of Convenience Shipping* 55-94 (1983); Herbert R. Northrup & Peter B. Scrase, *The International Transport Workers’ Federation Flag of Convenience campaign: 1983-1993*, 23 Transportation Law Journal 369, 371-74 (1996).

cles of Conventions referred to in the Appendix to this Convention, in so far as the Member is not otherwise bound to give effect to the Conventions in question.⁷⁹

The formula “in so far as the Member is not otherwise bound” means that when the Member has ratified both Convention No. 147 and other ILO Convention(s) listed in the Appendix to Convention No. 147, it has the duty to ensure strict compliance with the Convention listed in the Appendix. On the contrary, where the Member has ratified Convention No. 147, but has not ratified a specific ILO Convention(s) listed in the Appendix, it does not have a duty to ensure strict compliance with such Convention(s), but instead has the duty to apply it on the basis of the principle of “substantial equivalence”.

The question of the meaning of the term “substantial equivalence” was examined in 1990 by the ILO Committee of Experts in a General Survey on labour standards on merchant ships.⁸⁰ The Committee has pointed out that, where there is not full conformity with the Convention’s Appendix, the test that the Committee will apply will involve first determining what the general goal or goals of a Convention is or are, i.e. its object or objects and purpose or purposes. These may take the form of one main goal and several subordinate goals. The test for substantial equivalence will then be: first, whether the State has demonstrated its respect for or acceptance of the main general goals of the Convention and enacted laws or regulations which are conducive to their realization; and if so, second, whether the effect of such laws or regulations is to ensure that in all material respects the subordinate goals of the Convention are achieved.⁸¹

⁷⁹ Convention No. 147, Article 2(f). The Appendix to Convention No. 147 lists the following ILO Conventions and Articles of the ILO Conventions: the Minimum Age Convention, 1973 (No. 138), or the Minimum Age (Sea) Convention (Revised), 1936 (No. 58), or the Minimum Age (Sea) Convention, 1920 (No. 7); the Shipowners’ Liability (Sick and Injured Seamen) Convention, 1936 (No. 55), or the Sickness Insurance (Sea) Convention, 1936 (No. 56), or the Medical Care and Sickness Benefits Convention, 1969 (No. 130); the Medical Examination (Seafarers) Convention, 1946 (No. 73); the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) (Articles 4 and 7); the Accommodation of Crews Convention (Revised), 1949 (No. 92); the Food and Catering (Ships’ Crews) Convention, 1946 (No. 68) (Article 5); the Officers’ Competency Certificates Convention, 1936 (No. 53) (Articles 3 and 4); the Seamen’s Articles of Agreement Convention, 1926 (No. 22); the Repatriation of Seamen Convention, 1926 (No. 23); the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

⁸⁰ ILC, 77th Session, *Labour standards on merchant ships, General Survey of the Reports on the Merchant Shipping (Minimum Standards) Convention (No. 147), and the Merchant Shipping (Improvement of Standards) Recommendation (No. 155)*, 1976 (Geneva, ILO, 1990).

⁸¹ *Id.*, at 44. In a 1983 Memorandum by the International Labour Office in response to a request of the Government of the United States, it was indicated that Article 2(a) of the Convention requires a ratifying State to satisfy itself that the general goals laid down in the instruments included in the Appendix to Convention No. 147 are respected. On the other hand, national laws and regulations can be different in detail and, as the Government has correctly assumed [in its second question], it is not required that the ratifying State adhere to the precise terms of these instruments as long as their general goals are respected, except of course in so far as it has also ratified the Conventions concerned. See, ILO, *Official Bulletin*, Vol. LXVI, 1983, Series A, No. 3, pp. 144-145.

In its 1990 General Survey, *Labour standards on merchant ships*, the Committee of Experts indicated what is required for the substantial equivalence for each of the appended Conventions.

With regard to *Conventions Nos. 7, 58 and 138*, the substantially equivalent requirement in Article 2(a) may be met where standards to ensure the safety of life on board ship include a minimum age of 14 applied by legislation, except to vessels where only members of the same family are employed or on authorized school or training ships; and where laws and regulations provide also for some form of registers in order to facilitate enforcement.⁸²

With regard to *Conventions Nos. 55, 56 and 130*, the determination as to whether there is substantial equivalence to one of the three Conventions must, according to the Committee of Experts, refer to the following points. Under Convention No. 55 shipowners must, subject to certain limitations, be made liable for sickness and injury occurring while on articles (Article 2); medical care and maintenance should be defrayed for up to at least 16 weeks: although the liability of shipowners ceases where there is a compulsory insurance scheme (perhaps of the kind anticipated in Convention No. 56), it may not so cease in respect of foreign workers or those not resident in the territory who are excluded as such from the scheme (Article 4); wages while on board should be paid plus whole or partial wages from the time landed, subject to the same conditions as in Article 4 (Article 5); there is liability for repatriation (Article 6) and burial expenses (Article 7); there is provision for equality of treatment irrespective of nationality, domicile or race (Article 11).⁸³ Under Convention No. 56, there should be a compulsory sickness insurance scheme (Article 1), with - subject to the usual limitations - cash benefits for the seafarer or his family at the national going rate for at least 26 weeks (Articles 2 and 4); medical benefit (Article 3); maternity benefit (Article 5); and death or survivors' benefit (Article 6); benefits should cover the normal interval between engagements (Article 7); the shipowners and seafarers should share the expenses of the scheme (Article 8).⁸⁴ Convention No. 130, which includes flexibility provisions in favour of countries whose economic and medical facilities are insufficiently developed, lays down amongst other practical matters, details of the kind of medical care to be secured (Articles 13 and 14); for sickness benefit it prescribes detailed methods for calculating earnings-related payments (Articles 21 to 24); there are safeguards in respect of qualifying periods (Articles 15 and 25) and cost sharing (Article 17).⁸⁵

The requirement of substantial equivalence in Article 2(a) of Convention No. 147 may be met in respect of *Convention No. 73* where there are laws or regulations providing for compulsory regular medical examinations for seafarers, preferably every two years (six years in respect of colour vision) but certainly more frequently than every five years.⁸⁶ The certificate issued should attest to fitness in respect of hearing and sight and, where necessary in the deck department, colour vision, and should attest that no disease (including but not limited to pulmonary tuberculosis) incompatible with service at sea or likely to endanger the health of others is suffered; there should preferably be arrangements for re-examination in case of a refusal of a certificate.⁸⁷

⁸² General Survey, *supra*, note 80, at 61 (§ 111).

⁸³ General Survey, *supra*, note 80, at 71 (§ 134).

⁸⁴ General Survey, *supra*, note 80, at 71 (§ 134).

⁸⁵ General Survey, *supra*, note 80, at 71-72 (§ 134).

⁸⁶ The period of validity of five years envisaged in national legislation for the medical certificate would not be substantially equivalent to the relevant requirement under Article 5 of Convention No. 73, which prescribes a period of validity not exceeding two years. The discrepancy between five years and two years is too wide for the regulations to be considered substantially equivalent for the purpose of Convention No. 147, this being a material point. See, General Survey, *supra*, note 80, at 63 (§ 115).

⁸⁷ General Survey, *supra*, note 80, at 64 (§ 118).

The essential features of Article 2(a) of Convention No. 147 in relation to *Articles 4 and 7 of Convention No. 134* are that there exist laws or regulations on the nine general and specific subjects listed in Article 4, paragraph 3, and that one or more crew members are appointed responsible for accident prevention under Article 7.⁸⁸

The substantive safety standards in *Convention No. 92* seem to include those requiring adequate security, protection against weather and insulation in respect of the location, means of access, structure and arrangement in relation to other spaces of crew accommodation, having regard to, amongst other things, fire prevention needs (Article 6(1) and (8)); adequate ventilation of sleeping and mess-rooms (Article 7(1)); an adequate system of heating, avoiding the risk of fire or other danger (Article 8(1) and (6)); adequate lighting (Article 9(2)); the normal situation of sleeping rooms amidships or aft, above the load line (Article 10(1)); sufficient sanitary accommodation, ventilated and with adequate disposal pipes (Article 13(1), (8) and (10)); an approved medicine chest and, where a crew of 15 or more is carried, separate hospital accommodation (Article 14(1) and (7)). Furthermore, in order to ensure the safety of life on board ship, additional requirements should also be included. The measures laid down in Convention No. 92 to ensure the implementation of these standards are of the kind also laid down in Convention No. 147, especially the enactment of legislation on substantive questions and the consultation of shipowners and seafarers in the framing and administration of these measures (Article 3(2)(e)); and inspection of crew accommodation by the competent authority on registration or re-registration of the ship and when a complaint is received (Article 5) and by the responsible officer and crew members at least once a week (Article 17). In addition, Convention No. 92 provides for the approval of plans in advance (Article 4). There are also transitional provisions for application to existing ships (Article 18) and, to provide further flexibility, Article 1(5) allows variations to be made in respect of the substantive provisions if the competent authority is satisfied, after consultation of shipowners and seafarers, that the variations provide corresponding advantages as a result of which the overall conditions are not less favourable than those which would result from the full application of the provisions of the Convention.⁸⁹

The Committee of Experts has also indicated that, given that all matters of safety of life on board ship are material ones, any view of what is *substantially equivalent* to the provisions of Convention No. 92 in respect of safety must bear in mind the object and purpose of both Convention No. 147 and Convention No. 92 in relation to safety. National regulations on crew accommodation should be such as to ensure the safety of life on board ship in respect of the points referred to above.⁹⁰

According to the Committee of Experts, the substantive safety standards in *Article 5 of Convention No. 68* seem to be those requiring food and water supplies which are suitable in quantity, nutritive value and quality to secure the health of the crew.⁹¹ For the purposes of Article 2(a)(i) of Convention No. 147, the requirement of substantial equivalence to Article 5 may be met simply where food and water are safe for consumption without risk to health.⁹² The Committee has also considered substantial equivalence to have been shown where there is legislation even if in only the general terms of Article 5.⁹³

⁸⁸ General Survey, *supra*, note 80, at 59 (§ 107).

⁸⁹ General Survey, *supra*, note 80, at 65-66 (§ 120).

⁹⁰ General Survey, *supra*, note 80, at 67 (§ 124).

⁹¹ General Survey, *supra*, note 80, at 68 (§ 125).

⁹² General Survey, *supra*, note 80, at 68 (§ 126).

⁹³ General Survey, *supra*, note 80, at 68 (§ 127).

Substantial equivalence for the purposes of *Articles 3 and 4 of Convention No. 53* involves essentially a licensing system which is compulsory (Article 3 of Convention No. 53) and in which both experience - leading to demonstrable ability on board ship - and the examination of qualifications are required (Article 4(1)(b) and (c)).⁹⁴

The provisions of *Convention No. 22* do not actually contain standards for shipboard conditions of employment and living arrangements, but they do lay down the manner in which some such provisions are to be specified.⁹⁵ For the purposes of Article 2(a) of Convention No. 147, at least a large dose of law or regulations on matters covered by Convention No. 22 is necessary, although some minor points might be established by the alternative methods. The essential features of Convention No. 22 on which substantial equivalence has to be established include the provision of a document containing all the main particulars listed in Article 6(3). Adequate protection of the seafarer on termination (Articles 10 to 14) would also be essential.⁹⁶

According to the Committee of Experts, the question of whether there is substantial equivalence to *Convention No. 23* would seem to turn on the following points. Under Convention No. 23 (Article 3), a seafarer (except a master, pilot, cadet or pupil) landed during or on the expiration of his engagement is entitled to be taken back to his own country, or to the port of engagement or where the voyage commenced; the provision of suitable employment on a vessel going to such a destination counts as repatriation; such provision should apply to any seafarer engaged in a port in his own country, but otherwise national provisions may decide under what conditions a foreign seafarer has the repatriation right (Article 3(4)). The expenses may not be charged to a seafarer in cases of injury sustained in the service of the vessel, shipwreck or no-fault illness or discharge (Article 4). Relevant maintenance, accommodation and food expenses should be paid in addition to transport; if the seafarer is repatriated as part of a crew he should be remunerated (Article 5). And the public authority in the country of registration of the vessel should take responsibility for supervising repatriation - including that of foreigners - and, where necessary, provide the seafarers with expenses in advance (Article 6).⁹⁷

In respect of *Convention No. 87*, the Committee of Experts indicated that the essence of the Convention is freedom vis-à-vis the public authorities for workers and employers to exercise the right to organize. That freedom is predicated on four basic guarantees: first, that all workers and employers have the right to establish and join organizations of their own choosing without previous authorization (Article 2 of Convention No. 87); second, that those organizations have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmes (Article 3 of Convention No. 87); third, that the organizations are not liable to be dissolved or suspended by administrative authority (Article 4 of Convention No. 87); and, fourth, that the organizations have the right to establish and join federations and confederations and affiliate with international organizations of workers and employers (Article 5 of Convention No. 87), such federations and confederations having the same rights as their constituent organizations (Article 6 of Convention No. 87). For the purposes of Convention No. 147, substantial equivalence to Convention No. 87 involves at the mini-

⁹⁴ General Survey, *supra*, note 80, at 49 (§ 86). At the same time, the footnote to Convention No. 147 states, that in cases where the established licencing system or certification structure of a State would be prejudiced by problems arising from strict adherence to the relevant standards of Convention No. 53, the principle of substantial equivalence shall be applied so that there will be no conflict with that State's established arrangements for certification.

⁹⁵ General Survey, *supra*, note 80, at 93 (§ 182).

⁹⁶ General Survey, *supra*, note 80, at 95 (§ 186).

⁹⁷ General Survey, *supra*, note 80, at 76 (§ 141).

imum the observance and implementation in full of these four guarantees in respect of seafarers on ships registered in the national territory.⁹⁸

Convention No. 98 in essence provides, first, that workers should be protected in their employment against acts of anti-union discrimination (Article 1 of Convention No. 98); and, second, that workers' and employers' organizations should be protected against mutual acts of interference (Article 2 of Convention No. 98). Equally, it requires measures to promote voluntary collective bargaining (Article 4). For the purposes of Convention No. 147, substantial equivalence to Convention No. 98 involves at least the full guarantee of those two forms of protection and the full implementation of such measures in respect of seafarers on ships registered in the national territory.⁹⁹

Convention No. 147 provides for two forms of its enforcement: (i) the control by the Member in respect of the ships registered in its territory (so-called "Flag state control"); and (ii) the control by the Member in respect of the ships registered in a foreign State and calling into its ports (so-called "Port state control"). As concerns "flag state control", each Member which ratifies this Convention has the obligation to verify, by inspection or other appropriate means that ships registered in its territory comply with applicable international labour Conventions in force which it has ratified, with the laws and regulations required by Article 2(a) of Convention No. 147 and, as may be appropriate under national law, with applicable collective agreements.¹⁰⁰

As distinct from "flag state control", under Convention No. 147 the exercise of "port state control" is not the duty, but the right of the respective Member. The Convention provides that, if a Member which has ratified this Convention and in whose port a ship calls in the normal course of its business or for operational reasons receives a complaint or obtains evidence that the ship does not conform to the standards of the Convention, it may prepare a report addressed to the government of the country in which the ship is registered, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.¹⁰¹ In taking such measures, the Member shall forthwith notify the nearest maritime, consular or diplomatic representative of the flag State and shall, if possible, have such representative present; it shall not unreasonably detain or delay the ship.¹⁰²

Analysis of the comments of the Committee of Experts shows twenty-four major issues relating to the application of the Convention. First, the exception under Article 1(4)(b) relates only to vessels engaged in catching operations involving the living resources of the sea, and not to fish processing vessels.¹⁰³ Second, the Member's obligation to have laws or regula-

⁹⁸ General Survey, *supra*, note 80, at 96 (§ 188).

⁹⁹ General Survey, *supra*, note 80, at 97 (§ 189).

¹⁰⁰ Convention No. 147, Article 2(f).

¹⁰¹ Convention No. 147, Article 4(1).

¹⁰² Convention No. 147, Article 4(2).

¹⁰³ See, **United States** (CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request); **United States (American Samoa)** (CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request); **United States (Guam)** (CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request); **United States (Puerto Rico)** (CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th ses-

tions laying down, for ships registered in its territory, standards listed in Article 2(a) of the Convention is equally applicable to ships registered in its International Shipping Registry.¹⁰⁴ Third, the essential requirement of this Convention in respect of standards of hours of work may be satisfied, at a minimum, by legislation laying down in the light of safety demands a reasonable level of normal daily hours of work at sea for all officers and ratings; and that such legislation should not be limited in application to watch keepers.¹⁰⁵ Fourth, under Article 2(a)(i) of the Convention each Member undertakes to have laws or regulations laying down safety standards; that this obligation is incumbent on the State and cannot be delegated to individuals, including professionals, to be dealt with according to their assessment of what is safe on an ad hoc basis under non-emergency conditions.¹⁰⁶ Fifth, Article 2(a)(i) of the Convention requires that the State assume the primary responsibility with respect to safety standards, and the Committee considers that the use of subjective and imprecise safety criteria such as “reasonable practicability” and normally available rest periods in order to achieve operational flexibility cannot be considered as meaningful safety standards and as fulfilling the State’s responsibility under Article 2 of the Convention.¹⁰⁷ Sixth, the essential requirement of Article 2(a)(i) of Convention No. 147 as regards the standards of manning is that ships should be sufficiently manned to ensure the safety of life on board.¹⁰⁸

Seventh, under Article 2(a)(ii) of Convention No. 147, each Member which ratifies this Convention undertakes to have laws or regulations laying down, for ships registered in its territory, appropriate social security measures.¹⁰⁹ Eighth, the appropriate social security measures should be prescribed by laws or regulations, and can not be established exclusively by the respective collective agreements.¹¹⁰ Ninth, under Article 2(a)(iii) of the Convention, shipboard conditions of employment, in general, need only be the subject of laws or regulations in so far as, in the opinion of the Member, they are not covered by, for example, collective agreements. However, to the extent that the regulation of hours of work is

sion: Direct request); **United States (United States Virgin Islands)** (CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request).

¹⁰⁴ See, **Germany** (CEACR, 1995/66th session: Direct request; CEACR, 2005/76th session: Direct request).

¹⁰⁵ See, **China (Hong Kong Special Administrative Region)** (CEACR, 1990/60th session: Direct request; CEACR, 1992/62nd session: Observation; CEACR, 2000/71st session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2004/75th session: Direct request); **United Kingdom** (CEACR, 1994/64th session: Observation; CEACR, 1995/66th session: Observation; CEACR, 1996/67th session: Observation; CEACR, 1998/68th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2005/76th session: Observation); **United Kingdom (Bermuda)** (CEACR, 1990/60th session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 2002/73rd session: Direct request).

¹⁰⁶ See, **Ireland** (CEACR, 2001/72nd session: Direct request); **United Kingdom** (CEACR, 1996/67th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2005/76th session: Observation).

¹⁰⁷ See, **United Kingdom** (CEACR, 1996/67th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2005/76th session: Observation).

¹⁰⁸ See, **Iraq** (CEACR, 1990/60th session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request); **Lebanon** (CEACR, 2004/75th session: Direct request).

¹⁰⁹ See, **United Kingdom (Bermuda)** (CEACR, 1990/60th session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 2002/73rd session: Direct request).

¹¹⁰ See, **Azerbaijan** (CEACR, 2000/71st session: Direct request; CEACR, 2004/75th session: Direct request).

a matter of safety of life on board ship, it is required under Article 2(a)(i) to be the subject of legislation.¹¹¹ Tenth, as concerns shipboard living arrangements, both Article 2(a)(iii) of Convention No. 147 and Article 3 of Convention No. 92 specify the forms this may take (laws, regulations, collective Conventions having the force of law, court decisions). The Committee considers that the prescribed form must be respected; it is with regard to the content, in matters other than safety, that differences or deviations in detail may be acceptable in the context of substantial equivalence.¹¹²

Eleventh, the availability to seafarers on ships registered in the Member's territory, of legal procedures enabling their claims submitted under private law to be examined (justiciability), is a component of the exercise of jurisdiction in internal law.¹¹³ Twelfth, under Article 2(b) of the Convention, the Members have an obligation to exercise effective jurisdiction or control over ships registered in its "International Register", in respect of safety standards, social security measures and shipboard conditions of employment and living arrangements prescribed by laws or regulations.¹¹⁴ Thirteenth, the Member shall ensure in practice that seafarers on ships registered in its International Shipping Register who are not domiciled or permanently resident in its territory have access to its courts.¹¹⁵ Fourteenth, under Article 2(b) effective jurisdiction or control of social security measures prescribed by national laws or regulations shall be exercised exclusively by the governmental institutions and can not be delegated or transferred to the seafarers' organizations.¹¹⁶ Fifteenth, in accordance with Article 2(d) of the Convention, the Members shall ensure that adequate procedures – subject to overall supervision by the competent authority, after tripartite consultation amongst that authority and the representative organizations of shipowners and seafarers, where appropriate, exist for the engagement of seafarers on ships registered in its territory, and for the investigation of complaints arising in that connection.¹¹⁷ Sixteenth, the supervisory role in engagement procedures attributed by Article 2(d) of the Convention to a competent authority must, in order to ensure the seafarer's protection, be discharged by a disinterested party.¹¹⁸ Seventeenth, in accordance with Article 2(d)(ii) of the Convention, measures shall be adopted to ensure the prompt transmission of complaints arising in connection with the engagement of foreign seafarers on ships registered in a foreign country to

¹¹¹ See, **Italy** (CEACR, 1990/60th session: Direct request; CEACR, 1991/61st session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2005/76th session: Observation).

¹¹² See, **Japan** (CEACR, 1997/68th session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2004/75th session: Direct request *See also*, General Survey, p. 32-33 (§§ 53-55).

¹¹³ See, **Germany** (CEACR, 2005/76th session: Direct request); **United Kingdom (Isle of Man)** (CEACR, 2005/76th session: Direct request). *See also*, General Survey, *supra*, note 80, at 125-128 (§§ 240-242).

¹¹⁴ See, **Italy** (CEACR, 2005/76th session: Direct request).

¹¹⁵ See, **Germany** (CEACR, 2005/76th session: Direct request).

¹¹⁶ See, **Azerbaijan** (CEACR, 2000/71st session: Direct request; CEACR, 2004/75th session: Direct request).

¹¹⁷ See, **Spain** (CEACR, 1990/60th session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1998/69th session: Direct request).

¹¹⁸ See, **United States** (CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request); **United States (American Samoa)** (CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request); **United States (Guam)** (CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request); **United States (Puerto Rico)** (CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request); **United States (United States Virgin Islands)** (CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request).

the competent authority of the country.¹¹⁹ Eighteenth, under Article 2(f) of Convention No. 147 each Member which ratifies this Convention undertakes to verify by inspection or other appropriate means that ships registered in its territory comply with applicable international labour Conventions in force which it has ratified, with the laws and regulations required by Article 2(a) and, as may be appropriate under national law, with applicable collective agreements.¹²⁰ Nineteenth, the Member's obligation under Article 2(f) of the Convention equally covers ships registered in its International Shipping Registry.¹²¹ Twentieth, the object of Article 2(f) of the Convention is the inspection by a State of ships registered in its territory, while the object of the Memorandum of Understanding on Port State Control is the inspection by a State of foreign vessels stopping over in one of its ports.¹²² Twenty-first, under Article 2(g) each Member undertakes to hold an official inquiry into any serious marine casualty involving ships registered in its territory, particularly those involving injury and/or loss of life, and the final report of such inquiry is normally to be made public. The respective officials shall have an affirmative duty to institute an investigation upon receipt of the appropriate information, and such investigation shall be mandatory, and not discretionary.¹²³ Twenty-second, in accordance with Article 2(g) of the Convention, the final re-

¹¹⁹ See, **Costa Rica** (CEACR, 1990/60th session: Observation; CEACR, 1991/61st session: Observation; CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Observation; CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Observation; CEACR, 1993/63rd session: Direct request; CEACR, 2000/71st session: Direct request); **Denmark** (CEACR, 1990/60th session: Direct request); **Greece** (EACR, 2005/76th session: Direct request); **India** (CEACR, 1999/70th session: Direct request; CEACR, 2000/71st session: Direct request); **Morocco** (CEACR, 1990/60th session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request); **United Kingdom (Bermuda)** (CEACR, 1990/60th session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 2002/73rd session: Direct request); **United States** (CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request).

¹²⁰ See, **Croatia** (CEACR, 2000/71st session: Direct request; CEACR, 2005/76th session: Direct request); **Cyprus** (CEACR, 2000/71st session: Direct request; CEACR, 2001/72nd session: Direct request); **France (French Southern and Antarctic Territories)** (CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 2002/73rd session: Observation; CEACR, 2004/75th session: Observation; CEACR, 2005/76th session: Observation); **Liberia** (CEACR, 1990/60th session: Observation; CEACR, 1991/61st session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1994/64th session: Observation; CEACR, 2000/71st session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2003/74th session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request); **United Kingdom (Bermuda)** (CEACR, 1990/60th session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 2002/73rd session: Direct request).

¹²¹ See, **Germany** (CEACR, 2005/76th session: Direct request); **Italy** (CEACR, 2005/76th session: Direct request).

¹²² See, **France (New Caledonia)** (CEACR, 2002/73rd session: Direct request).

¹²³ See, **Liberia** (CEACR, 1990/60th session: Direct request; CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CACR, 2000/71st session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request).

ports of inquiries into serious marine casualties are normally to be made public.¹²⁴ Twenty-third, according to Article 3 of the Convention, 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 registered in a State which has not ratified the Convention, until it is satisfied that standards equivalent to those fixed by this Convention are being applied.¹²⁵ Twenty-fourth, according to Article 4(2) of the Convention, in taking measures necessary to rectify any conditions on board which are clearly hazardous to safety or health, the member shall forthwith notify the nearest maritime, consular or diplomatic representative of the flag State and shall, if possible, have such representative present.¹²⁶

2.2.1.8. *The Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention*

The Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention provides that each Member which ratifies this Protocol shall extend the list of Conventions appearing in the Appendix to the principal Convention so as to include the Conventions in Part A of the Supplementary Appendix¹²⁷ as well as such Conventions listed in Part B of that Appendix as it accepts, if any.¹²⁸

¹²⁴ See, **France (French Southern and Antarctic Territories)** (CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request); **France (New Caledonia)** (CEACR, 2002/73rd session: Direct request); **Italy** (CEACR, 1991/61st session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1995/65th session: Observation); **Morocco** (CEACR, 2005/76th session: Direct request); **Romania** (CEACR, 2005/76th session: Direct request).

¹²⁵ See, **Lebanon** (CAGR, 2000/71st session: Direct request; CEACR, 2004/75th session: Direct request); **Morocco** (CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request); **Ukraine** (CEACR, 1998/69th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2005/76th session: Direct request).

¹²⁶ See, **China (Hong Kong Special Administrative Region)** (CEACR, 2000/71st session: Direct request); **Costa Rica** (CEACR, 2000/71st session: Direct request); **Cyprus** (CEACR, 2000/71st session: Direct request; CEACR, 2001/72nd session: Direct request); **Egypt** (CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request); **Greece** (CEACR, 2005/76th session: Direct request); **India** (CEACR, 1999/70th session: Direct request; CEACR, 2000/71st session: Direct request); **Israel** (CEACR, 2000/71st session: Direct request); **Lebanon** (CAGR, 2000/71st session: Direct request; CEACR, 2004/75th session: Direct request); **Liberia** (CEACR, 1990/60th session: Direct request; CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2003/74th session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request); **Poland** (CEACR, 1999/70th session: Direct request); **Ukraine** (CEACR, 1998/69th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2005/76th session: Direct request); **United States** (CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request).

¹²⁷ Part A of the Supplementary Appendix includes the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) and the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180).

¹²⁸ Part B of the Supplementary Appendix includes the Seafarers' Identity Documents Convention, 1958 (No. 108); the Workers' Representatives Convention, 1971 (No. 135); the Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164); and the Repatriation of Seafarers Convention (Revised), 1987 (No. 166).

2.2.1.9. *The Merchant Shipping (Improvement of Standards) Recommendation, 1976 (No. 155)*

The Merchant Shipping (Improvement of Standards) Recommendation, 1976 (No. 155) provides that the ILO Members should: (a) ensure that the provisions of the laws and regulations provided for in Article 2, subparagraph (a), of the Merchant Shipping (Minimum Standards) Convention, 1976, and (b) satisfy themselves that such provisions of collective agreements as deal with shipboard conditions of employment and shipboard living arrangements, are at least equivalent to the Conventions or Articles of Conventions referred to in the Appendix to the Merchant Shipping (Minimum Standards) Convention, 1976.¹²⁹ In addition, steps should be taken, by stages if necessary, with a view to such laws or regulations, or as appropriate collective agreements, containing provisions at least equivalent to the provisions of the instruments referred to in the Appendix to this Recommendation.¹³⁰

¹²⁹ Recommendation No. 155, section 2.

¹³⁰ The Appendix to Recommendation No. 155 lists the following instruments: the Officers' Competency Certificates Convention, 1936 (No. 53); the Food and Catering (Ships' Crews) Convention, 1946 (No. 68); the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133); the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134); the Workers' Representatives Convention, 1971 (No. 135); the Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91); or the Seafarers' Annual Leave Convention, 1976 (No. 146); the Social Security (Seafarers) Convention, 1946 (No. 70); the Vocational Training (Seafarers) Recommendation, 1970 (No. 137); and the IMCO/ILO Document for Guidance, 1975.

2.2.2. Texts of standards

2.2.2.1. *National Seamen's Codes Recommendation, 1920 (No. 9)*

The General Conference of the International Labour Organisation,

Having been convened at Genoa by the Governing Body of the International Labour Office, on the 15 June 1920, and

Having decided upon the adoption of certain proposals with regard to a consideration of the possibility of drawing up an International Seamen's Code, which is the fourth item in the agenda for the Genoa meeting of the Conference, and

Having determined that these proposals shall take the form of a Recommendation, adopts the following Recommendation, which may be cited as the National Seamen's Codes Recommendation, 1920, to be submitted to the Members of the International Labour Organisation for consideration with a view to effect being given to it by national legislation or otherwise, in accordance with the provisions of the Constitution of the International Labour Organisation:

In order that, as a result of the clear and systematic codification of the national law in each country, the seamen of the world, whether engaged on ships of their own or foreign countries, may have a better comprehension of their rights and obligations, and in order that the task of establishing an International Seamen's Code may be advanced and facilitated, the International Labour Conference recommends that each Member of the International Labour Organisation undertake the embodiment in a seamen's code of all its laws and regulations relating to seamen in their activities as such.

2.2.2.2. *Seafarers' Engagement (Foreign Vessels) Recommendations, 1958 (No. 107)*

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-first Session on 29 April 1958, and

Expressing its serious concern at the tendency of nationals of certain maritime countries to serve in vessels of other countries without properly negotiated collective agreements ensuring them the protection and standards applicable to vessels of their own countries, and

Having decided upon the adoption of certain proposals concerning the engagement of seafarers, which is the third item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation, adopts this thirteenth day of May of the year one thousand nine hundred and fifty-eight, the following Recommendation, which may be cited as the Seafarers' Engagement (Foreign Vessels) Recommendation, 1958:

1. Each Member should do everything in its power to discourage seafarers within its territory from joining or agreeing to join vessels registered in a foreign country unless the conditions under which such seafarers are to be engaged are generally equivalent to those applicable under collective agreements and social standards accepted by bona fide organisations of shipowners and seafarers of maritime countries where such agreements and standards are traditionally observed.

2. In particular, each Member should have regard to whether proper provision is made -

- (a) for the return of a seafarer employed on a vessel registered in a foreign country who is put ashore in a foreign port for reasons for which he is not responsible to –
 - (i) the port at which he was engaged; or
 - (ii) a port in his own country or the country to which he belongs; 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 a seafarer employed on a vessel registered in a foreign country who is put ashore in a foreign port in consequence of sickness or injury incurred in the service of the vessel and not due to his own wilful misconduct.

2.2.2.3. Social Conditions and Safety (Seafarers) Recommendation, 1958 (No. 108)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-first Session on 29 April 1958, and

Having decided upon the adoption of certain proposals concerning flag transfer in relation to social conditions and safety, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation, adopts this fourteenth day of May of the year one thousand nine hundred and fifty-eight, the following Recommendation, which may be cited as the Social Conditions and Safety (Seafarers) Recommendation, 1958:

Considering that labour conditions have a substantial bearing on safety of life at sea,

Considering that the problems involved have been brought into special prominence by the large volume of tonnage registered in countries not hitherto regarded as being traditionally maritime,

Considering that the Convention on the High Seas adopted by the United Nations Conference on the Law of the Sea and opened for signature on 29 April 1958 contains a set of provisions regarding -

- (i) the right of every State to sail ships under its flag;
- (ii) the condition relating to the nationality of the ship that there must exist a genuine link between the State and the ship; in particular, the State must effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag;
- (iii) the obligation that every State shall take such measures for ships under its flag as are necessary to ensure safety at sea with regard, inter alia, to the manning of ships and labour conditions for crews taking into account the applicable international labour instruments,

Considering the provisions of the Seafarers' Engagement (Foreign Vessels) Recommendation, 1958, and

Considering the provisions of the Social Security (Seafarers) Convention, 1946;

The Conference recommends that the following provisions should be applied:

The country of registration should accept the full obligations implied by registration and exercise effective jurisdiction and control for the purpose of the safety and welfare of seafarers in its sea-going merchant ships and in particular should -

- (a) make and adopt regulations designed to ensure that all ships on its register observe internationally accepted safety standards;
- (b) make arrangements for a proper ship-inspection service adequate to the requirements of the tonnage on its register and ensure that all ships on its register are regularly inspected to ensure conformity with regulations issued under (a) above;
- (c) establish both in its territory and abroad the requisite government-controlled agencies to supervise the signing on and signing off of seafarers;

- (d) ensure or satisfy itself that the conditions under which the seafarers serve are in accordance with the standards generally accepted by the traditional maritime countries;
- (e) by regulations or legislation if not already otherwise provided for, ensure freedom of association for the seafarers serving on board its ships;
- (f) ensure by regulations or legislation that proper repatriation for the seafarers serving on board its ships is provided in accordance with the practice followed in traditional maritime countries;
- (g) ensure that proper and satisfactory arrangements are made for the examination of candidates for certificates of competency and for the issuing of such certificates.

2.2.2.4. *Employment of Seafarers (Technical Developments)* *Recommendation, 1970 (No. 139)*

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-fifth Session on 14 October 1970, and

Considering that in times of accelerated changes in the operation of merchant ships, both as regards technical and organisational methods and as regards economic aspects, special attention needs to be given to the employment problems which may arise from such changes in order to safeguard and improve the conditions of seafarers, provide sufficient and suitable manpower for the maritime industry, and generally secure for all concerned the greater benefits from technical progress, and

Considering further that in the establishment and implementation of national and regional manpower plans under the World Employment Programme of the International Labour Organisation adequate attention should be given to the changing manpower requirements of the maritime industry, and

Noting that technical co-operation is available from the International Labour Organisation for the purpose of maritime manpower planning and development, including the introduction and adaptation of maritime training schemes to meet the requirements of modern merchant ships, and

Noting the terms of existing international labour Conventions and Recommendations which may be relevant to employment problems arising from technical developments, and in particular of the Placing of Seamen Convention, 1920, the Seafarers' Pensions Convention, 1946, the Employment Service Convention and Recommendation, 1948, the Termination of Employment Recommendation, 1963, and the Employment Policy Convention and Recommendation, 1964, and

Considering that it is important to adopt a programme of action specifically designed to meet the requirements of the maritime industry, and

Having decided upon the adoption of certain proposals with regard to problems arising from technical developments and modernisation on board ship, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,
adopts this twenty-ninth day of October of the year one thousand nine hundred and seventy, the following Recommendation, which may be cited as the *Employment of Seafarers (Technical Developments) Recommendation, 1970*:

I. Manpower Planning

1. Each Member which has a maritime industry should ensure the establishment of national manpower plans for that industry within the framework of its national employment policy.

2. In preparing such manpower plans account should be taken of -
- (a) the conclusion drawn from periodic studies of the size of the maritime labour force, the nature and extent of employment, the distribution of the labour force by such characteristics as age and occupational group and probable future trends in these fields;
 - (b) studies of trends in the evolution of new techniques in the maritime industry both at home and abroad, in relation, among other things, to structural changes in the industry in the form of -
 - (i) changed methods of operation of ships, technically and organisationally; and
 - (ii) modifications in manning scales and job contents on different types of ships;
 - (c) forecasts, in the light of the foregoing studies, of the probable requirements, at different dates in the future, for various categories and grades of seafarers.
3. Such manpower plans should be designed to obtain for shipowners and seafarers as well as for the community as a whole the greatest benefits from technical progress, and to protect from hardship seafarers whose employment is affected thereby.
4. (1) If they do not formulate the manpower plans themselves, representatives of shipowners' and seafarers' organisations should be consulted in connection with their formulation and subsequent adjustment, and the co-operation and participation of these organisations should be sought in the practical application of the plans.
- (2) There should be regular consultation between shipowners and seafarers and their various organisations on employment problems related to technical change.

II. Recruitment and Placement

5. Recruitment of seafarers into the maritime industry should take account of existing manpower plans and of the forecasts contained therein.
6. (1) Mobility within the maritime labour force should be facilitated by the operation of an effective employment service.
- (2) Where the placement of seafarers is the concern of specialised employment offices, and where these offices are responsible for finding jobs ashore, placement in such jobs should be facilitated by close collaboration between those offices and the general public employment service.
7. (1) Having regard to natural wastage, positive steps should be taken by those responsible to avert or minimise as far as practicable the effects of any material reductions in the number of seafarers employed, by such measures as providing employment opportunities on as wide a range of ships as is reasonable and practicable, and by retraining where appropriate.
- (2) The selection of seafarers to be affected by a reduction of the workforce should be made according to agreed criteria and on a basis appropriate to the special conditions of the maritime industry.
8. Up-to-date information should be made available on the nature of technical changes on board ship for the guidance of seafarers and potential seafarers.

III. Training and Retraining

9. Where technical changes require study of the need to train seafarers and to help them to adapt to these changes, account should be taken of the Vocational Training (Seafarers) Recommendation, 1970.
10. Where changes in functions and required skills arising from technical developments are likely to affect seafarers, basic training of those concerned, including certificated personnel, should be reviewed to take account of these changes and to ensure that seafarers are adequately trained for the functions they will be required to carry out.

11. Where the nature of technical developments so requires, consideration should be given to the possibility of retraining seafarers to enable them to take full advantage of the opportunities offered by these developments.

12. There should be consultation with shipowners' and seafarers' organisations, and between them, where technical developments are likely to lead to changes in manning scales or in certification requirements or to significant changes in the duties and functions of various categories of seafarers.

13. Changes in the duties and functions of the various categories of seafarers should be explained clearly and with adequate notice to those involved.

IV. Regularity of Employment and Income

14. (1) Consideration should be given to schemes providing regularity of employment and income for seafarers and suitable personnel to man ships.

(2) Such schemes might provide, for instance, for contracts of employment with a company or with the industry for seafarers with appropriate qualifications.

15. Consideration should also be given to arranging for seafarers, as part of the national social security system or otherwise, some form of benefits during periods of unemployment.

16. (1) Efforts should be made to meet the needs of seafarers, particularly older persons, who have special difficulty in adjusting to technical change.

(2) Amongst possible measures, consideration should be given to -

- (a) retraining for other industries through government and other schemes that are available; and
- (b) the provision of adequate benefits, within the framework of social security systems or other schemes, for those who are required to leave the maritime industry at an earlier age than is generally the case.

V. International Co-operation

17. To avoid hardship to such seafarers employed in foreign ships as are likely to be affected by technical changes aboard ship, the governments and shipowners' and seafarers' organisations concerned should undertake early consultation and should co-operate with a view to -

- (a) adjusting the supply of these seafarers gradually to the changing requirements of the foreign countries on whose ships they are employed; and
- (b) minimising the effects of redundancy by the joint application of relevant provisions of this Recommendation.

2.2.2.5. Continuity of Employment (Seafarers) Convention, 1976 (No. 145)

Date of entry into force: May 3, 1979

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-second Session on 13 October 1976, and

Having noted the terms of Part IV (Regularity of Employment and Income) of the Employment of Seafarers (Technical Developments) Recommendation, 1970, and

Having decided upon the adoption of certain proposals with regard to continuity of employment of seafarers, which is the fourth item on the agenda of the session, and

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

adopts this twenty-eighth day of October of the year one thousand nine hundred and seventy-six the following Convention, which may be cited as the Continuity of Employment (Seafarers) Convention, 1976:

Article 1

1. This Convention applies to persons who are regularly available for work as seafarers and who depend on their work as such for their main annual income.

2. For the purpose of this Convention the term "seafarers" means persons defined as such by national law or practice or by collective agreement who are normally employed as crew members on board a sea-going ship other than -

- (a) a ship of war;
- (b) a ship engaged in fishing or in operations directly connected therewith or in whaling or in similar pursuits.

3. National laws or regulations shall determine when ships are to be regarded as sea-going ships for the purpose of this Convention.

4. The organisations of employers and workers concerned shall be consulted on or otherwise participate in the establishment and revision of definitions in pursuance of paragraphs 2 and 3 of this Article.

Article 2

1. In each member State which has a maritime industry it shall be national policy to encourage all concerned to provide continuous or regular employment for qualified seafarers in so far as this is practicable and, in so doing, to provide shipowners with a stable and competent workforce.

2. Every effort shall be made for seafarers 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.

Article 3

Measures to achieve the objectives set out in Article 2 of this Convention might include -

- (a) contracts or agreements providing for continuous or regular employment with a shipping undertaking or an association of shipowners; or
- (b) arrangements for the regularisation of employment by means of the establishment and maintenance of registers or lists, by categories, of qualified seafarers.

Article 4

1. Where the continuity of employment of seafarers is assured solely by the establishment and maintenance of registers or lists, these shall include all occupational categories of seafarers in a manner determined by national law or practice or by collective agreement.

2. Seafarers on such a register or list shall have priority of engagement for seafaring.

3. Seafarers on such a register or list shall be required to be available for work in a manner to be determined by national law or practice or by collective agreement.

Article 5

1. To the extent that national laws or regulations permit, the strength of registers or lists of seafarers shall be periodically reviewed so as to achieve levels adapted to the needs of the maritime industry.

2. When a reduction in the strength of such a register or list becomes necessary, all appropriate measures shall be taken to prevent or minimise detrimental effects on seafarers, account being taken of the economic and social situation of the country concerned.

Article 6

Each member State shall ensure that appropriate safety, health, welfare and vocational training provisions apply to seafarers.

Article 7

The provisions of this Convention shall, except in so far as they are otherwise made effective by means of collective agreements, arbitration awards, or in such other manner as may be consistent with national practice, be given effect by national laws or regulations.

Article 8

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 9

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 10

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

2. Each Member which has ratified this Convention and 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, will be bound for another pe-

riod 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.

Article 11

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 12

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 by him in accordance with the provisions of the preceding Articles.

Article 13

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 14

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 10 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 15

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

2.2.2.6. Continuity of Employment (Seafarers) Recommendation, 1976 (No. 154)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-second Session on 13 October 1976, and

Having noted the terms of the Employment of Seafarers (Technical Developments) Recommendation, 1970, and

Having decided upon the adoption of certain proposals with regard to continuity of employment of seafarers, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Continuity of Employment (Seafarers) Convention, 1976,

adopts this twenty-eighth day of October of the year one thousand nine hundred seventy-six, the following Recommendation, which may be cited as the Continuity of Employment (Seafarers) Recommendation, 1976:

1. (1) Subject to the provisions of Paragraph 11, this Recommendation applies to persons who are regularly available for work as seafarers and who depend on their work as such for their main annual income.

(2) For the purpose of this Recommendation the term “seafarers” means persons defined as such by national law or practice or by collective agreement who are normally employed as crew members on board a sea-going ship other than -

(a) a ship of war;

(b) a ship engaged in fishing or in operations directly connected therewith or in whaling or in similar pursuits.

(3) National laws or regulations should determine when ships are to be regarded as sea-going ships for the purpose of this Recommendation.

(4) The organisations of employers and workers concerned should be consulted on or otherwise participate in the establishment and revision of definitions in pursuance of subparagraphs (2) and (3) of this Paragraph.

2. In so far as practicable, continuous or regular employment should be provided for all qualified seafarers.

3. (1) Except where continuous or regular employment with a particular shipowner exists, systems of allocation should be agreed upon which reduce to a minimum the necessity for attending calls for selection and allocation to a job and the time required for this purpose.

(2) In so far as practicable, these systems should preserve the right of a seafarer to select the vessel on which he is to be employed and the right of the shipowner to select the seafarer whom he is to engage.

4. Subject to conditions to be prescribed by national laws or regulations, or collective agreements, the transfer of seafarers in the regular employment of one employer to temporary work with another should be permitted when required.

5. (1) Where continuous or regular employment is not practicable, guarantees of employment and/or income should be provided in a manner and to an extent depending on the economic and social situation of the country concerned.

(2) These guarantees might include the following:

(a) employment for an agreed number of weeks or months per year, or income in lieu thereof;

(b) unemployment benefit when no work is available.

6. (1) Where the measures to obtain regular employment for seafarers provide for the establishment and maintenance of registers or lists of qualified seafarers, criteria should be laid down for determining the seafarers to be included in such registers or lists.

(2) Such criteria might include the following:

(a) residence in the country concerned;

(b) age and medical fitness;

(c) competence and skill;

(d) previous service at sea.

7. When the strength of such registers or lists is reviewed by the parties concerned, account should be taken of all relevant factors, including the long-term factors such as the modernisation of the maritime industry and changing trends in trade.

8. If reduction in the over-all strength of such a register or list becomes unavoidable, all necessary efforts should be made to help seafarers to find employment elsewhere through the provision of retraining facilities, as provided for in Part III of the Employment of Sea-

farers (Technical Developments) Recommendation, 1970, and the assistance of the public employment services.

9. (1) In so far as practicable, any necessary reduction in the strength of such a register or list should be made gradually and without recourse to termination of employment. In this respect, experience with personnel planning techniques at the level of the undertaking and at industry level can be usefully applied to the maritime industry.

(2) In determining the extent of the reduction, regard should be had to such means as -

- (a) natural wastage;
- (b) cessation of recruitment;
- (c) exclusion of men who do not derive their main means of livelihood from seafaring work;
- (d) reducing the retirement age or facilitating voluntary early retirement by the grant of pensions, supplements to state pensions, or lump-sum payments.

10. Termination of employment should be envisaged only after due regard has been had to the means referred to in subparagraph (2) of Paragraph 9 and subject to whatever guarantees of employment may have been given. It should be based as far as possible on agreed criteria, should be subject to adequate notice, and should be accompanied by payments such as -

- (a) unemployment insurance or other forms of social security;
- (b) severance allowance or other types of separation benefits;
- (c) such combination of benefits as may be provided for by national laws or regulations, or collective agreements.

11. Appropriate provisions of this Recommendation should, as far as practicable and in accordance with national laws and practice and collective agreements, also be applied to persons who work as seafarers on a seasonal basis.

2.2.2.7. Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)

Date of entry into force: November 28, 1981

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-second Session on 13 October 1976, and

Recalling the provisions of the Seafarers' Engagement (Foreign Vessels) Recommendation, 1958, and of the Social Conditions and Safety (Seafarers) Recommendation, 1958, and

Having decided upon the adoption of certain proposals with regard to substandard vessels, particularly those registered under flags of convenience, which is the fifth item on the agenda of the session, and

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

adopts this twenty-ninth day of October of the year one thousand nine hundred and seventy-six the following Convention, which may be cited as the Merchant Shipping (Minimum Standards) Convention, 1976:

Article 1

1. Except as otherwise provided in this Article, this Convention applies to every sea-going ship, whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the purpose of trade or is employed for any other commercial purpose.

2. National laws or regulations shall determine when ships are to be regarded as sea-going ships for the purpose of this Convention.

3. This Convention applies to sea-going tugs.
4. This Convention does not apply to -
 - (a) ships primarily propelled by sail, whether or not they are fitted with auxiliary engines;
 - (b) ships engaged in fishing or in whaling or in similar pursuits;
 - (c) small vessels and vessels such as oil rigs and drilling platforms when not engaged in navigation, the decision as to which vessels are covered by this subparagraph to be taken by the competent authority in each country in consultation with the most representative organisations of shipowners and seafarers.
5. Nothing in this Convention shall be deemed to extend the scope of the Conventions referred to in the Appendix to this Convention or of the provisions contained therein.

Article 2

Each Member which ratifies this Convention undertakes -

- (a) to have laws or regulations laying down, for ships registered in its territory -
 - (i) safety standards, including standards of competency, hours of work and manning, so as to ensure the safety of life on board ship;
 - (ii) appropriate social security measures; and
 - (iii) shipboard conditions of employment and shipboard living arrangements, in so far as these, in the opinion of the Member, are not covered by collective agreements or laid down by competent courts in a manner equally binding on the shipowners and seafarers concerned;and to satisfy itself that the provisions of such laws and regulations are substantially equivalent to the Conventions or Articles of Conventions referred to in the Appendix to this Convention, in so far as the Member is not otherwise bound to give effect to the Conventions in question;
- (b) to exercise effective jurisdiction or control over ships which are registered in its territory in respect of -
 - (i) safety standards, including standards of competency, hours of work and manning, prescribed by national laws or regulations;
 - (ii) social security measures prescribed by national laws or regulations;
 - (iii) shipboard conditions of employment and shipboard living arrangements prescribed by national laws or regulations, or laid down by competent courts in a manner equally binding on the shipowners and seafarers concerned;
- (c) to satisfy itself that measures for the effective control of other shipboard conditions of employment and living arrangements, where it has no effective jurisdiction, are agreed between shipowners or their organisations and seafarers' organisations constituted in accordance with the substantive provisions of the Freedom of Association and Protection of the Right to Organise Convention, 1948, and the Right to Organise and Collective Bargaining Convention, 1949;
- (d) to ensure that -
 - (i) adequate procedures - subject to over-all supervision by the competent authority, after tripartite consultation amongst that authority and the representative organisations of shipowners and seafarers where appropriate - exist for the engagement of seafarers on ships registered in its territory and for the investigation of complaints arising in that connection;
 - (ii) adequate procedures - subject to over-all supervision by the competent authority, after tripartite consultation amongst that authority and the representative organisations of shipowners and seafarers where appropriate - exist for the investigation of any complaint made in connection with and, if possible, at the time of the engagement in its territory of seafarers of its own nationality on ships registered in a foreign country, and that such complaint as well as any complaint made in connection

with and, if possible, at the time of the engagement in its territory of foreign seafarers on ships registered in a foreign country, is promptly reported by its competent authority to the competent authority of the country in which the ship is registered, with a copy to the Director-General of the International Labour Office;

- (e) to ensure that seafarers employed on ships registered in its territory are properly qualified or trained for the duties for which they are engaged, due regard being had to the Vocational Training (Seafarers) Recommendation, 1970;
- (f) to verify by inspection or other appropriate means that ships registered in its territory comply with applicable international labour Conventions in force which it has ratified, with the laws and regulations required by subparagraph (a) of this Article and, as may be appropriate under national law, with applicable collective agreements;
- (g) to hold an official inquiry into any serious marine casualty involving ships registered in its territory, particularly those involving injury and/or loss of life, the final report of such inquiry normally to be made public.

Article 3

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 registered in 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.

Article 4

1. If a Member which has ratified this Convention and in whose port a ship calls in the normal course of its business or for operational reasons receives a complaint or obtains evidence that the ship does not conform to the standards of this Convention, after it has come into force, it may prepare a report addressed to the government of the country in which the ship is registered, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

2. In taking such measures, the Member shall forthwith notify the nearest maritime, consular or diplomatic representative of the flag State and shall, if possible, have such representative present. It shall not unreasonably detain or delay the ship.

3. For the purpose of this Article, "complaint" means information submitted by a member of the crew, 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 its crew.

Article 5

1. This Convention is open to the ratification of Members which -

- (a) are parties to the International Convention for the Safety of Life at Sea, 1960, or the International Convention for the Safety of Life at Sea, 1974, or any Convention subsequently revising these Conventions; and
- (b) are parties to the International Convention on Load Lines, 1966, or any Convention subsequently revising that Convention; and
- (c) are parties to, or have implemented the provisions of, the Regulations for Preventing Collisions at Sea of 1960, or the Convention on the International Regulations for Pre-

venting Collisions at Sea, 1972, or any Convention subsequently revising these international instruments.

2. This Convention is further open to the ratification of any Member which, on ratification, undertakes to fulfil the requirements to which ratification is made subject by paragraph 1 of this Article and which are not yet satisfied.

3. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 6

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which there have been registered ratifications by at least ten Members with a total share in world shipping gross tonnage of 25 per cent.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 7

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 8

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When the conditions provided for in Article 6, paragraph 2, above have been fulfilled, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 9

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 by him in accordance with the provisions of the preceding Articles.

Article 10

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 11

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 7 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 12

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

Appendix

Minimum Age Convention, 1973 (No. 138), or
 Minimum Age (Sea) Convention (Revised), 1936 (No. 58), or
 Minimum Age (Sea) Convention, 1920 (No. 7);
 Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55), or
 Sickness Insurance (Sea) Convention, 1936 (No. 56), or
 Medical Care and Sickness Benefits Convention, 1969 (No. 130);
 Medical Examination (Seafarers) Convention, 1946 (No. 73);
 Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)(Articles 4 and 7);
 Accommodation of Crews Convention (Revised), 1949 (No. 92);
 Food and Catering (Ships' Crews) Convention, 1946 (No. 68) (Article 5);
 Officers' Competency Certificates Convention, 1936 (No. 53) (Articles 3 and 4);
 (Note: In cases where the established licensing system or certification structure of a State would be prejudiced by problems arising from strict adherence to the relevant standards of the Officers' Competency Certificates Convention, 1936, the principle of substantial equivalence shall be applied so that there will be no conflict with that State's established arrangements for certification.)
 Seamen's Articles of Agreement Convention, 1926 (No. 22);
 Repatriation of Seamen Convention, 1926 (No. 23);
 Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
 Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

2.2.2.8. Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976

Date of entry into force: January 10, 2003

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 Eighty-fourth Session on 8 October 1996, and

Noting the provisions of Article 2 of the Merchant Shipping (Minimum Standards) Convention, 1976 (referred to below as "the principal Convention"), which states in part that:

"Each Member which ratifies this Convention undertakes -

- (a) to have laws or regulations laying down, for ships registered in its territory -

- (i) safety standards, including standards of competency, hours of work and manning, so as to ensure the safety of life on board ship;
- (ii) appropriate social security measures; and
- (iii) shipboard conditions of employment and shipboard living arrangements, in so far as these, in the opinion of the Member, are not covered by collective agreements or laid down by competent courts in a manner equally binding on the shipowners and seafarers concerned;

and to satisfy itself that the provisions of such laws and regulations are substantially equivalent to the Conventions or Articles of Conventions referred to in the Appendix to this Convention, in so far as the Member is not otherwise bound to give effect to the Conventions in question”; and

Noting also the provisions of Article 4, paragraph 1, of the principal Convention, which states that:

“If a Member which has ratified this Convention and in whose port a ship calls in the normal course of its business or for operational reasons receives a complaint or obtains evidence that the ship does not conform to the standards of this Convention, after it has come into force, it may prepare a report addressed to the government of the country in which the ship is registered, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health”; and

Recalling the Discrimination (Employment and Occupation) Convention, 1958, Article 1, paragraph 1, of which states that:

“For the purpose of this Convention the term “discrimination” includes -

- (a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
- (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers’ and workers’ organisations, where such exist, and with other appropriate bodies; and

Recalling the entry into force of the United Nations Convention on the Law of the Sea, 1982, on 16 November 1994, and

Recalling the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995, of the International Maritime Organization,

Having decided on the adoption of certain proposals with regard to the partial revision of the principal Convention, which is the fourth item on the agenda of the session, and

Having determined that these proposals should take the form of a Protocol to the principal Convention;

adopts, this twenty-second day of October one thousand nine hundred and ninety-six, the following Protocol, which may be cited as the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976:

Article 1

1. Each Member which ratifies this Protocol shall extend the list of Conventions appearing in the Appendix to the principal Convention to include the Conventions in Part A of the Supplementary Appendix and such Conventions listed in Part B of that Appendix as it accepts, if any, in accordance with Article 3 below.

2. Extension to the Convention listed in Part A of the Supplementary Appendix that is not yet in force shall take effect only when that Convention comes into force.

Article 2

A Member may ratify this Protocol at the same time as or at any time after it ratifies the principal Convention, by communicating its formal ratification of the Protocol to the Director-General of the International Labour Office for registration.

Article 3

1. Each Member which ratifies this Protocol shall, where applicable, in a declaration accompanying the instrument of ratification, specify which Convention or Conventions listed in Part B of the Supplementary Appendix it accepts.

2. A Member which has not accepted all of the Conventions listed in Part B of the Supplementary Appendix may, by subsequent declaration communicated to the Director-General of the International Labour Office, specify which other Convention or Conventions it accepts.

Article 4

1. For the purposes of Article 1, paragraph 1, and Article 3 of this Protocol, the competent authority shall hold prior consultations with the representative organizations of shipowners and seafarers.

2. The competent authority shall, as soon as practicable, make available to the representative organizations of shipowners and seafarers information as to ratifications, declarations and denunciations notified by the Director-General of the International Labour Office in conformity with Article 8, paragraph 1, below.

Article 5

For the purpose of this Protocol, the Repatriation of Seafarers Convention (Revised), 1987, shall, in the case of a Member which accepts that Convention, be regarded as a replacement of the Repatriation of Seamen Convention, 1926.

Article 6

1. This Protocol shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. This Protocol shall come into force 12 months after the date on which the ratifications of five Members, three of which each have at least one million gross tonnage of shipping, have been registered.

3. Thereafter, this Protocol shall come into force for any Member 12 months after the date on which its ratification has been registered.

Article 7

A Member which has ratified this Protocol may denounce it whenever the principal Convention is open to denunciation in accordance with its Article 7, by an act communicated to the Director-General of the International Labour Office for registration. Denunciation of this Protocol shall not take effect until one year after the date on which it is registered.

Article 8

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and acts of denunciation communicated by the Members of the Organization.

2. When the conditions provided for in Article 6, paragraph 2, above have been fulfilled, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Protocol shall come into force.

Article 9

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 by the Director-General in accordance with the provisions of the preceding Articles.

Article 10

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Protocol and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 11

For the purposes of revising this Protocol and closing it to ratification, the provisions of Article 11 of the principal Convention shall apply *mutatis mutandis*.

Article 12

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

Supplementary Appendix

Part A

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)
and

Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180)

Part B

Seafarers' Identity Documents Convention, 1958 (No. 108)

Workers' Representatives Convention, 1971 (No. 135)

Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)

Repatriation of Seafarers Convention (Revised), 1987 (No. 166)

2.2.2.9. *Merchant Shipping (Improvement of Standards) Recommendation, 1976 (No. 155)*

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-second Session on 13 October 1976, and

Having decided upon the adoption of certain proposals with regard to substandard vessels, particularly those registered under flags of convenience, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Merchant Shipping (Minimum Standards) Convention, 1976,

adopts this twenty-ninth day of October of the year one thousand nine hundred seventy-six, the following Recommendation, which may be cited as the Merchant Shipping (Improvement of Standards) Recommendation, 1976:

1. (1) Except as otherwise provided in this Paragraph, this Recommendation applies to every sea-going ship, whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the purpose of trade or is employed for any other commercial purpose.

(2) National laws or regulations should determine when ships are to be regarded as sea-going ships for the purpose of this Recommendation.

(3) This Recommendation applies to sea-going tugs.

(4) This Recommendation does not apply to -

(a) ships primarily propelled by sail, whether or not they are fitted with auxiliary engines;

(b) ships engaged in fishing or in whaling or in similar pursuits;

(c) small vessels and vessels such as oil-rigs and drilling platforms when not engaged in navigation, the decision as to which vessels are covered by this clause to be taken by the competent authority in each country in consultation with the most representative organisations of shipowners and seafarers.

(5) Nothing in this Recommendation should be deemed to extend the scope of the instruments referred to in the Appendix to the Merchant Shipping (Minimum Standards) Convention, 1976, or in the Appendix to this Recommendation.

2. Members should -

(a) ensure that the provisions of the laws and regulations provided for in Article 2, subparagraph (a), of the Merchant Shipping (Minimum Standards) Convention, 1976, and

(b) satisfy themselves that such provisions of collective agreements as deal with shipboard conditions of employment and shipboard living arrangements, are at least equivalent to the Conventions or Articles of Conventions referred to in the Appendix to the Merchant Shipping (Minimum Standards) Convention, 1976.

3. In addition, steps should be taken, by stages if necessary, with a view to such laws or regulations, or as appropriate collective agreements, containing provisions at least equivalent to the provisions of the instruments referred to in the Appendix to this Recommendation.

4. (1) Pending steps for such revision of the Merchant Shipping (Minimum Standards) Convention, 1976, as may become necessary in the light of changes in the circumstances and needs of merchant shipping, cognisance should be taken in the application of that Convention, after consultation with the most representative organisations of shipowners and seafarers, of any revision of individual Conventions referred to in the Appendix thereto that has come into force.

(2) Cognisance should be taken in the application of this Recommendation, after consultation with the most representative organisations of shipowners and seafarers, of any revision of individual Conventions referred to in the Appendix thereto that has come into force and of any revision of other instruments therein referred to that has been adopted.

Appendix

Officers' Competency Certificates Convention, 1936 (No. 53);

Food and Catering (Ships' Crews) Convention, 1946 (No. 68);

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133);

Prevention of Accidents (Seafarers) Convention, 1970 (No. 134);

Workers' Representatives Convention, 1971 (No. 135);
Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91); or Seafarers' Annual Leave Convention, 1976 (No. 146);
Social Security (Seafarers) Convention, 1946 (No. 70);
Vocational Training (Seafarers) Recommendation, 1970 (No. 137);
IMCO/ILO Document for Guidance, 1975.

2.3. Conventions and Recommendations concerning the access to maritime employment

2.3.1. Content and practical application of standards

2.3.1.1. *Minimum age*

2.3.1.1.1. *The Minimum Age (Sea) Convention, 1920 (No. 7)*

The Minimum Age (Sea) Convention, 1920 (No. 7), sets forth a general prohibition of the admission of children under the age of 14 years to employment or work on any vessels engaged in maritime navigation, other than vessels upon which only members of the same family are employed.¹³¹ The work done by children on school-ships or training-ships is excluded from this general prohibition, provided that such work is approved and supervised by public authority.¹³² In order to facilitate the enforcement of the provisions of the Convention, every shipmaster shall be required to keep a register of all persons under the age of 16 years employed on board his vessel, or a list of them in the articles of agreement, and of the dates of their births.¹³³

Analysis of the comments of the Committee of Experts shows two major issues relating to the application of the Convention. First, Article 2 of the Convention prohibits the employment or work on vessels by children under the age of 14 years, other than on vessels upon which only members of the same family are employed. Therefore, the provisions of the national legislation stipulating that authorization may be given for contracts of employment for children between the ages of 12 and 14, when the working day does not exceed three hours per day, and only for work of a domestic nature, taking into account that the timetable shall not affect their attendance at a regular educational establishment, would not be in conformity with the requirements of the Convention.¹³⁴ Second, under Article 4 of the Convention, the shipmaster is required to keep a register of young persons under age 16 employed as seafarers or to record this information in the articles of agreement.¹³⁵

¹³¹ Convention No. 7, Article 2.

¹³² Convention No. 7, Article 3.

¹³³ Convention No. 7, Article 4.

¹³⁴ See, **Colombia** (CEACR, 1993/63rd session: Direct request).

¹³⁵ See, **Guinea-Bissau** (CEACR, 2004/75th session: Direct request).

2.3.1.1.2. *The Minimum Age (Sea) Convention (Revised), 1936 (No. 58)*

The Minimum Age (Sea) Convention (Revised), 1936 (No. 58), establishes a general prohibition on the employment or work of children under the age of 15 years on vessels, other than vessels upon which only members of the same family are employed.¹³⁶ At the same time, the Convention provides for the possibility of granting exemptions from this prohibition in respect of children of not less than 14 years of age, who could be employed on any ship in cases in which an educational or other appropriate authority designated by such laws or regulations is satisfied, after having due regard to the health and physical condition of the child, and to the prospective as well as to the immediate benefit to the child of the employment proposed, that such employment will be beneficial to the child.¹³⁷ The Convention also exempts from this general prohibition the work done by children on school-ships or training-ships, provided that such work is approved and supervised by a public authority.¹³⁸ In order to facilitate the enforcement of the provisions of the Convention, every shipmaster is required to keep a register of all persons under 16 years of age employed on board his vessel, or a list of them in the articles of agreement, and of the dates of their births.¹³⁹

Analysis of the comments of the Committee of Experts shows seven major issues relating to the application of the Convention. First, the Convention applies to all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned, with the exception of ships of war.¹⁴⁰ Second, since the Convention applies to all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned, the exclusion from the minimum age requirements of vessels of less than 75 net tons and vessels not engaged in foreign trade is not in conformity with the Convention¹⁴¹. Third, Article 2, paragraph 1, of the Convention extends the minimum age requirement also to work in the absence of an employment relationship or contract of employment. Therefore, to ensure compliance of the national legislation with the requirements of the Convention, the words in the respective provision of this legislation “shall not be employed to work on vessels” should be replaced by “shall not be employed or work on vessels”.¹⁴²

Fourth, the situation where the Labour Code sets the minimum age for the employment of children at 14 years, and the temporary administrative instructions set the minimum age for employment at sea at 16 years, is not in compliance with the requirements of the Convention.¹⁴³ Fifth, special employment of children, permitted under Article 2(2) of the Convention, shall be limited to persons of not less than fourteen years of age, subject to all conditions set forth in this provision of the Convention, namely due regard to the health and

¹³⁶ Convention No. 58, Article 2(1).

¹³⁷ Convention No. 58, Article 2(2).

¹³⁸ Convention No. 58, Article 3.

¹³⁹ Convention No. 58, Article 4.

¹⁴⁰ See, **United Kingdom (Gibraltar)** (CEACR, 2004/75th session: Direct request).

¹⁴¹ See, **Liberia** (CEACR, 1993/63rd session: Observation, 1994/ 64nd session: Observation).

¹⁴² See, **Liberia** (CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request).

¹⁴³ See, **France (French Southern and Antarctic Territories)** (CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2003/74th session: Direct request; CEACR, 2004/75th session: Direct request).

physical condition of the child and to the prospective as well as to the immediate benefit to the child of the employment proposed.¹⁴⁴ Sixth, under the Convention, each ratifying Member has an obligation to supervise and enforce its application, including the application in the non-metropolitan territories.¹⁴⁵ Finally, the ratification of the Minimum Age Convention, 1973 (No. 138) by a State party to Convention No. 58 entails the immediate denunciation of the latter if this State accepts the obligations of Convention No. 138 for maritime work, and either sets, in accordance with Article 2 of this Convention, a minimum age of at least 15 years, or specifies that Article 3 (setting a higher minimum age for hazardous work) of Convention No. 138 applies to maritime work.¹⁴⁶

2.3.1.2. Medical examination

2.3.1.2.1. The Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)

The Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16), requires that the employment of any child or young person under eighteen years of age on any vessel, other than vessels upon which only members of the same family are employed, shall be conditional on the production of a medical certificate attesting fitness for such work, signed by a doctor who shall be approved by the competent authority.¹⁴⁷ The continued employment at sea of any such child or young person shall be subject to the repetition of such medical examination at intervals of not more than one year, and the production, after each such examination, of a further medical certificate attesting fitness for such work.¹⁴⁸ Should a medical certificate expire in the course of a voyage, it shall remain in force until the end of the said voyage.¹⁴⁹

¹⁴⁴ See, **Lebanon** (CEACR, 2004/75th session: Direct request); **Liberia** (CEACR, 1995/65th session: Observation; CEACR, 1996/67th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2003/74th session: Observation; CEACR, 2004/75th session: Observation; CEACR, 2005/76th session: Observation; CEACR, 2006/77th session: Observation); **United Republic of Tanzania (Zanzibar)** (CEACR, 2000/71st session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2003/74th session: Direct request; CEACR 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request); **Yemen** (CEACR, 2005/76th session: Direct request).

¹⁴⁵ See, **United Kingdom (Gibraltar)** (CEACR, 2004/75th session: Direct request).

¹⁴⁶ See, **Guatemala** (CEACR, 2005/76th session: Direct request); **Peru** (CEACR, 2005/76th session: Direct request). It may be recalled that under Article 2(1) of Convention No. 138, each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation. Furthermore, under Article 3(1) of Convention No. 138, the minimum age for admission to any type of employment or work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years.

¹⁴⁷ Convention No. 16, Article 2.

¹⁴⁸ Convention No. 16, Article 3.

¹⁴⁹ Convention No. 16, Article 3.

Analysis of the comments of the Committee of Experts shows four major issues relating to the application of the Convention. First, the Convention is applicable to all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned; it excludes ships of war, but does not allow for the exemption of governmental ships from the scope of its application on the basis of the public ownership of the vessels.¹⁵⁰ Second, under Article 2 of the Convention, the employment of any child or young person under eighteen years of age on any vessel, other than vessels upon which only members of the same family are employed, shall be conditional on the production of a medical certificate attesting fitness for such work, signed by a doctor who shall be approved by the competent authority.¹⁵¹ Third, under Article 3 of the Convention, the continued employment at sea of any child or young person under eighteen years shall be subject to the repetition of medical examination at intervals of not more than one year, and the production, after such examination, of a further medical certificate attesting fitness for such work.¹⁵² Fourth, the Convention authorizes the extension of the validity of the medical certificate until the end of the voyage in cases where it expires in the course of a voyage.¹⁵³

2.3.1.2.2. *The Medical Examination (Seafarers) Convention, 1946 (No. 73)*

The Medical Examination (Seafarers) Convention, 1946 (No. 73), requires that every person who is engaged in any capacity on board a seagoing vessel of 200 tons gross register tonnage or over, engaged in the transport of cargo or passengers for the purpose of trade and registered in a territory for which the Convention is in force, except wooden vessels of primitive build such as dhows and junks, fishing

¹⁵⁰ See, **Jamaica** (CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request).

¹⁵¹ See, **Guatemala** (CEACR, 2005/76th session: Direct request).

¹⁵² See, **Bulgaria** (CEACR, 2001/72nd session: Direct request); **Chile** (CEACR, 2001/72nd session: Direct request); **Colombia** (CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request); **Croatia** (CEACR, 2000/71st session: Direct request; CEACR, 2001/72nd session: Direct request); **Denmark (Faeroe Islands)** (CEACR, 1990/60th session: Observation; CEACR, 1991/61st session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2003/74th session: Direct request); **Guatemala** (CEACR, 2005/76th session: Direct request); **India** (CEACR, 2001/72nd session: Direct request); **Ireland** (CEACR, 2001/72nd session: Direct request); **Italy** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Mexico** (CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request); **Nicaragua** (CEACR, 1998/69th session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request); **Pakistan** (CEACR, 2003/74th session: Direct request; CEACR, 2005/76th session: Direct request); **Panama** (CEACR, 1998/69th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Romania** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Solomon Islands** (CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2003/74th session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request); **Trinidad and Tobago** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request).

¹⁵³ See, **Jamaica** (CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request).

vessels and estuarial craft, shall produce a certificate attesting to his fitness for the work for which he is to be employed at sea, signed by a medical practitioner or, in the case of a certificate solely concerning his sight, by a person authorized by the competent authority to issue such a certificate.¹⁵⁴ This requirement is not applicable to a pilot (who is not a member of the crew), persons employed on board by an employer other than the shipowner, except radio officers or operators in the service of a wireless telegraphy company, travelling dockers (longshoremen) who are not members of the crew, or persons employed in ports who are not ordinarily employed at sea, without prejudice to the steps which should be taken to ensure that these persons are in good health and not likely to endanger the health of other persons on board.¹⁵⁵

The competent authority shall, after consultation with the shipowners' and seafarers' organizations concerned, prescribe the nature of the medical examination to be made and the particulars to be included in the medical certificate.¹⁵⁶ In particular, the medical certificate shall attest: (a) that the hearing and sight of the person and, in the case of a person to be employed in the deck department (except for certain specialist personnel, whose fitness for the work which they are to perform is not liable to be affected by defective colour vision), his colour vision, are all satisfactory; and (b) that he is not suffering from any disease likely to be aggravated by, or to render him unfit for, service at sea or likely to endanger the health of other persons on board.¹⁵⁷

The medical certificate shall remain in force for a period not exceeding two years and, in so far as it relates to colour vision, for a period not exceeding six years from the date on which it was granted.¹⁵⁸ If the period of validity of a certificate expires in the course of a voyage the certificate shall continue to be in force until the end of that voyage.¹⁵⁹ Arrangements shall be made to enable a person who, after examination, has been refused a certificate to apply for a further examination by a medical referee or referees, who shall be independent of any shipowner or of any organization of shipowners or seafarers.¹⁶⁰

¹⁵⁴ Convention No. 73, Articles 1 and 3(1)

¹⁵⁵ Convention No. 73, Article 2.

¹⁵⁶ For detailed recommendations with respect to content and conduct of the medical examination of seafarers, see, ILO, WHO: Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers, ILO/WHO/D.2/1997, available at: <http://www.ilo.org/public/english/dialogue/sector/techmeet/ilowho97/index.htm> (last visit 27 March 2007).

¹⁵⁷ Convention No. 73, Article 4(3).

¹⁵⁸ Convention No. 73, Article 5(1) and (2).

¹⁵⁹ Convention No. 73, Article 5(3).

¹⁶⁰ Convention No. 73 seems to emphasize, on the one hand, the possibility of an appeal against the first decision and, on the other hand, the fact that such appeal shall be heard by a doctor who is independent of any shipowner or any organization of shipowners or seafarers. The term "referee" used in this provision seems to relate essentially to the function exercised by the doctor in these circumstances. Thus, the provisions of the Convention would be complied with if the arrangements provide, in the case of a refusal of a certificate, for a further examination by an independent doctor, whether or not called a "medical referee". See, Interpretation of a decision concerning Convention No. 73, Medical Examination (Seafarers), 1946, Japan, ILO: *Official Bulletin*, Vol. XXXVIII, 1955, No. 7, pp. 376-377.

Analysis of the comments of the Committee of Experts shows seven major issues relating to the application of the Convention. First, the national legislation which prescribes that a medical certificate is required before the employment on board ship of young persons, but does not contain a similar provision applicable to the other members of the crew, does not give full effect to the requirements of the Convention.¹⁶¹ Second, the competent authority shall ensure effective supervision of both the quality and the reality of the medical examination for non-resident, foreign seafarers, in particular when the examination is carried out in the seafarer's country of residence or domicile, especially in those countries which have not ratified the Convention.¹⁶² Third, the competent authority shall prescribe the nature of the medical examination to be carried out and the particulars to be included in the medical certificate, after consultations with the shipowners' and seafarers' organizations concerned.¹⁶³ Fourth, when prescribing the nature of the examination, due regard shall be had, in particular, to the age of the person to be examined.¹⁶⁴ Fifth, the medical certificate shall remain in force for a period not exceeding two years from the date on which it was granted.¹⁶⁵

¹⁶¹ See, **Malta** (CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 2000/71st session: Direct request).

¹⁶² See, General Observation (CEACR, 1999/70th session); **Algeria** (CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request); **Australia** (CEACR, 2001/72nd session: Direct request); **Azerbaijan** (CEACR, 2004/75th session: Direct request); **Belgium** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Djibouti** (CEACR, 2001/72nd session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2003/74th session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request); **Egypt** (CEACR, 2001/72nd session: Direct request); **France (French Southern and Antarctic Territories)** (CEACR, 1996/67th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2005/76th session: Observation); **Ireland** (CEACR, 2001/72nd session: Direct request); **Japan** (CEACR, 2001/72nd session: Direct request); **Republic of Korea** (CEACR, 2001/72nd session: Direct request); **Luxembourg** (CEACR, 1998/69th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Malta** (CEACR, 2000/71st session: Direct request); **Norway** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Peru** (CEACR, 2001/72nd session: Direct request); **Poland** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Portugal** (CEACR, 2001/72nd session: Direct request); **Sweden** (CEACR, 2001/72nd session: Direct request); **Tunisia** (CEACR, 2001/72nd session: Direct request).

¹⁶³ See, **Azerbaijan** (CEACR, 1999/70th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request); **China (Hong Kong Special Administrative Region)** (CEACR, 2005/76th session: Direct request); **Republic of Korea** (CEACR, 1996/67th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Lebanon** (CEACR, 2005/76th session: Direct request); **Panama** (CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request); **Spain** (CEACR, 1995/66th session: Direct request).

¹⁶⁴ See, **Lebanon** (CEACR, 2005/76th session: Direct request).

¹⁶⁵ See, **Australia** (CEACR, 2001/72nd session: Direct request); **Bulgaria** (CEACR, 2005/76th session: Direct request); **Canada** (CEACR, 2001/72nd session: Direct request); **Egypt** (CEACR, 1990/60th session: Direct request; CEACR, 1992/62nd session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1998/69th session: Observation); **Lebanon** (CEACR, 2005/76th session: Direct request); **Panama** (CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2001/72nd session: Direct request); **Tunisia** (CEACR, 1990/60th session: Observation).

Sixth, the competent authority shall ensure that medical examinations for colour vision are in practice conducted regularly in accordance with Article 5(2) of the Convention.¹⁶⁶ Seventh, under Article 5(3) of the Convention, if the period of validity of a certificate expires in the course of a voyage the certificate shall continue to be in force until the end of that voyage. The exemption authorized by the national legislation, providing that, if the period of validity of a medical certificate expires in the course of a voyage, and also in the case of a seafarer being engaged at a location where the obtaining of a medical certificate is impossible, employment may be continued for a period of three months, is broader than that allowed under Article 5(3) of the Convention.¹⁶⁷ Eighth, in accordance with Article 8 of the Convention, arrangements shall be made to enable a person who, after examination, has been refused a certificate, to apply for a further examination by a medical referee or referees, who shall be independent of any shipowner or of any organization of shipowners or seafarers.¹⁶⁸

2.3.1.3. Training

2.3.1.3.1. The Vocational Training (Seafarers) Recommendation, 1970 (No. 137)

The Vocational Training (Seafarers) Recommendation, 1970 (No. 137) determines the basic objectives of policy concerning vocational training of seafarers,¹⁶⁹ and contains detailed provisions with respect to organization and coordination of training facilities and programmes,¹⁷⁰ their financing,¹⁷¹ training standards,¹⁷² training programmes,¹⁷³ general training schemes for seafarers,¹⁷⁴ advanced training,¹⁷⁵ training methods,¹⁷⁶ as well as international cooperation.¹⁷⁷ In particular, Recommendation No. 137 provides that retraining necessitated by the introduction of technical innovations should be provided free of charge to the seafarers con-

¹⁶⁶ See, **Spain** (CEACR, 1994/64th session: Direct request; CEACR, 1995/66th session: Direct request).

¹⁶⁷ See, **Ireland** (CEACR, 1990/60th session: Direct request).

¹⁶⁸ See, **Azerbaijan** (CEACR, 1999/70th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request); **Djibouti** (CEACR, 2001/72nd session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2003/74th session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request); **Finland** (CEACR, 2001/72nd session: Direct request); **Republic of Korea** (CEACR, 1996/67th session: Direct request; CEACR, 2001/72nd session: Direct request); **Lebanon** (CEACR, 2005/76th session: Direct request); **Luxembourg** (CEACR, 1998/69th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Malta** (CEACR, 2000/71st session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Panama** (CEACR, 1999/70th session: Direct request); **Peru** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request).

¹⁶⁹ Recommendation No. 137, Chapter II.

¹⁷⁰ Recommendation No. 137, Chapter III(A).

¹⁷¹ Recommendation No. 137, Chapter III(B).

¹⁷² Recommendation No. 137, Chapter III(C).

¹⁷³ Recommendation No. 137, Chapter IV.

¹⁷⁴ Recommendation No. 137, Chapter V.

¹⁷⁵ Recommendation No. 137, Chapter VI.

¹⁷⁶ Recommendation No. 137, Chapter VII.

¹⁷⁷ Recommendation No. 137, Chapter VIII.

technical innovations should be provided free of charge to the seafarers concerned.¹⁷⁸ During the period of such retraining, seafarers should receive adequate allowances; seafarers sent to courses of such retraining by a shipowner should receive their full basic wage.¹⁷⁹

2.3.1.4. Qualifications

2.3.1.4.1. The Officers' Competency Certificates Convention, 1936 (No. 53)

The Officers' Competency Certificates Convention, 1936 (No. 53) provides that no person shall be engaged to perform, or shall perform on board any vessel to which this Convention applies, the duties of master or skipper, navigating officer in charge of a watch, chief engineer, or engineer officer in charge of a watch, unless he holds a certificate of competency to perform such duties, issued or approved by the public authority of the territory where the vessel is registered.¹⁸⁰ Exceptions to this requirement Article may be made only in cases of *force majeure*.¹⁸¹ Under the Convention, no person shall be granted a certificate of competency unless (a) he has reached the minimum age prescribed for the issue of the certificate in question; (b) his professional experience has been of the minimum duration prescribed for the issue of the certificate in question; and (c) he has passed the examinations organised and supervised by the competent authority for the purpose of testing whether he possesses the qualifications necessary for per-

¹⁷⁸ Recommendation No. 137, Section 10(5).

¹⁷⁹ Recommendation No. 137, Section 10(5).

¹⁸⁰ Convention No. 53, Article 3(1). This Convention applies to all vessels registered in a territory for which this Convention is in force and engaged in maritime navigation with the exception of (a) ships of war; (b) Government vessels, or vessels in the service of a public authority, which are not engaged in trade; and (c) wooden ships of primitive build such as dhows and junks; national law or regulations may grant exceptions or exemptions in respect of vessels of less than 200 tons gross registered tonnage. See, Convention No. 53, Article 1.

¹⁸¹ Convention No. 53, Article 3(2). While the Convention itself does not define the term "*force majeure*," some guidance with respect to its meaning can be drawn from the preparatory work. Analyzing the responses of various Governments to the previously submitted questionnaire, the 1931 preparatory report indicated that the draft convention should expressly provide for the possibility of exceptions in cases of the kind referred to by the French government (where, at the moment of sailing, a vessel is for some sudden and unforeseen cause deprived of the services of a certificated person already engaged and a certificated substitute is not available within sufficient time, or where, owing to illness or accident during the voyage, the duties of a certificated person have to be taken over for the time being by a person not possessing the requisite certificate). The report further indicated that there can hardly be any question of giving any enumeration of the cases which might be taken into account or of endeavoring to define them closely, and that in effect the cases contemplated can perhaps be reduced to what, in the conditions under which shipping is carried out, would amount to circumstances of *force majeure* and would generally be confined to circumstances arising after the voyage had begun. See ILO, The Minimum Requirement of Professional Capacity in the Case of Captains, Navigating and Engineer Officers in Charge of Watches on Board Merchant Ships, Report IV, 68-69, ILC 21st Sess. (1931). See, also, Iliana Christodoulou-Varotsi, Dmitri A. Pentsov, Labour Standards on Cypriot Ships: Myth and Reality, 37 Vand. J. Transnat'l L. 647, 662-671 (2004), available at SSRN: <http://ssrn.com/abstract=617942> (last visit 27 March 2007).

forming the duties corresponding to the certificate for which he is a candidate.¹⁸² The Convention also requires that each ratifying Member ensures its due enforcement by an efficient system of inspection.¹⁸³

Analysis of the comments of the Committee of Experts shows four major issues relating to the application of the Convention. First, unlike section VIII of the STCW Convention, which authorizes exceptions in circumstances of exceptional necessity with regard to navigating and engineering officers in charge of watch and in cases of *force majeure* only with regard to masters and chief engineers, the requirements of Article 3(2) of the Convention are more restrictive, since it authorizes exceptions only in the case of *force majeure* in respect of all those officers. Therefore, under Article 3(2) of the Convention, exceptions from the certification requirements may only be granted in cases of *force majeure*, and not merely in “exceptional cases” or under “emergency circumstances”.¹⁸⁴ Second, since Article 4(1)(c) of the Convention requires an examination for every candidate for a certificate of competency, the situation where any navigation officer or engineer officer who has

¹⁸² Convention No. 53, Article 4(1).

¹⁸³ Convention No. 53, Article 4(2).

¹⁸⁴ See, **Brazil** (CEACR, 1990/60th session: Direct request; CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1998/68th session: Direct request); **Denmark** (CEACR, 1990/60th session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 2001/72nd session: Observation; CEACR, 2004/75th session: Observation); **Denmark (Faeroe Islands)** (CEACR, 1991/61st session: Direct request); **France** (CEACR, 1990/60th session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 2001/72nd session: Observation; CEACR, 2004/75th session: Observation); **France (French Guyana)** (CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 2001/72nd session: Observation; CEACR, 2004/75th session: Observation); **France (French Polynesia)** (CEACR, 1992/62nd session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2001/72nd session: Observation); **France (Guadeloupe)** (CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 2001/72nd session: Observation); **France (Martinique)** (CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 2001/72nd session: Observation); **France (Reunion)** (CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 2001/72nd session: Observation); **France (St. Pierre and Miquelon)** (CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 2001/72nd session: Observation); **Germany** (CEACR, 1991/61st session: Direct request); **Ireland** (CEACR, 2001/72nd session: Observation); **Libyan Arab Jamahiriya** (CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 1999/70th session: Direct request); **Mauritania** (CEACR, 2004/75th session: Observation); **Mexico** (CEACR, 1992/62nd session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 2003/74th session: Direct request); **Norway** (CEACR, 1992/62nd session: Direct request; CEACR, 2001/72nd session: Observation); **Panama** (CEACR, 2001/72nd session: Observation); **Peru** (CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request); **Slovenia** (CEACR, 2000/71st session: Direct request; CEACR, 2001/72nd session: Direct request); **Spain** (CEACR, 1992/62nd session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2003/74th session: Observation). It appears that recently the stance of the Committee of Experts with respect to the possibility of granting exceptions in “exceptional cases” or under “emergency circumstances” has significantly relaxed. The most recent comments of the Committee of Experts no longer require the respective governments to bring the national legislation into conformity with the requirements of Article 3(2) of the Convention, but merely ask them to indicate in detail the number of cases in which exceptions have been granted and the circumstances in which such exceptions have been authorized (See, **Italy** (CEACR, 2005/76th session: Direct request); **Mauritania** (CEACR, 2005, 76th session: Direct request)).

worked on Government vessels can be granted a document which is equivalent to the certificates of competency, and the competent Minister may grant certificates of competency to competent and experienced persons, is not in conformity with the requirements of the Convention.¹⁸⁵ Third, under Article 4(2) of the Convention, national laws or regulations shall provide for the organization and supervision by the competent authority of one or more examinations for the purpose of testing whether candidates for competency certificates possess the qualifications necessary for performing the duties corresponding to the certificates for which they are candidates.¹⁸⁶ Fourth, under Article 5(3) of the Convention, the competent authorities shall communicate with the consul of the Member in the territory of which the vessel is registered, informing him or her as soon as they have found a breach of the provisions of the Convention.¹⁸⁷

2.3.1.4.2. The Certification of Ships' Cooks Convention, 1946 (No. 69)

The Certification of Ships' Cooks Convention, 1946 (No. 69) provides that no person shall be engaged as ship's cook on board any vessel to which this Convention applies unless he holds a certificate of qualification as ship's cook granted in accordance with the provisions of this Convention.¹⁸⁸ The competent authority may grant exemptions from the provisions of this Article if in its opinion there is an inadequate supply of certificated ships' cooks.¹⁸⁹ Under the Convention, no person shall be granted a certificate of qualification unless: (a) he has reached a minimum age to be prescribed by the competent authority; (b) he has served at sea for a minimum period to be prescribed by the competent authority; and (c) he has passed an examination to be prescribed by the competent authority.¹⁹⁰ The prescribed examination shall provide a practical test of the candidate's ability to prepare meals; it shall also include a test of his knowledge of food values, the drawing up of varied and properly balanced menus, and the handling and storage of food on board ship.¹⁹¹ This examination may be conducted and certificates granted either directly by the competent authority or, subject to its control, by an approved school for the training of cooks, or other approved body.¹⁹²

Analysis of the comments of the Committee of Experts shows fourteen major issues relating to the application of the Convention. First, the provisions of the Convention are appli-

¹⁸⁵ See, **Libyan Arab Jamahiriya** (CEACR, 2001/72nd session: Direct request).

¹⁸⁶ See, **Mauritania** (CEACR, 2004/75th session: Observation; CEACR, 2005/76th session: Direct request).

¹⁸⁷ See, **Croatia** (CEACR, 2005/76th session: Direct request); **Liberia** (CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request); **Peru** (CEACR, 2005/76th session: Direct request), **United States** (CEACR, 1992/62nd session: Direct request); **United States (American Samoa)** (CEACR, 1992/62nd session: Direct request); **United States (Guam)** (CEACR, 1992/62nd session: Direct request); **United States (Puerto Rico)** (CEACR, 1992/62nd session: Direct request); **United States (United States Virgin Islands)** (CEACR, 1992/62nd session: Direct request).

¹⁸⁸ Convention No. 69, Article 3(1).

¹⁸⁹ Convention No. 69, Article 3(2).

¹⁹⁰ Convention No. 69, Article 4(2).

¹⁹¹ Convention No. 69, Article 4(3).

¹⁹² Convention No. 69, Article 4(4).

cable to publicly-owned as well as privately-owned vessels.¹⁹³ Second, the limitation of the national certification of ships' cooks regulations to ships carrying a crew, the majority of whom are domiciled in the respective country, is incompatible with Article 1(2) of the Convention, which allows certain exceptions only for "vessels or classes of vessels" not to be regarded as seagoing under Article 1(1).¹⁹⁴ Third, under Article 2(2)(a) of the Convention, no person shall be granted a certificate of qualification unless he has reached a minimum age to be prescribed by the competent authority.¹⁹⁵ Fourth, the requirement of Article 3(1) of the Convention that no person should be engaged as ship's cook unless he holds a certificate of qualification as such may be fulfilled by an existing provision of the national legislation authorizing the competent authority to recognize certificates of qualification as ship's cook issued in another country, in conformity with Article 6 of the Convention.¹⁹⁶

Fifth, the requirements for certification under Articles 3 and 6 are applicable to all ships' cooks engaged on all sea-going vessels registered in the territory of a ratifying Member, including vessels registered on the International Ship Register, irrespective of their nationality. Any exemptions granted should only be where the competent authority is of the opinion that there is an inadequate supply of certificated ships' cooks.¹⁹⁷ Sixth, when the competent authority recognizes certificates issued in other territories, it shall pay due regard to Article 4(2) of the Convention, which provides for the requirements for the granting of a certificate of qualification.¹⁹⁸ Seventh, in accordance with Article 3(2) of the Convention, exemptions from the obligation to hold a certificate of qualification as a ship's cook may only be granted by the competent national authority in cases where there is an inadequate supply of certificated ships' cooks, and not by authorization of the master of the ship.¹⁹⁹

Eighth, under Article 4 of the Convention, the competent authority is responsible for setting the minimum age, the minimum period of service at sea as well as the nature of the examinations required for certification as a ship's cook.²⁰⁰ Ninth, the provision of the national legislation according to which persons with more than two years of service in the capacity of cook or assistant cook on a seagoing ship or in a commercial catering environment are accepted as "qualified cook" without further examination, does not comply with the requirements of the Convention.²⁰¹ Tenth, in accordance with Article 4(1) of the Convention, the competent authority shall make arrangements for the holding of examinations and for

¹⁹³ See, **Djibouti** (CEACR, 1993/63rd session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 1999/70th session: Direct request).

¹⁹⁴ See, **United Kingdom** (CEACR, 1992/62nd session: Direct request).

¹⁹⁵ See, **Norway** (CEACR, 2005/76th session: Direct request).

¹⁹⁶ See, **Netherlands (Aruba)** (CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request); **Netherlands (Netherlands Antilles)** (CEACR, 1992/62nd session: Direct request; CEACR, 1996/67th session: Direct request); **United Kingdom** (CEACR, 1992/62nd session: Direct request).

¹⁹⁷ See, **Norway** (CEACR, 1993/63rd session: Direct request).

¹⁹⁸ See, **Norway** (CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request).

¹⁹⁹ See, **Guinea-Bissau** (CEACR, 2001/72nd session: Observation).

²⁰⁰ See, **Croatia** (CEACR, 2005/76th session: Direct request); **Luxembourg** (CEACR, 2001/72nd session: Direct request); **Peru** (CEACR, 1990/60th session: Direct request); **Portugal** (CEACR, 1992/62nd session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Russian Federation** (CEACR, 1998/69th session: Direct request).

²⁰¹ See, **United Kingdom (Isle of Man)** (CEACR, 2001/71st session: Direct request; CEACR, 2006/77th session: Observation).

the granting of certificates of qualification.²⁰² Eleventh, under Article 4(2) of the Convention, no person shall be granted a certificate of qualification unless he has reached a minimum age to be prescribed by the competent authority, has served at sea for a minimum period to be prescribed by the competent authority, and has passed an examination to be prescribed by the competent authority.²⁰³ Twelfth, under Article 4(4) of the Convention, the prescribed examination shall provide a practical test of the candidate's ability to prepare meals; it shall also include a test of his knowledge of food values, the drawing up of varied and properly balanced menus, and the handling and storage of food on board ship.²⁰⁴

Thirteenth, Article 5 of the Convention contains a temporarily limited flexibility clause, which would only apply to seafarers who have had a satisfactory record of two years' service as cooks before the expiration of a period not exceeding three years from the date of entry into force of the Convention for the territory where the vessel is registered.²⁰⁵ Fourteenth, the provision of the national legislation, prescribing that, in order to be recognized, a foreign certificate shall have been granted in conformity with the rules established by the Standards of Training, Certification and Watchkeeping (STCW) Convention of 1978, as amended, is not sufficient to give effect to Convention No. 69, because the STCW does not contain any specific provisions on cooks.²⁰⁶

2.3.1.4.3. The Certification of Able Seamen Convention, 1946 (No. 74)

The Certification of Able Seamen Convention, 1946 (No. 74) provides that no person shall be engaged on any vessel as an able seaman unless he is a person who by national laws or regulations is deemed to be competent to perform any duty which may be required of a member of the crew serving in the deck department (other than an officer or leading or specialist rating) and unless he holds a certificate of qualification as an able seaman granted in accordance with the provisions of the following articles.²⁰⁷ The Convention requires that the competent authority make arrangements for the holding of examinations and for the granting of certificates of qualification.²⁰⁸ Under the Convention, no person shall be granted a certificate of qualification unless: (a) he has reached a minimum age to be prescribed by the competent authority; (b) he has served at sea in the deck department for a minimum period to be prescribed by the competent authority; and (c) he has passed an examination of proficiency to be prescribed by the competent authority.²⁰⁹

The prescribed minimum age shall not be less than eighteen years, and the prescribed minimum period of service at sea not be less than thirty-six months.²¹⁰

²⁰² See, **Guinea-Bissau** (CEACR, 2001/72nd session: Observation).

²⁰³ See, **Panama** (CEACR, 2001/72nd session: Direct request).

²⁰⁴ See, **Azerbaijan** (CEACR, 1999/70th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request); **Greece** (CEACR, 2005/76th session: Direct request).

²⁰⁵ See, **Indonesia** (CEACR, 1998/69th session: Direct request); **Peru** (CEACR, 1990/60th session: Direct request); **United Kingdom (Isle of Man)** (CEACR, 2006/77th session: Observation).

²⁰⁶ See, **Luxembourg** (CEACR, 1998/69th session: Direct request); **Poland** (CEACR, 2005/76th session: Direct request).

²⁰⁷ Convention No. 74, Article 1.

²⁰⁸ Convention No. 74, Article 2(1).

²⁰⁹ Convention No. 74, Article 2(2).

²¹⁰ Convention No. 74, Article 2(3) and (4).

Nevertheless, the Convention allows the competent authority to: (a) permit persons with a period of actual service at sea of not less than twenty-four 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 persons trained in approved sea-going training ships who have served eighteen months in such ships to be certificated as able seamen upon leaving in good standing.²¹¹

Analysis of the comments of the Committee of Experts shows eight major issues relating to the application of the Convention. First, while it follows that in the absence of a maritime institute in a country, the Ministry of Transport may not be in a position to organize training, examinations and issue certificates, the provisions set forth in the Convention, nevertheless, constitute the legal standard for the recruitment of able seamen - whether national or foreign - on board ships flying the flag of the respective country.²¹² Second, Article 1 of the Convention requires the appropriate certification of any person engaged on any vessel as an able seaman, including small vessels making internal sea voyages of up to one day between the islands.²¹³ Third, the required period of sea service is a fundamental requirement of the Convention in order to grant an able seaman's certificate.²¹⁴ Fourth, under the Convention, the minimum age for obtaining a certificate of qualification prescribed by the competent authority shall be 18 years, and the minimum period of service at sea necessary for obtaining this certificate, as a general rule, shall not be less than 36 months.²¹⁵ Fifth, since Article 2(3) of the Convention sets the minimum age for certification at 18 years, the situation where ratings forming part of the navigational watch shall be not less than 16 years of age is not in conformity with the Convention.²¹⁶ Sixth, under the Convention, the time spent in a course of training in an approved training school may be counted towards the 36-month service at sea requirement, although it does not reduce it.²¹⁷ Seventh, the provision of the national legislation, stipulating that three months' actual service at sea in engineering or on the bridge be completed prior to certification is not in conformity with the requirements of the Convention.²¹⁸ Eighth, whilst the Convention does not apply to fishermen as such, where a seafarer on a fishing vessel has to carry out duties in the deck department corresponding to those of an able seaman, the requirements as to minimum age, prior sea service in the deck department and the passing of examination laid down in Article 2 of the Convention are applicable.²¹⁹

²¹¹ Convention No. 74, Article 2(4).

²¹² See, **Lebanon** (CEACR, 2003/74th session: Direct request).

²¹³ See, **Guinea-Bissau** (CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 1999/70th session: Direct request).

²¹⁴ See, **China (Macau Special Administrative Region)** (CEACR, 2004/75th session: Direct request).

²¹⁵ See, **Croatia** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Italy** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Malta** (CEACR, 2005/76th session: Direct request); **Panama** (CEACR, 1992/62nd session: Direct request; CEACR, 2001/72nd session: Direct request); **Portugal** (CEACR, 1992/62nd session: Observation).

²¹⁶ See, **Slovenia** (CEACR, 2004/75th session: Direct request).

²¹⁷ See, **Poland** (CEACR, 1997/68th session: Direct request).

²¹⁸ See, **France** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request).

²¹⁹ See, **Portugal** (CEACR, 1990/60th session: Observation).

2.3.1.5. Seafarers' identity documents

2.3.1.5.1. The Seafarers' Identity Documents Convention, 1958 (No. 108)

The Seafarers' Identity Documents Convention, 1958 (No. 108) establishes international standards concerning the form and content of national identity documents for seafarers, and provides for their reciprocal recognition in order to alleviate the difficulties and inconveniences which may arise when seafarers take shore leave in foreign ports, travel in transit or are in the course of repatriation.²²⁰ It applies to every seafarer who is engaged in any capacity on board a vessel, other than a ship of war, registered in a territory for which the Convention is in force and ordinarily engaged in maritime navigation.²²¹ In the event of any doubt 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 country after consultation with the shipowners' and seafarers' organizations concerned.²²²

Each Member for which this Convention is in force shall issue to each of its nationals who is a seafarer on application by him a seafarer's identity document conforming with the provisions of Article 4 of this Convention: Provided that, if it is impracticable to issue such a document to special classes of its seafarers, the Member may issue instead a passport indicating that the holder is a seafarer, and such passport shall have the same effect as a seafarer's identity document for the purpose of this Convention.²²³ The seafarer's identity document shall remain in the seafarer's possession at all times.²²⁴ Any seafarer who holds a valid seafarer's identity document issued by the competent authority of a territory for which this Convention is in force shall be readmitted to that territory.²²⁵ The seafarer shall be so readmitted during a period of at least one year after any date of expiry indicated in the said document.²²⁶

Under the Convention, each Member shall permit the entry into a territory for which this Convention is in force of a seafarer holding a valid seafarer's identity document, when entry is requested for temporary shore leave while the ship is in

²²⁰ The Convention was also intended to eliminate the need for bilateral agreements such as those which have been adopted by some countries to overcome the difficulties described above. See, ILO: *Record of Proceedings*, ILC, 41st Session, 1959, Geneva, p. 246.

²²¹ At the 41st (Maritime) Session of the Conference, paragraphs 1 and 2 of Article 1 of the Convention were adopted unanimously on the understanding that the phrase "every seafarer who is engaged in any capacity on board a vessel" refers not only to crew members actually employed on board ship at any given time, but also to all persons who might be regarded as genuine seafarers within the definition laid down by the competent authority in accordance with the provisions of paragraph 2 of this Article. See, ILO, *Record of Proceedings*, 1959, p. 246.

²²² Convention No. 108, Article 1(2). See, also, Interpretation of a decision concerning the Seafarers' Identity Documents Convention, 1958 (No. 108), at the request of the Ministry of Labour of the United Kingdom, ILO: *Official Bulletin*, Vol. XLVI, 1963, No. 3. pp. 466-467.

²²³ Convention No. 108, Article 2(1).

²²⁴ Convention No. 108, Article 3.

²²⁵ Convention No. 108, Article 5(1).

²²⁶ Convention No. 108, Article 5(2).

port.²²⁷ If the seafarer's identity document contains space for appropriate entries, each Member shall also permit the entry into a territory for which this Convention is in force of a seafarer holding a valid seafarer's identity document when entry is requested for the purpose of: (a) joining his ship or transferring to another ship; (b) passing in transit to join his ship in another country or for repatriation; or (c) any other purpose approved by the authorities of the Member concerned.²²⁸

Analysis of the comments of the Committee of Experts shows nineteen major issues relating to the application of the Convention. First, taking into account that in accordance with Article 1(1) of the Convention, this Convention applies to every seafarer who is engaged in any capacity on board a vessel, other than a ship of war, registered in a territory for which the Convention is in force and ordinarily engaged in maritime navigation, the provision of the national legislation excluding officers from the scope of persons covered by the identity document does not comply with the requirements of the Convention.²²⁹ Second, under the Convention, the issuance of identity documents is not limited to employment on national ships or to vessels of a particular flag.²³⁰ Third, the seafarers' identity document is not a passport, and unlike a passport, which is issued pursuant to national legislation, the seafarers' identity document is issued by a national authority pursuant to an international Convention which governs its issuance (or refusal), use, possession and restitution.²³¹ Fourth, all obligations concerning identity documents pursuant to the Convention are applicable, irrespective of the denomination of the document or its other uses.²³² Fifth, the situation where in the event of any doubt whether any categories of persons are to be regarded as seafarers the maritime administration does not issue identity documents, is contrary to Article 1(2) of the Convention, and the respective government shall be required to take measures ensuring that the consultation with organizations of shipowners and seafarers provided for by this provision of the Convention is undertaken.²³³

Sixth, the issuance of an identity document in conformity with the provisions of the Convention is an entitlement for nationals who are seafarers, and the issuance of a passport does not normally fulfill this requirement.²³⁴ Seventh, under Article 2(1) of the Convention, the seafarer himself has the right to apply for a seafarer's identity document; he shall not be obliged to apply through the intermediary of the employer,²³⁵ and the documents shall not be issued on the request of the employer.²³⁶ Eighth, in accordance with Article 3 of the Convention, the seafarer's identity document shall remain in the seafarer's possession at all

²²⁷ Convention No. 108, Article 6(1).

²²⁸ Convention No. 108, Article 6(2).

²²⁹ See, **Sri Lanka** (CEACR, 2001/72nd session: Direct request).

²³⁰ See, **Azerbaijan** (CEACR, 2002/73rd session: Direct request; CEACR, 2004/75th session: Direct request).

²³¹ See, **Poland** (CEACR, 2000/71st session: Direct request; CEACR, 2002/73rd session: Observation); **Russian Federation** (CEACR, 1996/67th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2000/71st session: Observation).

²³² See, **Sri Lanka** (CEACR, 2006/77th session: Observation).

²³³ See, **Ghana** (CEACR, 2005/76th session: Direct request).

²³⁴ See, **Mauritius** (CEACR, 1999/70th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2003/74th session: Observation); **Seychelles** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request).

²³⁵ See, **Latvia** (CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2004/75th session: Direct request).

²³⁶ See, **Lithuania** (CEACR, 2002/73rd session: Direct request); **Romania** (CEACR, 1998/69th session: Direct request).

times,²³⁷ and not just “whenever necessary”.²³⁸ Ninth, the seafarer cannot be required to surrender the seafarer’s identity document to the master for safe keeping, nor can it be retained by the authorities as a disciplinary measure.²³⁹ Tenth, the seafarer’s identity document shall contain, among other things, a statement that the document is a seafarer’s identity document for the purpose of Convention No. 108,²⁴⁰ and the place of issue of this document.²⁴¹

Eleventh, the seafarer’s identity document shall include the date of birth,²⁴² place of birth,²⁴³ nationality,²⁴⁴ physical characteristics,²⁴⁵ and signature or, if bearer is unable to

²³⁷ See, **Angola** (CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request); **Latvia** (CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2004/75th session: Direct request); **Romania** (CEACR, 1990/60th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1998/69th session: Direct request); **Russian Federation** (CEACR, 1996/67th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2000/71st session: Observation); **Sri Lanka** (CEACR, 2001/72nd session: Direct request); **United Kingdom (St. Helena)** (CEACR, 1999/70th session: Direct request; CEACR, 2005/76th session: Direct request).

²³⁸ See, **Cuba** (CEACR, 1990/60th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Observation).

²³⁹ See, **Mauritius** (CEACR, 1999/70th session: Direct request).

²⁴⁰ See, **Algeria** (CEACR, 2004/75th session: Direct request; CEACR, 2001/71st session: Direct request); **Barbados** (CEACR, 1999/70th session: Observation; CEACR, 2001/72nd session: Observation); **Canada** (CEACR, 1999/70th session: Direct request); **Djibouti** (CEACR, 1990/60th session: Direct request; CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request); **Guinea-Bissau** (CEACR, 1990/60th session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request); **Honduras** (CEACR, 1990/60th session: Observation; CEACR, 1991/61st session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1995/65th session: Observation; CEACR, 2005/76th session: Observation); **Iceland** (CEACR, 1998/69th session: Direct request; CEACR, 2004/75th session: Direct request); **Iraq** (CEACR, 1992/62nd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request); **Lithuania** (CEACR, 2002/73rd session: Direct request); **Luxembourg** (CEACR, 1998/69th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2006/77th session: Observation); **Mauritius** (CEACR, 1999/70th session: Direct request); **Portugal** (CEACR, 1990/60th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Romania** (CEACR, 1998/69th session: Direct request); **Seychelles** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Sri Lanka** (CEACR, 2001/72nd session: Direct request); **United Kingdom (St. Helena)** (CEACR, 1999/70th session: Direct request; CEACR, 2005/76th session: Direct request); **Uruguay** (CEACR, 1990/60th session: Direct request).

²⁴¹ See, **Bulgaria** (CEACR, 2005/76th session: Direct request).

²⁴² See, **Iceland** (CEACR, 2004/75th session: Direct request).

²⁴³ See, **Greece** (CEACR, 1990/70th session: Direct request).

²⁴⁴ See, **Greece** (CEACR, 1990/70th session: Direct request).

²⁴⁵ See, **Bulgaria** (CEACR, 2005/76th session: Direct request); **Morocco** (CEACR, 2004/75th session: Direct request).

sign, a thumbprint.²⁴⁶ Twelfth, although Article 4(5) of the Convention authorizes the limit to the period of validity of a seafarer's identity document when this limit is clearly indicated within the document, all Members shall issue a seafarer's identity document to each of their nationals who is a seafarer on application by him, and no other condition is envisaged. Therefore, the provisions of the national legislation, according to which the seafarer, upon inclusion on the register of seafarers, receives a seamen's book valid for a period of 18 months, at the end of which, and in the case where he has accumulated more than nine months of effective navigation, he receives a permanent seamen's book, renewable every five years, are not in conformity with the Convention. These provisions seem to subject the issuing of the seafarer's identity document to an additional condition because the permanent book is only issued to seafarers having accumulated more than nine months of effective navigation.²⁴⁷

Thirteenth, the precise form and content of the seafarer's identity document shall be decided by the member issuing it, after consultation with the shipowners' and seafarers' organizations concerned.²⁴⁸ Fourteenth, the right of return as set forth in Article 5 of the Convention refers to the return to the territory of the State issuing the identity document, and not to the State of the nationality of the seafarer, if this is not the same State.²⁴⁹ Fifteenth, any seafarer who holds a valid seafarer's identity document issued by the competent authority of a territory for which Convention No. 108 is in force shall be readmitted to that territory during a period of at least one year after any date of expiry indicated in this document.²⁵⁰ Sixteenth, the seafarer's identity document is the sole document needed for the seafarer to return to the issuing State pursuant to Article 5 of the Convention, this right being independent and unrelated to the validity of any other document the seafarer may hold, such as an alien residence permit.²⁵¹ Seventeenth, a seafarer with a valid seafarer's identity document shall be readmitted to the issuing State, including during a period of at least one year after any date of expiry indicated in the seafarer's identity document, even without being entered into any ship's crew list.²⁵² Eighteenth, the requirement set forth in Article 5 of the Convention that any seafarer holding a valid seafarer's identity document shall be readmitted to the issuing territory during the period of validity of the document and for at least one year after its expiration shall be equally applicable to seafarers who are not nationals of the European Union.²⁵³ Nineteenth, identity documents issued pursuant to the

²⁴⁶ See, **Liberia** (CEACR, 1990/60th session: Observation; CEACR, 1991/61st session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1995/65th session: Observation).

²⁴⁷ See, **Algeria** (CEACR, 2005/76th session: Direct request).

²⁴⁸ See, **Belarus** (CEACR, 1997/68th session: Direct request); **Brazil** (CEACR, 2005/76th session: Direct request); **Latvia** (CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2004/75th session: Direct request); **St. Vincent and the Grenadines** (CEACR, 2003/74th session: Direct request; CEACR, 2005/76th session: Direct request); **Tunisia** (CEACR, 1994/64th session: Direct request); **Ukraine** (CEACR, 1995/65th session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request); **United Republic of Tanzania (Tanganyika)** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request).

²⁴⁹ See, **Poland** (CEACR, 1998/69th session: Direct request).

²⁵⁰ See, **Czech Republic** (CEACR, 2002/73rd session: Direct request); **Estonia** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Lithuania** (CEACR, 2002/73rd session: Direct request); **Morocco** (CEACR, 2004/75th session: Direct request).

²⁵¹ See, **Poland** (CEACR, 2000/71st session: Direct request; CEACR, 2002/73rd session: Observation).

²⁵² See, **Latvia** (CEACR, 2004/75th session: Direct request).

²⁵³ See, **Luxembourg** (CEACR, 1998/69th session: Direct request).

Convention are sufficient for seafarers wishing to take temporarily shore leave in States which are parties to the Convention and need not therefore be accompanied by a passport.²⁵⁴

2.3.1.5.2. The Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)

The Seafarers' Identity Documents Convention (Revised), 2003 (No. 185) was adopted with the aim of improving maritime security in response to the terrorist attacks of September 11, 2001, by ensuring that seafarers have documents enabling their positive and verifiable identification.²⁵⁵ For the purposes of the Convention, the term "seafarer" means any person who is employed or is engaged or works in any capacity on board a vessel, other than a ship of war, ordinarily engaged in maritime navigation.²⁵⁶ Each Member for which this Convention is in force shall issue to each of its nationals who is a seafarer and makes an application to that effect, a seafarers' identity document conforming to the provisions of Article 3 of this Convention.²⁵⁷ Each Member shall also ensure that a record of each seafarers' identity document issued, suspended or withdrawn by the said Member is stored in an electronic database.²⁵⁸

Each Member for which this Convention is in force shall, in the shortest possible time, and unless clear grounds exist for doubting the authenticity of the seafarers' identity document, permit the entry into its territory of a seafarer holding a valid seafarer's identity document, when entry is requested for temporary shore leave while the ship is in port.²⁵⁹ Such entry shall be allowed provided that the formalities on arrival of the ship have been fulfilled, and the competent authorities have no reason to refuse permission to come ashore on grounds of public health, public safety, public order or national security.²⁶⁰ For the purpose of shore leave, seafarers shall not be required to hold a visa.²⁶¹ Any Member which is not in a position to fully implement this requirement shall ensure that its laws and regulations or practice provide arrangements that are substantially equivalent.²⁶²

²⁵⁴ See, **Barbados** (CEACR, 1999/70th session: Observation; CEACR, 2001/72nd session: Observation).

²⁵⁵ See, ILC, 91st Session: Improved security of seafarers' identification. Report VII(1) 1 (ILO, Geneva, 2002). See also, Cleopatra Doumbia-Henry, *Current Maritime Labour Law Issues - An Internationally Uniform Identity Document for Seafarers*, 2 World Maritime University Journal of Maritime Affairs 129-148 (2003), available at: <http://www.ilo.org/public/english/standards/norm/download/resources/doumbiaarticle.pdf> (last visit 27 March 2007).

²⁵⁶ Convention No. 185, Article 1(1).

²⁵⁷ Convention No. 185, Article 2(1). Article 3 of the Convention prescribes detailed requirements with respect to the content and form of a seafarer's identity document, including a template or other representation of a biometric of the holder which meets the specification provided for in Annex I to the Convention.

²⁵⁸ Convention No. 185, Article 4(1).

²⁵⁹ Convention No. 185, Article 6(4).

²⁶⁰ Convention No. 185, Article 6(5).

²⁶¹ Convention No. 185, Article 6(6).

²⁶² Convention No. 185, Article 6(6).

Apart from that, each Member for which this Convention is in force shall, in the shortest possible time, also permit the entry into its territory of seafarers holding a valid seafarers' identity document supplemented by a passport, when entry is requested for the purpose of: (a) joining their ship or transferring to another ship; or (b) passing in transit to join their ship in another country or for repatriation; or any other purpose approved by the authorities of the Member concerned.²⁶³ Such entry shall be allowed unless clear grounds exist for doubting the authenticity of the seafarers' identity document, provided that the competent authorities have no reason to refuse entry on grounds of public health, public safety, public order or national security.²⁶⁴

Convention No. 185 has three annexes. Annex I contains a model for the seafarers' identity document, whereas Annex II presents the closed list of details to be provided for each record in the electronic database to be maintained by each Member in accordance with the Convention. Finally, Annex III contains requirements and recommended procedures and practices concerning the issuance of seafarers' identity documents

Convention No. 185 entered into force on February 2, 2005, and as yet the Committee of Experts has not made any specific comments concerning its application by the ratifying members.

2.3.1.6. Recruitment and placement

2.3.1.6.1. The Placing of Seamen Convention, 1920 (No. 9)

The Placing of Seamen Convention, 1920 (No. 9) establishes a general prohibition to carry on the business of finding employment for seamen by any person, company, or other agency, as a commercial enterprise for pecuniary gain; or to charge any fees directly or indirectly by any person, company or other agency, for finding employment for seamen on any ship.²⁶⁵ Each Member which ratifies this Convention agrees to take all practicable measures to abolish this practice of finding employment for seamen as a commercial enterprise for pecuniary gain as soon as possible.²⁶⁶ Each Member which ratifies this Convention agrees that there shall be organised and maintained an efficient and adequate system of public employment offices for finding employment for seamen without charge. Such system may be organised and maintained, either (a) by representative associations of shipowners and seamen jointly under the control of a central authority, or, (b) in the absence of such joint action, by the State itself.²⁶⁷ In connection with the employment of seamen, freedom of choice of ship shall be assured to seamen, and freedom of

²⁶³ Convention No. 185, Article 6(7).

²⁶⁴ Convention No. 185, Article 6(8).

²⁶⁵ Convention No. 9, Article 2(1). *See, also, ILO: Unemployment: The provision of facilities for finding employment for seamen, and the application to seamen of the Convention and Recommendation adopted at Washington in regard to unemployment*, Report II, Seamen's Conference, Genoa, June 1920, p. 34.

²⁶⁶ Convention No. 9, Article 3(1).

²⁶⁷ Convention No. 9, Article 4(1).

choice of crew shall be assured to shipowners.²⁶⁸ The necessary guarantees for protecting all parties concerned shall be included in the contract of engagement or articles of agreement, and proper facilities shall be assured to seamen for examining such contract or articles before and after signing.²⁶⁹

Analysis of the comments of the Committee of Experts shows eighteen major issues relating to the application of the Convention. First, under Article 2(1) of the Convention, the business of finding employment for seamen shall not be carried out on by any person, company, or other agency, as a commercial enterprise for pecuniary gain; nor shall any fees be charged directly or indirectly by any person, company or other agency, for finding employment for seamen on any ship.²⁷⁰ Second, in addition to the prohibition to carry on the business of finding employment for seamen for a pecuniary gain, ratifying Members shall also prohibit any person, company or agency from charging any fees, directly or indirectly, for finding employment for seafarers on any ship, when the respective activities are conducted without any pecuniary gain being derived.²⁷¹ Third, Under Article 2(1) of the Convention, the ratifying Members shall prohibit any person, company or other agency from charging, directly or indirectly, any fees for finding employment for seafarers, irrespective of their administrative or other nature.²⁷² Fourth, under Article 2(1) of the Convention, neither shipowners nor seafarers must be required to pay fees.²⁷³ Fifth, the incorporation in the national legislation of a provision prohibiting agencies from charging seafarers is not enough to ensure that Article 2(1) of the Convention is applied when no similar prohibition is imposed on charging fees from shipowners. If private employment agencies carrying on the work of finding employment for seafarers are not prohibited from charging such fees al-

²⁶⁸ Convention No. 9, Article 6.

²⁶⁹ Convention No. 9, Article 7.

²⁷⁰ See, **Bulgaria** (CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request); **Colombia** (CEACR, 1990/60th session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1997/68th session: Observation; CEACR, 2003/74th session: Observation; CEACR, 2005/76th session: Observation); **Germany** (CEACR, 2003/74th session: Direct request; CEACR, 2004/75th session: Direct request); **Latvia** (CEACR, 2001/72nd session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request); **Luxembourg** (CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request); **Nicaragua** (CEACR, 1998/69th session: Direct request); **Panama** (CEACR, 1994/64th session: Direct request; CEACR, 1998/69th session: Direct request); **Romania** (CEACR, 1993/63rd session: Direct request; CEACR, 2004/75th session: Direct request); **Slovenia** (CEACR, 1995/65th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2003/74th session: Direct request).

²⁷¹ See, **Netherlands** (CEACR, 1993/63rd session: Direct request); **Spain** (CEACR, 1998/69th session: Direct request; CEACR, 2002/73rd session: Direct request).

²⁷² See, **Egypt** (CEACR, 2006/77th session: Observation).

²⁷³ See, **Croatia** (CEACR, 2005/76th session: Direct request); **Panama** (CEACR, 1994/64th session: Direct request; CEACR, 1998/69th session: Direct request); **Poland** (CACR, 2005/76th session: Direct request); **Romania** (CEACR, 2004/75th session: Direct request); **Slovenia** (CEACR, 1995/65th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2003/74th session: Direct request).

together, be it on seafarers or on shipowners, then this provision of the Convention is not respected.²⁷⁴

Sixth, the provision of the national legislation under which any person who violates the prohibition to carry on the business of finding employment for seamen for pecuniary gain can be held personally liable if the seafarer who is placed in employment is not satisfied with the terms of the employment contract, may not have a sufficiently deterrent effect with regard to the purpose of the Convention.²⁷⁵ Seventh, under Article 2(2) of the Convention, the law of each country shall provide punishment for any violation of the provisions of Article 2 thereof.²⁷⁶ Eighth, the provision of the national legislation which merely reproduces the text of Article 2(1) of the Convention but does not prescribe any specific penalties, is not sufficient to give effect to Article 2(2) thereof.²⁷⁷ Ninth, under Article 3(2) of the Convention, the governments of the ratifying member states must take all the necessary steps to abolish the placement of seafarers as a commercial enterprise for a pecuniary gain as soon as possible.²⁷⁸

Tenth, under Article 4(1) of the Convention, each ratifying Member agrees that there shall be organized and maintained an efficient and adequate system of public employment offices for finding employment for seamen without charge.²⁷⁹ Eleventh, under Article 4(1)

²⁷⁴ See, **Estonia** (CEACR, 1998/69th session: Direct request; CEACR, 2003/74th session: Direct request; CEACR, 2005/76th session: Direct request); **Mexico** (CACR, 2006/77th session: Observation).

²⁷⁵ See, **Nicaragua** (CEACR, 1998/69th session: Direct request).

²⁷⁶ See, **Estonia** (CEACR, 1998/69th session: Direct request); **Lebanon** (CEACR, 1996/67th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2005/76th session: Direct request); **Nicaragua** (CEACR, 2005/76th session: Observation); **Luxembourg** (CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request); **Slovenia** (CEACR, 1995/65th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2002/73rd session: Direct request).

²⁷⁷ See, **Cameroon** (CEACR, 2005/76th session: Observation).

²⁷⁸ See, **Cameroon** (CEACR, 2005/76th session: Observation); **Colombia** (CEACR, 1990/60th session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1997/68th session: Observation; CEACR, 2003/74th session: Observation; CEACR, 2005/76th session: Observation); **Estonia** (CEACR, 2005/76th session: Direct request); **Germany** (CEACR, 2003/74th session: Direct request); **Latvia** (CEACR, 2001/72nd session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request); **Lebanon** (CEACR, 1998/69th session: Direct request; CEACR, 2005/76th session: Direct request); **Mexico** (CEACR, 1991/61st session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2006/77th session: Observation); **Romania** (CEACR, 2004/75th session: Direct request).

²⁷⁹ See, **Argentina** (CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Observation; CEACR, 1995/66th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2005/76th session: Observation); **Chile** (CEACR, 1991/61st session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2005/76th session: Observation); **Colombia** (CEACR, 1990/60th session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1997/68th session: Observation); **Estonia** (CEACR, 1998/69th session: Direct request; CEACR, 2005/76th session: Direct request); **Lebanon** (CEACR, 1998/69th session: Direct request; CEACR, 2005/76th session: Direct request); **Nicaragua** (CEACR, 1990/60th session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2005/76th session: Observation); **Romania** (CEACR, 1998/69th session: Direct request; CEACR, 2004/75th

of the Convention, a system of employment offices for finding employment for seafarers must be organized and maintained, either: (a) by representative associations of shipowners and seafarers jointly under the control of a central authority; or (b) in the absence of such joint action, by the State itself. No other form of employment or recruitment agency is permitted under the Convention.²⁸⁰ Twelfth, the employment offices for seafarers may be organized and maintained by representative organizations of shipowners on condition that they act jointly with representative organizations of seafarers under the control of a central authority.²⁸¹ Thirteenth, the work of all public employment services for seamen shall be administered by persons having practical maritime experience.²⁸² Fourteenth, when public employment offices of different types exist, under Article 4(3) of the Convention, steps shall be taken to coordinate them on a national basis.²⁸³ Fifteenth, under Article 5 of the Convention, committees consisting of an equal number of representatives of shipowners and seamen shall be constituted to advise on matters concerning the functioning of public employment offices.²⁸⁴

session: Direct request); **Uruguay** (CEACR, 1990/60th session: Direct request; CEACR, 1991/61st session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2006/77th session: Observation).

²⁸⁰ See, **Argentina** (CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Observation; CEACR, 1995/66th session: Observation); **Croatia** (CEACR, 2005/76th session: Direct request); **Egypt** (CEACR, 2006/77th session: Observation); **New Zealand** (CEACR, 2006/77th session: Observation); **Nicaragua** (CEACR, 1995/65th session: Direct request).

²⁸¹ See, **Argentina** (CEACR, 2005/76th session: Observation); **Lebanon** (CEACR, 1996/67th session: Direct request).

²⁸² See, **Chile** (CEACR, 1991/61st session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 2002/73rd session: Observation); **France (French Polynesia)** (CEACR, 1993/63rd session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request); **Slovenia** (CEACR, 1995/65th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2002/73rd session: Direct request).

²⁸³ See, **Argentina** (CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Observation; CEACR, 1995/66th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2005/76th session: Observation); **Chile** (CEACR, 2005/76th session: Observation); **Croatia** (CEACR, 1997/68th session: Direct request; CEACR, 2005/76th session: Direct request); **Mexico** (CEACR, 1991/61st session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2002/73rd session: Observation); **Poland** (CEACR, 1993/63rd session: Direct request; CEACR, 1997/68th session: Direct request).

²⁸⁴ See, **Argentina** (CEACR, 2005/76th session: Observation); **Cameroon** (CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 2000/71st session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2005/76th session: Observation); **Chile** (CEACR, 1991/61st session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 2005/76th session: Observation); **Colombia** (CEACR, 1990/60th session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1997/68th session: Observation); **Denmark (Faeroe Islands)** (CEACR, 1993/63rd session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2003/74th session: Direct request); **Djibouti** (CEACR, 1990/60th session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Observation; CEACR, 1997/68th

Sixteenth, under Article 7 of the Convention, the seamen must be able to examine the contract before and after signing.²⁸⁵ Seventeenth, the situation when seafarers do not receive copies of their contracts and are required by placement agencies or employers to sign a blank document enabling their rights to be waived, is not in conformity with Articles 6 and 7 of the Convention.²⁸⁶ Eighteenth, under Article 8 of the Convention, each Member which ratifies this Convention is required to take steps to see that the facilities for employment of seamen provided for in this Convention shall, if necessary by means of public offices, be available for the seamen of all countries which ratify this Convention, and where the industrial conditions are generally the same.²⁸⁷

2.3.1.6.2. *The Recruitment and Placement of Seafarers Convention, 1996 (No. 179)*

Unlike Convention No. 9, the Recruitment and Placement of Seafarers Convention, 1996 (No. 179) allows for the operation of private recruitment and placement services, but only in conformity with a system of licensing or certification or other form of regulation.²⁸⁸ This system shall be established, maintained, modified or changed only after consultation with representative organizations of shipowners and seafarers.²⁸⁹ Undue proliferation of such private recruitment and placement services shall not be encouraged.²⁹⁰

Under the Convention, a Member shall, by means of national laws or applicable regulations, ensure that no fees or other charges for recruitment or for providing

session: Observation; CEACR, 1998/69th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation); **Egypt** (CEACR, 1993/63rd session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1998/69th session: Observation); **Italy** (CEACR, 1997/68th session: Direct request; CEACR, 2005/76th session: Direct request); **Latvia** (CEACR, 2001/72nd session: Direct request; CEACR, 2002/73rd session: Direct request); **Lebanon** (CEACR, 1996/67th session: Direct request); **Mexico** (CEACR, 1991/61st session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2006/77th session: Observation); **Nicaragua** (CEACR, 1990/60th session: Direct request; CEACR, 1992/62nd session: Direct request; EACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2005/76th session: Observation); **Norway** (CEACR, 1993/63rd session: Direct request; CEACR, 1997/68th session: Direct request); **Panama** (CEACR, 1998/69th session: Direct request; CEACR, 2002/73rd session: Direct request); **Poland** (CEACR, 1993/63rd session: Direct request); **Romania** (CEACR, 1998/69th session: Direct request); **Uruguay** (CEACR, 1990/60th session: Direct request; CEACR, 1991/61st session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2006/77th session: Observation).

²⁸⁵ See, **Uruguay** (CEACR, 2006/77th session: Observation).

²⁸⁶ See, **Mexico** (CACR, 2006/77th session: Observation).

²⁸⁷ See, **Greece** (CEACR, 1993/63rd session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1997/68th session: Observation); **Lebanon** (CEACR, 2005/76th session: Direct request).

²⁸⁸ Convention No. 179, Article 2(2). See, also, ILO: *Revision of the Placing of Seamen Convention, 1920 (No. 9)*. Report III, Tripartite Meeting on Maritime Labour Standards, Geneva, 1994, p. 31; Resolution concerning the recruitment of seafarers and the regulation of fee-charging employment agencies, adopted at the 74th (Maritime) Session of the International Labour Conference in 1987. ILO: *Record of Proceedings*. ILC, 74th (Maritime) Session, Geneva, 1987, pp. 16/24 and 25.

²⁸⁹ Convention No. 179, Article 2(2).

²⁹⁰ Convention No. 179, Article 2(2).

employment to seafarers are borne directly or indirectly, in whole or in part, by the seafarer; for this purpose, costs of the national statutory medical examination, certificates, a personal travel document and the national seafarers' book shall not be deemed to be "fees or other charges for recruitment".²⁹¹ In addition to that, a Member shall ensure that the competent authority closely supervises all recruitment and placement services;²⁹² and grants or renews the licence, certificate, or similar authorization only after having verified that the recruitment and placement service concerned meets the requirements of national laws and regulations.²⁹³

Analysis of the comments of the Committee of Experts shows three major issues relating to the application of the Convention. First, the system of licensing of private recruitment and overseas placement of seafarers in the country shall be established and maintained, modified or changed, only after consultation with representative organizations of shipowners and seafarers.²⁹⁴ Second, according to Article 4(2)(b) of the Convention, recruitment and placement services need to operate in conformity with a license, certificate or other similar authorization. The obligation in the national law to collect information from private employment agencies does not meet the requirement of the Convention that the recruitment and placement services should operate in conformity with a permit system.²⁹⁵ Third, when a country has introduced a system of voluntary certification of recruitment and placement services for seafarers, measures shall be taken to ensure that those services which do not participate in this system also comply with the requirements of the Convention.²⁹⁶

2.3.1.6.3. The Recruitment and Placement of Seafarers Recommendation, 1996 (No. 186)

The Recruitment and Placement of Seafarers Recommendation, 1996 (No. 186) defines the functions of the competent authority of Members with respect to the organization and supervision of the activities of recruitment and placement services,²⁹⁷ including prescribing or approving operational standards and encouraging the adoption of codes of conduct and ethical practices for these services;²⁹⁸ provides guidance on the content of these operational standards;²⁹⁹ and suggests measures of international cooperation between Members.³⁰⁰

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²⁹¹ Convention No. 179, Article 4(1)(a).

²⁹² Convention No. 179, Article 4(2)(a).

²⁹³ Convention No. 179, Article 4(2)(b).

²⁹⁴ See, **Philippines** (CEACR, 2005/76th session: Direct request); **Russian Federation** (CEACR, 2005/76th session: Direct request).

²⁹⁵ See, **Finland** (CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request).

²⁹⁶ See, **Russian Federation** (CEACR, 2005/76th session: Direct request). The description of the system itself could be found in: Ministry of Transport of the Russian Federation: System of voluntary certification of recruitment and placement services for seafarers on ships under a foreign flag, approved on December 23, 1997. (Moscow, 1997).

²⁹⁷ Recommendation No. 186, section 1.

²⁹⁸ Recommendation No. 186, section 1(f).

²⁹⁹ Recommendation No. 186, sections 3 and 4.

³⁰⁰ Recommendation No. 186, section 5.

2.3.2. Texts of standards

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

Date of entry into force: September 27, 1921

The General Conference of the International Labour Organisation,

Having been convened at Genoa by the Governing Body of the International Labour Office, on the 15th day of June 1920, and

Having decided upon the adoption of certain proposals with regard to the application to seamen of the Convention adopted at Washington last November prohibiting the employment of children under fourteen years of age, which is the third item in the agenda for the Genoa meeting of the Conference, and

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

adopts the following Convention, which may be cited as the Minimum Age (Sea) Convention, 1920, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation:

Article 1

For the purpose of this Convention, the term “vessel” includes all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned; it excludes ships of war.

Article 2

Children under the age of fourteen years shall not be employed or work on vessels, other than vessels upon which only members of the same family are employed.

Article 3

The provisions of Article 2 shall not apply to work done by children on school-ships or training-ships, provided that such work is approved and supervised by public authority.

Article 4

In order to facilitate the enforcement of the provisions of this Convention, every ship-master shall be required to keep a register of all persons under the age of sixteen years employed on board his vessel, or a list of them in the articles of agreement, and of the dates of their births.

Article 5

1. Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, protectorates and possessions which are not fully self-governing -

- (a) except where owing to the local conditions its provisions are inapplicable; or
- (b) subject to such modifications as may be necessary to adapt its provisions to local conditions.

2. Each Member shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

Article 6

The formal ratifications of this Convention, under the conditions set forth in the Constitution of the International Labour Organisation, shall be communicated to the Director-General of the International Labour Office for registration.

Article 7

As soon as the ratifications of two Members of the International Labour Organisation have been registered with the International Labour Office, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation.

Article 8

This Convention shall come into force at the date on which such notification is issued by the Director-General of the International Labour Office, but it shall then be binding only upon those Members which have registered their ratifications with the International Labour Office. Thereafter this Convention will come into force for any other Member at the date on which its ratification is registered with the International Labour Office.

Article 9

Subject to the provisions of Article 8, each Member which ratifies this Convention agrees to bring its provisions into operation not later than 1 July 1922, and to take such action as may be necessary to make these provisions effective.

Article 10

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

Article 11

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 12

The French and English texts of this Convention shall both be authentic.

2.3.2.2. Minimum Age (Sea) Convention (Revised), 1936 (No. 58)

Date of entry into force: April 11, 1939

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Twenty-second Session on 22 October 1936, and

Having decided upon the adoption of certain proposals with regard to the partial revision of the Convention fixing the minimum age for admission of children to employment at sea adopted by the Conference at its Second Session, the question forming the agenda of the present Session, and

Considering that these proposals must take the form of an international Convention, adopts this twenty-fourth day of October of the year one thousand nine hundred and thirty-six the following Convention, which may be cited as the Minimum Age (Sea) Convention (Revised), 1936:

Article 1

For the purpose of this Convention, the term “vessel” includes all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned; it excludes ships of war.

Article 2

1. Children under the age of fifteen years shall not be employed or work on vessels, other than vessels upon which only members of the same family are employed.

2. Provided that national laws or regulations may provide for the issue in respect of children of not less than fourteen years of age of certificates permitting them to be employed in cases in which an educational or other appropriate authority designated by such laws or regulations is satisfied, after having due regard to the health and physical condition of the child and to the prospective as well as to the immediate benefit to the child of the employment proposed, that such employment will be beneficial to the child.

Article 3

The provisions of Article 2 shall not apply to work done by children on school-ships or training-ships, provided that such work is approved and supervised by public authority.

Article 4

In order to facilitate the enforcement of the provisions of this Convention, every ship-master shall be required to keep a register of all persons under the age of sixteen years employed on board his vessel, or a list of them in the articles of agreement, and of the dates of their births.

Article 5

This Convention shall not come into force until after the adoption by the International Labour Conference of a Convention revising the Convention fixing the minimum age for admission of children to industrial employment, 1919, and a Convention revising the Convention concerning the age for admission of children to non-industrial employment, 1932.

Article 6

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 7

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. Subject to the provisions of Article 5 above it shall come into force twelve months after the date on which the ratifications of Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Article 8

As soon as the ratifications of two Members of the International Labour Organisation have been registered, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Article 9

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 10

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 11

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 12

The French and English texts of this Convention shall both be authentic.

2.3.2.3. Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)

Date of entry into force: November 20, 1922

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Third Session on 25 October 1921, and

Having decided upon the adoption of certain proposals with regard to the compulsory medical examination of children and young persons employed at sea, which is included in the eighth item of the agenda of the Session, and

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

adopts the following Convention, which may be cited as the Medical Examination of Young Persons (Sea) Convention, 1921, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation:

Article 1

For the purpose of this Convention, the term “vessel” includes all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned; it excludes ships of war.

Article 2

The employment of any child or young person under eighteen years of age on any vessel, other than vessels upon which only members of the same family are employed, shall be conditional on the production of a medical certificate attesting fitness for such work, signed by a doctor who shall be approved by the competent authority.

Article 3

The continued employment at sea of any such child or young person shall be subject to the repetition of such medical examination at intervals of not more than one year, and the production, after each such examination, of a further medical certificate attesting fitness for such work. Should a medical certificate expire in the course of a voyage, it shall remain in force until the end of the said voyage.

Article 4

In urgent cases, the competent authority may allow a young person below the age of eighteen years to embark without having undergone the examination provided for in Articles 2 and 3 of this Convention, always provided that such an examination shall be undergone at the first port at which the vessel calls.

Article 5

The formal ratifications of this Convention, under the conditions set forth in the Constitution of the International Labour Organisation, shall be communicated to the Director-General of the International Labour Office for registration.

Article 6

1. This Convention shall come into force at the date on which the ratifications of two Members of the International Labour Organisation have been registered by the Director-General.

2. It shall be binding only upon those Members whose ratifications have been registered with the International Labour Office.

3. Thereafter, the Convention shall come into force for any Member at the date on which its ratification has been registered with the International Labour Office.

Article 7

As soon as the ratifications of two Members of the International Labour Organisation have been registered with the International Labour Office, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of the ratifications which may be communicated subsequently by other Members of the Organisation.

Article 8

Subject to the provisions of Article 6, each Member which ratifies this Convention agrees to bring the provisions of Articles 1, 2, 3 and 4 into operation not later than 1 January 1924 and to take such action as may be necessary to make these provisions effective.

Article 9

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 35 of the Constitution of the International Labour Organisation.

Article 10

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

Article 11

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 12

The French and English texts of this Convention shall both be authentic.

2.3.2.4. Medical Examination (Seafarers) Convention, 1946 (No. 73)

Date of entry into force: August 17, 1955

The General Conference of the International Labour Organisation,

Having been convened at Seattle by the Governing Body of the International Labour Office, and having met in its Twenty-eighth Session on 6 June 1946, and

Having decided upon the adoption of certain proposals with regard to the medical examination of seafarers, which is included in the fifth item on the agenda of the Session, and

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

adopts this twenty-ninth day of June of the year one thousand nine hundred and forty-six the following Convention, which may be cited as the Medical Examination (Seafarers) Convention, 1946:

Article 1

1. This Convention applies to every sea-going vessel, whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the purpose of trade and is registered in a territory for which this Convention is in force.

2. National laws or regulations shall determine when vessels are to be regarded as sea-going.

3. This Convention does not apply to -

- (a) vessels of less than 200 tons gross register tonnage;
- (b) wooden vessels of primitive build such as dhows and junks;
- (c) fishing vessels;
- (d) estuarial craft.

Article 2

Without prejudice to the steps which should be taken to ensure that the persons mentioned below are in good health and not likely to endanger the health of other persons on board, this Convention applies to every person who is engaged in any capacity on board a vessel except -

- (a) a pilot (not a member of the crew);
- (b) persons employed on board by an employer other than the shipowner, except radio officers or operators in the service of a wireless telegraphy company;
- (c) travelling dockers (longshoremen) not members of the crew;
- (d) persons employed in ports who are not ordinarily employed at sea.

Article 3

1. No person to whom this Convention applies shall be engaged for employment in a vessel to which this Convention applies unless he produces a certificate attesting to his fitness for the work for which he is to be employed at sea signed by a medical practitioner or, in the case of a certificate solely concerning his sight, by a person authorised by the competent authority to issue such a certificate.

2. Provided that, for a period of two years from the date of the entry into force of this Convention for the territory concerned, a person may be so engaged if he produces evidence that he has been employed in a sea-going vessel to which this Convention applies for a substantial period during the previous two years.

Article 4

1. The competent authority shall, after consultation with the shipowners' and seafarers' organisations concerned, prescribe the nature of the medical examination to be made and the particulars to be included in the medical certificate.

2. When prescribing the nature of the examination, due regard shall be had to the age of the person to be examined and the nature of the duties to be performed.

3. In particular, the medical certificate shall attest -

- (a) that the hearing and sight of the person and, in the case of a person to be employed in the deck department (except for certain specialist personnel, whose fitness for the work which they are to perform is not liable to be affected by defective colour vision), his colour vision, are all satisfactory; and
- (b) that he is not suffering from any disease likely to be aggravated by, or to render him unfit for, service at sea or likely to endanger the health of other persons on board.

Article 5

1. The medical certificate shall remain in force for a period not exceeding two years from the date on which it was granted.

2. In so far as a medical certificate relates to colour vision it shall remain in force for a period not exceeding six years from the date on which it was granted.

3. 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.

Article 6

1. In urgent cases the competent authority may allow a person to be employed for a single voyage without having satisfied the requirements of the preceding articles.

2. In such cases the terms and conditions of employment shall be the same as those of seafarers in the same category holding a medical certificate.

3. Employment in virtue of this Article shall not be deemed on any subsequent occasion to be previous employment for the purpose of Article 3.

Article 7

The competent authority may provide for the acceptance in substitution for a medical certificate of evidence in a prescribed form that the required certificate has been given.

Article 8

Arrangements shall be made to enable a person who, after examination, has been refused a certificate to apply for a further examination by a medical referee or referees who shall be independent of any shipowner or of any organisation of shipowners or seafarers.

Article 9

Any of the functions of the competent authority under this Convention may, after consultation with the organisations of shipowners and seafarers, be discharged by delegating the work, or part of it, to an organisation or authority exercising similar functions in respect of seafarers generally.

Article 10

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 11

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force six months after the date on which there have been registered ratifications by seven of the following countries: United States of America, Argentine Republic, Australia, Belgium, Brazil, Canada, Chile, China, Denmark, Finland, France, United Kingdom of Great Britain and Northern Ireland, Greece, India, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Sweden, Turkey and Yugoslavia, including at least four countries each of which has at least one million gross register tons of shipping. This provision is included for the purpose of facilitating and encouraging early ratification of the Convention by Member States.

3. Thereafter, this Convention shall come into force for any Member six months after the date on which its ratification has been registered.

Article 12

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 13

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the last of the ratifications required to bring the Convention into force, Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 14

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 by him in accordance with the provisions of the preceding articles.

Article 15

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 16

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 12 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 17

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

2.3.2.5. Vocational Training (Seafarers) Recommendation, 1970 (No. 137)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-fifth Session on 14 October 1970, and

Having decided upon the adoption of certain proposals with regard to the vocational training of seafarers, which is the sixth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this twenty-eighth day of October of the year one thousand nine hundred and seventy, the following Recommendation, which may be cited as the Vocational Training (Seafarers) Recommendation, 1970:

I. Scope

1. (1) This Recommendation applies to all training designed to prepare persons for work on board a publicly or privately owned seagoing ship engaged in the transport of cargo or passengers for the purpose of trade, engaged in training or engaged in scientific exploration. National laws or regulations, arbitration awards or collective agreements, as may be appropriate under national conditions, should determine when ships are to be regarded as seagoing ships.

(2) This Recommendation applies to training for the performance of the duties of persons in the deck, engine, radio or catering departments or of general purpose crews. It does not apply to fishermen.

II. Objectives of Training

2. The basic objectives of policy concerning vocational training of seafarers should be -
- (a) to maintain and improve the efficiency of the shipping industry and the professional ability and potential of seafarers, with due regard to the educational needs of the latter and the economic and social interests of the country;
 - (b) to maintain and improve accident prevention standards on board merchant ships, both at sea and in port, in order to reduce the risk of injury;
 - (c) to encourage a sufficient number of suitable persons to make the merchant marine their career;
 - (d) to ensure that adequate induction training is given to all new recruits, ashore as far as possible, or on board ship;
 - (e) to provide training and retraining facilities commensurate with the current and projected manpower needs of the shipping industry for all the various categories and grades of seafarers;
 - (f) to provide the training facilities necessary in order that technical developments in the fields of operation, navigation and safety can be put into effect;
 - (g) to make training for upgrading and for promotion up to the highest ranks on board available to all seafarers with appropriate ability, and thereby to assist them to develop their efficiency, potential productivity and job satisfaction;
 - (h) to provide suitable practical training for the various categories and grades of seafarers;
 - (i) to ensure, as far as possible, the entry into employment of all trainees after completion of their courses.

III. National Planning and Administration

A. Organisation and Co-ordination

3. In planning a national education and training policy, the competent authorities in countries possessing or intending to develop a shipping industry should ensure that adequate provision is made in the general network of training facilities for the training of seafarers in order to achieve the objectives set out in Paragraph 2 of this Recommendation.

4. Where national circumstances do not permit the development of facilities for the training of seafarers of all categories and grades required, collaboration with other countries, as well as with international organisations, in setting up joint maritime training schemes for such seafarers as cannot be covered by national programmes should be considered.

5. (1) The training programmes of all public and private institutions engaged in the training of seafarers should be co-ordinated and developed in each country on the basis of approved national standards.

(2) Such programmes should be drawn up in co-operation with government departments, educational institutions and other bodies which have an intimate knowledge of the vocational training of seafarers, and should be so designed as to meet the operational requirements of the shipping industry, as established in consultation with shipowners' and seafarers' organisations.

6. Bodies which draw up such programmes should, in particular -
- (a) maintain close contacts between the training institutions and all those concerned so as to keep training in line with the needs of the industry;
 - (b) make regular visits to the training schools with which they are concerned and be fully conversant with the programmes being carried out;
 - (c) ensure that information about available training opportunities is disseminated to all those concerned;

- (d) co-operate in setting up and operating practical maritime training schemes;
- (e) participate in establishing the general training standards provided for in Paragraph 11;
- (f) participate in establishing such national certification standards as are appropriate for the various grades and categories of seafarers;
- (g) promote direct co-operation between training institutions and those responsible for recruitment and employment.

7. The competent authorities and bodies, in co-operation with shipowners' and seafarers' organisations, should ensure that full information on public and private training schemes for seafarers and on conditions of entry into the shipping industry is available to those providing vocational guidance and employment counselling services, to public employment services and to vocational and technical training institutions.

8. The competent authorities and bodies should endeavour to ensure that -

- (a) the facilities of shipyards, engineering workshops, manufacturers of equipment, naval installations, etc., are utilised where available and appropriate in training both officers and ratings;
- (b) arrangements are made in order that, other things being equal, preference may be given in employment placement to persons who have received appropriate and recognised training.

9. (1) Training programmes should be regularly reviewed and kept up to date in the light of the developing needs of the industry.

(2) In the review of training programmes, account should be taken of the Document for Guidance, 1968 - which was prepared jointly by the International Labour Organisation and the Inter-Governmental Maritime Consultative Organization and agreed by both organisations and which deals, in technical detail, with the subjects directly affecting the safety of life at sea-as well as of any subsequent amendments or additions thereto.

B. Financing

10. (1) Seafarers' training schemes should be systematically organised and their financing should be on a regular and adequate basis, having regard to the present and planned requirements and development of the shipping industry.

(2) Where appropriate, the government should make financial contributions to training schemes carried on by local government or private bodies. These contributions may take the form of general subsidies, grants of land, buildings or demonstration material such as boats, engines, navigational equipment and other apparatus, the provision of instructors free of charge, payment of trainees' allowances or payment of fees for trainees in day or boarding schools or on training ships.

(3) Seafarers should not, through lack of financial resources or training opportunities, be denied the possibility of reaching the highest ranks on board. Therefore, it should be possible for seafarers to earn or receive sufficient financial resources to enable them to obtain appropriate training.

(4) Training in publicly run training centres for seafarers should, where possible, be given without charge to trainees.

(5) Retraining necessitated by the introduction of technical innovations should be provided free of charge to the seafarers concerned. During the period of such retraining, seafarers should receive adequate allowances; seafarers sent to courses of such retraining by a shipowner should receive their full basic wage.

C. Training Standards

11. Training standards should be laid down in conformity with national requirements for obtaining the various seafarers' certificates of competency. In particular, there should be laid down -

- (a) the nature of medical examinations, including chest X-rays and diabetic, hearing and sight tests, required for persons entering training schemes; the standards of such examinations, particularly of the hearing and sight tests, could differ according to the departments which the persons concerned are planning to enter, but should in no case be lower than the medical standards required for entry into employment in the shipping industry;
- (b) the level of general education required for admission to vocational training courses leading to certificates of competency;
- (c) the subjects, such as navigation, seamanship, radio, electronics, engineering, catering and human relations, that should be included in the training curricula;
- (d) the nature of any examination to be taken upon completion of training courses which are subject to examination;
- (e) a procedure whereby the authorities ensure that the teaching staff of training institutions have the requisite experience and qualifications, including adequate practical and theoretical knowledge of technical and operational developments.

IV. Training Programmes

12. The various training programmes should be realistically based on the work to be performed on board ship. They should be periodically reviewed and kept up to date in order to keep abreast of technical developments. They should include the following, as appropriate:

- (a) training in navigation, seamanship, ship handling, signalling, cargo handling and storage, ship maintenance, and other matters relating to the operation of merchant ships;
- (b) training in the use of electronic and mechanical aids, such as radio and radar installations, radio direction-finders and compasses;
- (c) theoretical and practical instruction in the use of life-saving and fire-fighting equipment, survival at sea procedures, and other aspects of the safety of life at sea;
- (d) theoretical and practical instruction in the operation, maintenance and repair of main propulsion installations and auxiliary machinery, with emphasis on the types of equipment, including electronic equipment, installed in ships of the country concerned;
- (e) training for the catering department as appropriate for those to be employed as stewards, cooks, waiters and galley staff, account being taken of training requirements, for different categories of ships;
- (f) training in accident prevention on board ship, particularly as regards safe working practices in all departments, and including personal safety as part of training in professional subjects, training in first aid, medical care and other related matters and health and physical training, especially swimming; training in medical care and particularly special training for personnel placed in charge of medical care on board should in all cases be related to the content of medical guides compiled by competent authorities and to full utilisation of medical radio services;
- (g) particularly in the case of trainees under 18 years of age, instruction in subjects of general educational value;
- (h) instruction in elements of social and labour legislation related to merchant ship operations and to industrial relations, regulations concerning seafarers, transportation economics, maritime insurance, maritime law, etc.;

- (i) instruction in management techniques, including such subjects as personnel relations and work study.

13. Training programmes should be designed, *inter alia*, to prepare trainees for certificates of competency and should be directly related, where appropriate, to national certification standards. They should include adequate practical training and take account of any minimum age and minimum working experience laid down by the competent authorities in respect of the various grades of certificates. Account should also be taken of other nationally recognised certificates.

14. The duration of the various training programmes should be sufficient to enable trainees to assimilate the teaching given and should be determined with reference to such matters as -

- (a) the level of training required for the shipboard occupation for which the course is designed;
- (b) the general educational level and age required of trainees entering the course;
- (c) the trainees' previous practical experience.

V. General Training Schemes for Seafarers

15. Induction training designed to introduce trainees to the shipboard environment and safe working practices on board ship or, where appropriate and practicable, pre-sea training courses which provide adequate training for the duties regularly assigned to ratings of the deck, engine and catering departments, develop character and inculcate a sense of self-discipline and responsibility should be available for young persons with no sea experience.

16. Suitable courses of instruction should also be provided to enable young persons of appropriate ability to prepare themselves for statutory certificates or diplomas currently in effect in the merchant navy of their country in respect of both officer and rating categories.

17. Training for upgrading and promotion should, among other means, be provided by short-term courses at nautical schools and technical institutions and correspondence courses specially adapted to the needs of specific categories of officers and ratings and to the grades to which they aspire.

VI. Advanced Training

18. (1) Retraining, refresher, familiarisation and upgrading courses should be available as required for suitable officers and ratings to enable them to increase and widen their technical skills and knowledge, to keep abreast of technological changes, in particular in the development of automated ships, and to meet the requirements of new methods of operations on board ship.

(2) Such courses may be used, for instance, to complement general courses and provide advanced specialised training opening the way to promotion, as well as to provide advanced electronics courses for appropriate personnel.

(3) Special attention should be given to the ability of masters, other officers and ratings to navigate and handle new types of ships safely.

19. Where training would be facilitated thereby, shipowners should release suitable seafarers employed on board their ships for training periods ashore, at appropriate schools, to enable them to improve their skills, learn to use new techniques and equipment and qualify for promotion. Persons in a supervisory position on board ship should take an active part in encouraging such training.

VII. Training Methods

20. The training methods adopted should be the most effective possible, having regard to the nature of the instruction, the trainees' experience, general education and age, and the demonstration equipment and financial resources available.

21. Practical training, requiring active participation of the trainees themselves, should be an important part of all training programmes. It may be provided by assigning seafarers to merchant ships for periods of training at sea, to engineering workshops or shipyards or to shipping company offices.

22. Training vessels used by training institutions should provide practical instruction in navigation, seamanship, machinery operation and maintenance and other nautical subjects as well as comprehensive shipboard safety education.

23. Appropriate demonstration equipment such as simulators, engines, boat models, ship equipment, life-saving equipment, navigational aids and cargo gear should be used in training schemes. Such equipment should be selected with reference to the shipboard machinery and equipment which the trainee may be called upon to use.

24. Films and other audio-visual aids should be used, where appropriate -

- (a) as a supplement to, but not a substitute for, demonstration equipment in the use of which trainees take an active part;
- (b) as a primary training aid in special fields such as the teaching of languages.

25. Theoretical training and general education given as part of a training course should be related to the theoretical and practical knowledge required by seafarers.

VIII. International Co-operation

26. Countries should co-operate in promoting the vocational training of seafarers. In some cases it may be of particular value to do so on a regional basis.

27. In so doing they might collaborate with the International Labour Organisation and other international institutions, in particular the Inter-Governmental Maritime Consultative Organization, or other countries -

- (a) in recruiting and training teaching staff;
- (b) in setting up and improving training facilities for officers and ratings;
- (c) in setting up joint training facilities with other countries where necessary;
- (d) in making training facilities available to selected trainees or instructor-trainees from other countries and in sending trainees or instructor-trainees to other countries;
- (e) in organising international exchanges of personnel, information and teaching materials, as well as international seminars and working groups;
- (f) in providing qualified and experienced instructors for maritime training schools in other countries.

IX. Effect on Earlier Recommendations

28. This Recommendation supersedes the Vocational Training (Seafarers) Recommendation, 1946.

2.3.2.6. Officers' Competency Certificates Convention, 1936 (No. 53)

Date of entry into force: March 29, 1939

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Twenty-first Session on 6 October 1936, and

Having decided upon the adoption of certain proposals with regard to the establishment by each maritime country of a minimum requirement of professional capacity in the case of captain, navigating and engineer officers in charge of watches on board merchant ships, which is the fourth item on the agenda of the Session, and

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

adopts this twenty-fourth day of October of the year one thousand nine hundred and thirty-six the following Convention, which may be cited as the Officers' Competency Certificates Convention, 1936:

Article 1

1. This Convention applies to all vessels registered in a territory for which this Convention is in force and engaged in maritime navigation with the exception of -

- (a) ships of war;
- (b) Government vessels, or vessels in the service of a public authority, which are not engaged in trade;
- (c) wooden ships of primitive build such as dhows and junks.

2. National laws or regulations may grant exceptions or exemptions in respect of vessels of less than 200 tons gross registered tonnage.

Article 2

For the purpose of this Convention the following expressions have the meanings hereby assigned to them:

- (a) master or skipper means any person having command or charge of a vessel;
- (b) navigating officer in charge of a watch means any person, other than a pilot, who is for the time being actually in charge of the navigation or manoeuvring of a vessel;
- (c) chief engineer means any person permanently responsible for the mechanical propulsion of a vessel;
- (d) engineer officer in charge of a watch means any person who is for the time being actually in charge of the running of a vessel's engines.

Article 3

1. No person shall be engaged to perform or shall perform on board any vessel to which this Convention applies the duties of master or skipper, navigating officer in charge of a watch, chief engineer, or engineer officer in charge of a watch, unless he holds a certificate of competency to perform such duties, issued or approved by the public authority of the territory where the vessel is registered.

2. Exceptions to the provisions of this Article may be made only in cases of *force majeure*.

Article 4

1. No person shall be granted a certificate of competency unless -
 - (a) he has reached the minimum age prescribed for the issue of the certificate in question;
 - (b) his professional experience has been of the minimum duration prescribed for the issue of the certificate in question; and
 - (c) he has passed the examinations organised and supervised by the competent authority for the purpose of testing whether he possesses the qualifications necessary for performing the duties corresponding to the certificate for which he is a candidate.
2. National laws or regulations shall -
 - (a) prescribe a minimum age to have been attained by and a minimum period of professional experience to have been completed by candidates for each grade of competency certificate;
 - (b) provide for the organisation and supervision by the competent authority of one or more examinations for the purpose of testing whether candidates for competency certificates possess the qualifications necessary for performing the duties corresponding to the certificates for which they are candidates.
3. Any Member of the Organisation may, during a period of three years from the date of its ratification, issue competency certificates to persons who have not passed the examinations organised in virtue of paragraph 2 (b) of this Article who -
 - (a) have in fact had sufficient practical experience of the duties corresponding to the certificate in question; and
 - (b) have no record of any serious technical error against them.

Article 5

1. Each Member which ratifies this Convention shall ensure its due enforcement by an efficient system of inspection.
2. National laws or regulations shall provide for the cases in which the authorities of a Member may detain vessels registered in its territory on account of a breach of the provisions of this Convention.
3. Where the authorities of a Member which has ratified this Convention find a breach of its provisions on a vessel registered in the territory of another Member which has also ratified the Convention, the said authorities shall communicate with the consul of the Member in the territory of which the vessel is registered.

Article 6

1. National laws or regulations shall prescribe penalties or disciplinary measures for cases in which the provisions of this Convention are not respected.
2. In particular, such penalties or disciplinary measures shall be prescribed for cases in which -
 - (a) a shipowner, shipowner's agent, master or skipper has engaged a person not certificated as required by this Convention;
 - (b) a master or skipper has allowed any of the duties defined in Article 2 of this Convention to be performed by a person not holding the corresponding or a superior certificate;
 - (c) a person has obtained by fraud or forged documents an engagement to perform any of the duties defined in the said Article 2 without holding the requisite certificate.

Article 7

1. In respect of the territories referred to in article 35 of the Constitution of the International Labour Organisation, each Member of the Organisation which ratifies this Convention shall append to its ratification a declaration stating -

- (a) the territories in respect of which it undertakes to apply the provisions of the Convention without modification;
- (b) the territories in respect of which it undertakes to apply the provisions of the Convention subject to modifications, together with details of the said modifications;
- (c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
- (d) the territories in respect of which it reserves its decision.

2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 1 of this Article.

Article 8

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 9

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 10

As soon as the ratifications of two Members of the International Labour Organisation have been registered, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Article 11

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 12

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 13

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 14

The French and English texts of this Convention shall both be authentic.

2.3.2.7. Certification of Ships' Cooks Convention, 1946 (No. 69)

Date of entry into force: April 22, 1953

The General Conference of the International Labour Organisation,

Having been convened at Seattle by the Governing Body of the International Labour Office, and having met in its Twenty-eighth Session on 6 June 1946, and

Having decided upon the adoption of certain proposals with regard to the certification of ships' cooks, which is included in the fourth item on the agenda of the Session, and

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

adopts this twenty-seventh day of June of the year one thousand nine hundred and forty-six the following Convention, which may be cited as the Certification of Ships' Cooks Convention 1946:

Article 1

1. This Convention applies to sea-going vessels, whether publicly or privately owned, which are engaged in the transport of cargo or passengers for the purpose of trade and registered in a territory for which this Convention is in force.

2. National laws or regulations or, in the absence of such laws or regulations, collective agreements between employers and workers shall determine the vessels or classes of vessels which are to be regarded as sea-going vessels for the purpose of this Convention.

Article 2

For the purpose of this Convention the term "ship's cook" means the person directly responsible for the preparation of meals for the crew of the ship.

Article 3

1. No person shall be engaged as ship's cook on board any vessel to which this Convention applies unless he holds a certificate of qualification as ship's cook granted in accordance with the provisions of the following Articles.

2. Provided that the competent authority may grant exemptions from the provisions of this Article if in its opinion there is an inadequate supply of certificated ships' cooks.

Article 4

1. The competent authority shall make arrangements for the holding of examinations and for the granting of certificates of qualification.

2. No person shall be granted a certificate of qualification unless -

- (a) he has reached a minimum age to be prescribed by the competent authority;
- (b) he has served at sea for a minimum period to be prescribed by the competent authority; and
- (c) he has passed an examination to be prescribed by the competent authority.

3. The prescribed examination shall provide a practical test of the candidate's ability to prepare meals; it shall also include a test of his knowledge of food values, the drawing up of varied and properly balanced menus, and the handling and storage of food on board ship.

4. The prescribed examination may be conducted and certificates granted either directly by the competent authority or, subject to its control, by an approved school for the training of cooks or other approved body.

Article 5

Article 3 of this Convention shall apply after the expiration of a period not exceeding three years from the date of entry into force of the Convention for the territory where the vessel is registered: Provided that, in the case of a seaman who has had a satisfactory record of two years' service as cook before the expiration of the aforesaid period, national laws or regulations may provide for the acceptance of a certificate of such service as equivalent to a certificate of qualification.

Article 6

The competent authority may provide for the recognition of certificates of qualification issued in other territories.

Article 7

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 8

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force six months after the date on which there have been registered ratifications by nine of the following countries: United States of America, Argentine Republic, Australia, Belgium, Brazil, Canada, Chile, China, Denmark, Finland, France, United Kingdom of Great Britain and Northern Ireland, Greece, India, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Sweden, Turkey and Yugoslavia, including at least five coun-

tries each of which has at least one million gross register tons of shipping. This provision is included for the purpose of facilitating and encouraging early ratification of the Convention by Member States.

3. Thereafter, this Convention shall come into force for any Member six months after the date on which its ratification has been registered.

Article 9

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the last ratification required to bring the Convention into force, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 11

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 by him in accordance with the provisions of the preceding articles.

Article 12

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 13

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 14

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

2.3.2.8. Certification of Able Seamen Convention, 1946 (No. 74)

Date of entry into force: July 14, 1951

The General Conference of the International Labour Organisation,

Having been convened at Seattle by the Governing Body of the International Labour Office, and having met in its Twenty-eighth Session on 6 June 1946, and

Having decided upon the adoption of certain proposals with regard to the certification of able seamen, which is included in the fifth item on the agenda of the Session, and

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

adopts this twenty-ninth day of June of the year one thousand nine hundred and forty-six the following Convention, which may be cited as the Certification of Able Seamen Convention, 1946:

Article 1

No person shall be engaged on any vessel as an able seaman unless he is a person who by national laws or regulations is deemed to be competent to perform any duty which may be required of a member of the crew serving in the deck department (other than an officer or leading or specialist rating) and unless he holds a certificate of qualification as an able seaman granted in accordance with the provisions of the following articles.

Article 2

1. The competent authority shall make arrangements for the holding of examinations and for the granting of certificates of qualification.

2. No person shall be granted a certificate of qualification unless -

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

3. The prescribed minimum age shall not be less than eighteen years.

4. The prescribed minimum period of service at sea shall not be less than thirty-six months: Provided that the competent authority may -

- (a) permit persons with a period of actual service at sea of not less than twenty-four 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 persons trained in approved sea-going training ships who have served eighteen months in such ships to be certificated as able seamen upon leaving in good standing.

5. The prescribed examination shall provide a practical test of the candidate's knowledge of seamanship and of his ability to carry out effectively all the duties that may be required of an able seaman, including those of a lifeboatman; it shall be such as to qualify a successful candidate to hold the special lifeboatman's certificate provided for in Article 22 of the

International Convention for the Safety of Life at Sea, 1929, or in the corresponding provision of any subsequent Convention revising or replacing that Convention for the time being in force for the territory concerned.

Article 3

A certificate of qualification may be granted to any person who, at the time of the entry into force of this Convention for the territory concerned, is performing the full duties of an able seaman or leading deck rating or has performed such duties.

Article 4

The competent authority may provide for the recognition of certificates of qualification issued in other territories.

Article 5

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 6

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Article 7

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 8

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 9

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 by him in accordance with the provisions of the preceding articles.

Article 10

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 11

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 7 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 12

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

2.3.2.9. Seafarers' Identity Documents Convention, 1958 (No. 108)

Date of entry into force: February 19, 1961

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-first Session on 29 April 1958, and

Having decided upon the adoption of certain proposals with regard to the reciprocal or international recognition of seafarers' national identity cards, which is the seventh item on the agenda of the session, and

Having decided that these proposals shall take the form of an international Convention, adopts this thirteenth day of May of the year one thousand nine hundred and fifty-eight the following Convention, which may be cited as the Seafarers' Identity Documents Convention, 1958:

Article 1

1. This Convention applies to every seafarer who is engaged in any capacity on board a vessel, other than a ship of war, registered in a territory for which the Convention is in force and ordinarily engaged in maritime navigation.

2. In the event of any doubt whether any categories of persons are to be regarded as seafarers for the purpose of this Convention, the question shall be determined by the compe-

tent authority in each country after consultation with the shipowners' and seafarers' organisations concerned.

Article 2

1. Each Member for which this Convention is in force shall issue to each of its nationals who is a seafarer on application by him a seafarer's identity document conforming with the provisions of Article 4 of this Convention: Provided that, if it is impracticable to issue such a document to special classes of its seafarers, the Member may issue instead a passport indicating that the holder is a seafarer and such passport shall have the same effect as a seafarer's identity document for the purpose of this Convention.

2. Each Member for which this Convention is in force may issue a seafarer's identity document to any other seafarer either serving on board a vessel registered in its territory or registered at an employment office within its territory who applies for such a document.

Article 3

The seafarer's identity document shall remain in the seafarer's possession at all times.

Article 4

1. The seafarer's identity document shall be designed in a simple manner, be made of durable material, and be so fashioned that any alterations are easily detectable.

2. The seafarer's identity document shall contain the name and title of the issuing authority, the date and place of issue, and a statement that the document is a seafarer's identity document for the purpose of this Convention.

3. The seafarer's identity document shall include the following particulars concerning the bearer:

- (a) full name (first and last names where applicable);
- (b) date and place of birth;
- (c) nationality;
- (d) physical characteristics;
- (e) photograph; and
- (f) signature or, if bearer is unable to sign, a thumbprint.

4. If a Member issues a seafarer's identity document to a foreign seafarer it shall not be necessary to include any statement as to his nationality, nor shall any such statement be conclusive proof of his nationality.

5. Any limit to the period of validity of a seafarer's identity document shall be clearly indicated therein.

6. Subject to the provisions of the preceding paragraphs the precise form and content of the seafarer's identity document shall be decided by the Member issuing it, after consultation with the shipowners' and seafarers' organisations concerned.

7. National laws or regulations may prescribe further particulars to be included in the seafarer's identity document.

Article 5

1. Any seafarer who holds a valid seafarer's identity document issued by the competent authority of a territory for which this Convention is in force shall be readmitted to that territory.

2. The seafarer shall be so readmitted during a period of at least one year after any date of expiry indicated in the said document.

Article 6

1. Each Member shall permit the entry into a territory for which this Convention is in force of a seafarer holding a valid seafarer's identity document, when entry is requested for temporary shore leave while the ship is in port.

2. If the seafarer's identity document contains space for appropriate entries, each Member shall also permit the entry into a territory for which this Convention is in force of a seafarer holding a valid seafarer's identity document when entry is requested for the purpose of -

- (a) joining his ship or transferring to another ship;
- (b) passing in transit to join his ship in another country or for repatriation; or
- (c) any other purpose approved by the authorities of the Member concerned.

3. Any Member may, before permitting entry into its territory for one of the purposes specified in the preceding paragraph, require satisfactory evidence, including documentary evidence, from the seafarer, the owner or agent concerned, or from the appropriate consul, of a seafarer's intention and of his ability to carry out that intention. The Member may also limit the seafarer's stay to a period considered reasonable for the purpose in question.

4. Nothing in this Article shall be construed as restricting the right of a Member to prevent any particular individual from entering or remaining in its territory.

Article 7

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 8

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 9

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 11

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 by him in accordance with the provisions of the preceding Articles.

Article 12

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 13

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 14

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

2.3.2.10. Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)

Date of entry into force: February 9, 2005

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninety-first Session on 3 June 2003, and Mindful of the continuing threat to the security of passengers and crews and the safety of ships, to the national interest of States and to individuals, and

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

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

Recognizing the principles embodied in the Seafarers' Identity Documents Convention, 1958, concerning the facilitation of entry by seafarers into the territory of Members, for the purposes of shore leave, transit, transfer or repatriation, and

Noting the Convention on the Facilitation of International Maritime Traffic, 1965, as amended, of the International Maritime Organization, in particular, Standards 3.44 and 3.45, and

Noting further that United Nations General Assembly Resolution A/RES/ 57/219 (Protection of human rights and fundamental freedoms while countering terrorism) affirms that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law, and

Being aware that seafarers work and live on ships involved in international trade and that access to shore facilities and shore leave are vital elements of seafarers' general well-being and, therefore, to the achievement of safer shipping and cleaner oceans, and

Being aware also that the ability to go ashore is essential for joining a ship and leaving after the agreed period of service, and

Noting the amendments to the International Convention for the Safety of Life at Sea, 1974, as amended, concerning special measures to enhance maritime safety and security, that were adopted by the International Maritime Organization Diplomatic Conference on 12 December 2002, and

Having decided upon the adoption of certain proposals with regard to the improved security of seafarers' identification, which is the seventh item on the agenda of the session, and

Having decided that these proposals shall take the form of an international Convention revising the Seafarers' Identity Documents Convention, 1958,

adopts this nineteenth day of June of the year two thousand and three, the following Convention, which may be cited as the Seafarers' Identity Documents Convention (Revised), 2003.

Article 1

Scope

1. For the purposes of this Convention, the term "seafarer" means any person who is employed or is engaged or works in any capacity on board a vessel, other than a ship of war, ordinarily engaged in maritime navigation.

2. In the event of any doubt whether any categories of persons are to be regarded as seafarers for the purpose of this Convention, the question shall be determined in accordance with the provisions of this Convention by the competent authority of the State of nationality or permanent residence of such persons after consulting with the shipowners' and seafarers' organizations concerned.

3. After consulting the representative organizations of fishing-vessel owners and persons working on board fishing vessels, the competent authority may apply the provisions of this Convention to commercial maritime fishing.

Article 2

Issuance of seafarers' identity documents

1. Each Member for which this Convention is in force shall issue to each of its nationals who is a seafarer and makes an application to that effect a seafarers' identity document conforming to the provisions of Article 3 of this Convention.

2. Unless otherwise provided for in this Convention, the issuance of seafarers' identity documents may be subject to the same conditions as those prescribed by national laws and regulations for the issuance of travel documents.

3. Each Member may also issue seafarers' identity documents referred to in paragraph 1 to seafarers who have been granted the status of permanent resident in its territory. Perma-

nent residents shall in all cases travel in conformity with the provisions of Article 6, paragraph 7.

4. Each Member shall ensure that seafarers' identity documents are issued without undue delay.

5. Seafarers shall have the right to an administrative appeal in the case of a rejection of their application.

6. This Convention shall be without prejudice to the obligations of each Member under international arrangements relating to refugees and stateless persons.

Article 3

Content and form

1. The seafarers' identity document covered by this Convention shall conform - in its content - to the model set out in Annex I hereto. The form of the document and the materials used in it shall be consistent with the general specifications set out in the model, which shall be based on the criteria set out below. Provided that any amendment is consistent with the following paragraphs, Annex I may, where necessary, be amended in accordance with Article 8 below, in particular to take account of technological developments. The decision to adopt the amendment shall specify when the amendment will enter into effect, taking account of the need to give Members sufficient time to make any necessary revisions of their national seafarers' identity documents and procedures.

2. The seafarers' identity document shall be designed in a simple manner, be made of durable material, with special regard to conditions at sea and be machine-readable. The materials used shall:

- (a) prevent tampering with the document or falsification, as far as possible, and enable easy detection of alterations; and
- (b) be generally accessible to governments at the lowest cost consistent with reliably achieving the purpose set out in (a) above.

3. Members shall take into account any available guidelines developed by the International Labour Organization on standards of the technology to be used which will facilitate the use of a common international standard.

4. The seafarers' identity document shall be no larger than a normal passport.

5. The seafarers' identity document shall contain the name of the issuing authority, indications enabling rapid contact with that authority, the date and place of issue of the document, and the following statements:

- (a) this document is a seafarers' identity document for the purpose of the Seafarers' Identity Documents Convention (Revised), 2003, of the International Labour Organization; and
- (b) this document is a stand-alone document and not a passport.

6. The maximum validity of a seafarers' identity document shall be determined in accordance with the laws and regulations of the issuing State and shall in no case exceed ten years, subject to renewal after the first five years.

7. Particulars about the holder included in the seafarer's identity document shall be restricted to the following:

- (a) full name (first and last names where applicable);
- (b) sex;
- (c) date and place of birth;
- (d) nationality;
- (e) any special physical characteristics that may assist identification;
- (f) digital or original photograph; and

(g) signature.

8. Notwithstanding paragraph 7 above, a template or other representation of a biometric of the holder which meets the specification provided for in Annex I shall also be required for inclusion in the seafarers' identity document, provided that the following preconditions are satisfied:

- (a) the biometric can be captured without any invasion of privacy of the persons concerned, discomfort to them, risk to their health or offence against their dignity;
- (b) the biometric shall itself be visible on the document and it shall not be possible to re-constitute it from the template or other representation;
- (c) the equipment needed for the provision and verification of the biometric is user-friendly and is generally accessible to governments at low cost;
- (d) the equipment for the verification of the biometric can be conveniently and reliably operated in ports and in other places, including on board ship, where verification of identity is normally carried out by the competent authorities; and
- (e) the system in which the biometric is to be used (including the equipment, technologies and procedures for use) provides results that are uniform and reliable for the authentication of identity.

9. All data concerning the seafarer that are recorded on the document shall be visible. Seafarers shall have convenient access to machines enabling them to inspect any data concerning them that is not eye-readable. Such access shall be provided by or on behalf of the issuing authority.

10. The content and form of the seafarers' identity document shall take into account the relevant international standards cited in Annex I.

Article 4 **National electronic database**

1. Each Member shall ensure that a record of each seafarers' identity document issued, suspended or withdrawn by it is stored in an electronic database. The necessary measures shall be taken to secure the database from interference or unauthorized access.

2. The information contained in the record shall be restricted to details which are essential for the purposes of verifying a seafarers' identity document or the status of a seafarer and which are consistent with the seafarer's right to privacy and which meet all applicable data protection requirements. The details are set out in Annex II hereto, which may be amended in the manner provided for in Article 8 below, taking account of the need to give Members sufficient time to make any necessary revisions of their national database systems.

3. Each Member shall put in place procedures which will enable any seafarer to whom it has issued a seafarers' identity document to examine and check the validity of all the data held or stored in the electronic database which relate to that individual and to provide for correction if necessary, at no cost to the seafarer concerned.

4. Each Member shall designate a permanent focal point for responding to inquiries, from the immigration or other competent authorities of all Members of the Organization, concerning the authenticity and validity of the seafarers' identity document issued by its authority. Details of the permanent focal point shall be communicated to the International Labour Office, and the Office shall maintain a list which shall be communicated to all Members of the Organization.

5. The details referred to in paragraph 2 above shall at all times be immediately accessible to the immigration or other competent authorities in member States of the Organization, either electronically or through the focal point referred to in paragraph 4 above.

6. For the purposes of this Convention, appropriate restrictions shall be established to ensure that no data - in particular, photographs - are exchanged, unless a mechanism is in place to ensure that applicable data protection and privacy standards are adhered to.

7. Members shall ensure that the personal data on the electronic database shall not be used for any purpose other than verification of the seafarers' identity document.

Article 5

Quality control and evaluations

1. Minimum requirements concerning processes and procedures for the issue of seafarers' identity documents, including quality-control procedures, are set out in Annex III to this Convention. These minimum requirements establish mandatory results that must be achieved by each Member in the administration of its system for issuance of seafarers' identity documents.

2. Processes and procedures shall be in place to ensure the necessary security for:

- (a) the production and delivery of blank seafarers' identity documents;
- (b) the custody, handling and accountability for blank and completed seafarers' identity documents;
- (c) the processing of applications, the completion of the blank seafarers' identity documents into personalized seafarers' identity documents by the authority and unit responsible for issuing them and the delivery of the seafarers' identity documents;
- (d) the operation and maintenance of the database; and
- (e) the quality control of procedures and periodic evaluations.

3. Subject to paragraph 2 above, Annex III may be amended in the manner provided for in Article 8, taking account of the need to give Members sufficient time to make any necessary revisions to their processes and procedures.

4. Each Member shall carry out an independent evaluation of the administration of its system for issuing seafarers' identity documents, including quality-control procedures, at least every five years. Reports on such evaluations, subject to the removal of any confidential material, shall be provided to the Director-General of the International Labour Office with a copy to the representative organizations of shipowners and seafarers in the Member concerned. This reporting requirement shall be without prejudice to the obligations of Members under article 22 of the Constitution of the International Labour Organisation.

5. The International Labour Office shall make these evaluation reports available to Members. Any disclosure, other than those authorized by this Convention, shall require the consent of the reporting Member.

6. The Governing Body of the International Labour Office, acting on the basis of all relevant information in accordance with arrangements made by it, shall approve a list of Members which fully meet the minimum requirements referred to in paragraph 1 above.

7. The list must be available to Members of the Organization at all times and be updated as appropriate information is received. In particular, Members shall be promptly notified where the inclusion of any Member on the list is contested on solid grounds in the framework of the procedures referred to in paragraph 8.

8. In accordance with procedures established by the Governing Body, provision shall be made for Members which have been or may be excluded from the list, as well as interested governments of ratifying Members and representative shipowners' and seafarers' organizations, to make their views known to the Governing Body, in accordance with the arrangements referred to above and to have any disagreements fairly and impartially settled in a timely manner.

9. The recognition of seafarers' identity documents issued by a Member is subject to its compliance with the minimum requirements referred to in paragraph 1 above.

Article 6

Facilitation of shore leave and transit and transfer of seafarers

1. Any seafarer who holds a valid seafarers' identity document issued in accordance with the provisions of this Convention by a Member for which the Convention is in force shall be recognized as a seafarer within the meaning of the Convention unless clear grounds exist for doubting the authenticity of the seafarers' identity document.

2. The verification and any related inquiries and formalities needed to ensure that the seafarer for whom entry is requested pursuant to paragraphs 3 to 6 or 7 to 9 below is the holder of a seafarers' identity document issued in accordance with the requirements of this Convention shall be at no cost to the seafarers or shipowners.

Shore leave

3. Verification and any related inquiries and formalities referred to in paragraph 2 above shall be carried out in the shortest possible time provided that reasonable advance notice of the holder's arrival was received by the competent authorities. The notice of the holder's arrival shall include the details specified in section 1 of Annex II.

4. Each Member for which this Convention is in force shall, in the shortest possible time, and unless clear grounds exist for doubting the authenticity of the seafarers' identity document, permit the entry into its territory of a seafarer holding a valid seafarer's identity document, when entry is requested for temporary shore leave while the ship is in port.

5. Such entry shall be allowed provided that the formalities on arrival of the ship have been fulfilled and the competent authorities have no reason to refuse permission to come ashore on grounds of public health, public safety, public order or national security.

6. For the purpose of shore leave seafarers shall not be required to hold a visa. Any Member which is not in a position to fully implement this requirement shall ensure that its laws and regulations or practice provide arrangements that are substantially equivalent.

Transit and transfer

7. Each Member for which this Convention is in force shall, in the shortest possible time, also permit the entry into its territory of seafarers holding a valid seafarers' identity document supplemented by a passport, when entry is requested for the purpose of:

- (a) joining their ship or transferring to another ship;
- (b) passing in transit to join their ship in another country or for repatriation; or any other purpose approved by the authorities of the Member concerned.

8. Such entry shall be allowed unless clear grounds exist for doubting the authenticity of the seafarers' identity document, provided that the competent authorities have no reason to refuse entry on grounds of public health, public safety, public order or national security.

9. Any Member may, before permitting entry into its territory for one of the purposes specified in paragraph 7 above, require satisfactory evidence, including documentary evidence of a seafarer's intention and ability to carry out that intention. The Member may also limit the seafarer's stay to a period considered reasonable for the purpose in question.

Article 7

Continuous possession and withdrawal

1. The seafarers' identity document shall remain in the seafarer's possession at all times, except when it is held for safekeeping by the master of the ship concerned, with the seafarer's written consent.

2. The seafarers' identity document shall be promptly withdrawn by the issuing State if it is ascertained that the seafarer no longer meets the conditions for its issue under this Convention. Procedures for suspending or withdrawing seafarers' identity documents shall be drawn up in consultation with the representative shipowners' and seafarers' organizations and shall include procedures for administrative appeal.

Article 8

Amendment of the Annexes

1. Subject to the relevant provisions of this Convention, amendments to the Annexes may be made by the International Labour Conference, acting on the advice of a duly constituted tripartite maritime body of the International Labour Organization. The decision shall require a majority of two-thirds of the votes cast by the delegates present at the Conference, including at least half the Members that have ratified this Convention.

2. Any Member that has ratified this Convention may give written notice to the Director-General within six months of the date of the adoption of such an amendment that it shall not enter into force for that Member, or shall only enter into force at a later date upon subsequent written notification.

Article 9

Transitional provision

Any Member which is a party to the Seafarers' Identity Documents Convention, 1958, and which is taking measures, in accordance with article 19 of the Constitution of the International Labour Organisation, with a view to ratification of this Convention may notify the Director-General of its intention to apply the present Convention provisionally. A seafarers' identity document issued by such a Member shall be treated for the purposes of this Convention as a seafarers' identity document issued under it provided that the requirements of Articles 2 to 5 of this Convention are fulfilled and that the Member concerned accepts seafarers' identity documents issued under this Convention.

Final provisions

Article 10

This Convention revises the Seafarers' Identity Documents Convention, 1958.

Article 11

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 12

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.

2. It shall come into force six months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member six months after the date on which its ratification has been registered.

Article 13

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General for registration. Such denunciation shall take effect twelve months after the date on which it is registered.

2. Each Member which has ratified this Convention and 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.

Article 14

1. The Director-General shall notify all Members of the registration of all ratifications, declarations and acts of denunciation communicated by the Members.

2. When notifying the Members of the registration of the second ratification of this Convention, the Director-General shall draw the attention of the Members to the date upon which the Convention shall come into force.

3. The Director-General shall notify all Members of the registration of any amendments made to the Annexes in accordance with Article 8, as well as of notifications relating thereto.

Article 15

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, declarations and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

Article 16

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part, taking account also of the provisions of Article 8.

Article 17

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 18

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

Annex I
Model for seafarers' identity document

The seafarers' identity document, whose form and content are set out below, shall consist of good-quality materials which, as far as practicable, having regard to considerations such as cost, are not easily accessible to the general public. The document shall have no more space than is necessary to contain the information provided for by the Convention.

It shall contain the name of the issuing State and the following statement:

"This document is a seafarers' identity document for the purpose of the Seafarers' Identity Documents Convention (Revised), 2003, of the International Labour Organization. This document is a stand-alone document and not a passport."

The data page(s) of the document indicated in **bold** below shall be protected by a laminate or overlay, or by applying an imaging technology and substrate material that provide an equivalent resistance to substitution of the portrait and other biographical data.

The materials used, dimensions and placement of data shall conform to the International Civil Aviation Organization (ICAO) specifications as contained in Document 9303 Part 3 (2nd edition, 2002) or Document 9303 Part 1 (5th edition, 2003).

Other security features shall include at least one of the following features:

Watermarks, ultraviolet security features, use of special inks, special colour designs, perforated images, holograms, laser engraving, micro-printing, and heat-sealed lamination.

Data to be entered on the data page(s) of the seafarers' identity document shall be restricted to:

- I. Issuing authority:**
- II. Telephone number(s), email and web site of the authority:**
- III. Date and place of issue:**

Digital or original photograph of seafarer

- (a) **Full name of seafarer:**
- (b) **Sex:**.....
- (c) **Date and place of birth:**
- (d) **Nationality:**
- (e) **Any special physical characteristics of seafarer that may assist identification:**
- (f) **Signature:**.....
- (g) **Date of expiry:**
- (h) **Type or designation of document:**
- (i) **Unique document number:**
- (j) **Personal identification number (optional):**
- (k) **Biometric template based on a fingerprint printed as numbers in a bar code conforming to a standard to be developed:**
- (l) **A machine-readable zone conforming to ICAO specifications in Document 9303 specified above:**.....

IV. Official seal or stamp of the issuing authority.

Explanation of data

The captions on fields on the data page(s) above may be translated into the language(s) of the issuing State. If the national language is other than English, French or Spanish, the captions shall also be entered in one of these languages.

The Roman alphabet should be used for all entries in this document.

The information listed above shall have the following characteristics:

- I. Issuing authority: ISO code for the issuing State and the name and full address of the office issuing the seafarers' identity document as well as the name and position of the person authorizing the issue.
- II. The telephone number, email and web site shall correspond to the links to the focal point referred to in the Convention.
- III. Date and place of issue: the date shall be written in two-digit Arabic numerals in the form day/month/year - e.g. 31/12/03; the place shall be written in the same way as on the national passport.

Size of the portrait photograph: as in ICAO Document 9303 specified above

- (a) Full name of seafarer: where applicable, family name shall be written first, followed by the seafarer's other names;
- (b) Sex: specify "M" for male or "F" for female;
- (c) Date and place of birth: the date shall be written in two-digit Arabic numerals in the form day/month/year; the place shall be written in the same way as on the national passport;
- (d) Statement of nationality: specify nationality;
- (e) Special physical characteristics: any evident characteristics assisting identification;
- (f) Signature of seafarer;
- (g) Date of expiry: in two-digit Arabic numerals in the form day/month/year;
- (h) Type or designation of document: character code for document type, written in capitals in the Roman alphabet (S);
- (i) Unique document number: country code (see I above) followed by an alphanumeric book inventory number of no more than nine characters;
- (j) Personal identification number: optional personal identification number of the seafarer; identification number of no more than 14 alphanumeric characters;
- (k) Biometric template: precise specification to be developed;
- (l) Machine-readable zone: according to ICAO Document 9303 specified above.

Annex II
Electronic database

The details to be provided for each record in the electronic database to be maintained by each Member in accordance with Article 4, paragraphs 1, 2, 6 and 7 of this Convention shall be restricted to:

Section 1

1. Issuing authority named on the identity document.
2. Full name of seafarer as written on the identity document.
3. Unique document number of the identity document.
4. Date of expiry or suspension or withdrawal of the identity document.

Section 2

5. Biometric template appearing on the identity document.
6. Photograph.
7. Details of all inquiries made concerning the seafarers' identity document.

Annex III**Requirements and recommended procedures and practices concerning the issuance of seafarers' identity documents**

This Annex sets out minimum requirements relating to procedures to be adopted by each Member in accordance with Article 5 of this Convention, with respect to the issuance of seafarers' identity documents (referred to below as "SIDs"), including quality-control procedures.

Part A lists the mandatory results that must be achieved, as a minimum, by each Member, in implementing a system of issuance of SIDs.

Part B recommends procedures and practices for achieving those results. Part B is to be given full consideration by Members, but is not mandatory.

Part A. Mandatory results**1. Production and delivery of blank SIDs**

Processes and procedures are in place to ensure the necessary security for the production and delivery of blank SIDs, including the following:

- (a) all blank SIDs are of uniform quality and meet the specifications in content and form as contained in Annex I;
- (b) the materials used for production are protected and controlled;
- (c) blank SIDs are protected, controlled, identified and tracked during the production and delivery processes;
- (d) producers have the means of properly meeting their obligations in relation to the production and delivery of blank SIDs;
- (e) the transport of the blank SIDs from the producer to the issuing authority is secure.

2. Custody, handling and accountability for blank and completed SIDs

Processes and procedures are in place to ensure the necessary security for the custody, handling and accountability for blank and completed SIDs, including the following:

- (a) the custody and handling of blank and completed SIDs is controlled by the issuing authority;
- (b) blank, completed and voided SIDs, including those used as specimens, are protected, controlled, identified and tracked;
- (c) personnel involved with the process meet standards of reliability, trustworthiness and loyalty required by their positions and have appropriate training;
- (d) the division of responsibilities among authorized officials is designed to prevent the issuance of unauthorized SIDs.

3. Processing of applications; suspension or withdrawal of SIDs; appeal procedures

Processes and procedures are in place to ensure the necessary security for the processing of applications, the completion of the blank SIDs into personalized SIDs by the authority and unit responsible for issuing them, and the delivery of the SIDs, including:

- (a) processes for verification and approval ensuring that SIDs, when first applied for and when renewed, are issued only on the basis of:

- (i) applications completed with all information required by Annex I,
- (ii) proof of identity of the applicant in accordance with the law and practice of the issuing State,
- (iii) proof of nationality or permanent residence,
- (iv) proof that the applicant is a seafarer within the meaning of Article 1,
- (v) assurance that applicants, especially those with more than one nationality or having the status of permanent residents, are not issued with more than one SID,
- (vi) verification that the applicant does not constitute a risk to security, with proper respect for the fundamental rights and freedoms set out in international instruments.
- (b) the processes ensure that:
 - (i) the particulars of each item contained in Annex II are entered in the database simultaneously with issuance of the SID,
 - (ii) the data, photograph, signature and biometric gathered from the applicant correspond to the applicant, and
 - (iii) the data, photograph, signature and biometric gathered from the applicant are linked to the application throughout the processing, issuance and delivery of the SID.
- (c) prompt action is taken to update the database when an issued SID is suspended or withdrawn;
- (d) an extension and/or renewal system has been established to provide for circumstances where a seafarer is in need of extension or renewal of his or her SID and in circumstances where the SID is lost;
- (e) the circumstances in which SIDs may be suspended or withdrawn are established in consultation with shipowners' and seafarers' organizations;
- (f) effective and transparent appeal procedures are in place.
- 4. Operation, security and maintenance of the database

Processes and procedures are in place to ensure the necessary security for the operation and maintenance of the database, including the following:

- (a) the database is secure from tampering and from unauthorized access;
- (b) data are current, protected against loss of information and available for query at all times through the focal point;
- (c) databases are not appended, copied, linked or written to other databases; information from the database is not used for purposes other than authenticating the seafarers' identity;
- (d) the individual's rights are respected, including:
 - (i) the right to privacy in the collection, storage, handling and communication of personal data; and
 - (ii) the right of access to data concerning him or her and to have any inaccuracies corrected in a timely manner.
- 5. Quality control of procedures and periodic evaluations
 - (a) Processes and procedures are in place to ensure the necessary security through the quality control of procedures and periodic evaluations, including the monitoring of processes, to ensure that required performance standards are met, for:
 - (i) production and delivery of blank SIDs,
 - (ii) custody, handling and accountability for blank, voided and personalized SIDs,
 - (iii) processing of applications, completion of blank SIDs into personalized SIDs by the authority and unit responsible for issuance and delivery,
 - (iv) operation, security and maintenance of the database.

- (b) Periodic reviews are carried out to ensure the reliability of the issuance system and of the procedures and their conformity with the requirements of this Convention.
- (c) Procedures are in place to protect the confidentiality of information contained in reports on periodic evaluations provided by other ratifying Members.

Part B. Recommended procedures and practices

1. Production and delivery of blank SIDs

- 1.1. In the interest of security and uniformity of SIDs, the competent authority should select an effective source for the production of blank SIDs to be issued by the Member.
- 1.2. If the blanks are to be produced on the premises of the authority responsible for the issuance of SIDs ("the issuing authority"), section 2.2 below applies.
- 1.3. If an outside enterprise is selected, the competent authority should:
 - 1.3.1. check that the enterprise is of undisputed integrity, financial stability and reliability;
 - 1.3.2. require the enterprise to designate all the employees who will be engaged in the production of blank SIDs;
 - 1.3.3. require the enterprise to furnish the authority with proof that demonstrates that there are adequate systems in place to ensure the reliability, trustworthiness and loyalty of designated employees and to satisfy the authority that it provides each such employee with adequate means of subsistence and adequate job security;
 - 1.3.4. conclude a written agreement with the enterprise which, without prejudice to the authority's own responsibility for SIDs, should, in particular, establish the specifications and directions referred to under section 1.5 below and require the enterprise:
 - 1.3.4.1. to ensure that only the designated employees, who must have assumed strict obligations of confidentiality, are engaged in the production of the blank SIDs;
 - 1.3.4.2. to take all necessary security measures for the transport of the blank SIDs from its premises to the premises of the issuing authority. Issuing agents cannot be absolved from the liability on the grounds that they are not negligent in this regard;
 - 1.3.4.3. to accompany each consignment with a precise statement of its contents; this statement should, in particular, specify the reference numbers of the SIDs in each package.
 - 1.3.5. ensure that the agreement includes a provision to allow for completion if the original contractor is unable to continue;
 - 1.3.6. satisfy itself, before signing the agreement, that the enterprise has the means of properly performing all the above obligations.
- 1.4. If the blank SIDs are to be supplied by an authority or enterprise outside the Member's territory, the competent authority of the Member may mandate an appropriate authority in the foreign country to ensure that the requirements recommended in this section are met.
- 1.5. The competent authority should inter alia:
 - 1.5.1. establish detailed specifications for all materials to be used in the production of the blank SIDs; these materials should conform to the general specifications set out in Annex I to this Convention;
 - 1.5.2. establish precise specifications relating to the form and content of the blank SIDs as set out in Annex I;

- 1.5.3. ensure that the specifications enable uniformity in the printing of blank SIDs if different printers are subsequently used;
 - 1.5.4. provide clear directions for the generation of a unique document number to be printed on each blank SID in a sequential manner in accordance with Annex I; and
 - 1.5.5. establish precise specifications governing the custody of all materials during the production process.
2. Custody, handling and accountability for blank and completed SIDs
 - 2.1. All operations relating to the issuance process (including the custody of blank, voided and completed SIDs, the implements and materials for completing them, the processing of applications, the issuance of SIDs, the maintenance and the security of databases) should be carried out under the direct control of the issuing authority.
 - 2.2. The issuing authority should prepare an appraisal of all officials involved in the issuance process establishing, in the case of each of them, a record of reliability, trustworthiness and loyalty.
 - 2.3. The issuing authority should ensure that no officials involved in the issuance process are members of the same immediate family.
 - 2.4. The individual responsibilities of the officials involved in the issuance process should be adequately defined by the issuing authority.
 - 2.5. No single official should be responsible for carrying out all the operations required in the processing of an application for a SID and the preparation of the corresponding SID. The official who assigns applications to an official responsible for issuing SIDs should not be involved in the issuance process. There should be a rotation in the officials assigned to the different duties related to the processing of applications and the issuance of SIDs.
 - 2.6. The issuing authority should draw up internal rules ensuring:
 - 2.6.1. that the blank SIDs are kept secured and released only to the extent necessary to meet expected day-to-day operations and only to the officials responsible for completing them into personalized SIDs or to any specially authorized official, and that surplus blank SIDs are returned at the end of each day; measures to secure SIDs should be understood as including the use of devices for the prevention of unauthorized access and detection of intruders;
 - 2.6.2. that any blank SIDs used as specimens are defaced and marked as such;
 - 2.6.3. that each day a record, to be stored in a safe place, is maintained of the whereabouts of each blank SID and of each personalized SID that has not yet been issued, also identifying those that are secured and those that are in the possession of a specified official or officials; the record should be maintained by an official who is not involved in the handling of the blank SIDs or SIDs that have not yet been issued;
 - 2.6.4. that no person should have access to the blank SIDs and to the implements and materials for completing them other than the officials responsible for completing the blank SIDs or any specially authorized official;
 - 2.6.5. that each personalized SID is kept secured and released only to the official responsible for issuing the SID or to any specially authorized official;
 - 2.6.5.1. the specially authorized officials should be limited to:
 - (a) persons acting under the written authorization of the executive head of the authority or of any person officially representing the executive head, and

- (b) the controller referred to in section 5 below and persons appointed to carry out an audit or other control;
 - 2.6.6. that officials are strictly prohibited from any involvement in the issuance process for a SID applied for by a member of their family or a close friend;
 - 2.6.7. that any theft or attempted theft of SIDs or of implements or materials for personalizing them should be promptly reported to the police authorities for investigation.
- 2.7. Errors in the issuance process should invalidate the SID concerned, which may not be corrected and issued.
- 3. Processing of applications; suspension or withdrawal of SIDs; appeal procedures
 - 3.1. The issuing authority should ensure that all officials with responsibility concerning the review of applications for SIDs have received relevant training in fraud detection and in the use of computer technology.
 - 3.2. The issuing authority should draw up rules ensuring that SIDs are issued only on the basis of: an application completed and signed by the seafarer concerned; proof of identity; proof of nationality or permanent residence; and proof that the applicant is a seafarer.
 - 3.3. The application should contain all the information specified as mandatory in Annex I to this Convention. The application form should require applicants to note that they will be liable to prosecution and penal sanctions if they make any statement that they know to be false.
 - 3.4. When a SID is first applied for, and whenever subsequently considered necessary on the occasion of a renewal:
 - 3.4.1. the application, completed except for the signature, should be presented by the applicant in person, to an official designated by the issuing authority;
 - 3.4.2. a digital or original photograph and the biometric of the applicant should be taken under the control of the designated official;
 - 3.4.3. the application should be signed in the presence of the designated official;
 - 3.4.4. the application should then be transmitted by the designated official directly to the issuing authority for processing.
 - 3.5. Adequate measures should be adopted by the issuing authority to ensure the security and the confidentiality of the digital or original photograph and the biometric.
 - 3.6. The proof of identity provided by the applicant should be in accordance with the laws and practice of the issuing State. It may consist of a recent photograph of the applicant, certified as being a true likeness of him or her by the shipowner or shipmaster or other employer of the applicant or the director of the applicant's training establishment.
 - 3.7. The proof of nationality or permanent residence will normally consist of the applicant's passport or certificate of admission as a permanent resident.
 - 3.8. Applicants should be asked to declare all other nationalities that they may possess and affirm that they have not been issued with and have not applied for a SID from any other Member.
 - 3.9. The applicant should not be issued with a SID for so long as he or she possesses another SID.
 - 3.9.1. An early renewal system should apply in circumstances where a seafarer is aware in advance that the period of service is such that he or she will be unable to make his or her application at the date of expiry or renewal;

- 3.9.2. An extension system should apply in circumstances where an extension of a SID is required due to an unforeseen extension of the period of service;
- 3.9.3. A replacement system should apply in circumstances where a SID is lost. A suitable temporary document can be issued.
- 3.10. The proof that the applicant is a seafarer, within the meaning of Article 1 of this Convention should at least consist of:
 - 3.10.1. a previous SID, or a seafarers' discharge book; or
 - 3.10.2. a certificate of competency, qualification or other relevant training; or
 - 3.10.3. equally cogent evidence.
- 3.11. Supplementary proof should be sought where deemed appropriate.
- 3.12. All applications should be subject to at least the following verifications by a competent official of the issuing authority of SIDs:
 - 3.12.1. verification that the application is complete and shows no inconsistency raising doubts as to the truth of the statements made;
 - 3.12.2. verification that the details given and the signature correspond to those on the applicant's passport or other reliable document;
 - 3.12.3. verification, with the passport authority or other competent authority, of the genuineness of the passport or other document produced; where there is reason to doubt the genuineness of the passport, the original should be sent to the authority concerned; otherwise, a copy of the relevant pages may be sent;
 - 3.12.4. comparison of the photograph provided, where appropriate, with the digital photograph referred to in section 3.4.2 above;
 - 3.12.5. verification of the apparent genuineness of the certification referred to in section 3.6 above;
 - 3.12.6. verification that the proof referred to in section 3.10 substantiates that the applicant is indeed a seafarer;
 - 3.12.7. verification, in the database referred to in Article 4 of the Convention, to ensure that a person corresponding to the applicant has not already been issued with a SID; if the applicant has or may have more than one nationality or any permanent residence outside the country of nationality, the necessary inquiries should also be made with the competent authorities of the other country or countries concerned;
 - 3.12.8. verification, in any relevant national or international database that may be accessible to the issuing authority, to ensure that a person corresponding to the applicant does not constitute a possible security risk.
- 3.13. The official referred to in section 3.12 above should prepare brief notes for the record indicating the results of each of the above verifications, and drawing attention to the facts that justify the conclusion that the applicant is a seafarer.
- 3.14. Once fully checked, the application, accompanied by the supporting documents and the notes for the record, should be forwarded to the official responsible for completion of the SID to be issued to the applicant.
- 3.15. The completed SID, accompanied by the related file in the issuing authority, should then be forwarded to a senior official of that authority for approval.
- 3.16. The senior official should give such approval only if satisfied, after review of at least the notes for the record, that the procedures have been properly followed and that the issuance of the SID to the applicant is justified.
- 3.17. This approval should be given in writing and be accompanied by explanations concerning any features of the application that need special consideration.
- 3.18. The SID (together with the passport or similar document provided) should be handed to the applicant directly against receipt, or sent to the applicant or, if the

- latter has so requested, to his or her shipmaster or employer in both cases by reliable postal communication requiring advice of receipt.
- 3.19. When the SID is issued to the applicant, the particulars specified in Annex II to the Convention should be entered in the database referred to in Article 4 of the Convention.
 - 3.20. The rules of the issuing authority should specify a maximum period for receipt after dispatch. If advice of receipt is not received within that period and after due notification of the seafarer, an appropriate annotation should be made in the database and the SID should be officially reported as lost and the seafarer informed.
 - 3.21. All annotations to be made, such as, in particular, the brief notes for the record (see section 3.13 above) and the explanations referred to in section 3.17, should be kept in a safe place during the period of validity of the SID and for three years afterwards. Those annotations and explanations required by section 3.17 should be recorded in a separate internal database, and rendered accessible: (a) to persons responsible for monitoring operations; (b) to officials involved in the review of applications for SIDs; and (c) for training purposes.
 - 3.22. When information is received suggesting that a SID was wrongly issued or that the conditions for its issue are no longer applicable, the matter should be promptly notified to the issuing authority with a view to its rapid withdrawal.
 - 3.23. When a SID is suspended or withdrawn the issuing authority should immediately update its database to indicate that this SID is not currently recognized.
 - 3.24. If an application for a SID is refused or a decision is taken to suspend or withdraw a SID, the applicant should be officially informed of his or her right of appeal and fully informed of the reasons for the decision.
 - 3.25. The procedures for appeal should be as rapid as possible and consistent with the need for fair and complete consideration.
4. Operation, security and maintenance of the database
 - 4.1. The issuing authority should make the necessary arrangements and rules to implement Article 4 of this Convention, ensuring in particular:
 - 4.1.1. the availability of a focal point or electronic access over 24 hours a day, seven days a week, as required under paragraphs 4, 5 and 6 of Article 4 of the Convention;
 - 4.1.2. the security of the database;
 - 4.1.3. the respect for individual rights in the storage, handling and communication of data;
 - 4.1.4. the respect for the seafarer's right to verify the accuracy of data relating to him or her and to have corrected, in a timely manner, any inaccuracies found.
 - 4.2. The issuing authority should draw up adequate procedures for protecting the database, including:
 - 4.2.1. a requirement for the regular creation of back-up copies of the database, to be stored on media held in a safe location away from the premises of the issuing authority;
 - 4.2.2. the restriction to specially authorized officials of permission to access or make changes to an entry in the database once the entry has been confirmed by the official making it.

5. Quality control of procedures and periodic evaluations
 - 5.1. The issuing authority should appoint a senior official of recognized integrity, loyalty and reliability, who is not involved in the custody or handling of SIDs, to act as controller:
 - 5.1.1. to monitor on a continuous basis the implementation of these minimum requirements;
 - 5.1.2. to draw immediate attention to any shortcomings in the implementation;
 - 5.1.3. to provide the executive head and the concerned officials with advice on improvements to the procedures for the issuance of SIDs; and
 - 5.1.4. to submit a quality-control report to management on the above. The controller should, if possible, be familiar with all the operations to be monitored.
 - 5.2. The controller should report directly to the executive head of the issuing authority.
 - 5.3. All officials of the issuing authority, including the executive head, should be placed under a duty to provide the controller with all documentation or information that the controller considers relevant to the performance of his or her tasks.
 - 5.4. The issuing authority should make appropriate arrangements to ensure that officials can speak freely to the controller without fear of victimization.
 - 5.5. The terms of reference of the controller should require that particular attention be given to the following tasks:
 - 5.5.1. verifying that the resources, premises, equipment and staff are sufficient for the efficient performance of the functions of the issuing authority;
 - 5.5.2. ensuring that the arrangements for the safe custody of the blank and completed SIDs are adequate;
 - 5.5.3. ensuring that adequate rules, arrangements or procedures are in place in accordance with sections 2.6, 3.2, 4 and 5.4 above.
 - 5.5.4. ensuring that those rules and procedures, as well as arrangements, are well known and understood by the officials concerned;
 - 5.5.5. detailed monitoring on a random basis of each action carried out, including the related annotations and other records, in processing particular cases, from the receipt of the application for a SID to the end of the procedure for its issuance;
 - 5.5.6. verification of the efficacy of the security measures used for the custody of blank SIDs, implements and materials;
 - 5.5.7. verification, if necessary with the aid of a trusted expert, of the security and veracity of the information stored electronically and that the requirement for 24 hours a day, seven days a week access is maintained;
 - 5.5.8. investigating any reliable report of a possible wrongful issuance of a SID or of a possible falsification or fraudulent obtention of a SID, in order to identify any internal malpractice or weakness in systems that could have resulted in or assisted the wrongful issuance or falsification or fraud;
 - 5.5.9. investigating complaints alleging inadequate access to the details in the database given the requirements of paragraphs 2, 3 and 5 of Article 4 of the Convention, or inaccuracies in those details;
 - 5.5.10. ensuring that reports identifying improvements to the issuance procedures and areas of weakness have been acted upon in a timely and effective manner by the executive head of the issuing authority;
 - 5.5.11. maintaining records of quality-control checks that have been carried out;

- 5.5.12. ensuring that management reviews of quality-control checks have been performed and that records of such reviews are maintained.
- 5.6. The executive head of the issuing authority should ensure a periodic evaluation of the reliability of the issuance system and procedures, and of their conformity with the requirements of this Convention. Such evaluation should take into account the following:
 - 5.6.1. findings of any audits of the issuance system and procedures;
 - 5.6.2. reports and findings of investigations and of other indications relevant to the effectiveness of corrective action taken as a result of reported weaknesses or breaches of security;
 - 5.6.3. records of SIDs issued, lost, voided or spoiled;
 - 5.6.4. records relating to the functioning of quality control;
 - 5.6.5. records of problems with respect to the reliability or security of the electronic database, including inquiries made to the database;
 - 5.6.6. effects of changes to the issuance system and procedures resulting from technological improvements or innovations in the SID issuance procedures;
 - 5.6.7. conclusions of management reviews;
 - 5.6.8. audit of procedures to ensure that they are applied in a manner consistent with respect for fundamental principles and rights at work embodied in relevant ILO instruments.
- 5.7. Procedures and processes should be put in place to prevent unauthorized disclosure of reports provided by other Members.
- 5.8. All audit procedures and processes should ensure that the production techniques and security practices, including the stock control procedures, are sufficient to meet the requirements of this Annex.

2.3.2.11. *Placing of Seamen Convention, 1920 (No. 9)*

Date of entry into force: November 23, 1921

The General Conference of the International Labour Organisation,

Having been convened at Genoa by the Governing Body of the International Labour Office, on the 15th day of June 1920, and

Having decided upon the adoption of certain proposals with regard to the “supervision of articles of agreement; provision of facilities for finding employment for seamen; application to seamen of the Convention and Recommendations adopted at Washington in November last in regard to unemployment and unemployment insurance”, which is the second item in the agenda for the Genoa meeting of the Conference, and

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

adopts the following Convention, which may be cited as the *Placing of Seamen Convention, 1920*, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation:

Article 1

For the purpose of this Convention, the term “seamen” includes all persons, except officers, employed as members of the crew on vessels engaged in maritime navigation.

Article 2

1. The business of finding employment for seamen shall not be carried on by any person, company, or other agency, as a commercial enterprise for pecuniary gain; nor shall any fees be charged directly or indirectly by any person, company or other agency, for finding employment for seamen on any ship.

2. The law of each country shall provide punishment for any violation of the provisions of this Article.

Article 3

1. Notwithstanding the provisions of Article 2, any person, company or agency, which has been carrying on the work of finding employment for seamen as a commercial enterprise for pecuniary gain, may be permitted to continue temporarily under Government licence, provided that such work is carried on under Government inspection and supervision, so as to safeguard the rights of all concerned.

2. Each Member which ratifies this Convention agrees to take all practicable measures to abolish the practice of finding employment for seamen as a commercial enterprise for pecuniary gain as soon as possible.

Article 4

1. Each Member which ratifies this Convention agrees that there shall be organised and maintained an efficient and adequate system of public employment offices for finding employment for seamen without charge. Such system may be organised and maintained, either-

- (a) by representative associations of shipowners and seamen jointly under the control of a central authority, or,
- (b) in the absence of such joint action, by the State itself.

2. The work of all such employment offices shall be administered by persons having practical maritime experience.

3. Where such employment offices of different types exist, steps shall be taken to co-ordinate them on a national basis.

Article 5

Committees consisting of an equal number of representatives of shipowners and seamen shall be constituted to advise on matters concerning the carrying on of these offices. The Government in each country may make provision for further defining the powers of these committees, particularly with reference to the committees' selection of their chairmen from outside their own membership, to the degree of State supervision, and to the assistance which such committees shall have from persons interested in the welfare of seamen.

Article 6

In connection with the employment of seamen, freedom of choice of ship shall be assured to seamen and freedom of choice of crew shall be assured to shipowners.

Article 7

The necessary guarantees for protecting all parties concerned shall be included in the contract of engagement or articles of agreement, and proper facilities shall be assured to seamen for examining such contract or articles before and after signing.

Article 8

Each Member which ratifies this Convention will take steps to see that the facilities for employment of seamen provided for in this Convention shall, if necessary by means of public offices, be available for the seamen of all countries which ratify this Convention, and where the industrial conditions are generally the same.

Article 9

Each country shall decide for itself whether provisions similar to those in this Convention shall be put in force for deck-officers and engineer-officers.

Article 10

1. Each Member which ratifies this Convention shall communicate to the International Labour Office all available information, statistical or otherwise, concerning unemployment among seamen and concerning the work of its seamen's employment agencies.

2. The International Labour Office shall take steps to secure the co-ordination of the various national agencies for finding employment for seamen, in agreement with the Governments or organisations concerned in each country.

Article 11

1. Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, protectorates and possessions which are not fully self-governing -

a) except where owing to the local conditions its provisions are inapplicable; or
b) subject to such modifications as may be necessary to adapt its provisions to local conditions.

2. Each Member shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

Article 12

The formal ratifications of this Convention, under the conditions set forth in the Constitution of the International Labour Organisation, shall be communicated to the Director-General of the International Labour Office for registration.

Article 13

As soon as the ratifications of two Members of the International Labour Organisation have been registered with the International Labour Office, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation.

Article 14

This Convention shall come into force at the date on which such notification is issued by the Director-General of the International Labour Office, and it shall then be binding only upon those Members which have registered their ratifications with the International Labour Office. Thereafter this Convention will come into force for any other Member at the date on which its ratification is registered with the International Labour Office.

Article 15

Subject to the provisions of Article 14, each Member which ratifies this Convention agrees to bring its provisions into operation not later than 1 July 1922, and to take such action as may be necessary to make these provisions effective.

Article 16

A Member which has ratified this Convention may denounce it after the expiration of five 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 with the International Labour Office.

Article 17

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 18

The French and English texts of this Convention shall both be authentic.

2.3.2.12. *Recruitment and Placement of Seafarers Convention, 1996* (No. 179)

Date of entry into force: April 22, 2000

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 Eighty-Fourth Session on 8 October 1996, and

Noting the provisions of the Seamen's Articles of Agreement Convention, 1926, the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Employment Service Convention and Recommendation, 1948, the Right to Organise and Collective Bargaining Convention, 1949, the Seafarers' Engagement (Foreign Vessels) Recommendation, 1958, the Discrimination (Employment and Occupation) Convention, 1958, the Employment of Seafarers (Technical Developments) Recommendation, 1970, the Minimum Age Convention, 1973, the Continuity of Employment (Seafarers) Convention and Recommendation, 1976, the Merchant Shipping (Minimum Standards) Convention, 1976, the Repatriation of Seafarers Convention (Revised), 1987, and the Labour Inspection (Seafarers) Convention, 1996, and

Recalling the entry into force of the United Nations Convention on the Law of the Sea, 1982, on 16 November 1994, and

Having decided upon the adoption of certain proposals with regard to the revision of the Placing of Seamen Convention, 1920, which is the third item on the agenda of the session, and

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

adopts, this twenty-second day of October of the year one thousand nine hundred and ninety-six, the following Convention, which may be cited as the Recruitment and Placement of Seafarers Convention, 1996:

Article 1

1. For the purpose of this Convention:

- (a) the term “competent authority” means the minister, designated official, government department or other authority having power to issue regulations, orders or other instructions having the force of law in respect of the recruitment and placement of seafarers;
- (b) the term “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 employers or placing seafarers with employers;
- (c) 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 operation of the ship from the shipowner and who on assuming such responsibilities has agreed to take over all the attendant duties and responsibilities;
- (d) the term “seafarer” means any person who fulfils the conditions to be employed or engaged in any capacity on board a seagoing ship other than a government ship used for military or non-commercial purposes.

2. To the extent it deems practicable, after consultation with the representative organizations of fishing-vessel owners and fishermen or those of owners of maritime mobile offshore units and seafarers serving on such units, as the case may be, the competent authority may apply the provisions of the Convention to fishermen or to seafarers serving on maritime mobile offshore units.

Article 2

1. Nothing in the provisions of this Convention shall be deemed to:

- (a) prevent a Member from maintaining a free public 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 recruitment and placement services.

2. Where private recruitment and placement services have been or are to be established, they shall be operated within the territory of a Member only in conformity with a system of licensing or certification or other form of regulation. This system shall be established, maintained, modified or changed only after consultation with representative organizations of shipowners and seafarers. Undue proliferation of such private recruitment and placement services shall not be encouraged.

3. Nothing in this Convention shall affect the right of a Member to apply its laws and regulations to ships flying its flag in relation to the recruitment and placement of seafarers.

Article 3

Nothing in this Convention shall in any manner prejudice the ability of a seafarer to exercise basic human rights, including trade union rights.

Article 4

1. A Member shall, by means of national laws or applicable regulations:
 - (a) ensure that no fees or other charges for recruitment or for providing employment to seafarers are borne directly or indirectly, in whole or in part, by the seafarer; for this purpose, costs of the national statutory medical examination, certificates, a personal travel document and the national seafarer's book shall not be deemed to be "fees or other charges for recruitment";
 - (b) determine whether and under which conditions recruitment and placement services may place or recruit seafarers abroad;
 - (c) specify, 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 recruitment and placement services including the collection, storage, combination and communication of such data to third parties;
 - (d) determine the conditions under which the licence, certificate or similar authorization of a recruitment and placement service may be suspended or withdrawn in case of violation of relevant laws and regulations; and
 - (e) specify, where a regulatory system other than a system of licensing or certification exists, the conditions under which recruitment and placement services can operate, as well as sanctions applicable in case of violation of these conditions.
2. A Member shall ensure that the competent authority:
 - (a) closely supervise all recruitment and placement services;
 - (b) grant or renew the licence, certificate, or similar authorization only after having verified that the recruitment and placement service concerned meets the requirements of national laws and regulations;
 - (c) require that the management and staff of recruitment and placement services for seafarers should be adequately trained persons having relevant knowledge of the maritime industry;
 - (d) prohibit recruitment and placement services from using means, mechanisms or lists intended to prevent or deter seafarers from gaining employment;
 - (e) require that recruitment and placement services adopt measures to ensure, as far as practicable, that the employer has the means to protect seafarers from being stranded in a foreign port; and
 - (f) ensure that a system of protection, by way of insurance or an equivalent appropriate measure, is established to compensate seafarers for monetary loss that they may incur as a result of the failure of a recruitment and placement service to meet its obligations to them.

Article 5

1. All recruitment and placement services shall maintain a register of all seafarers recruited or placed through them, to be available for inspection by the competent authority.
2. All recruitment and placement services shall ensure that:
 - (a) any seafarer recruited or placed by them is qualified and holds the documents necessary for the job concerned;
 - (b) contracts of employment and articles of agreement are in accordance with applicable laws, regulations and collective agreements;
 - (c) seafarers are informed of their rights and duties under their contracts of employment and the articles of agreement prior to or in the process of engagement; and

- (d) proper arrangements are made for seafarers to examine their contracts of employment and the articles of agreement before and after they are signed and for them to receive a copy of the contract of employment.
- 3. Nothing in paragraph 2 above shall be understood as diminishing the obligations and responsibilities of the shipowner or the master.

Article 6

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

2. All recruitment and placement services shall examine and respond to any complaint concerning their activities and shall advise the competent authority of any unresolved complaint.

3. Where complaints concerning working or living conditions on board ships are brought to the attention of the recruitment and placement services, they shall forward such complaints to the appropriate authority.

4. Nothing in this Convention shall prevent the seafarer from bringing any complaint directly to the appropriate authority.

Article 7

This Convention revises the Placing of Seamen Convention, 1920.

Article 8

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 9

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

4. The ratification by a Member of this Convention shall, as from the date it has come into force, constitute an act of immediate denunciation of the Placing of Seamen Convention, 1920.

Article 10

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 11

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 communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

Article 12

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 by the Director-General in accordance with the provisions of the preceding Articles.

Article 13

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 14

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides -

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 10 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 15

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

2.3.2.13. Recruitment and Placement of Seafarers Recommendation, 1996 (No. 186)

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 Eighty-fourth Session on 8 October 1996, and

Having decided upon the adoption of certain proposals with regard to the revision of the Placing of Seamen Convention, 1920, which is the third item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Recruitment and Placement of Seafarers Convention, 1996;

adopts, this twenty-second day of October of the year one thousand nine hundred and ninety-six, the following Recommendation, which may be cited as the Recruitment and Placement of Seafarers Recommendation, 1996:

1. The competent authority should:

- (a) take the necessary measures to promote effective cooperation among recruitment and placement services, whether public or private;
- (b) take account of the needs of the maritime industry at both the national and international levels, when developing training programmes for seafarers, with the participation of shipowners, seafarers and the relevant training institutions;
- (c) make suitable arrangements for the cooperation of representative organizations of shipowners and seafarers in the organization and operation of the public recruitment and placement services where they exist;
- (d) maintain an arrangement for the collection and analysis of all relevant information on the maritime labour market, including:
 - (i) the current and prospective supply of seafarers 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;
 - (ii) the availability of employment on national and foreign ships;
 - (iii) continuity of employment;
 - (iv) the placement of apprentices, cadets and other trainees; and
 - (v) vocational guidance to prospective seafarers;
- (e) ensure that the staff responsible for the supervision of recruitment and placement services be adequately trained and have relevant knowledge of the maritime industry;
- (f) prescribe or approve operational standards and encourage the adoption of codes of conduct and ethical practices for these services; and
- (g) promote continued supervision on the basis of a system of quality standards.

2. The operational standards referred to in Paragraph 1(f) should include provisions dealing with:

- (a) the qualifications and training required of the management and staff of recruitment and placement services, which should include knowledge of the maritime sector, particularly of relevant maritime international instruments on training, certification and labour standards;
- (b) the keeping of a register of seafarers seeking employment at sea; and
- (c) matters pertaining to medical examinations, vaccinations, seafarers' documents and such other items as may be required for the seafarer to gain employment.

3. In particular, the operational standards referred to in Paragraph 1(f) should provide that each recruitment and placement service:

- (a) maintain, with due regard to the right to privacy and the need to protect confidentiality, full and complete records of the seafarers covered by its 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;
 - (iv) medical data relevant to employment;
- (b) maintain up-to-date crew lists of the vessels for which it provides crew and ensure that there is a means by which it can be contacted in an emergency at all hours;
- (c) have formal procedures to ensure that seafarers are not subject to exploitation by the agency or its personnel with regard to the offer of engagement on particular ships or by particular companies;

- (d) have formal procedures to prevent the opportunities for exploitation of seafarers arising from the issue of joining advances or any other financial transaction between the employer and the seafarer which are handled by it;
- (e) clearly publicize costs which the seafarer will bear by way of medical or documentary clearance;
- (f) ensure that seafarers are advised of any particular conditions applicable to the job for which they are to be engaged and of particular employers' policies relating to their employment;
- (g) have formal 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;
- (h) have formal procedures to ensure, as far as practicable, that certificates of competency and medical certificates of seafarers submitted for employment are up-to-date and have not been fraudulently obtained and that employment references are verified;
- (i) have formal 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
- (j) as a matter of policy, supply seafarers only to employers who offer terms and conditions of employment to seafarers which comply with applicable laws or regulations or collective agreements.

4. International cooperation should be encouraged between Members and relevant organizations and may include:

- (a) the systematic exchange of information on the maritime industry and labour market on a bilateral, regional and multilateral basis;
- (b) the exchange of information on maritime labour legislation;
- (c) the harmonization of policies, working methods and legislation governing recruitment and placement of seafarers;
- (d) the improvement of procedures and conditions for the international recruitment and placement of seafarers; and
- (e) workforce planning, taking account of the supply of and demand for seafarers and the requirements of the maritime industry.

2.4. Conventions and Recommendations concerning conditions of maritime employment

2.4.1 Content and practical application of standards

2.4.1.1. Determination of conditions of employment

2.4.1.1.1. The Seaman's Articles of Agreement Convention, 1926 (No. 22)

The Seaman's Articles of Agreement Convention, 1926 (No. 22) applies to all sea-going vessels registered in the country of any Member ratifying this Convention and to the owners, masters and seamen of such vessels,³⁰¹ with the exception of ships of war, Government vessels not engaged in trade, vessels engaged in the coasting trade, pleasure yachts, Indian country craft, fishing vessels, and vessels of less than 100 tons gross registered tonnage or 300 cubic metres, nor to vessels engaged in the home trade below the tonnage limit prescribed by national law for the special regulation of this trade at the date of the passing of this Convention.³⁰² Under the Convention, articles of agreement are signed by both the shipowner and by the seamen.³⁰³ This requirement is not applicable to masters, pilots, cadets and pupils of training ships and duly indentured apprentices, naval ratings, and other persons in the permanent service of a Government.³⁰⁴

The agreement shall not contain anything which is contrary to the provisions of national law or of this Convention.³⁰⁵ It shall state clearly the respective rights and obligations of each of the parties,³⁰⁶ and, in all cases, contain the following particulars: (1) the surname and other names of the seaman, the date of his birth or his age, and his birthplace; (2) the place at which and date on which the agreement was completed; (3) the name of the vessel or vessels on board which the seaman undertakes to serve; (4) the number of the crew of the vessel, if required by national law; (5) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement; (6) the capacity in which the seaman is to be employed; (7) if possible, the place and date at which the seaman is required to report on board for service; (8) the scale of provisions to be supplied to the seaman, unless some alternative system is provided for by national law; (9) the amount of his wages; (10) the termination of the agreement and the conditions thereof, that is to say: (a) if the agreement has been made for a definite period, the date fixed for its expiry; (b) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seaman shall be dis-

³⁰¹ Convention No. 22, Article 1(1).

³⁰² Convention No. 22, Article 1(2).

³⁰³ Convention No. 22, Article 3(1).

³⁰⁴ Convention No. 22, Article 2(b) (definition of the term "seaman").

³⁰⁵ Convention No. 22, Article 3(5).

³⁰⁶ Convention No. 22, Article 6(2).

charged; (c) if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission; provided that such period shall not be less for the shipowner than for the seaman; (11) the annual leave with pay granted to the seaman after one year's service with the same shipping company, if such leave is provided for by national law; and (12) any other particulars which national law may require.³⁰⁷

Every seaman shall be given a document containing a record of his employment on board the vessel.³⁰⁸ It shall not contain any statement as to the quality of the seaman's work or as to his wages.³⁰⁹ Moreover, no statement concerning the wages of the seaman may be entered into such document, even with the consent of the person concerned.³¹⁰

If a seaman shows, to the satisfaction of the shipowner or his agent, that he can obtain command of a vessel or an appointment as mate or engineer, or to any other post of a higher grade than he actually holds, or that any other circumstance has arisen since his engagement which renders it essential to his interests than he should be permitted to take his discharge, he may claim his discharge, provided that without increased expense to the shipowner and to the satisfaction of the shipowner or his agent he furnishes a competent and reliable man in his place.³¹¹

Whatever the reason for the termination or rescission of the agreement, an entry shall be made in this document and in the crew list showing that he has been discharged, and such entry shall, at the request of either party, be endorsed by the competent public authority.³¹² The entry should state merely the fact that the seaman had been discharged and not the grounds for such discharge.³¹³

Analysis of the comments of the Committee of Experts shows thirty-six major issues relating to the application of the Convention. First, the essential provisions of Convention No. 22, in particular the provisions set forth in Articles 10-14, aim to establish adequate protection for the seafarer at the time when the employment relationship ends, and call specifically for laws rather than other methods of application; although some minor points could be established by the alternative methods.³¹⁴ Second, certain provisions of Convention No. 22 are not self-executing but require the authorities to take specific legislative measures for their application. The provisions in question are Article 3, Article 4(1), Articles 5 and 8, Article 9(2) and (3), and Articles 11, 12 and 15. Therefore, the provision of the national Constitution according to which duly ratified international conventions are part of domestic

³⁰⁷ Convention No. 22, Article 6(3).

³⁰⁸ Convention No. 22, Article 5(1).

³⁰⁹ Convention No. 22, Article 5(2). The reasoning behind the inclusion of this provision into the text of the Convention was that the seaman shall be able to use the document containing a record of his employment on board the vessel to help him in obtaining further employment, and, therefore, it should be made impossible for the master of the ship to make a damaging entry in the seaman's record of service. See, Report of the Committee on seamen's articles of agreement. //ILC: 9th Session. *Record of Proceedings*. ILO, Geneva, 1926. p. 305.

³¹⁰ Interpretation of a decision concerning Convention No. 22, Seamen's Articles of Agreement, 1926, Japan//ILO, Official Bulletin, Vol. XXXVIII, 1955, No. 7, pp. 374-375.

³¹¹ Convention No. 22, Article 13(1).

³¹² Convention No. 22, Article 14(1).

³¹³ ILC: 9th Session. *Record of Proceedings*. ILO, Geneva, 1926. p. 524.

³¹⁴ See, **Chile** (CEACR, 2006/77th session: Observation) (referring to sections 182 and 186 of the 1990 General Survey on Convention No. 147).

legislation, is not sufficient to give effect to the provisions of Convention No. 22.³¹⁵ Third, the subject matter of Convention No. 22 – seaman’s articles of agreement – requires legislation adapted to the specificity and complexity of maritime employment, rather than labour law texts of general application concerning employment conditions and contracts such as the employment relations act.³¹⁶ Fourth, since the term “seaman”, for the purposes of the Convention, includes every person employed or engaged in any capacity on board any vessel and entered on the ship’s articles, the Convention shall be applicable to seafarers who are neither residents in the respective country nor its nationals, hired by a foreign employer and serving passengers on cruise ships.³¹⁷ Fifth, under Article 3(1) of the Convention, articles of agreement shall be signed both by the shipowner or his representative and by the seaman.³¹⁸ Sixth, under Article 3(1), reasonable facilities to examine the articles of agreement before they are signed shall be given to the seaman and also to his adviser.³¹⁹

Seventh, under Article 3(4) of the Convention, national law shall make adequate provision to ensure that the seaman has understood the agreement.³²⁰ Eighth, in order to ensure full compliance with Article 3(4) of the Convention in the case of a seafarer who does not understand English, it is necessary to have the contract written in a language he understands and, if need be, to have the representative of the competent authority or the master, in the presence of witnesses, explain the contents of the contract.³²¹ Ninth, under Article 4(1) of the Convention, adequate measures shall be taken in accordance with national law for ensuring that the agreement shall not contain any stipulation by which the parties purport to contract in advance to depart from the ordinary rules as to jurisdiction over the agreement.³²²

Tenth, under Article 5 of the Convention, every seaman shall be given a document containing a record of his employment on board the vessel.³²³ Eleventh, the document envis-

³¹⁵ See, **Colombia** (CEACR, 1992/62nd session: Observation); **Poland** (CEACR, 2000/71st session: Direct request).

³¹⁶ See, **New Zealand** (CEACR, 2006/77th session: Direct request).

³¹⁷ See, **Norway** (CEACR, 1991/61st session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1995/65th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2005/76th session: Observation).

³¹⁸ See, **France (French Polynesia)** (CEACR, 2001/72nd session: Direct request); **Poland** (CEACR, 1999/70th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2005/76th session: Direct request); **Romania** (CEACR, 2005/76th session: Direct request).

³¹⁹ See, **Bulgaria** (CEACR, 2005/76th session: Direct request); **China** (CEACR, 2000/71st session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2004/75th session: Direct request); **Poland** (CEACR, 1999/70th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2005/76th session: Direct request).

³²⁰ See, **India** (CEACR, 2004/75th session: Direct request).

³²¹ See, **Liberia** (CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1995/66th session: Observation; CEACR, 1996/67th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 2000/71st session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2004/75th session: Observation; CEACR, 2005/76th session: Observation; CEACR, 2006/77th session: Observation).

³²² See, **Poland** (CEACR, 1999/70th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2005/76th session: Direct request).

³²³ See, **Cuba** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Observation); **Estonia** (CEACR, 2005/76th session: Direct request); **Iraq** (CEACR, 1991/61st session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request); **Spain** (CEACR, 2002/73rd session: Direct request).

aged in Article 5 of the Convention is a different document from that envisaged in Article 14 of the Convention.³²⁴ Twelfth, the document given to the seaman in accordance with Article 5 of the Convention shall not contain any statement as to the quality of the seaman's work or as to his wages.³²⁵ Thirteenth, the document which contains an entry for "conduct" under the general heading "report of character" is not in conformity with the requirements of Article 5 of the Convention.³²⁶ Fourteen, under Articles 5 and 14(1) of the Convention, every seaman shall be given a document containing a record of his employment on board the vessel and also indicating that he has been discharged, whatever the reason for the termination or rescission of the agreement.³²⁷ Fifteenth, Article 14(1) of the Convention requires an entry to be made in the document issued to the seaman in accordance with Article 5 and in the list of crew regardless of whether the seaman has requested it.³²⁸ Sixteenth, the entry in the document issued in accordance with Article 5 of the Convention and in the list of crew should state merely the fact that the seaman had been discharged and not the grounds for such discharge.³²⁹ Seventeenth, under Article 14(2) of the Convention, the seaman shall at all times have the right, in addition to the record mentioned in Article 5, to obtain from the master a separate certificate as to the quality of his work or, failing that, a certificate indicating whether he has fully discharged his obligations under the agreement.³³⁰

³²⁴ See, **Argentina** (CEACR, 2005/76th session: Observation); **Nicaragua** (CEACR, 2000/71st session: Direct request; CEACR, 2005/76th session: Direct request).

³²⁵ See, **Colombia** (CEACR, 1995/65th session: Observation; CEACR, 1997/68th session: Observation); **Cuba** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Observation); **Egypt** (CEACR, 1991/61st session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request); **Pakistan** (CEACR, 1991/61st session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 2000/71st session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request); **Panama** (CEACR, 2000/71st session: Direct request; CEACR, 2001/72nd session: Direct request); **Peru** (CEACR, 1991/61st session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1995/65th session: Observation; CAC, 1995/66th session: Observation); **Romania** (CEACR, 2005/76th session: Direct request).

³²⁶ See, **Egypt** (CEACR, 1991/61st session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request).

³²⁷ See, **Mexico** (CEACR, 2006/77th session: Observation); **France (French Southern and Antarctic Territories)** (CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request).

³²⁸ See, **Egypt** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/75th session: Direct request).

³²⁹ See, **Mexico** (CEACR, 1995/65th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2003/74th session: Observation); **Portugal** (CEACR, 1991/61st session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 2000/71st session: Observation; CEACR, 2004/75th session: Observation).

³³⁰ See, **Colombia** (CEACR, 1997/68th session: Direct request; CEACR, 2001/71st session: Direct request; CEACR, 2005/76th session: Direct request); **Estonia** (CEACR, 2005/76th session: Direct request); **France (French Southern and Antarctic Territories)** (CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request); **Romania** (CEACR, 2005/76th session: Direct request); **Spain** (CEACR, 2002/73rd session: Direct request); **Bolivarian Republic of Venezuela** (CEACR, 1991/61st session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 1999/70th session: Direct request).

Eighteenth, under Article 6(2) of the Convention, the agreement shall state clearly the respective rights and obligations of each of the parties, and not only those of the seafarer.³³¹ Nineteenth, under Article 6(3) of the Convention, the name of the vessel or vessels on board which seafarers undertake to serve must be specified, not only in agreements for a voyage, but also in agreements for a definite or for an indefinite period.³³² Twentieth, the name of the vessel or vessels on board which the seafarer undertakes to serve must be entered into the articles of agreement. By entering the name(s) only into the seafarer's passport, but not into his articles of agreement, the Convention is not applied adequately.³³³ Twenty-first, in the case of a contract providing for the employment of the seafarer on board several vessels, the names of each of these vessels must be stated in the employment contract.³³⁴ Twenty-second, the agreement shall contain, in particular, the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;³³⁵ if possible, the place and date at which the seaman is required to report on board for service;³³⁶ if the agreement has been made for a definite period, the date fixed for its expiry; and, if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seaman shall be discharged.³³⁷

Twenty-third, under Article 8 of the Convention, in order that the seaman may satisfy himself as to the nature and extent of his rights and obligations, national law shall lay down the measures to be taken to enable clear information to be obtained on board as to the conditions of employment, either by posting the conditions of the agreement in a place easily accessible from the crew's quarters, or by some other appropriate means.³³⁸ Twenty-fourth, when the rights and obligations of the seaman are indicated in a crew register, this register shall be posted on board the vessel in such a way that the seafarer can satisfy himself as to his precise conditions of employment, as provided for by the Convention, or some other means shall be envisaged to meet this obligation.³³⁹ Twenty-fifth, under Article 9(1) of the Convention, an agreement for an indefinite period may be terminated by either party in any port where the vessel loads or unloads, provided that the notice specified in the agreement shall have been given, which shall not be less than twenty-four hours.³⁴⁰ Twenty-sixth, the

³³¹ See, **Cuba** (CEACR, 2005/76th session: Observation).

³³² See, **Colombia** (CEACR, 1997/68th session: Direct request; CEACR, 2001/71st session: Direct request; CEACR, 2005/76th session: Direct request).

³³³ See, **Egypt** (CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request).

³³⁴ See, **Estonia** (CEACR, 2005/76th session: Direct request).

³³⁵ See, **India** (CEACR, 2004/75th session: Direct request).

³³⁶ See, **India** (CEACR, 2004/75th session: Direct request).

³³⁷ See, **India** (CEACR, 2004/75th session: Direct request).

³³⁸ See, **Argentina** (CEACR, 2005/76th session: Observation); **Bulgaria** (CEACR, 2001/72nd session: Direct request).

³³⁹ See, **Argentina** (CEACR, 2005/76th session: Observation).

³⁴⁰ See, **Cuba** (CEACR, 2005/76th session: Observation); **France** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2004/75th session: Observation; CEACR, 2005/76th session: Observation); **France (Guadeloupe)** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation; CEACR, 2005/76th session: Observation); **France (Martinique)** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2004/75th session: Observation; CEACR, 2005/76th session: Observation); **France (Reunion)** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2004/75th session: Observation; CEACR, 2005/76th session: Observation); **France (St. Pierre and Miquelon)** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2004/75th session: Observation; CEACR, 2005/76th session: Observation); **Mauritania**

shipowner shall have the same right to terminate the contract, subject to the same requirements regarding the period of notice, which must not be less for the shipowner than for the seafarer.³⁴¹ Twenty-seventh, the provisions of the national legislation, establishing that (a) no crew member may give up his work without the agreement of the maritime or consular authority of the port in which the vessel is located,³⁴² or (b) that it is unlawful to terminate the employment relation when the vessel is in foreign waters, in places where there are no towns, or unpopulated places, or in port (in the latter case, if the vessel is exposed to some risk on account of bad weather or other circumstances),³⁴³ (c) that this termination can only take effect in metropolitan ports or in ports of an overseas department or territory for a seaman embarked in a vessel registered in one of these ports,³⁴⁴ (d) that outside the country a seafarer may not obtain his discharge without the permission of the Maritime Authority,³⁴⁵ (e) that the agreement may only be terminated with the approval of the administrator, and once a replacement has been found for the seafarer,³⁴⁶ (f) that the agreement may not be terminated when the vessel is in foreign waters or uninhabited places,³⁴⁷ or (g) that it may only terminate in the respective member State,³⁴⁸ are not in conformity with Article 9(1) of

(CEACR, 1990/60th session: Direct request; CEACR, 1991/61st session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2001/71st session: Direct request); **Panama** (CEACR, 1991/61st session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1995/66th session: Observation; CEACR, 1998/69th session: Observation); **Tunisia** (CEACR, 1991/61st session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Observation); **Uruguay** (CEACR, 1995/65th session: Direct request); **Bolivarian Republic of Venezuela** (CEACR, 1991/61st session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 1999/70th session: Direct request).

³⁴¹ See, **Portugal** (CEACR, 1991/61st session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 2000/71st session: Observation; CEACR, 2004/75th session: Observation).

³⁴² See, **Chile** (CEACR, 2006/77th session: Observation).

³⁴³ See, **Mexico** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2000/71st session: Observation; CEACR, 2003/74th session: Observation; CEACR, 2006/77th session: Observation).

³⁴⁴ See, **France** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2004/75th session: Observation); **France (Guadeloupe)** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation; CEACR, 2005/76th session: Observation); **France (Martinique)** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2004/75th session: Observation; CEACR, 2005/76th session: Observation); **France (New Caledonia)** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation); **France (Reunion)** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2004/75th session: Observation; CEACR, 2005/76th session: Observation); **France (St. Pierre and Miquelon)** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2004/75th session: Observation; CEACR, 2005/76th session: Observation).

³⁴⁵ See, **Djibouti** (CEACR, 1991/61st session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request).

³⁴⁶ See, **Cuba** (CEACR, 2005/76th session: Observation).

³⁴⁷ See, **Bolivarian Republic of Venezuela** (CEACR, 1991/61st session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 1999/70th session: Direct request).

³⁴⁸ See, **China** (CEACR, 2004/75th session: Direct request).

the Convention. Twenty-eighth, under Article 9(2) of the Convention notice of termination of agreement shall be given in writing; national law shall provide such manner of giving notice as is best calculated to preclude any subsequent dispute between the parties on this point.³⁴⁹ Twenty-ninth, since Article 9(2) of the Convention requires that notice be given in writing, it does not authorize the giving of notice solely in verbal form, even in the presence of witnesses.³⁵⁰ Thirtieth, since the Convention requires that notice shall be given in writing, when notice is given by a verbal declaration entered into the ship's log, legislation must require written confirmation to the seaman, such as a copy of the ship's log, in order to preclude any subsequent dispute between the parties, as required by the Convention.³⁵¹ Thirty-first, Article 10(c) of the Convention requires a contract to be terminated by law in case of loss or total unseaworthiness of the vessel; termination of the contract shall not only depend on the will of the employer. Therefore, the provision of the national legislation which implies that only the employer may terminate the contract in case of shipwreck, but not the seafarer, is not in conformity with the requirements of the Convention.³⁵²

Thirty-second, according to Article 11, national law shall determine the circumstances in which the owner or master may immediately discharge a seaman.³⁵³ Thirty-third, under Article 11 of the Convention, the circumstances in which the owner or master may immediately discharge a seaman shall be determined by national law, and not by crew agreements.³⁵⁴ Thirty-fourth, pursuant to Article 12 of the Convention, national law shall determine circumstances in which the seafarer may demand his immediate discharge.³⁵⁵ Thirty-

³⁴⁹ See, **France (French Guyana)** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation; CEACR, 2005/76th session: Observation); **France (French Southern and Antarctic Territories)** (CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request); **Liberia** (CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1995/66th session: Observation; CEACR, 1996/67th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 2000/71st session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2004/75th session: Observation; CEACR, 2005/76th session: Observation; CEACR, 2006/77th session: Observation); **Nicaragua** (CEACR, 2000/71st session: Direct request; CEACR, 2005/76th session: Direct request).

³⁵⁰ See, **Cuba** (CEACR, 2005/76th session: Observation).

³⁵¹ See, **Luxembourg** (CEACR, 2001/72nd session: Direct request); **France** (CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request).

³⁵² See, **Egypt** (CEACR, 2004/75th session: Direct request).

³⁵³ See, **Ghana** (CACR, 1991/61st session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request); **New Zealand** (CEACR, 2000/71st session: Direct request; CEACR, 2002/73rd session: Observation).

³⁵⁴ See, **China (Hong Kong Special Administrative Region)** (CEACR, 2002/73rd session: Direct request); **United Kingdom** (CEACR, 1995/65th session: Direct request); **United Kingdom (Isle of Man)** (CEACR, 2001/72nd session: Direct request).

³⁵⁵ See, **Chile** (CEACR, 2002/73rd session: Observation); **Ghana** (CACR, 1991/61st session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request); **India** (CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request); **New Zealand** (CEACR, 2000/71st session: Direct request; CEACR, 2002/73rd session: Observation); **Nicaragua** (CEACR, 2000/71st session: Direct request; CEACR, 2005/76th session: Direct request); **Papua New Guinea** (CEACR, 2005/76th session: Direct request); **Romania** (CEACR, 2005/76th session: Direct request); **Singapore** (CEACR, 2001/76th session: Direct request; CEACR, 2005/76th ses-

fifth, the provision of the national legislation which requires the worker to give 30 days' notice to terminate his employment contract, is inconsistent with Article 12 of the Convention. The fact that there are legal opinions stating that the non-respect of the notice requirement implies no penalty for the worker is not enough to ensure compliance with the Convention, but should certainly facilitate the amendment of national legislation.³⁵⁶ Thirty-sixth, due to the specificity of maritime employment, Articles 11 and 12 of the Convention place a positive and unequivocal obligation on the State to precisely establish the circumstances in which a seafarer can be immediately discharged or may demand discharge. The requirement is that national law shall make this determination beforehand and in an abstract manner, rather than it being determined by a court, subsequently and at seafarers' request, whether the concrete circumstances of a case justify dismissal or the demand of discharge.³⁵⁷

2.4.1.2 Hours of work, rest and annual leave

2.4.1.2.1. The Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180)

The Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180) applies to every seagoing ship, whether publicly or privately owned, which is registered in the territory of any Member for which the Convention is in force, and is ordinarily engaged in commercial maritime operations.³⁵⁸ The Convention prescribes the following limits on hours of work and rest: (a) maximum hours of work shall not exceed: (i) 14 hours in any 24-hour period; and (ii) 72 hours in any seven-day period; or (b) minimum hours of rest shall not be less than: (i) ten hours in any 24-hour period; and (ii) 77 hours in any seven-day period.³⁵⁹ 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.³⁶⁰

The Member shall require that records of seafarers' daily hours of work or of their daily hours of rest be maintained to allow monitoring of compliance with these requirements.³⁶¹ The competent authority shall establish the format of the records of the seafarers' hours of work or of their hours of rest taking into account any available International Labour Office guidelines, or shall use any standard format prepared by the Organization.³⁶² Apart from that, the Convention requires that every ship to which it applies shall be sufficiently, safely and efficiently manned, in accordance with the minimum safe manning document or an equiva-

sion: Direct request); **United Kingdom** (CEACR, 1995/65th session: Direct request); **United Kingdom (Isle of Man)** (CEACR, 2001/72nd session: Direct request).

³⁵⁶ See, **Chile** (CEACR, 2006/77th session: Observation).

³⁵⁷ See, **New Zealand** (CEACR, 2006/77th session: Observation).

³⁵⁸ Convention No. 180, Article 1(1).

³⁵⁹ Convention No. 180, Article 5(1).

³⁶⁰ Convention No. 180, Article 5(2).

³⁶¹ Convention No. 180, Article 8(1).

³⁶² Convention No. 180, Article 8(2). The guidelines themselves can be found in IMO/ILO Guidelines for the Development of Tables of Seafarers' Shipboard Working Arrangements and Formats of Records of Seafarers' Hours of Work or Hours of Rest. IMO/ILO, 1999.

lent issued by the competent authority.³⁶³ It also establishes a prohibition for persons under 16 years of age to work on a ship.³⁶⁴

Analysis of the comments of the Committee of Experts shows twenty-two major issues relating to the application of the Convention. First, the Convention, applies to ships both below and over 500 tons, which are ordinarily engaged in commercial maritime operations.³⁶⁵ Second, prior to applying the provisions of this Convention to commercial maritime fishing, the competent authority shall consult the representative organizations of fishing-vessel owners and fishermen.³⁶⁶ Third, persons working on board are covered by the definition of “seafarer” in Article 2(d) of the Convention, in so far as two other conditions are fulfilled under the Convention: they should be defined as “seafarers” in national laws or regulations or collective agreements, and employed or engaged in any capacity on board a seagoing ship.³⁶⁷

Fourth, under the Convention, the maximum working hours for seafarers are 14 hours in any 24-hour period. Therefore, the provision of the national legislation establishing the maximum hours of work for seafarers as 16 hours is not in conformity with the Convention.³⁶⁸ Fifth, when there are ships operating on a “two-watch” system, where the watchkeeping responsibilities are undertaken by only two officers (e.g. six hours on, six hours off), the respective Member State shall take measures to avoid infringements of the requirements (the work or rest hour limits) of the Convention, resulting from additional work which officers have to perform outside their watchkeeping routine, e.g. duties under the International Ship and Port Facility Security (ISPS) Code.³⁶⁹

Sixth, under the Convention, the minimum period of rest is 77 hours in any seven-day period. Therefore, a provision of the national legislation according to which watchkeeping employees should be given a rest period of at least 70 hours of rest during each seven-day period, is not in conformity with the Convention.³⁷⁰ Seventh, according to the Convention, the standards of the minimum hours of rest should be respected in any seven-day period, and a reduction of the minimum limit in one period cannot be justified because of the workload, on the grounds that it shall be compensated in another period. As a result, the provision of the national legislation according to which the minimum rest period may be shortened to six hours during a maximum of two consecutive 24-hour periods, provided that the employee is given a rest period of at least 77 hours during each period of seven days (and the watchkeeping employee, at least 70 hours, is not in conformity with the Convention.³⁷¹

Eights, an obligation of the competent authority to determine provisions to ensure that seafarers have sufficient rest with regard to the situations in Article 5(3) (musters, fire-fighting and drills) and Article 5(4) (periods on call) of the Convention in the case that there are no collective agreements or arbitration awards or when the provisions in these agreements or awards are inadequate³⁷² Ninth, seafarers required to work during their nor-

³⁶³ Convention No. 180, Article 11(1).

³⁶⁴ Convention No. 180, Article 12.

³⁶⁵ See, **Malta** (CEACR, 2005/76th session: Direct request).

³⁶⁶ See, **Bulgaria** (CEACR, 2005/76th session: Direct request).

³⁶⁷ See, **Finland** (CEACR, 2005/76th session: Direct request).

³⁶⁸ See, **Finland** (CEACR, 2005/76th session: Direct request).

³⁶⁹ See, **France** (CEACR, 2005/76th session: Direct request); **Greece** (CEACR, 2005/76th session: Direct request); **Netherlands** (CEACR, 2004/75th session: Direct request); **United Kingdom** (CEACR, 2005/76th session: Direct request); **United Kingdom (Isle of Man)** (CEACR, 2005/76th session: Direct request).

³⁷⁰ See, **Finland** (CEACR, 2005/76th session: Direct request).

³⁷¹ See, **Finland** (CEACR, 2005/76th session: Direct request).

³⁷² See, **Greece** (CEACR, 2005/76th session: Direct request).

mal period of rest shall be given an adequate compensatory rest period.³⁷³ Tenth, when on call, seafarers must have adequate compensatory rest if the normal period of rest is disturbed, whether the ship is at sea or in port.³⁷⁴

Eleventh, under Article 5(6) of the Convention, the general exception to the limits on hours of work and rest set out by the Convention, is a matter for collective agreements between the social partners.³⁷⁵ Twelfth, exceptions to the limits on hours of work or hours of rest can only be granted by the competent authority authorizing or registering collective agreements which permit exceptions to the limits set out. Furthermore, the exceptions allowed for in the Convention should, as far as possible, follow the standards set out 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. As a result, the provisions of the national legislation, according to which the Ministry of Labour may permit exceptions to the application of Act in individual cases, on the condition that these exceptions shall not be granted if they are in conflict with an international agreement, and to grant exceptions under certain conditions when a ship flying the national flag is placed at the disposal of a foreign operator, are not in conformity with the Convention.³⁷⁶

Thirteenth, watchkeeping in port shall be included in the schedule of service in port and rest periods shall only be interrupted in emergency situations and in other cases permitted under Article 7(1) of the Convention.³⁷⁷ Fourteenth, the Convention stipulates that seafarers should be provided with an adequate period of rest after the normal situation has been restored.³⁷⁸ Fifteenth, the exceptional permission for young seafarers under the age of 18 to work at night, allowed under the national legislation, shall be restricted to seafarers between the ages of 16 and 18, as provided in Article 6 of the Convention.³⁷⁹

Sixteenth, there should be a procedure according to which records should be given to the employee without his having to make a request in order to receive a copy, and the register should be endorsed by all parties concerned, i.e. the master, or a person authorized by the master, and by the seafarer.³⁸⁰ Seventeenth, the Convention stipulates that the seafarer shall receive a copy of the records of daily hours of work or daily hours of rest pertaining to him. Thus, the provision of the national legislation according to which the seafarer is entitled to receive a copy of the records of hours of work or daily hours of rest relating to him, does not comply with the Convention.³⁸¹

Eighteenth, under the Convention, the competent authority shall determine the procedures for keeping records of seafarers' daily hours of work, or of their daily hours of rest on board, including the intervals at which the information shall be recorded. Therefore, the national legislation which provides that the records for the last eight days and in any case the records that correspond to the period covering the period from the sailing from one port until the sailing from the next port shall be kept at the disposal of the competent authorities for inspection, but does not provide for procedures for keeping records on board, including the intervals at which the information shall be recorded, is not in conformity with the Convention. The eight-day rule and the one-voyage rule in the legislation for keeping records

³⁷³ See, **United Kingdom** (CEACR, 2005/76th session: Direct request).

³⁷⁴ See, **France** (CEACR, 2005/76th session: Direct request).

³⁷⁵ See, **Bulgaria** (CEACR, 2005/76th session: Direct request).

³⁷⁶ See, **Finland** (CEACR, 2005/76th session: Direct request).

³⁷⁷ See, **Finland** (CEACR, 2005/76th session: Direct request).

³⁷⁸ See, **France** (CEACR, 2005/76th session: Direct request).

³⁷⁹ See, **United Kingdom (Isle of Man)** (CEACR, 2005/76th session: Direct request).

³⁸⁰ See, **Finland** (CEACR, 2005/76th session: Direct request).

³⁸¹ See, **Greece** (CEACR, 2005/76th session: Direct request).

makes it virtually impossible for any inspection service to examine and endorse them, since an inspection of the records is not carried out every eight days or after every voyage.³⁸²

Nineteenth, under Article 8(3) of the Convention, copies of the relevant provisions of the national legislation and the relevant collective agreements shall be kept on board, and no alternative choice to keep this information in another place is permitted.³⁸³ Twentieth, the requirements that a ship is sufficiently, safely and efficiently manned, in accordance with the minimum safe manning documents or an equivalent issued by the competent authority, is applicable to ships both below and over 500 tons.³⁸⁴ Twenty-first, under the Convention, no person under 16 years of age shall work on a ship. Therefore, a provision of the national legislation authorizing a child of 14 years to be employed on a ship, provided that the work done by such child is an integral part of a course of education or training, is not in conformity with the Convention.³⁸⁵ Twenty-second, the Convention requires that consultations with shipowners' and seafarers' organizations are held in respect of procedures to investigate complaints relating to matters contained in this Convention.³⁸⁶

2.4.1.2.2. *The Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187)*

The Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187) contains provisions concerning seafarers' wages,³⁸⁷ minimum wages,³⁸⁸ as well as minimum monthly basic pay or wage figure for able seamen.³⁸⁹ In particular, the Recommendation provides that the basic pay or wages for a calendar month of service for an able seaman 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.³⁹⁰ 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.³⁹¹

³⁸² See, **Greece** (CEACR, 2005/76th session: Direct request).

³⁸³ See, **Finland** (CEACR, 2005/76th session: Direct request).

³⁸⁴ See, **United Kingdom** (CEACR, 2005/76th session: Direct request).

³⁸⁵ See, **Malta** (CEACR, 2005/76th session: Direct request).

³⁸⁶ See, **Greece** (CEACR, 2005/76th session: Direct request).

³⁸⁷ Recommendation No. 187, Chapter II.

³⁸⁸ Recommendation No. 187, Chapter III.

³⁸⁹ Recommendation No. 187, Chapter IV.

³⁹⁰ Recommendation No. 187, section 10.

³⁹¹ Recommendation No. 187, section 10. At its meeting in Geneva on February 24, 2006, the Joint Maritime Commission's Subcommittee on Wages of Seafarers adopted a resolution which updates the ILO minimum basic wage for able seafarers from its present value of US\$ 500 to US\$ 515 on January 1, 2007, US\$ 530 on January 1, 2008, and US\$ 545 on December 31, 2008. The Governing Body at its 294th (March 2006) Session endorsed these increases in the wage figure. See, ILO: Subcommittee of the Joint Maritime Commission, Final report, Geneva 24-25 February 2006, SJMC/2006/3 (Geneva, 2006), available at: <http://www.ilo.org/public/english/dialogue/sector/techmeet/sjmc06/sjmc06-3.pdf>; and <http://www.ilo.org/public/english/standards/relm/gb/docs/gb295/pdf/stm-3-4-2.pdf> (last visited March 27, 2007).

2.4.1.2.3. The Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91)

The Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91) provides for an entitlement after twelve years of continuous service to an annual vacation holiday with pay, the duration of which shall be (a) in the case of masters, officers and radio officers or operators, not less than eighteen working days for each year of service; (b) in the case of other members of the crew, not less than twelve working days for each year of service.³⁹² A person with not less than six months of continuous service shall on leaving such service be entitled, in respect of each complete month of service, to one and a half working days' leave in the case of a master, officer, or radio officer or operator, and one working day's leave in the case of another member of the crew.³⁹³ A person who is discharged through no fault of his own before he has completed six months of continuous service shall on leaving such service be entitled, in respect of each complete month of service, to one and a half working days' leave in the case of a master, officer, or radio officer or operator, and one working day's leave in the case of another member of the crew.³⁹⁴

Every person taking a vacation holiday in virtue of this Convention shall receive, in respect of the full period of the vacation holiday, his usual remuneration.³⁹⁵ Such remuneration, which may include a suitable subsistence allowance, shall be calculated in a manner which shall be prescribed by national laws or regulations or fixed by collective agreement.³⁹⁶ National laws or regulations or collective agreements may, in very exceptional circumstances when the service so requires, provide for the substitution for an annual vacation holiday due in virtue of this Convention of a cash payment at least equivalent to this remuneration.³⁹⁷

Analysis of the comments of the Committee of Experts shows nine major issues relating to the application of the Convention. First, under Article 3(1)(a) of the Convention, masters, officers and radio operators are entitled to not less than 18 working days for each year of service. Thus, national legislation which provides for only one working day of paid vacation per month of service of these categories of seafarers after 12 months of continuous service on coastal vessels, is not in conformity with the above requirement of the Convention.³⁹⁸ Second, under Articles 3(2) and (7) of the Convention, seafarers leaving the service or being discharged after not less than six months of continuous service shall have the right to a proportionate annual leave with the corresponding remuneration.³⁹⁹ Third, under Articles 3(3) and 7 of the Convention, a person who is discharged through no fault of his own before he has completed six months of continuous service shall on leaving such service be entitled to a minimum amount of leave and the related remuneration for each month of ser-

³⁹² Convention No. 91, Article 3(1).

³⁹³ Convention No. 91, Article 3(2).

³⁹⁴ Convention No. 91, Article 3(3).

³⁹⁵ Convention No. 91, Article 5(1).

³⁹⁶ Convention No. 91, Article 5(2).

³⁹⁷ Convention No. 91, Article 3(7).

³⁹⁸ See, **Tunisia** (CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Observation).

³⁹⁹ See, **Brazil** (CEACR, 1993/63rd session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1997/68th session: Observation).

vice completed, regardless of the exact reason for termination.⁴⁰⁰ Fourth, the Convention provides that, for the purpose of calculating when a vacation is due, service off articles shall be included in the reckoning of continuous service.⁴⁰¹ Fifth, under the Convention, for the purpose of calculating when a vacation is due, continuity of service shall not be deemed to be interrupted by any change in the management or ownership of the vessel or vessels in which the person concerned has served.⁴⁰²

Sixth, under the Convention, interruptions of service due to sickness or injury, also of less than three days, are not included in the annual paid holiday.⁴⁰³ Seventh, under Article 4(1) of the Convention, when an annual holiday is due, it shall be given by mutual agreement at the first opportunity as the requirements of the service allow.⁴⁰⁴ Correspondingly, the provision of the national legislation which provides that seafarers' annual paid holidays shall be granted at a period most suitable to the employer is not in conformity with the Convention.⁴⁰⁵ Eighth, in accordance with Article 4(2) of the Convention, no seafarer may be required, without his consent, to take the annual vacation due to him at a port other than a port in the territory of engagement, or a port in his home territory. However, adjustments may be made to this provision through legislative channels or through a collective agreement.⁴⁰⁶ Ninth, although the members of the national Shipowners' Association (which employ 80 per cent of all seafarers serving on national-owned vessels) as well as the only other non-member shipping company may in practice comply with the requirements of Article 4 of the Convention, the Committee of Experts still expects a provision expressly providing for annual leave not be required to be taken at a port other than one in the territory of engagement or the home territory of the seafarer, to be included in legislation or collective agreements, in conformity with the requirements of the Convention.⁴⁰⁷

⁴⁰⁰ See, **Angola** (CEACR, 1990/60th session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1997/68th session; CEACR, 1999/70th session: Direct request; Direct request; CEACR, 2002/73rd session: Direct request); **Brazil** (CEACR, 1993/63rd session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1997/68th session: Observation); **Poland** (CEACR, 1993/63rd session: Direct request; CEACR, 1997/68th session: Direct request); **Tunisia** (CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Observation).

⁴⁰¹ See, **Algeria** (CEACR, 1990/60th session: Direct request; CEACR, 1993/63rd session; Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2005/76th session: Direct request).

⁴⁰² See, **Algeria** (CEACR, 1990/60th session: Direct request; CEACR, 1993/63rd session; Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2005/76th session: Direct request); **Croatia** (CEACR, 2000/71st session: Direct request); **Tunisia** (CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Observation).

⁴⁰³ See, **Poland** (CEACR, 1993/63rd session: Direct request; CEACR, 1997/68th session: Direct request).

⁴⁰⁴ See, **Norway** (CEACR, 1994/64th session: Observation).

⁴⁰⁵ See, **Brazil** (CEACR, 1993/63rd session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1997/68th session: Observation).

⁴⁰⁶ See, **Algeria** (CEACR, 1990/60th session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2005/76th session: Direct request).

⁴⁰⁷ See, **Israel** (CEACR, 1990/60th session: Direct request; CEACR, 1993/63rd session: Direct request; 1997/68th session: Direct request; CEACR, 1999/70th session: Direct request).

2.4.1.2.4. The Seafarers' Annual Leave with Pay Convention, 1976 (No. 146)

The Seafarers' Annual Leave with Pay Convention, 1976 (No. 146) provides for annual leave of not less than 30 calendar days for one year of service for all persons who are employed in any capacity on board a seagoing ship registered in a territory for which the Convention is in force, other than (a) a ship of war; and (b) a ship engaged in fishing or in operations directly connected therewith or in whaling or similar pursuits.⁴⁰⁸ Each Member which ratifies this Convention shall specify the length of the annual leave in a declaration appended to its ratification.⁴⁰⁹ A seafarer whose length of service in any year is less than that required for the full entitlement to leave shall be entitled in respect of that year to annual leave, with pay proportionate to his length of service during that year.⁴¹⁰

Every seafarer taking the annual leave envisaged in this Convention shall receive, in respect of the full period of that leave, at least his normal remuneration (including the cash equivalent of any part of that remuneration which is paid in kind), calculated in a manner to be determined by the competent authority or through the appropriate machinery in each country.⁴¹¹ In exceptional cases, provision may be made by the competent authority or through the appropriate machinery in each country for the substitution for annual leave due in virtue of this Convention of a cash payment at least equivalent to this remuneration.⁴¹²

Analysis of the comments of the Committee of Experts shows eleven major issues relating to the application of the Convention. First, the Convention applies to all persons who are employed as seafarers on board a seagoing ship, including persons who are foreign nationals.⁴¹³ Second, Article 2(7) of the Convention permits measures to be taken by the competent authority or through the appropriate machinery in the country, to exclude from the application of this Convention limited categories of persons employed on board sea-going ships, only in so far as necessary, and after consultation with the organizations of shipowners and seafarers concerned, where these exist.⁴¹⁴ Third, under the Convention, young workers should normally enjoy at least the same treatment as that afforded to adult workers; their leave shall in no case be less than 30 calendar days for one year of service.⁴¹⁵

⁴⁰⁸ Convention No. 146, Articles 2(2) and 3(3).

⁴⁰⁹ Convention No. 146, Article 3(2).

⁴¹⁰ Convention No. 146, Article 4(1).

⁴¹¹ Convention No. 146, Article 7(1).

⁴¹² Convention No. 146, Article 9.

⁴¹³ See, **Iraq** (CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2002/73rd session: Direct request).

⁴¹⁴ See, **Kenya** (CEACR, 1995/65th session: Direct request).

⁴¹⁵ See, **France (French Southern and Antarctic Territories)** (CEACR, 2005/76th session: Direct request).

Fourth, according to Article 4(1) of the Convention, a seafarer whose length of service in any year is less than that required for the full entitlement prescribed in Article 3 of the Convention, shall be entitled in respect of that year to annual leave with pay proportionate to his length of service during that year. As a result, the provisions which establish that a worker is entitled to a certain number of days of paid leave for every six months of continuous service with the same employer, are contrary to the requirements of the Convention.⁴¹⁶ Fifth, under Article 4(1) of the Convention, seafarers shall be entitled to a proportionate holiday regardless of the reason for termination of employment. As a result, the provisions of national legislation according to which the seafarer is entitled to proportionate remuneration for holidays only when discharged without due cause, is contrary to the requirements of the Convention.⁴¹⁷ By the same token, the provisions of the national legislation according to which seafarer is not entitled to compensation for annual leave accumulated at the end of the contract in the event of early termination of the seafarer's initiative, his or her serious misconduct, *force majeure*, or the seafarer's non-renewal of a renewable contract, would also be incompatible with the Convention.⁴¹⁸

Sixth, Article 6(c) of the Convention establishes clearly that temporary shore leave shall not be counted as part of the minimum annual leave with pay.⁴¹⁹ Seventh, while division of the annual leave is possible under Article 8, it should consist of an uninterrupted period.⁴²⁰ Eighth, annual leave may be substituted by remuneration under Article 9 only in exceptional cases.⁴²¹ Ninth, under Article 10(1) of the Convention, the time at which the leave is to be taken, shall, unless it is fixed by regulation, collective agreement, arbitration award or other means consistent with national practice, be determined by the employer after consultation and, as far as possible in agreement with the seafarer concerned or his representatives. Correspondingly, the provisions of the national legislation which not only do not require such consultations, but provide that the leave dates shall be most convenient to the employers' interests, are contrary to the requirements of the Convention.⁴²² Tenth, under Article 11, any agreement to relinquish the right to the minimum leave should be null and void.⁴²³ Finally, under Article 12 of the Convention, the seafarer taking annual leave shall be recalled only in cases of extreme emergency, with due notice,⁴²⁴ but not in cases of "exceptionally heavy workload".⁴²⁵

⁴¹⁶ See, **Nicaragua** (CEACR, 1998/69th session: Direct request; CEACR, 2005/76th session: Direct request); **Portugal** (CEACR, 2005/76th session: Direct request).

⁴¹⁷ See, **Brazil** (CEACR, 2005/76th session: Direct request).

⁴¹⁸ See, **France** (CEACR, 1990/60th session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request); **France (French Guyana)** (CEACR, 1990/60th session: Direct request); **France (Guadeloupe)** (CEACR, 1990/60th session: Direct request); **France (Martinique)** (CEACR, 1990/60th session: Direct request); **France (Reunion)** (CEACR, 1990/60th session: Direct request); **France (St. Pierre and Miquelon)** (CEACR, 1990/60th session: Direct request).

⁴¹⁹ See, **Finland** (CEACR, 1995/65th session: Direct request); **Kenya** (CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1998/69th session: Direct request).

⁴²⁰ See, **Italy** (CEACR, 1993/63rd session: Observation).

⁴²¹ See, **Italy** (CEACR, 1993/63rd session: Observation).

⁴²² See, **Brazil** (CEACR, 2005/76th session: Direct request).

⁴²³ See, **Italy** (CEACR, 1993/63rd session: Observation).

⁴²⁴ See, **Morocco** (CEACR, 1993/63rd session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request).

⁴²⁵ See, **Cameroon** (CEACR, 2001/72nd session: Direct request).

2.4.1.3. Repatriation

2.4.1.3.1. The Repatriation of Seamen Convention, 1926 (No. 23)

The Repatriation of Seamen Convention, 1926 (No. 23) provides that any seaman who is landed during the term of his engagement or on its expiration shall be entitled to be taken back to his own country, or to the port at which he was engaged, or to the port at which the voyage commenced, as shall be determined by national law, which shall contain the provisions necessary for dealing with the matter, including provisions to determine who shall bear the charge of repatriation.⁴²⁶ The conditions under which a foreign seaman engaged in a country other than his own has the right to be repatriated shall be as provided by national law or, in the absence of such legal provisions, in the articles of agreement.⁴²⁷ The expenses of repatriation shall not be a charge on the seaman if he has been left behind by reason of (a) injury sustained in the service of the vessel, (b) shipwreck, (c) illness not due to his own wilful act or default, or (d) discharge for any cause for which he cannot be held responsible.⁴²⁸

Analysis of the comments of the Committee of Experts shows thirteen major issues relating to the application of the Convention. First, the Convention equally applies to seagoing vessels between 100 and 500 tons gross registered tonnage.⁴²⁹ Second, the existence of constitutional provisions giving direct effect to treaties does not replace the obligation to enact texts implementing the Convention, notably, as concerns the composition of expenses of repatriation, referred to in Article 5 of the Convention.⁴³⁰ Third, general references to the unspecified protection afforded under the national constitution could not be considered as sufficient for the purposes of giving effect to the provisions of the Convention in the respective country.⁴³¹

Fourth, under Article 3 of the Convention, the national legislation shall contain provisions providing that any seafarer who is landed during the term of his engagement or on its expiration shall be entitled to be taken back to his own country, or to the port at which he was engaged, or to the port at which the voyage commenced, regardless of any dispute. Correspondingly, the provisions of the national legislation stipulating only that, in the case of a claim lodged by the seafarer, the cost of repatriation of crew members is included in the maritime claims which must be paid as a priority by the shipowner, do not guarantee the seafarer the right to repatriation.⁴³² Fifth, under Article 3(1) of the Convention, all seafarers are entitled to be repatriated, whether during the term of or on expiration of the contract.⁴³³ Sixths, Article 3(1) of the Convention does not limit the duty of the shipowner to repatriate

⁴²⁶ Convention No. 23, Article 3(1).

⁴²⁷ Convention No. 23, Article 3(4).

⁴²⁸ Convention No. 23, Article 4.

⁴²⁹ See, **Egypt** (CEACR, 1991/61st session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 2001/72nd session: Direct request).

⁴³⁰ See, **Cyprus** (CEACR, 1998/69th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request).

⁴³¹ See, **Ireland** (CEACR, 2001/72nd session: Observation).

⁴³² See, **China** (CEACR, 2005/76th session: Observation).

⁴³³ See, **Djibouti** (CEACR, 2004/75th session: Direct request); **Estonia** (CEACR, 2005/76th session: Direct request).

a seafarer to cases of termination of the employment on the initiative of the shipowner,⁴³⁴ or to cases of being left behind or shipwrecked.⁴³⁵ Seventh, national law shall contain provisions necessary for dealing with the repatriation of seamen, including provisions to determine who shall bear the charge of repatriation.⁴³⁶

Eighth, the provisions of the national legislation under which foreign seafarers enlisted upon national ships are repatriated, as long as the States of which they are citizens ensure equal treatment of the nationals of the first country enlisted upon ships bearing their flag, is not in conformity with the requirements of the Convention. The Convention does not contain any such rule of reciprocity, and no such limitation is permitted in the case of foreign seafarers engaged in a port of their own country.⁴³⁷ Ninth, the provisions of the national legislation which do not cover the right to repatriation of: (a) a seafarer who leaves the ship in a Commonwealth country, or (b) a foreign seafarer who joins the ship in one foreign port and leaves it in another (when applied to a foreign seafarer who joins a ship in his own country), conflict with Articles 3(1) and 3(4) of the Convention, respectively.⁴³⁸ Tenth, the provisions of the national legislation stipulating that where a vessel is unable to navigate, the members of the crew have no right other than to collect wages earned, whereas in cases of shipwreck all rights are extinguished, and establishing no obligation on the shipowner in such cases to provide for the expenses incurred by the seaman for his return journey to the port of sailing, do not comply with the requirements of Articles 4(b) and 4(d) of the Convention that the expenses of repatriation should not be a charge on the seafarer, where he is left behind by reason of shipwreck or discharge for a cause for which he is not responsible.⁴³⁹ Eleventh, under Article 4 of the Convention, the expenses of repatriation shall not be a charge on the seafarer, if he has been left behind by reason of, among other factors, injury sustained in the service of the vessel or illness not due to his own wilful act or default. Correspondingly, the provisions of the national legislation stipulating that the expenses of repatriation shall be reimbursed to the shipowner by the seafarer when the latter is injured or has fallen sick, are not in conformity with the requirements of the Convention.⁴⁴⁰ Twelfth, the expenses of repatriation shall include the maintenance of the seaman up to the time fixed for his departure.⁴⁴¹ Thirteenth, the repatriation expenses (which should include the transportation charges, the accommodation and the food of the seaman during the journey, as well as the maintenance of the seaman up to the time fixed for his departure) shall be paid to all seafarers irrespective of whether they are awaiting repatriation in locations out-

⁴³⁴ See, **Azerbaijan** (CEACR, 2000/71st session: Direct request; CEACR, 2004/75th session: Direct request); **Estonia** (CEACR, 1998/69th session: Direct request).

⁴³⁵ See, **China (Hong Kong Special Administrative Region)** (CEACR, 2002/73rd session: Direct request).

⁴³⁶ See, **Djibouti** (CEACR, 1997/68th session: Direct request); **Ukraine** (CEACR, 2005/76th session: Direct request).

⁴³⁷ See, **Italy** (CEACR, 2005/76th session: Direct request).

⁴³⁸ See, **Ireland** (CEACR, 1991/61st session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1993/63rd session: Observation).

⁴³⁹ See, **Philippines** (CEACR, 1991/61st session: Direct request; CEACR, 1993/63rd session: Observation).

⁴⁴⁰ See, **Djibouti** (CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request).

⁴⁴¹ See, **France** (CEACR, 2005/76th session: Direct request); **France (French Guyana)** (CEACR, 2005/76th session: Direct request); **France (French Southern and Antarctic Territories)** (CEACR, 2005/76th session: Direct request); **France (Guadeloupe)** (CEACR, 2005/76th session: Direct request); **France (Martinique)** (CEACR, 2005/76th session: Direct request); **France (Reunion)** (CEACR, 2005/76th session: Direct request); **France (St. Pierre and Miquelon)** (CEACR, 2005/76th session: Direct request).

side the country or inside the country, or whether they are employed in the public or private sector.⁴⁴²

2.4.1.3.2. *The Repatriation (Ships Master and Apprentices) Recommendation, 1926 (No. 27)*

The Repatriation (Ships Master and Apprentices) Recommendation, 1926 (No. 27) provides that the national Governments shall take steps to provide for the repatriation of masters and duly indentured apprentices, who are not covered by the terms of Convention No. 23.

2.4.1.3.3. *The Repatriation of Seafarers Convention (Revised), 1987 (No. 166)*

Under the Repatriation of Seafarers Convention (Revised), 1987 (No. 166), a seafarer shall be entitled to repatriation in the following circumstances: (a) if an engagement for a specific period or for a specific voyage expires abroad; (b) upon the expiry of the period of notice given in accordance with the provisions of the articles of agreement or the seafarer's contract of employment; (c) in the event of illness or injury or other medical condition which requires his or her repatriation when found medically fit to travel; (d) in the event of shipwreck; (e) 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 seafarer by reason of bankruptcy, sale of ship, change of ship's registration or any other similar reason; (f) in the event of a ship being bound for a war zone, as defined by national laws or regulations or collective agreements, to which the seafarer does not consent to go; (g) 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.⁴⁴³

It shall be the responsibility of the shipowner to arrange for repatriation by appropriate and expeditious means.⁴⁴⁴ The cost of repatriation shall be borne by the shipowner.⁴⁴⁵ If a shipowner fails to make arrangements for or to meet the cost of repatriation of a seafarer who is entitled to be repatriated (a) the competent authority of the Member in whose territory the ship is registered shall arrange for and meet the cost of the repatriation of the seafarer concerned; if it fails to do so, the State from which the seafarer is to be repatriated or the State of which he or she is a national may arrange for his or her repatriation, and recover the cost from the Member in whose territory the ship is registered; (b) costs incurred in repatriating

⁴⁴² See, **Iraq** (CEACR, 1991/61st session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request).

⁴⁴³ Convention No. 166, Article 2(1).

⁴⁴⁴ Convention No. 166, Article 4(1).

⁴⁴⁵ Convention No. 166, Article 4(2).

the seafarer shall be recoverable from the shipowner by the Member in whose territory the ship is registered; (c) the expenses of repatriation shall in no case be a charge upon the seafarer, except where repatriation has taken place as a result of a seafarer being found, in accordance with national laws or regulations or collective agreements, to be in serious default of his or her employment obligations.⁴⁴⁶

Analysis of the comments of the Committee of Experts shows twelve major issues relating to the application of the Convention. First, the definition of “seafarer” in Article 1(4) of the Convention as being any person who is employed in any capacity on board a seagoing ship to which this Convention applies, covers masters and apprentices.⁴⁴⁷ Second, the provisions of the Convention shall be applied to national and foreign seafarers employed on board a seagoing ship to which it applies.⁴⁴⁸ Third, the Convention establishes entitlement to repatriation in the event of the shipowner not being able to fulfill his legal or contractual obligations, and does not mention the need for any prior legal statement.⁴⁴⁹ Fourth, under the Convention, a seafarer shall be entitled to repatriation in the event of a ship being bound for a war zone, as defined by national laws or regulations or collective agreements, to which the seafarer does not consent to go.⁴⁵⁰

Fifth, under Article 2(2) of the Convention, national laws, regulations or collective agreements shall prescribe the maximum duration of service periods on board following which a seafarer is entitled to repatriation; such periods shall be less than 12 months.⁴⁵¹ According to the Committee, the necessity to provide for repatriation in the event of annual holidays was only one of the reasons behind the inclusion of this provision into the text of the Convention. Another reason for including this provision was the necessity to address the problems faced by seafarers from the so-called third world countries who, lacking in bargaining power, were often on board ship for very long periods before being able to return home. For this reason a maximum period (“less than 12 months”), following which the national legislation or collective agreements are to entitle a seafarer to repatriation, has been prescribed.⁴⁵²

Sixth, the repatriation destinations shall be prescribed by national laws or regulations, and can not be prescribed solely by collective agreements.⁴⁵³ Seventh, the seafarer has the right to choose from among the prescribed repatriation destinations.⁴⁵⁴ Eighth, under the

⁴⁴⁶ Convention No. 166, Article 5.

⁴⁴⁷ See, **Guyana** (CEACR, 2001/72nd session: Direct request; CEACR, 2003/74th session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request).

⁴⁴⁸ See, **Romania** (CEACR, 2005/76th session: Direct request).

⁴⁴⁹ See, **Mexico** (CEACR, 1997/68th session: Direct request).

⁴⁵⁰ See, **Spain** (CEACR, 2000/71st session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request).

⁴⁵¹ See, **Mexico** (CEACR, 2006/77th session: Observation); **Romania** (CEACR, 2005/76th session: Direct request); **Spain** (CEACR, 2005/76th session: Direct request).

⁴⁵² See, **Spain** (CEACR, 2005/76th session: Direct request).

⁴⁵³ See, **Romania** (CEACR, 2005/76th session: Direct request).

⁴⁵⁴ See, **Guyana** (CEACR, 2001/72nd session: Direct request); **Luxembourg** (CEACR, 2003/74th session: Direct request); **Mexico** (CEACR, 1997/68th session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2006/77th session: Observation); **Spain** (CEACR, 2000/71st session: Direct request; CEACR, 2002/73rd session: Direct request).

Convention, the shipowner has the duty not only to cover the cost of repatriation, but also to arrange for repatriation.⁴⁵⁵ Ninth, Article 4(1) of the Convention does not limit the duty of the shipowner to arrange for repatriation in cases attributable to the shipowner.⁴⁵⁶ Tenth, the Convention does not exempt the shipowner from responsibility in the event of force majeure or acts of God; for these two cases it also requires the shipowner to bear the cost of repatriation.⁴⁵⁷ Eleventh, time spent awaiting repatriation shall not be deducted from paid leave accrued to the seafarer.⁴⁵⁸ Finally, national laws, regulations or collective agreements shall define a reasonable period of time within which the seafarer may claim his or her entitlement to repatriation.⁴⁵⁹

2.4.1.3.4. *The Repatriation of Seafarers Recommendation, 1987 (No. 174)*

The Repatriation of Seafarers Recommendation, 1987 (No. 174) provides that whenever a seafarer is entitled to be repatriated pursuant to the provisions of Convention No. 166, but both the shipowner and the Member in whose territory the ship is registered fail to meet their obligations under the Convention to arrange for and meet the cost of repatriation, the State from which the seafarer is to be repatriated or the State of which he or she is a national should arrange for his or her repatriation, and recover the cost from the Member in whose territory the ship is registered.

2.4.1.4. *Conditions of work of young seafarers*

2.4.1.4.1. *The Protection of Young Seafarers Recommendation, 1976 (No. 153)*

The Protection of Young Seafarers Recommendation, 1976 (No. 153) provides that in each country in which ships on which young seafarers are employed are registered, provision should be made for (a) the effective protection of such seafarers, including the safeguarding of their health, morals and safety, and the promotion of their general welfare; and (b) vocational guidance, education and vocational training of such seafarers, in their interest as well as that of the efficiency of shipboard operations, in the interest of safety of life and of property at sea, and in

⁴⁵⁵ See, **Romania** (CEACR, 2005/76th session: Direct request); **Spain** (CEACR, 2000/71st session: Direct request; CEACR, 2002/73rd session: Direct request).

⁴⁵⁶ See, **Mexico** (CEACR, 2002/73rd session: Direct request; CEACR, 2006/77th session: Observation).

⁴⁵⁷ See, **Mexico** (CEACR, 1997/68th session: Direct request).

⁴⁵⁸ See, **Mexico** (CEACR, 2006/77th session: Observation).

⁴⁵⁹ See, **Australia** (CEACR, 1999/70th session: Direct request); **Romania** (CEACR, 2005/76th session: Direct request).

that of the creation of opportunities for the advancement of young seafarers within the sea-going profession.⁴⁶⁰ The Recommendation also contains detailed provisions with respect to hours of permitted duty and rest periods;⁴⁶¹ repatriation;⁴⁶² safety in work and health education;⁴⁶³ and opportunities for vocational guidance, education and vocational training.⁴⁶⁴

⁴⁶⁰ Recommendation No. 153, section 3. For the purposes of this Recommendation, the term “young seafarer” includes all young persons under 18 years of age employed in any capacity on board a seagoing ship other than (a) ship of war; and (b) a ship engaged in fishing or in operations directly connected therewith, or in whaling or similar pursuits. *See*, Recommendation No. 153, section 2(1).

⁴⁶¹ Recommendation No. 153, Chapter IV.

⁴⁶² Recommendation No. 153, Chapter V.

⁴⁶³ Recommendation No. 153, Chapter VI.

⁴⁶⁴ Recommendation No. 153, Chapter VII.

2.4.2. Texts of standards

2.4.2.1. *Seamen's Articles of Agreement Convention, 1926 (No. 22)*

Date of entry into force: April 4, 1928

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninth Session on 7 June 1926, and

Having decided upon the adoption of certain proposals with regard to seamen's articles of agreement, which is included in the first item of the agenda of the Session, and

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

adopts this twenty-fourth day of June of the year one thousand nine hundred and twenty-six the following Convention, which may be cited as the Seamen's Articles of Agreement Convention, 1926, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation:

Article 1

1. This Convention shall apply to all sea-going vessels registered in the country of any Member ratifying this Convention and to the owners, masters and seamen of such vessels.

2. It shall not apply to -

- (a) ships of war,
- (b) Government vessels not engaged in trade,
- (c) vessels engaged in the coasting trade,
- (d) pleasure yachts,
- (e) Indian country craft,
- (f) fishing vessels,
- (g) vessels of less than 100 tons gross registered tonnage or 300 cubic metres, nor to vessels engaged in the home trade below the tonnage limit prescribed by national law for the special regulation of this trade at the date of the passing of this Convention.

Article 2

For the purpose of this Convention the following expressions have the meanings hereby assigned to them, viz.:

- (a) the term "vessel" includes any ship or boat of any nature whatsoever, whether publicly or privately owned, ordinarily engaged in maritime navigation;
- (b) the term "seaman" includes every person employed or engaged in any capacity on board any vessel and entered on the ship's articles. It excludes masters, pilots, cadets and pupils on training ships and duly indentured apprentices, naval ratings, and other persons in the permanent service of a Government;
- (c) the term "master" includes every person having command and charge of a vessel except pilots;
- (d) the term "home trade vessel" means a vessel engaged in trade between a country and the ports of a neighbouring country within geographical limits determined by the national law.

Article 3

1. Articles of agreement shall be signed both by the shipowner or his representative and by the seaman. Reasonable facilities to examine the articles of agreement before they are signed shall be given to the seaman and also to his adviser.

2. The seaman shall sign the agreement under conditions which shall be prescribed by national law in order to ensure adequate supervision by the competent public authority.

3. The foregoing provisions shall be deemed to have been fulfilled if the competent authority certifies that the provisions of the agreement have been laid before it in writing and have been confirmed both by the shipowner or his representative and by the seaman.

4. National law shall make adequate provision to ensure that the seaman has understood the agreement.

5. The agreement shall not contain anything which is contrary to the provisions of national law or of this Convention.

6. National law shall prescribe such further formalities and safeguards in respect of the completion of the agreement as may be considered necessary for the protection of the interests of the shipowner and of the seaman.

Article 4

1. Adequate measures shall be taken in accordance with national law for ensuring that the agreement shall not contain any stipulation by which the parties purport to contract in advance to depart from the ordinary rules as to jurisdiction over the agreement.

2. This Article shall not be interpreted as excluding a reference to arbitration.

Article 5

1. Every seaman shall be given a document containing a record of his employment on board the vessel. 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.

2. The document shall not contain any statement as to the quality of the seaman's work or as to his wages.

Article 6

1. The agreement may be made either for a definite period or for a voyage or, if permitted by national law, for an indefinite period.

2. The agreement shall state clearly the respective rights and obligations of each of the parties.

3. It shall in all cases contain the following particulars:

- (1) the surname and other names of the seaman, the date of his birth or his age, and his birthplace;
- (2) the place at which and date on which the agreement was completed;
- (3) the name of the vessel or vessels on board which the seaman undertakes to serve;
- (4) the number of the crew of the vessel, if required by national law;
- (5) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (6) the capacity in which the seaman is to be employed;
- (7) if possible, the place and date at which the seaman is required to report on board for service;
- (8) the scale of provisions to be supplied to the seaman, unless some alternative system is provided for by national law;

- (9) the amount of his wages;
- (10) the termination of the agreement and the conditions thereof, that is to say:
 - (a) if the agreement has been made for a definite period, the date fixed for its expiry;
 - (b) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seaman shall be discharged;
 - (c) if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission; provided that such period shall not be less for the shipowner than for the seaman;
- (11) the annual leave with pay granted to the seaman after one year's service with the same shipping company, if such leave is provided for by national law;
- (12) any other particulars which national law may require.

Article 7

If national law provides that a list of crew shall be carried on board it shall specify that the agreement shall either be recorded in or annexed to the list of crew.

Article 8

In order that the seaman may satisfy himself as to the nature and extent of his rights and obligations, national law shall lay down the measures to be taken to enable clear information to be obtained on board as to the conditions of employment, either by posting the conditions of the agreement in a place easily accessible from the crew's quarters, or by some other appropriate means.

Article 9

1. An agreement for an indefinite period may be terminated by either party in any port where the vessel loads or unloads, provided that the notice specified in the agreement shall have been given, which shall not be less than twenty-four hours.

2. Notice shall be given in writing; national law shall provide such manner of giving notice as is best calculated to preclude any subsequent dispute between the parties on this point.

3. National law shall determine the exceptional circumstances in which notice even when duly given shall not terminate the agreement.

Article 10

An agreement entered into for a voyage, for a definite period, or for an indefinite period shall be duly terminated by -

- (a) mutual consent of the parties;
- (b) death of the seaman;
- (c) loss or total unseaworthiness of the vessel;
- (d) any other cause that may be provided in national law or in this Convention.

Article 11

National law shall determine the circumstances in which the owner or master may immediately discharge a seaman.

Article 12

National law shall also determine the circumstances in which the seaman may demand his immediate discharge.

Article 13

1. If a seaman shows to the satisfaction of the shipowner or his agent that he can obtain command of a vessel or an appointment as mate or engineer or to any other post of a higher grade than he actually holds, or that any other circumstance has arisen since his engagement which renders it essential to his interests that he should be permitted to take his discharge, he may claim his discharge, provided that without increased expense to the shipowner and to the satisfaction of the shipowner or his agent he furnishes a competent and reliable man in his place.

2. In such case, the seaman shall be entitled to his wages up to the time of his leaving his employment.

Article 14

1. Whatever the reason for the termination or rescission of the agreement, an entry shall be made in the document issued to the seaman in accordance with Article 5 and in the list of crew showing that he has been discharged, and such entry shall, at the request of either party, be endorsed by the competent public authority.

2. The seaman shall at all times have the right, in addition to the record mentioned in Article 5, to obtain from the master a separate certificate as to the quality of his work or, failing that, a certificate indicating whether he has fully discharged his obligations under the agreement.

Article 15

National law shall provide the measures to ensure compliance with the terms of the present Convention.

Article 16

The formal ratifications of this Convention, under the conditions set forth in the Constitution of the International Labour Organisation, shall be communicated to the Director-General of the International Labour Office for registration.

Article 17

1. This Convention shall come into force at the date on which the ratifications of two Members of the International Labour Organisation have been registered by the Director-General.

2. It shall be binding only upon those Members whose ratifications have been registered with the International Labour Office.

3. Thereafter, the Convention shall come into force for any Member at the date on which its ratification has been registered with the International Labour Office.

Article 18

As soon as the ratifications of two Members of the International Labour Organisation have been registered with the International Labour Office, the Director-General of the In-

ternational Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Article 19

Subject to the provisions of Article 17, each Member which ratifies this Convention agrees to bring the provisions of Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 into operation not later than 1 January 1928, and to take such action as may be necessary to make these provisions effective.

Article 20

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 35 of the Constitution of the International Labour Organisation.

Article 21

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

Article 22

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 23

The French and English texts of this Convention shall both be authentic.

2.4.2.2. *Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180)*

Date of entry into force: August 8, 2002

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 Eighty-fourth Session on 8 October 1996, and,

Noting the provisions of the Merchant Shipping (Minimum Standards) Convention, 1976 and the Protocol of 1996 thereto; and the Labour Inspection (Seafarers) Convention, 1996, and

Recalling the relevant provisions of the following instruments of the International Maritime Organization: International Convention for the Safety of Life at Sea, 1974, as amended, the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers, 1978, as amended in 1995, Assembly resolution A 481 (XII) (1981) on Principles of Safe Manning, Assembly resolution A 741 (18) (1993) on the International Code for the Safe Operation of Ships and for Pollution Prevention (International Safety

Management (ISM) Code), and Assembly resolution A 772 (18) (1993) on Fatigue Factors in Manning and Safety, and

Recalling the entry into force of the United Nations Convention on the Law of the Sea, 1982, on 16 November 1994, and

Having decided upon the adoption of certain proposals with regard to the revision of the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958, and the Wages, Hours of Work and Manning (Sea) Recommendation, 1958, which is the second item of the agenda of the session, and

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

adopts, this twenty-second day of October of the year one thousand nine hundred and ninety-six, the following Convention, which may be cited as the Seafarers' Hours of Work and the Manning of Ships Convention, 1996:

Part I. Scope and definitions

Article 1

1. This Convention applies to every seagoing ship, whether publicly or privately owned, which is registered in the territory of any Member for which the Convention is in force and is ordinarily engaged in commercial maritime operations. For the purpose of this Convention, a ship that is on the register of two Members is deemed to be registered in the territory of the Member whose flag it flies.

2. To the extent it deems practicable, after consulting the representative organizations of fishing-vessel owners and fishermen, the competent authority shall apply the provisions of this Convention to commercial maritime fishing.

3. In the event of doubt as to whether or not any ships are to be regarded as seagoing ships or engaged in commercial maritime operations or commercial maritime fishing for the purpose of the Convention, the question shall be determined by the competent authority after consulting the organizations of shipowners, seafarers and fishermen concerned.

4. This Convention does not apply to wooden vessels of traditional build such as dhows and junks.

Article 2

For the purpose of this Convention:

- (a) the term "competent authority" means the minister, government department or other authority having power to issue regulations, orders or other instructions having the force of law in respect of seafarers' hours of work or rest or the manning of ships;
- (b) the term "hours of work" means time during which a seafarer is required to do work on account of the ship;
- (c) the term "hours of rest" means time outside hours of work; this term does not include short breaks;
- (d) the term "seafarer" means any person defined as such by national laws or regulations or collective agreements who is employed or engaged in any capacity on board a seagoing ship to which this Convention applies;
- (e) the term "shipowner" means the owner of the ship or any other organization or person, such as the manager or bareboat charterer, who has assumed the responsibility for the operation of the ship from the shipowner and who on assuming such responsibility has agreed to take over all the attendant duties and responsibilities.

Part II. Seafarers' hours of work and hours of rest

Article 3

Within the limits set out in Article 5, there shall be fixed 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.

Article 4

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.

Article 5

1. The limits on hours of work or rest shall be as follows:
 - (a) maximum hours of work shall not exceed:
 - (i) 14 hours in any 24-hour period; and
 - (ii) 72 hours in any seven-day period;
 or
 - (b) minimum hours of rest shall not be less than:
 - (i) ten hours in any 24-hour period; and
 - (ii) 77 hours in any seven-day period.
2. 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.
3. 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.
4. In respect of situations 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.
5. 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 3 or 4 are inadequate, the competent authority shall determine such provisions to ensure the seafarers concerned have sufficient rest.
6. Nothing in paragraphs 1 and 2 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 standards set out 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.
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 flag State.

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

Article 6

No seafarer under 18 years of age shall work at night. For the purpose of this Article, “night” means a period of at least nine consecutive hours, including the interval from midnight to five a.m. This provision need not be applied when the effective training of young seafarers between the ages of 16 and 18 in accordance with established programmes and schedules would be impaired.

Article 7

1. Nothing in this Convention 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.

2. In accordance with paragraph 1, 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.

3. 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.

Article 8

1. The Member shall require that records of seafarers’ daily hours of work or of their daily hours of rest be maintained to allow monitoring of compliance with the provisions set out in Article 5. 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.

2. The competent authority shall determine the procedures for keeping such records on board, including the intervals at which the information shall be recorded. The competent authority shall establish the format of the records of the seafarers’ hours of work or of their hours of rest taking into account any available International Labour Organization guidelines or shall use any standard format prepared by the Organization. The format shall be established in the language or languages provided by Article 5, paragraph 8.

3. A copy of the relevant provisions of the national legislation pertaining to this Convention and the relevant collective agreements shall be kept on board and be easily accessible to the crew.

Article 9

The competent authority shall examine and endorse the records referred to in Article 8, at appropriate intervals, to monitor compliance with the provisions governing hours of work or hours of rest that give effect to this Convention.

Article 10

If the records or other evidence indicate infringement of provisions governing hours of work or hours of rest, the competent authority shall require that measures, including if necessary the revision of the manning of the ship, are taken so as to avoid future infringements.

Part III. Manning of ships

Article 11

1. Every ship to which this Convention applies shall be sufficiently, safely and efficiently manned, in accordance with the minimum safe manning document or an equivalent issued by the competent authority.

2. When determining, approving or revising manning levels, the competent authority shall take into account:

- (a) the need to avoid or minimize, as far as practicable, excessive hours of work, to ensure sufficient rest and to limit fatigue; and
- (b) the international instruments identified in the Preamble.

Article 12

No person under 16 years of age shall work on a ship.

Part IV. Responsibilities of shipowners and masters

Article 13

The shipowner shall ensure that the master is provided with the necessary resources for the purpose of compliance with obligations under this Convention, including those relating to the appropriate manning of the ship. The master shall take all necessary steps to ensure that the requirements on seafarers' hours of work and rest arising from this Convention are complied with.

Part V. Application

Article 14

A Member which ratifies this Convention shall be responsible for the application of its provisions by means of laws or regulations, except where effect is given by collective agreements, arbitration awards or court decisions.

Article 15

The Member shall:

- (a) take all necessary measures, including the provision of appropriate sanctions and corrective measures, to ensure the effective enforcement of the provisions of this Convention;
- (b) have appropriate inspection services to supervise the application of the measures taken in pursuance of this Convention and provide them with the necessary resources for this purpose; and
- (c) after consulting shipowners' and seafarers' organizations, have procedures to investigate complaints relating to any matter contained in this Convention.

Part VI. Final provisions

Article 16

This Convention revises the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958; the Wages, Hours of Work and Manning (Sea) Convention (Revised),

1949; the Wages, Hours of Work and Manning (Sea) Convention, 1946; and the Hours of Work and Manning (Sea) Convention, 1936. As from the date this Convention has come into force, the above-listed Conventions shall cease to be open to ratification.

Article 17

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 18

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. This Convention shall come into force six months after the date on which the ratifications of five Members, three of which each have at least one million gross tonnage of shipping, have been registered with the Director-General of the International Labour Office.

3. Thereafter, this Convention shall come into force for any Member six months after the date on which its ratification has been registered.

Article 19

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 20

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 communicated by the Members of the Organization.

2. When the conditions provided for in Article 18, paragraph 2, above have been fulfilled, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

Article 21

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 by the Director-General in accordance with the provisions of the preceding Articles.

Article 22

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 23

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides -

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 19 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 24

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

2.4.2.3. Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187)

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 Eighty-fourth Session on 8 October 1996, and

Noting the provisions of the Protection of Wages Convention, 1949; the Minimum Wage-Fixing Convention, 1970, the Seafarers' Annual Leave with Pay Convention, 1976, the Merchant Shipping (Minimum Standards) Convention, 1976, the Repatriation of Seafarers Convention (Revised), 1987, the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992, and the International Convention on Maritime Liens and Mortgages, 1993, and

Having decided upon the adoption of certain proposals with regard to the revision of the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 and the Wages, Hours of Work and Manning (Sea) Recommendation, 1958, which is the second item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Seafarers' Hours of Work and the Manning of Ships Convention, 1996;

adopts this twenty-second day of October of the year one thousand nine hundred and ninety-six, the following Recommendation, which may be cited as the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996:

I. Scope and definitions

1. (1) This Recommendation applies to every seagoing ship, whether publicly or privately owned, which is registered in the territory of the Member and is ordinarily engaged in commercial maritime operations.

(2) To the extent it deems practicable, after consulting the representative organizations of fishing-vessel owners and fishermen, the competent authority should apply the provisions of this Recommendation to commercial maritime fishing.

(3) In the event of doubt as to whether or not any ships are to be regarded as seagoing ships or engaged in commercial maritime operations or commercial maritime fishing for the purposes of this Recommendation, the question should be determined by the competent authority after consulting the organizations of shipowners, seafarers and fishermen concerned.

(4) This Recommendation does not apply to wooden vessels of traditional build such as dhows and junks.

2. For the purpose of this Recommendation:

- (a) 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;
- (b) the term “competent authority” means the minister, government department or other authority having power to issue regulations, orders or other instructions having the force of law in respect of seafarers' wages, hours of work or rest or the manning of ships;
- (c) the term “consolidated wage” means a wage or salary which includes the basic wage 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 a seafarer is required to do work on account of the ship;
- (e) the term “overtime” means time worked in excess of the normal hours of work;
- (f) the term “seafarer” means any person defined as such by national laws or regulations or collective agreements who is employed or engaged in any capacity on board a seagoing ship to which this Recommendation applies; and
- (g) the term “shipowner” means the owner of the ship or any other organization or person, such as the manager or bareboat charterer, who has assumed the responsibility for the operation of the ship from the shipowner and who on assuming such responsibility has agreed to take over all the attendant duties and responsibilities.

II. Seafarers' wages

3. 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; 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.

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

- (a) the collective agreement, articles of agreement, contract of employment and letter of engagement should specify clearly the amount of remuneration payable to the seafarer and 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 3; 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 3(a) 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 in Paragraph 3(d).

5. 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.

6. National laws and regulations adopted after consulting the representative organizations of seafarers and shipowners 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 articles of agreement or other 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 the crew 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) wages should be paid monthly or at some other regular interval, and 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 the seafarer or to the seafarer's designated bank account unless he or she requests otherwise in writing;
- (g) subject to subparagraph (h), the shipowner should impose no limit on the seafarer's freedom to dispose of his or her remuneration;
- (h) deduction from remuneration should be permitted only if:
 - (i) there is an express provision therefore in national laws or regulations or in an applicable collective agreement;
 - (ii) the seafarer has been informed, in the manner deemed most appropriate by the competent authority, of the conditions for such deductions; and
 - (iii) they do not in total exceed the limit that may have been established by national laws or regulations or collective agreements or court decisions for making such deductions;
- (i) no deductions should be made from a seafarer's remuneration in respect of obtaining or retaining employment;

- (j) 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
 - (k) 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, of the International Labour Organization.
7. The Member should, after consulting with shipowners' and seafarers' organizations, have procedures to investigate complaints relating to any matter contained in this Recommendation.

III. Minimum wages

8. (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.

(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, manning levels of ships, and seafarers' normal hours of work; and
 - (b) the level of minimum wages should be adjusted to take into account changes in the cost of living and in the needs of seafarers.
- (3) The competent authority should ensure:
- (a) by means of a system of supervision and sanctions, that wages are paid at not less than the rate or rates fixed; and
 - (b) that any seafarer who has been paid at a rate lower than the minimum wage is enabled to recover, by an inexpensive and expeditious judicial or other procedure, the amount by which he or she has been underpaid.

IV. Minimum monthly basic pay or wage figure for able seamen

9. For the purpose of this Part, the term "able seaman" means any seafarer who is deemed to be competent to perform any duty which may be required of a rating serving in the deck department, other than the duties of a leading or specialist rating, or any seafarer who is defined as an able seaman in accordance with national laws, regulations or practice, or collective agreement.

10. The basic pay or wages for a calendar month of service for an able seaman 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. As of 1 January 1995, the amount set by the Joint Maritime Commission was 385 United States dollars.

11. Nothing in this Part 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.

V. Effect on earlier recommendation

12. This Recommendation supersedes the Wages, Hours of Work and Manning (Sea) Recommendation, 1958.

2.4.2.4. Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91)

Date of entry into force: September 14, 1967

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-second Session on 8 June 1949, and

Having decided upon the adoption of certain proposals with regard to the partial revision of the Paid Vacations (Seafarers) Convention, 1946, adopted by the Conference at its Twenty-eighth Session, which is included in the twelfth item on the agenda of the session, and

Considering that these proposals must take the form of an international Convention, adopts this eighteenth day of June of the year one thousand nine hundred and forty-nine the following Convention, which may be cited as the Paid Vacations (Seafarers) Convention (Revised), 1949:

Article 1

1. This Convention applies to every sea-going mechanically propelled vessel, whether publicly or privately owned, engaged in the transport of cargo or passengers for the purpose of trade and registered in a territory for which this Convention is in force.

2. National laws or regulations shall determine when vessels are to be regarded as sea-going vessels.

3. This Convention does not apply to -

- (a) wooden vessels of primitive build such as dhows and junks;
- (b) vessels engaged in fishing or in operations directly connected therewith or in sealing or similar pursuits;
- (c) estuarial craft.

4. National laws or regulations or collective agreements may provide for the exemption from the provisions of this Convention of vessels of less than 200 gross register tons.

Article 2

1. This Convention applies to every person who is engaged in any capacity on board a vessel except -

- (a) a pilot not a member of the crew;
- (b) a doctor not a member of the crew;
- (c) nursing staff engaged exclusively on nursing duties and hospital staff not members of the crew;
- (d) persons working exclusively on their own account or remunerated exclusively by a share of profits or earnings;
- (e) persons not remunerated for their services or remunerated only by a nominal salary or wage;
- (f) persons employed on board by an employer other than the shipowner, except radio officers or operators in the service of a wireless telegraphy company;
- (g) travelling dockers (longshoremen) not members of the crew;

- (h) persons employed in whale-catching vessels, in floating factories, or otherwise for the purpose of whaling or similar operations under conditions regulated by the provisions of a special collective whaling or similar agreement determining the rates of pay, hours of work and other conditions of service concluded by an organisation of seafarers;
- (i) persons employed in port who are not ordinarily employed at sea.

2. The competent authority may, after consultation with the organisations of shipowners and seafarers concerned, exempt from the application of the Convention masters, chief navigating officers and chief engineers who by virtue of national laws or regulations or collective agreements enjoy conditions of service which are not less favourable in respect of annual leave than those required by the Convention.

Article 3

1. Every person to whom this Convention applies shall be entitled after twelve months of continuous service to an annual vacation holiday with pay, the duration of which shall be -

- (a) in the case of masters, officers and radio officers or operators, not less than eighteen working days for each year of service;
- (b) in the case of other members of the crew, not less than twelve working days for each year of service.

2. A person with not less than six months of continuous service shall on leaving such service be entitled in respect of each complete month of service to one and a half working days' leave in the case of a master, officer, or radio officer or operator, and one working day's leave in the case of another member of the crew.

3. A person who is discharged through no fault of his own before he has completed six months of continuous service shall on leaving such service be entitled in respect of each complete month of service to one and a half working days' leave in the case of a master, officer, or radio officer or operator, and one working day's leave in the case of another member of the crew.

4. For the purpose of calculating when a vacation holiday is due -

- (a) service off articles shall be included in the reckoning of continuous service;
- (b) short interruptions of service not due to the act or fault of the employee and not exceeding a total of six weeks in any twelve months shall not be deemed to break the continuity of the periods of service which precede and follow them;
- (c) continuity of service shall not be deemed to be interrupted by any change in the management or ownership of the vessel or vessels in which the person concerned has served.

5. The following shall not be included in the annual vacation holiday with pay:

- (a) public and customary holidays;
- (b) interruptions of service due to sickness or injury.

6. National laws or regulations or collective agreements may provide for the division into parts of an annual vacation holiday due in virtue of this Convention or for the accumulation of such a vacation holiday due in respect of one year with a subsequent vacation holiday.

7. National laws or regulations or collective agreements may, in very exceptional circumstances when the service so requires, provide for the substitution for an annual vacation holiday due in virtue of this Convention of a cash payment at least equivalent to the remuneration provided for in Article 5.

Article 4

1. When an annual vacation holiday is due it shall be given by mutual agreement at the first opportunity as the requirements of the service allow.

2. No person may be required without his consent to take the annual vacation holiday due to him at a port other than a port in the territory of engagement or a port in his home territory. Subject to this requirement, the vacation holiday shall be given at a port permitted by national laws or regulations or collective agreement.

Article 5

1. Every person taking a vacation holiday in virtue of Article 3 of this Convention shall receive in respect of the full period of the vacation holiday his usual remuneration.

2. The usual remuneration payable in virtue of the preceding paragraph, which may include a suitable subsistence allowance, shall be calculated in a manner which shall be prescribed by national laws or regulations or fixed by collective agreement.

Article 6

Subject to the provisions of paragraph 7 of Article 3 any agreement to relinquish the right to an annual vacation holiday with pay, or to forgo such a vacation holiday, shall be void.

Article 7

A person who leaves or is discharged from the service of his employer before he has taken a vacation holiday due to him shall receive in respect of every day of vacation holiday due to him in virtue of this Convention the remuneration provided for in Article 5.

Article 8

Each Member which ratifies this Convention shall ensure the effective application of its provisions.

Article 9

Nothing in this Convention shall affect any law, award, custom or agreement between shipowners and seamen which ensures more favourable conditions than those provided by this Convention.

Article 10

1. Effect may be given to this Convention by (a) laws or regulations; (b) collective agreements between shipowners and seafarers; or (c) a combination of laws or regulations and collective agreements between shipowners and seafarers. Except as may be otherwise provided herein, the provisions of this Convention shall be made applicable to every vessel registered in the territory of the ratifying Member and to every person engaged on any such vessel.

2. Where effect has been given to any provision of this Convention by a collective agreement in pursuance of paragraph 1 of this Article, then, notwithstanding anything contained in Article 8 of this Convention, the Member in whose territory the agreement is in force shall not be required to take any measures in pursuance of Article 8 in respect of the provisions of the Convention to which effect has been given by collective agreement.

3. Each Member ratifying this Convention shall supply to the Director-General of the International Labour Office information on the measures by which the Convention is applied, including particulars of any collective agreements which give effect to any of its provisions and are in force at the date when the Member ratifies the Convention.

4. Each Member ratifying this Convention undertakes to take part, by means of a tripartite delegation, in any committee representative of Governments and shipowners' and seafarers' organisations, and including in an advisory capacity representatives of the Joint Maritime Commission of the International Labour Office, which may be set up for the purpose of examining the measures taken to give effect to the Convention.

5. The Director-General will lay before the said Committee a summary of the information received by him under paragraph 3 above.

6. The Committee shall consider whether the collective agreements reported to it give full effect to the provisions of this Convention. Each Member ratifying the Convention undertakes to give consideration to any observations or suggestions concerning the application of the Convention made by the Committee and further undertakes to bring to the notice of the organisations of employers and of workers who are parties to any of the collective agreements mentioned in paragraph 1 any observations or suggestions of the aforesaid Committee concerning the degree to which such agreements give effect to the provisions of the Convention.

Article 11

For the purpose of Article 17 of the Holidays with Pay (Sea) Convention, 1936, the present Convention shall be regarded as a Convention revising that Convention.

Article 12

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 13

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force six months after the date on which there have been registered ratifications by nine of the following countries: United States of America, Argentine Republic, Australia, Belgium, Brazil, Canada, Chile, China, Denmark, Finland, France, United Kingdom of Great Britain and Northern Ireland, Greece, India, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Sweden, Turkey and Yugoslavia, including at least five countries each of which has at least one million gross register tons of shipping. This provision is included for the purpose of facilitating and encouraging early ratification of the Convention by Member States.

3. Thereafter, this Convention shall come into force for any Member six months after the date on which its ratification has been registered.

Article 14

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 15

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the last of the ratifications required to bring the Convention into force, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 16

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 by him in accordance with the provisions of the preceding articles.

Article 17

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 18

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 14 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 19

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

2.4.2.5. Seafarers' Annual Leave with Pay Convention, 1976 (No. 146)

Date of entry into force: June 13, 1979

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-second Session on 13 October 1976, and

Having decided upon the adoption of certain proposals with regard to revision of the Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91), in the light of, but not necessarily restricted to, the Holidays with Pay Convention (Revised), 1970 (No. 132), which is the second item on the agenda of the session, and

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

adopts this twenty-ninth day of October of the year one thousand nine hundred and seventy-six the following Convention, which may be cited as the Seafarers' Annual Leave with Pay Convention, 1976:

Article 1

The provisions of this Convention, in so far as they are not otherwise made effective by means of collective agreements, arbitration awards, court decisions, statutory wage-fixing machinery, or in such other manner consistent with national practice as may be appropriate under national conditions, shall be given effect by national laws or regulations.

Article 2

1. This Convention applies to all persons who are employed as seafarers.

2. For the purpose of this Convention, the term "seafarer" means a person who is employed in any capacity on board a sea-going ship registered in a territory for which the Convention is in force, other than -

- (a) a ship of war;
- (b) a ship engaged in fishing or in operations directly connected therewith or in whaling or similar pursuits.

3. National laws or regulations shall determine, after consultation with the organisations of shipowners and seafarers concerned, where such exist, which ships are to be regarded as sea-going ships for the purpose of this Convention.

4. Each Member which ratifies this Convention may, after consultation with the organisations of employers and workers concerned, where such exist, extend its application, with the modifications rendered necessary by the conditions of the industry, to the persons excluded from the definition of seafarers by paragraph 2, subparagraph (b), of this Article, or to certain categories thereof.

5. Each Member which extends the application of this Convention in pursuance of paragraph 4 of this Article at the time of ratifying it shall specify in a declaration appended to its ratification the categories to which the application is extended and the modifications, if any, rendered necessary.

6. Each Member which has ratified this Convention may further subsequently notify the Director-General of the International Labour Office, by a declaration, that it extends the application of the Convention to categories beyond those, if any, specified at the time of ratification.

7. In so far as necessary, measures may be taken by the competent authority or through the appropriate machinery in a country, after consultation with the organisations of shi-

owners and seafarers concerned, where such exist, to exclude from the application of this Convention limited categories of persons employed on board sea-going ships.

8. Each Member which ratifies this Convention shall list, in the first report on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organisation, any categories which may have been excluded in pursuance of paragraphs 3 and 7 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the position of its law and practice in respect of the categories excluded and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.

Article 3

1. Every seafarer to whom this Convention applies shall be entitled to annual leave with pay of a specified minimum length.

2. Each Member which ratifies this Convention shall specify the length of the annual leave in a declaration appended to its ratification.

3. The leave shall in no case be less than 30 calendar days for one year of service.

4. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by a further declaration, that it specifies annual leave longer than that specified at the time of ratification.

Article 4

1. A seafarer whose length of service in any year is less than that required for the full entitlement prescribed in the preceding Article shall be entitled in respect of that year to annual leave with pay proportionate to his length of service during that year.

2. The expression "year" in this Convention shall mean the calendar year or any other period of the same length.

Article 5

1. The manner in which the length of service is calculated for the purpose of leave entitlement shall be determined by the competent authority or through the appropriate machinery in each country.

2. Under conditions to be determined by the competent authority or through the appropriate machinery in each country, service off articles shall be counted as part of the period of service.

3. Under conditions to be determined by the competent authority or through the appropriate machinery in each country, 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 shall be counted as part of the period of service.

Article 6

The following shall not be counted as part of the minimum annual leave with pay prescribed in Article 3, paragraph 3, of this Convention:

- (a) public and customary holidays recognised as such in the country of the flag, 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 on articles;
- (d) compensatory leave of any kind, under conditions to be determined by the competent authority or through the appropriate machinery in each country.

Article 7

1. Every seafarer taking the annual leave envisaged in this Convention shall receive in respect of the full period of that leave at least his normal remuneration (including the cash equivalent of any part of that remuneration which is paid in kind), calculated in a manner to be determined by the competent authority or through the appropriate machinery in each country.

2. The amounts due in pursuance of paragraph 1 of this Article shall be paid to the seafarer concerned in advance of the leave, unless otherwise provided by national laws or regulations or in an agreement applicable to him and the employer.

3. A seafarer who leaves or is discharged from the service of his employer before he has taken annual leave due to him shall receive in respect of such leave due to him the remuneration provided for in paragraph 1 of this Article.

Article 8

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 authorised by the competent authority or through the appropriate machinery in each country.

2. Subject to paragraph 1 of this Article and unless otherwise provided in an agreement applicable to the employer and the seafarer concerned, the annual leave with pay prescribed by this Convention shall consist of an uninterrupted period.

Article 9

In exceptional cases, provision may be made by the competent authority or through the appropriate machinery in each country for the substitution for annual leave due in virtue of this Convention of a cash payment at least equivalent to the remuneration provided for in Article 7.

Article 10

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

2. No seafarer shall be required without his consent to take annual leave due to him at a place other than that where he was engaged or recruited, whichever is nearer his home, except under the provisions of a collective agreement or of national laws or regulations.

3. If a seafarer is required to take his annual leave from a place other than that permitted by paragraph 2 of this Article, he shall be entitled to free transportation to the place where he was engaged or recruited, whichever is nearer his home, and subsistence and other costs directly involved in his return there shall be for the account of the employer; the travel time involved shall not be deducted from the annual leave with pay due to the seafarer.

Article 11

Any agreement to relinquish the right to the minimum annual leave with pay prescribed in Article 3, paragraph 3, or - except as provided, exceptionally, in pursuance of Article 9 of this Convention - to forgo such leave, shall be null and void.

Article 12

A seafarer taking annual leave shall be recalled only in cases of extreme emergency, with due notice.

Article 13

Effective measures appropriate to the manner in which effect is given to the provisions of this Convention shall be taken to ensure the proper application and enforcement of regulations or provisions concerning annual leave with pay, by means of adequate inspection or otherwise.

Article 14

This Convention revises the Paid Vacations (Seafarers) Convention (Revised), 1949.

Article 15

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 16

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 17

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and 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, will 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.

Article 18

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 19

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 by him in accordance with the provisions of the preceding Articles.

Article 20

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 21

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 17 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 22

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

2.4.2.6 Repatriation of Seamen Convention, 1926 (No. 23)

Date of entry into force: April 16, 1928

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninth Session on 7 June 1926, and

Having decided upon the adoption of certain proposals with regard to the repatriation of seamen, which is included in the first item of the agenda of the Session, and

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

adopts this twenty-third day of June of the year one thousand nine hundred and twenty-six the following Convention, which may be cited as the Repatriation of Seamen Convention, 1926, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation:

Article 1

1. This Convention shall apply to all sea-going vessels registered in the country of any Member ratifying this Convention, and to the owners, masters and seamen of such vessels.

2. It shall not apply to -

- (a) ships of war,
- (b) Government vessels not engaged in trade,
- (c) vessels engaged in the coasting trade,
- (d) pleasure yachts,
- (e) Indian country craft,
- (f) fishing vessels,
- (g) vessels of less than 100 tons gross registered tonnage or 300 cubic metres, nor to vessels engaged in the home trade below the tonnage limit prescribed by national law for the special regulation of this trade at the date of the passing of this Convention.

Article 2

For the purpose of this Convention the following expressions have the meanings hereby assigned to them, viz.:

- (a) the term "vessel" includes any ship or boat of any nature whatsoever, whether publicly or privately owned, ordinarily engaged in maritime navigation;
- (b) the term "seaman" includes every person employed or engaged in any capacity on board any vessel and entered on the ship's articles. It excludes masters, pilots, cadets and pupils on training ships and duly indentured apprentices, naval ratings, and other persons in the permanent service of a Government;
- (c) the term "master" includes every person having command and charge of a vessel except pilots;
- (d) the term "home trade vessel" means a vessel engaged in trade between a country and the ports of a neighbouring country within geographical limits determined by the national law.

Article 3

1. Any seaman who is landed during the term of his engagement or on its expiration shall be entitled to be taken back to his own country, or to the port at which he was engaged, or to the port at which the voyage commenced, as shall be determined by national

law, which shall contain the provisions necessary for dealing with the matter, including provisions to determine who shall bear the charge of repatriation.

2. A seaman shall be deemed to have been duly repatriated if he has been provided with suitable employment on board a vessel proceeding to one of the destinations prescribed in accordance with the foregoing paragraph.

3. A seaman shall be deemed to have been repatriated if he is landed in the country to which he belongs, or at the port at which he was engaged, or at a neighbouring port, or at the port at which the voyage commenced.

4. The conditions under which a foreign seaman engaged in a country other than his own has the right to be repatriated shall be as provided by national law or, in the absence of such legal provisions, in the articles of agreement. The provisions of the preceding paragraphs shall, however, apply to a seaman engaged in a port of his own country.

Article 4

The expenses of repatriation shall not be a charge on the seaman if he has been left behind by reason of -

- (a) injury sustained in the service of the vessel, or
- (b) shipwreck, or
- (c) illness not due to his own wilful act or default, or
- (d) discharge for any cause for which he cannot be held responsible.

Article 5

1. The expenses of repatriation shall include the transportation charges, the accommodation and the food of the seaman during the journey. They shall also include the maintenance of the seaman up to the time fixed for his departure.

2. When a seaman is repatriated as member of a crew, he shall be entitled to remuneration for work done during the voyage.

Article 6

The public authority of the country in which the vessel is registered shall be responsible for supervising the repatriation of any member of the crew in cases where this Convention applies, whatever may be his nationality, and where necessary for giving him his expenses in advance.

Article 7

The formal ratifications of this Convention, under the conditions set forth in the Constitution of the International Labour Organisation, shall be communicated to the Director-General of the International Labour Office for registration.

Article 8

1. This Convention shall come into force at the date on which the ratifications of two Members of the International Labour Organisation have been registered by the Director-General.

2. It shall be binding only upon those Members whose ratifications have been registered with the International Labour Office.

3. Thereafter, the Convention shall come into force for any Member at the date on which its ratification has been registered with the International Labour Office.

Article 9

As soon as the ratifications of two Members of the International Labour Organisation have been registered with the International Labour Office, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Article 10

Subject to the provisions of Article 8, each Member which ratifies this Convention agrees to bring the provisions of Articles 1, 2, 3, 4, 5 and 6 into operation not later than 1 January 1928, and to take such action as may be necessary to make these provisions effective.

Article 11

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 35 of the Constitution of the International Labour Organisation.

Article 12

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

Article 13

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 14

The French and English texts of this Convention shall both be authentic.

2.4.2.7. *Repatriation (Ship Masters and Apprentices)* *Recommendation, 1926 (No. 27)*

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninth Session on 7 June 1926, and

Having decided upon the adoption of certain proposals with regard to the repatriation of masters and apprentices, which is included in the first item of the agenda of the Session, and

Having determined that these proposals should take the form of a Recommendation, adopts this twenty-third day of June of the year one thousand nine hundred twenty-six, the following Recommendation, which may be cited as the Repatriation (Ship Masters and Apprentices) Recommendation, 1926, to be submitted to the Members of the International

Labour Organisation for consideration with a view to effect being given to it by national legislation or otherwise in accordance with the provisions of the Constitution of the International Labour Organisation:

The Conference recommends that the national Governments shall take steps to provide for the repatriation of masters and duly indentured apprentices, who are not covered by the terms of the Convention on the repatriation of seamen adopted by the General Conference at its Ninth Session.

2.4.2.8. *Repatriation of Seafarers Convention (Revised), 1987* (No. 166)

Date of entry into force: July 3, 1991

The General Conference of the International Labour Organisation,

Having been convened in Geneva by the Governing Body of the International Labour Office and having met at its Seventy-fourth Session on 24 September 1987, and

Noting that since the adoption of the Repatriation of Seamen Convention, 1926, and of the Repatriation (Ship Masters and Apprentices) Recommendation, 1926, developments in the shipping industry have made it necessary to revise the Convention to incorporate appropriate elements of the Recommendation, and

Noting further that considerable progress has been made through national legislation and practice in providing for the repatriation of seafarers in various matters not covered by the Repatriation of Seamen Convention, 1926, and

Considering that further action by means of a new international instrument as regards certain additional aspects of the repatriation of seafarers would accordingly be desirable taking into account the widespread growth in employment of non-national seafarers in the shipping industry, and

Having decided upon the adoption of certain proposals with regard to the Revision of the Repatriation of Seamen Convention, 1926 (No. 23), and of the Repatriation (Ship Masters and Apprentices) Recommendation, 1926 (No. 27), which is the fifth item on the agenda of the session, and

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

adopts this ninth day of October of the year one thousand nine hundred and eighty-seven the following Convention which may be cited as the Repatriation of Seafarers Convention (Revised), 1987.

Part I. Scope and definitions

Article 1

1. This Convention applies to every seagoing ship whether publicly or privately owned which is registered in the territory of any Member for which the Convention is in force and which is ordinarily engaged in commercial maritime navigation and to the owners and seafarers of such ships.

2. To the extent it deems practicable, after consultation with the representative organisations of fishing vessel owners and fishermen, the competent authority shall apply the provisions of this Convention to commercial maritime fishing.

3. In the event of doubt as to whether or not any ships are to be regarded as engaged in commercial maritime navigation or commercial maritime fishing for the purpose of this

Convention, the question shall be determined by the competent authority after consultation with the organisations of shipowners, seafarers and fishermen concerned.

4. For the purpose of this Convention the term “seafarer” means any person who is employed in any capacity on board a seagoing ship to which this Convention applies.

Part II. Entitlements

Article 2

1. A seafarer shall be entitled to repatriation in the following circumstances:

- (a) if an engagement for a specific period or for a specific voyage expires abroad;
- (b) upon the expiry of the period of notice given in accordance with the provisions of the articles of agreement or the seafarer’s contract of employment;
- (c) in the event of illness or injury or other medical condition which requires his or her repatriation when found medically fit to travel;
- (d) in the event of shipwreck;
- (e) 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 seafarer by reason of bankruptcy, sale of ship, change of ship’s registration or any other similar reason;
- (f) in the event of a ship being bound for a war zone, as defined by national laws or regulations or collective agreements, to which the seafarer does not consent to go;
- (g) in the event of termination or interruption of employment in accordance with an industrial award or collective agreement, or termination of employment for any other similar reason.

2. National laws or regulations or collective agreements shall prescribe the maximum duration of service periods on board following which a seafarer is entitled to repatriation; such periods shall be less than 12 months. In determining the maximum periods, account shall be taken of factors affecting the seafarers’ working environment. Each Member shall seek, wherever possible, to reduce these periods in the light of technological changes and developments and may be guided by any recommendations made on the matter by the Joint Maritime Commission.

Part III. Destination

Article 3

1. Each Member for which this Convention is in force shall prescribe by national laws or regulations the destinations to which seafarers may be repatriated.

2. The destinations so prescribed shall include the place at which the seafarer agreed to enter into the engagement, the place stipulated by collective agreement, the seafarer’s country of residence or such other place as may be mutually agreed at the time of engagement. The seafarer shall have the right to choose from among the prescribed destinations the place to which he or she is to be repatriated.

Part IV. Arrangements for repatriation

Article 4

1. It shall be the responsibility of the shipowner to arrange for repatriation by appropriate and expeditious means. The normal mode of transport shall be by air.

2. The cost of repatriation shall be borne by the shipowner.

3. Where repatriation has taken place as a result of a seafarer being found, in accordance with national laws or regulations or collective agreements, to be in serious default of his or her employment obligations, nothing in this Convention shall prejudice the right of recovery from the seafarer of repatriation costs or part thereof in accordance with national laws or regulations or collective agreements.

4. The cost to be borne by the shipowner shall include:

- (a) passage to the destination selected for repatriation in accordance with Article 3 above;
- (b) accommodation and food from the moment the seafarer leaves the ship until he or she reaches the repatriation destination;
- (c) pay and allowances from the moment he or she leaves the ship until he or she reaches the repatriation destination, if provided for by national laws or regulations or collective agreements;
- (d) transportation of 30 kg of the seafarer's personal luggage to the repatriation destination;
- (e) medical treatment when necessary until the seafarer is medically fit to travel to the repatriation destination.

5. The shipowner shall not require the seafarer to make an advance payment towards the cost of repatriation at the beginning of his or her employment, nor shall the shipowner recover the cost of repatriation from the seafarer's wages or other entitlements except as provided for in paragraph 3 above.

6. National laws or regulations shall not prejudice any right of the shipowner to recover the cost of repatriation of seafarers not employed by the shipowner from their employer.

Article 5

If a shipowner fails to make arrangements for or to meet the cost of repatriation of a seafarer who is entitled to be repatriated -

- (a) the competent authority of the Member in whose territory the ship is registered shall arrange for and meet the cost of the repatriation of the seafarer concerned; if it fails to do so, the State from which the seafarer is to be repatriated or the State of which he or she is a national may arrange for his or her repatriation and recover the cost from the Member in whose territory the ship is registered;
- (b) costs incurred in repatriating the seafarer shall be recoverable from the shipowner by the Member in whose territory the ship is registered;
- (c) the expenses of repatriation shall in no case be a charge upon the seafarer, except as provided for in paragraph 3 of Article 4 above.

Part V. Other arrangements

Article 6

Seafarers who are to be repatriated shall be able to obtain their passport and other identity documents for the purpose of repatriation.

Article 7

Time spent awaiting repatriation and repatriation travel time shall not be deducted from paid leave accrued to the seafarer.

Article 8

A seafarer shall be deemed to have been duly repatriated when he or she is landed at a destination prescribed pursuant to Article 3 above, or when the seafarer does not claim his or her entitlement to repatriation within a reasonable period of time to be defined by national laws or regulations or collective agreements.

Article 9

The provisions of this Convention in so far as they are not otherwise made effective by means of collective agreements or in such other manner as may be appropriate under national conditions shall be given effect by national laws or regulations.

Article 10

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.

Article 11

The competent authority of each Member shall ensure by means of adequate supervision that the owners of ships registered in its territory comply with the provisions of the Convention, and shall provide relevant information to the International Labour Office.

Article 12

The text of this Convention shall be available in an appropriate language to the crew members of every ship which is registered in the territory of any Member for which it is in force.

Part VI. Final provisions

Article 13

This Convention revises the Repatriation of Seamen Convention, 1926.

Article 14

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 15

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General of the International Labour Office.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 16

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 17

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General of the International Labour Office shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 18

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 by him in accordance with the provisions of the preceding Articles.

Article 19

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 20

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides-

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 16 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 21

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

2.4.2.9. Repatriation of Seafarers Recommendation, 1987 (No. 174)

The General Conference of the International Labour Organisation,

Having been convened in Geneva by the Governing Body of the International Labour Office and having met at its Seventy-fourth Session on 24 September 1987, and

Having decided upon the adoption of certain proposals with regard to the revision of the Repatriation of Seamen Convention, 1926 (No. 23), and of the Repatriation (Ship Masters and Apprentices) Recommendation, 1926 (No. 27), which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Recommendation supplementing the Repatriation of Seafarers Convention (Revised), 1987,

adopts this ninth day of October of the year one thousand nine hundred eighty-seven, the following Recommendation which may be cited as the Repatriation of Seafarers Recommendation, 1987:

Whenever a seafarer is entitled to be repatriated pursuant to the provisions of the Repatriation of Seafarers Convention (Revised), 1987, but both the shipowner and the Member in whose territory the ship is registered fail to meet their obligations under the Convention to arrange for and meet the cost of repatriation, the State from which the seafarer is to be repatriated or the State of which he or she is a national should arrange for his or her repatriation, and recover the cost from the Member in whose territory the ship is registered in accordance with Article 5 (a) of the Convention.

2.4.2.10. Protection of Young Seafarers Recommendation, 1976 (No. 153)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-second Session on 13 October 1976, and

Having decided upon the adoption of certain proposals with regard to the protection of young seafarers, which is the third item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this twenty-eighth day of October of the year one thousand nine hundred and seventy-six, the following Recommendation, which may be cited as the Protection of Young Seafarers Recommendation, 1976:

I. Methods of Implementation

1. Effect may be given to this Recommendation through national laws or regulations, collective agreements, works rules, arbitration awards or court decisions, or in such other manner as may be appropriate under national conditions.

II. Definition and Scope

2. (1) For the purpose of this Recommendation, the term “young seafarer” includes all young persons under 18 years of age employed in any capacity on board a sea-going ship other than -

- (a) a ship of war; and
- (b) a ship engaged in fishing or in operations directly connected therewith or in whaling or similar pursuits.

(2) National laws or regulations should determine, after consultation with the organisations of employers and workers concerned, when ships are to be regarded as sea-going ships for the purpose of this Recommendation.

(3) This Recommendation does not apply to young persons in school or training vessels or pursuing an educational programme carried out in accordance with conditions approved by the competent authority after consultation with the organisations of employers and workers concerned.

III. Objectives

3. In each country in which ships in which young seafarers are employed are registered, provision should be made for -

- (a) the effective protection of such seafarers, including the safeguarding of their health, morals and safety, and the promotion of their general welfare;
- (b) vocational guidance, education and vocational training of such seafarers, in their interest as well as that of the efficiency of shipboard operations, in the interest of safety of life and of property at sea and in that of the creation of opportunities for the advancement of young seafarers within the sea-going profession.

IV. Hours of Permitted Duty and Rest Periods

4. (1) At sea and in port the provisions set out in the following clauses should apply:

- (a) the normal working hours of young seafarers should not exceed eight hours per day and forty hours per week and the consistent working of overtime should be avoided whenever possible;
- (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;
- (c) no young seafarer should work at night; for the purpose of this clause "night" means a period of at least nine consecutive hours between times before and after midnight to be prescribed by national laws or regulations or by collective agreements;
- (d) 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 subparagraph (1) of this Paragraph 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;
- (b) if the effective training of young seafarers in accordance with established programmes and schedules would be impaired; or
- (c) in cases of operational necessity. Such exceptions should be recorded, with reasons, and signed by the captain.

5. The provisions of Paragraph 4 of this Recommendation do not exempt young seafarers from their general obligation to work under the master's direction during any emergency involving -

- (a) the safety of the crew, the passengers, the vessel or its cargo;
- (b) the safety of other vessels or of lives and cargoes on board such vessels.

V. Repatriation

6. (1) If, after a young seafarer has served in a vessel for at least four months during his first foreign-going voyage, it becomes apparent that he is unsuited to life at sea, he should be given the opportunity of being repatriated at no expense to himself 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 therefore, should be given to the authority which issued the papers enabling the young seafarer to take up sea-going employment.

(2) After six months' service without leave in a foreign-going vessel which has not returned to the young seafarer's country of residence in that time, and will not so return in the subsequent three months of the voyage, a young seafarer should be entitled to be repatriated at no expense to himself to the place of original engagement in his country of residence for the purpose of taking any leave earned during the voyage.

VI. Safety in Work and Health Education

7. Regulations concerning safety and health of young seafarers should be adopted.

8. These 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 minimise occupational dangers to young seafarers in the course of their duties.

9. (1) Except where a young seafarer is recognised 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.

(2) 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) night-watchman duties;
- (i) servicing of electrical equipment;
- (j) exposure to potentially harmful materials or harmful physical agents such as dangerous or toxic substances, and ionising radiations;
- (k) the cleaning of catering machinery;
- (l) the handling or taking charge of ships' boats.

10. 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 ship, for instance by means of adequate instruction at sea training schools, by official accident-prevention publicity intended for young persons, in the forms indicated in Paragraph 8, subparagraph (2), of the Prevention of Accidents (Seafarers) Recommendation, 1970, and

by ensuring the professional instruction and supervision of young seafarers in their work in ships.

11. Education and training of young seafarers both ashore and on board ship should include instruction appropriate to their needs in the matters referred to in Paragraph 12, clause (f), of the Vocational Training (Seafarers) Recommendation, 1970, and in Regulation 237 of the ILO Model Code of Safety Regulations for Industrial Establishments for the Guidance of Governments and Industry, as amended, as well as guidance on the detrimental effects on their health and well-being of the abuse of drugs and other potentially harmful substances, and of other harmful activities.

VII. Opportunities for Vocational Guidance, Education and Vocational Training

12. The competent authority should, in the light of national conditions, give consideration to the application of the various policies and objectives outlined in Paragraphs 13 to 20 below.

13. Young persons should be provided with information concerning training and career opportunities and the conditions of entry into the shipping industry, in accordance with Paragraph 7 of the Vocational Training (Seafarers) Recommendation, 1970, as well as regarding shipboard employment and conditions of work, general aspects of collective agreements and seafarers' rights and obligations under maritime labour legislation.

14. Measures should be taken to give young seafarers education, vocational guidance and vocational training in conformity with the objectives specified in Paragraph 2 of the Vocational Training (Seafarers) Recommendation, 1970.

15. (1) Initial and further training for occupations in the shipping industry should be broad and comprehensive and should be combined, as appropriate, with further general education.

(2) Such training should combine theoretical instruction with a systematic programme of practical experience designed to prepare for a career within the shipping industry.

(3) Training standards for the sea-going profession should, whenever possible, be co-ordinated with those applying to occupations ashore so that trainees may acquire nationally recognised qualifications acceptable in both the shipping industry and in other branches of economic activity.

16. Young seafarers should be assisted in receiving education and training for shipboard employment, and subsequently in continuing their general and vocational education, through the various means of financial support specified in Paragraph 10, subparagraphs (1) to (5), of the Vocational Training (Seafarers) Recommendation, 1970.

17. The general education and vocational training specified in Paragraph 12, clause (g), and Paragraph 15 respectively of the Vocational Training (Seafarers) Recommendation, 1970, should be available for all young persons who have no experience of a sea-going ship.

18. Young seafarers should be provided with opportunities for continuing their vocational education and training while on board ship as a means of enabling them to acquire the knowledge and experience essential for the efficient performance of their duties, to qualify for promotion and to pursue their general and technical education. In this regard, ships' masters and officers should encourage and assist young seafarers in applying and fully developing the skills and knowledge gained in induction training, in obtaining appropriate practical experience on board and in pursuing self-study courses at sea.

19. In addition to the training methods referred to in Paragraphs 20 to 25 of the Vocational Training (Seafarers) Recommendation, 1970, young seafarers should have opportunities of -

- (a) continuing their training on board ship by such means as shipboard training, correspondence courses and the provision of programmed instruction and other self-study material in general and nautical subjects designed for the needs of young seafarers in qualifying for promotion;
 - (b) pursuing, on board ship, studies to recognised standards in other fields.
20. Where practicable and possible, training facilities provided for young seafarers on board ship should include accommodation suitable for study purposes, a ship's library, and appropriate training equipment for self-study; young seafarers on board ship should receive special help in their studies, if possible by itinerant instructors embarking periodically.

2.5. Conventions and Recommendations concerning safety, health, welfare and accommodation

2.5.1. Content and practical application of standards

2.5.1.1. Safety

2.5.1.1.1. *The Food and Catering (Ships' Crews) Convention, 1946 (No. 68)*

The Food and Catering (Ships' Crews) Convention, 1946 (No. 68) provides that every Member of the International Labour Organisation for which this Convention is in force shall maintain in force laws or regulations concerning food supply and catering arrangements designed to secure the health and well-being of the crews of its sea-going vessels, whether publicly or privately owned, which are engaged in the transport of cargo or passengers for the purpose of trade, and registered in a territory for which this Convention is in force.⁴⁶⁵ These laws or regulations shall require: (a) the provision of food and water supplies which, having regard to the size of the crew and the duration and nature of the voyage, are suitable in respect of quantity, nutritive value, quality and variety; (b) the arrangement and equipment of the catering department in every vessel in such a manner as to permit of the service of proper meals to the members of the crew.⁴⁶⁶

In addition to that, the Convention stipulates requirements with respect to the system of inspection by the competent authority;⁴⁶⁷ inspection at sea at prescribed intervals by the master, or an officer specially deputed for the purpose by him, together with a responsible member of the catering department;⁴⁶⁸ special inspection made by the representatives of the competent authority of the territory of registration on written complaint made by a number or proportion of the crew prescribed

⁴⁶⁵ Convention No. 68, Article 5(1).

⁴⁶⁶ Convention No. 68, Article 5(2).

⁴⁶⁷ Convention No. 68, Article 6.

⁴⁶⁸ Convention No. 68, Article 7.

by national laws or regulations or on behalf of a recognized organization of shipowners or seafarers;⁴⁶⁹ and the organization of courses of training for employment in the catering department of seagoing ships.⁴⁷⁰

Analysis of the comments of the Committee of Experts shows thirteen major issues relating to the application of the Convention. First, the principle relied upon by the national legal system, according to which international law takes precedence over national law, does not, however, render Article 2 of the Convention directly applicable. The provisions of the Convention require precise and clearly defined action on the part of the Government or the social partners with respect to preparation and application of regulations concerning food and water supplies; catering; construction; location; ventilation; heating; lighting; water systems and equipment of galleys; storerooms and refrigerated chambers; or for the storage, handling and preparation of food.⁴⁷¹ Second, the competent authority shall adopt measures to secure the cooperation of the organizations of shipowners and seafarers in the application of the Convention.⁴⁷² Third, the competent authority must carry out its work in close cooperation with the organizations of shipowners and seafarers, and with national or local authorities concerned with questions of food and health. In this provision, the authority's work is to be construed broadly. Amongst other things, it involves setting up both national regulations and an inspection system.⁴⁷³ Fourth, the Government should also fulfill its obligations both in qualitative and quantitative terms with respect to food and catering, where national legislation provides that an indemnity can be paid in lieu of part of the seafarer's provisions.⁴⁷⁴ Fifth, under Article 5 of the Convention, each Member shall maintain in force laws or regulations concerning food supply and catering arrangements designed to secure the health and well-being of the vessels.⁴⁷⁵ Sixth, effect to Article 5 shall be given by laws or regulations and cannot be given exclusively by collective agreements.⁴⁷⁶

Seventh, all seafarers on vessels covered by the Convention, regardless of their "ordinary residence", shall have the benefit of food supplies which may be considered suitable in the terms of the Convention.⁴⁷⁷ Eighth, national laws or regulations do not seem to provide for a system of inspection of the qualifications of such members of the catering department of the crew as are required by such laws or regulations to possess prescribed qualifications.⁴⁷⁸ Ninth, according to Article 7 of the Convention, there must be a written record of

⁴⁶⁹ Convention No. 68, Article 8.

⁴⁷⁰ Convention No. 68, Article 11.

⁴⁷¹ See, **Luxembourg** (CEACR, 2005/76th session: Observation).

⁴⁷² See, **Egypt** (CEACR, 2001/72nd session: Direct request); **Poland** (CEACR, 1999/70th session: Direct request); **United Kingdom (Isle of Man)** (CEACR, 1990/60th session: Direct request).

⁴⁷³ See, **Peru** (CEACR, 2005/76th session: Direct request).

⁴⁷⁴ See, **Luxembourg** (CEACR, 2002/73rd session: Direct request).

⁴⁷⁵ See, **Luxembourg** (CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Observation); **Panama** (CEACR, 1990/60th session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2003/74th session: Direct request); **Peru** (CEACR, 1992/62nd session: Observation; CEACR, 1993/63rd session: Observation); **Romania** (CEACR, 2005/76th session: Direct request).

⁴⁷⁶ See, **Argentina** (CEACR, 2001/72nd session: Observation; CEACR, 2003/74th session: Observation; CEACR, 2005/76th session: Observation); **Italy** (CEACR, 2005/76th session: Observation).

⁴⁷⁷ See, **United Kingdom (Isle of Man)** (CEACR, 1990/60th session: Direct request).

⁴⁷⁸ See, **France (French Southern and Antarctic Territories)** (CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request).

the results of each inspection at sea.⁴⁷⁹ Tenth, national legislation should make provision for the authority of inspectors to make recommendations to the owner of the ship, or to the master or other person responsible, with a view to the improvement of the standards of catering.⁴⁸⁰ Eleventh, national laws or regulations shall prescribe specific penalties for the infringements referred to in Article 9(2) of the Convention.⁴⁸¹ Twelfth, the governments should transmit to the ILO copies of the annual inspection reports published by the competent authorities, dealing specifically with matters of food and catering.⁴⁸² Thirteenth, the annual report must be published and made available to all bodies and persons concerned.⁴⁸³

2.5.1.1.2. The Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)

The Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) provides that the competent authority in each maritime country shall take the necessary measures to ensure that occupational accidents are adequately reported and investigated, and comprehensive statistics of such accidents kept and analysed.⁴⁸⁴ It stipulates that, in order to provide a sound basis for the prevention of accidents which are due to particular hazards of maritime employment, research shall be undertaken into general trends and into such hazards as are brought out by statistics.⁴⁸⁵

Under the Convention, provisions concerning the prevention of occupational accidents shall be laid down by laws or regulations, codes of practice or other appropriate means.⁴⁸⁶ These provisions shall refer to any general provisions on the prevention of accidents and the protection of health in employment which may be

⁴⁷⁹ See, **Peru** (CEACR, 2005/76th session: Direct request).

⁴⁸⁰ See, **Luxembourg** (CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Observation); **United Kingdom (Isle of Man)** (CEACR, 1990/60th session: Direct request).

⁴⁸¹ See, **Bulgaria** (CEACR, 2005/76th session: Direct request); **Peru** (CEACR, 1998/69th session: Direct request); **Romania** (CEACR, 2005/76th session: Direct request).

⁴⁸² See, **Algeria** (CEACR, 1990/60th session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2004/75th session: Observation); **Bulgaria** (CEACR, 2005/76th session: Direct request); **Egypt** (CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Direct request); **France (French Southern and Antarctic Territories)** (CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 2004/75th session: Direct request); **Greece** (CEACR, 2003/74th session: Direct request); **Luxembourg** (CEACR, 2002/73rd session: Direct request); **New Zealand** (CEACR, 1998/69th session: Direct request); **Norway** (CEACR, 1998/69th session: Direct request; CEACR, 2003/74th session: Direct request); **Panama** (CEACR, 1993/63rd session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1995/66th session: Observation); **Peru** (CEACR, 2005/76th session: Direct request); **Poland** (CEACR 1999/70th session: Direct request; CEACR, 2005/76th session: Direct request); **Portugal** (CEACR, 1998/69th session: Direct request; CEACR, 2003/74th session: Direct request); **Spain** (CEACR, 2006/77th session: Observation).

⁴⁸³ See, **Egypt** (CEACR, 2001/72nd session: Direct request); **Norway** (CEACR, 2003/74th session: Direct request); **Panama** (CEACR, 1990/90th session: Observation; CEACR, 1993/63rd session: Observation); **Portugal** (CEACR, 2005/76th session: Direct request); **Romania** (CEACR, 2005/76th session: Direct request).

⁴⁸⁴ Convention No. 134, Article 2(1).

⁴⁸⁵ Convention No. 134, Article 3.

⁴⁸⁶ Convention No. 134, Article 4(1).

applicable to the work of seafarers, and shall specify measures for the prevention of accidents which are peculiar to maritime employment.⁴⁸⁷ In particular, these provisions shall cover the following matters: (a) general and basic provisions; (b) structural features of the ship; (c) machinery; (d) special safety measures on and below deck; (e) loading and unloading equipment; (f) fire prevention and fire-fighting; (g) anchors, chains and lines; (h) dangerous cargo and ballast; and (i) personal protective equipment for seafarers.⁴⁸⁸ The Convention also stipulates that provision shall be made for the appointment, from amongst the crew of the ship, of a suitable person or suitable persons or of a suitable committee responsible, under the Master, for accident prevention.⁴⁸⁹

Analysis of the comments of the Committee of Experts shows twelve major issues relating to the application of the Convention. First, under Article 2(1) of the Convention, the competent authority in each maritime country shall take the necessary measures to ensure that occupational accidents are adequately reported and investigated, and comprehensive statistics of such accidents kept and analysed.⁴⁹⁰ Second, the statistics of occupational accidents shall record the numbers, nature, causes and effects of occupational accidents, with a clear indication of the department on board ship (for instance, deck, engine or catering) and the area (for instance, at sea or in port) where the accident occurred.⁴⁹¹ Third, according to Article 2(4) of the Convention, the competent authority shall undertake an investigation into the causes and circumstances of occupational accidents resulting in loss of life or serious personal injury, and such other accidents as may be specified in national laws or regulations.⁴⁹² Fourth, under Article 2(4) of the Convention, an investigation into the causes and circumstances of occupational accidents must be undertaken (i) not only when there is a loss of life, but also in the event of serious personal injury, and such other accidents as may be specified in national laws or regulations, and (ii) on all vessels, and not only on foreign-going vessels.⁴⁹³ Fifth, indications of the department on board ship and the area where acci-

⁴⁸⁷ Convention No. 134, Article 4(2).

⁴⁸⁸ Convention No. 134, Article 4(3).

⁴⁸⁹ Convention No. 134, Article 7.

⁴⁹⁰ See, **Costa-Rica** (CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Observation; CEACR, 1995/66th session: Observation; CEACR, 1996/67th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2004/75th session: Observation); **Nigeria** (CEACR, 1990/60th session: Observation; CEACR, 1992/62nd session: Observation; CACR, 1994/64th session: Observation; CEACR, 1996/67th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2005/76th session: Observation).

⁴⁹¹ See, **Brazil** (CEACR, 2005/76th session: Direct request); **Egypt** (CEACR, 1993/63rd session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2004/75th session: Direct request); **Finland** (CEACR, 1993/63rd session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Kenya** (CACR, 1996/67th session: Direct request; CEACR, 2002/73rd session: Direct request); **Russian Federation** (CEACR, 1993/63rd session: Direct request).

⁴⁹² See, **United Republic of Tanzania** (CEACR, 1990/60th session: Direct request; CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/68th session: Direct request; CEACR, 1999/70th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2004/75th session: Observation).

⁴⁹³ See, **Kenya** (CACR, 1996/67th session: Direct request; CEACR, 2002/73rd session: Direct request).

dents occurred are particularly important where an investigation has to be undertaken by the competent authority in accordance with Article 2(4) of the Convention, with a view to establishing the causes and circumstances of occupational accidents resulting in loss of life or serious personal injury.⁴⁹⁴

Sixth, by virtue of Article 3 of the Convention, research shall be undertaken into general trends and hazards of maritime employment in order to provide a sound basis for the prevention of accidents.⁴⁹⁵ Seventh, under Article 4(1) of the Convention, provisions concerning the prevention of occupational accidents shall be laid down by laws or regulations, codes of practice or other appropriate means, and they shall cover, in particular, all the matters listed in Article 4(3) of the Convention.⁴⁹⁶ Eighth, according to Article 6(4) of the Convention, in order to facilitate application, copies of summaries of the provisions concerning the prevention of occupational accidents shall be brought to the attention of seafarers, for instance by display in a prominent position on board ship.⁴⁹⁷ Ninth, under Article 9(2) of

⁴⁹⁴ See, **Mexico** (CEACR, 1993/63rd session: Direct request; CACR, 1996/67th session: Direct request; CACR, 2001/72nd session: Direct request; CEACR, 2006/77th session: Observation).

⁴⁹⁵ See, **New Zealand** (CEACR, 1993/63rd session: Direct request; CEACR, 1996/67th session: Direct request); **Russian Federation** (CEACR, 1993/63rd session: Direct request); **Spain** (CEACR, 1993/63rd session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 2001/72nd session: Direct request); **United Republic of Tanzania** (CEACR, 1990/60th session: Direct request; CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/68th session: Direct request; CEACR, 1999/70th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2004/75th session: Observation).

⁴⁹⁶ See, **Costa-Rica** (CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Observation; CEACR, 1995/66th session: Observation; CEACR, 1996/67th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2004/75th session: Observation); **Egypt** (CEACR, 1993/63rd session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2004/75th session: Direct request); **Italy** (CEACR, 1993/63rd session: Observation; CEACR, 1993/63rd session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Kenya** (CACR, 1996/67th session: Direct request; CEACR, 2002/73rd session: Direct request); **Mexico** (CEACR, 1993/63rd session: Direct request; CACR, 1996/67th session: Direct request; CEACR, 2001/72nd session: Direct request); **Nigeria** (CEACR, 1990/60th session: Observation; CEACR, 1992/62nd session: Observation; CACR, 1994/64th session: Observation; CEACR, 1996/67th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2005/76th session: Observation); **United Republic of Tanzania** (CEACR, 1990/60th session: Direct request; CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/68th session: Direct request; CEACR, 1999/70th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2004/75th session: Observation); **Uruguay** (CEACR, 1993/63rd session: Direct request; CEACR, 1996/67th session: Direct request; CACR, 2001/72nd session: Direct request).

⁴⁹⁷ See, **France** (CEACR, 1992/62nd session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1996/67th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2004/75th session: Observation); **France (French Southern and Antarctic Territories)** (CEACR, 1996/67th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2001/72nd session: Observation); **Kenya** (CACR, 1996/67th session: Direct request; CEACR, 2002/73rd session: Direct request); **New Zealand** (CEACR, 1993/63rd session: Direct request); **Russian Federation** (CEACR, 1993/63rd session: Direct request); **United Republic of Tanzania** (CEACR, 1990/60th session: Direct request;

the Convention, all appropriate and practicable measures shall be taken to bring to the attention information concerning particular hazards, for instance, by means of official notices containing relevant instructions.⁴⁹⁸ Tenth, under Article 7, provision shall be made for the appointment, from amongst the crew of the ship, of a suitable person or of a suitable committee responsible, under the master, for accident prevention.⁴⁹⁹ Eleventh, Article 7, according to which provision shall be made for the appointment, from amongst the crew of the ship, of a suitable person or of a suitable committee responsible, under the master, for accident prevention, shall be applicable to all vessels, regardless of their tonnage.⁵⁰⁰ Twelfth, under Article 8(1) of the Convention, programmes for the prevention of occupational accidents shall be established by the competent authority with the cooperation of shipowners' and seafarers' organizations.⁵⁰¹

2.5.1.1.3. *The Prevention of Accidents (Seafarers) Recommendation, 1970 (No. 142)*

The Prevention of Accidents (Seafarers) Recommendation, 1970 (No. 142) further develops the provisions of Convention No. 142, as concerns, in particular, subjects to be investigated by research, in pursuance of Article 3 of the Convention, into general trends and into such hazards as are brought out by statistics;⁵⁰² the forms of continuous accident prevention publicity;⁵⁰³ and the forms of international cooperation in the continuous promotion of action for the prevention of occupational accidents.⁵⁰⁴

CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/68th session: Direct request; CEACR, 1999/70th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2004/75th session: Observation).

⁴⁹⁸ See, **France** 9CEACR, 1992/62nd session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1996/67th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2004/75th session: Observation); **France (French Southern and Antarctic Territories)** (CEACR, 1996/67th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2001/72nd session: Observation); **Kenya** (CACR, 1996/67th session: Direct request; CEACR, 2002/73rd session: Direct request).

⁴⁹⁹ **Egypt** (CEACR, 1993/63rd session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2004/75th session: Direct request); **Kenya** (CACR, 1996/67th session: Direct request; CEACR, 2002/73rd session: Direct request).

⁵⁰⁰ See, **Brazil** (CEACR, 2005/76th session: Direct request).

⁵⁰¹ See, **Nigeria** (CEACR, 1990/60th session: Observation; CEACR, 1992/62nd session: Observation; CACR, 1994/64th session: Observation; CEACR, 1996/67th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2005/76th session: Observation); **United Republic of Tanzania** (CEACR, 1990/60th session: Direct request; CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/68th session: Direct request; CEACR, 1999/70th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2004/75th session: Observation).

⁵⁰² Recommendation No. 134, section 3.

⁵⁰³ Recommendation No. 134, section 8(2).

⁵⁰⁴ Recommendation No. 134, section 9(2).

2.5.1.2. Health

2.5.1.2.1. The Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)

The Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164) applies to every seagoing ship, whether publicly or privately owned, which is registered in the territory of any Member for which the Convention is in force, and which is ordinarily engaged in commercial maritime navigation.⁵⁰⁵ Each Member shall ensure that measures providing for health protection and medical care for seafarers on board ship are adopted which: (a) ensure the application to seafarers of any general provisions on occupational health protection and medical care relevant to the seafaring profession, as well as of special provisions peculiar to work on board; (b) aim at providing seafarers with health protection and medical care as comparable as possible to that which is generally available to workers ashore; (c) guarantee seafarers the right to visit a doctor without delay in ports of call where practicable; (d) ensure that, in accordance with national law and practice, medical care and health protection while a seafarer is serving on articles are provided free of charge to seafarers; (e) are not limited to treatment of sick or injured seafarers but include measures of a preventive character, and devote particular attention to the development of health promotion and health education programmes in order that seafarers themselves may play an active part in reducing the incidence of ill-health among their number.⁵⁰⁶

Every ship to which this Convention applies shall be required to carry a medicine chest.⁵⁰⁷ The contents of the medicine chest and the medical equipment carried on board shall be prescribed by the competent authority taking into account such factors as the type of ship, the number of persons on board and the nature, destination and duration of voyages.⁵⁰⁸ Furthermore, every ship to which this Convention applies shall be required to carry a ship's medical guide adopted by the competent authority.⁵⁰⁹ In addition to that, 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.⁵¹⁰

All ships to which this Convention applies carrying 100 or more seafarers and ordinarily engaged on international voyages of more than three days' duration shall carry a medical doctor as a member of the crew responsible for providing medical care.⁵¹¹ All such ships which do not carry a doctor shall carry as members of the crew one or more specified persons in charge of medical care and the ad-

⁵⁰⁵ Convention No. 164, Article 1(1).

⁵⁰⁶ Convention No. 164, Article 4.

⁵⁰⁷ Convention No. 164, Article 5(1).

⁵⁰⁸ Convention No. 164, Article 5(2).

⁵⁰⁹ Convention No. 164, Article 6(1).

⁵¹⁰ Convention No. 164, Article 7(1).

⁵¹¹ Convention No. 164, Article 8(1).

ministering of medicines as part of their regular duties.⁵¹² Furthermore, in any ship of 500 or more gross tonnage, carrying 15 or more seafarers and engaged in a voyage of more than three days' duration, separate hospital accommodation shall be provided.⁵¹³ Finally, a standard medical report form for seafarers shall be adopted by the competent authority as a model for use by ships' doctors, masters or persons in charge of medical care on board, and by hospitals or doctors ashore.⁵¹⁴

Analysis of the comments of the Committee of Experts shows fifteen major issues relating to the application of the Convention. First, Convention No. 164 applies to every seagoing ship, which is ordinarily engaged in commercial maritime navigation, including maritime transport ships.⁵¹⁵ Second, the Convention applies to any person who is employed "in any capacity" on board a seagoing ship, whether publicly or privately owned, other than a ship of war, including members of the crew that are foreign nationals and persons employed on board a seagoing ship, who are not involved in maritime duties, such as catering personnel.⁵¹⁶ Third, the Government shall take measures to ensure that foreign seafarers enjoy treatment equal to that of its own nationals for the purpose of this Convention.⁵¹⁷ Fourth, the ratifying Member shall ensure that, in accordance with national law and practice, medical care and health protection while a seafarer is serving on articles are provided free of charge to all seafarers, including foreigners.⁵¹⁸

Fifth, in reviewing provisions of the national legislation concerning the contents of the medicine chest and the medical equipment carried on board, the competent authority takes into account the international recommendations in the field, e.g. the most recent edition of the *International Medical Guide for Ships* and the *List of Essential Drugs* published by the World Health Organization.⁵¹⁹ Sixth, according to the Convention the medicine chest and its contents as well as the medical equipment carried on board, shall be properly maintained and inspected by responsible persons designated by the competent authority, who shall ensure that the expiry dates and conditions of storage of all medicines are checked. Therefore, the case where national legislation does not require persons in charge of inspection to be specifically designated by the competent authority, and such inspections are carried out by physicians or pharmacists, is not in conformity with the requirements of the Convention.⁵²⁰ Seventh, the competent authority shall ensure that the contents of the medicine chest are listed and labeled with generic names in addition to any brand names used.⁵²¹

Eighth, in adopting or reviewing the ship's medical guide used nationally, the competent authority shall take into account international recommendations in this field, including the most recent edition of the *International Medical Guide for Ships* and the *Medical First Aid*

⁵¹² Convention No. 164, Article 9(1).

⁵¹³ Convention No. 164, Article 11(1).

⁵¹⁴ Convention No. 164, Article 12(1).

⁵¹⁵ See, **Slovakia** (CEACR, 2005/76th session: Direct request).

⁵¹⁶ See, **Slovakia** (CEACR, 2005/76th session: Direct request).

⁵¹⁷ See, **Slovakia** (CEACR, 2005/76th session: Direct request).

⁵¹⁸ See, **Mexico** (CEACR, 2001/72nd session: Direct request); **Slovakia** (CEACR, 2005/76th session: Direct request).

⁵¹⁹ See, **Finland** (CEACR, 2000/71st session: Direct request); **Germany** (CEACR, 2005/76th session: Direct request); **Hungary** (CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request); **Norway** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request).

⁵²⁰ See, **Norway** (CEACR, 2005/76th session: Direct request).

⁵²¹ See, **Germany** (CEACR, 2005/76th session: Direct request); **Hungary** (CEACR, 1995/65th session: Direct request); **Slovakia** (CEACR, 2005/76th session: Direct request).

Guide for Use in Accidents Involving Dangerous Goods.⁵²² Ninth, ratifying member shall ensure that that, on ships which do not carry a doctor, one or more specified crew members are in charge of medical care and the administering of medicines as part of their regular duties.⁵²³ Tenth, under Article 11 of the Convention, separate hospital accommodation shall be provided in any ship of 500 or more gross tonnage, carrying 15 or more seafarers and engaged in a voyage of more than three days' duration. Therefore, the case where - under the national legislation - the employer has the duty to set up a hospital with necessary medical and support personnel when it has at its service more than 300 workers, is not in conformity with the Convention.⁵²⁴

Eleventh, the number of hospital berths required shall be prescribed by the competent authority.⁵²⁵ Twelfth, a standard medical form, referred to in Article 12 of the Convention, is conceived to facilitate the exchange of medical and related information concerning individual seafarers between ship and shore in cases of illness or injury.⁵²⁶ Thirteenth, the case where there is no standard medical form for seafarers, but there is a form for reporting occupational accidents within 72 hours after their occurrence, is not in compliance with the Convention.⁵²⁷ Fourteenth, the Convention provides that Members for which this Convention is in force shall cooperate with one another in promoting protection of the health of seafarers and medical care for them on board ship.⁵²⁸ Finally, Members for which the Convention is in force shall cooperate with one another in promoting protection of the health of seafarers and medical care for them on board ship, regardless of whether these Members have a sea cost.⁵²⁹

2.5.1.2.2. *The Ships' Medicine Chest Recommendation, 1958 (No. 105)*

The Ships' Medicine Chest Recommendation, 1958 (No.105) stipulates that every vessel engaged in maritime navigation should be required to carry a medicine chest, the contents of which should be prescribed by the competent authority, taking into account such factors as the number of persons on board, and the nature and the duration of the voyage. Special provision should be made for the custody, by the master or other responsible officer, of medicaments the use of which is re-

⁵²² See, **Germany** (CEACR, 2005/76th session: Direct request); **Hungary** (CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request); **Slovakia** (CEACR, 2005/76th session: Direct request).

⁵²³ See, **Slovakia** (CEACR, 2005/76th session: Direct request).

⁵²⁴ See, **Mexico** (CEACR, 2001/72nd session: Direct request).

⁵²⁵ See, **Norway** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request).

⁵²⁶ See, **Hungary** (CEACR, 1994/64th session: Direct request; CEACR, 1998/69th session: Direct request); **Mexico** (CEACR, 2001/72nd session: Direct request); **Norway** (CEACR, 2005/76th session: Direct request).

⁵²⁷ See, **Mexico** (CEACR, 2002/73rd session: Direct request).

⁵²⁸ See, **Finland** (CEACR, 2000/71st session: Direct request); **Mexico** (CEACR, 1994/64th session: Direct request); **Norway** (CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Slovakia** (CEACR, 2005/76th session: Direct request); **Spain** (CEACR, 1994/64th session: Direct request); **Sweden** (CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2000/71st session: Direct request).

⁵²⁹ See, **Hungary** (CEACR, 1995/65th session: Direct request).

stricted.⁵³⁰ In establishing or reviewing rules or regulations concerning the contents of the various types of medicine chests, the competent authority should take into consideration the list of minimum contents appended to this Recommendation.⁵³¹

Under the Recommendation, all medicine chests should contain a medical guide approved by the competent authority, which explains fully how the contents of the medicine chest are to be used.⁵³² The guide should be sufficiently detailed to enable persons other than a ship's doctor to administer to the needs of sick or injured persons on board, both with and without supplementary medical advice by radio.⁵³³ The rules and regulations should provide for the proper maintenance and care of medicine chests and their contents and their regular inspection at intervals not normally exceeding 12 months by persons authorised by the competent authority.⁵³⁴

2.5.1.2.3. *The Medical Advice at Sea Recommendation, 1958 (No. 106)*

The Medical Advice at Sea Recommendation, 1958 (No. 106) recommends that the ILO Members ensure by a pre-arranged system that: (a) medical advice by radio to ships at sea is available free of charge at any hour of the day or night; (b) the medical advice available includes, where necessary and practicable, specialist advice; (c) adequate use is made of the radio advice facilities available, inter alia, by instruction of seagoing personnel and by medical guides which indicate clearly and concisely the type of information which will help the doctor in giving his advice, so that the person on board ship who seeks advice understands what sort of information is required by the advising doctor; (d) an up-to-date and complete list of radio stations from which medical advice can be obtained is carried on each ship equipped with radio installations, and kept in the custody of the radio officer or, in the case of smaller vessels, of the person responsible for radio duties.

2.5.1.3. *Welfare*

2.5.1.3.1. *The Seamen's Welfare in Ports Recommendation, 1936 (No. 48)*

The Seamen's Welfare in Ports Recommendation, 1936 (No. 48) stipulates that it is desirable to create in every important port an official or officially recognised body, which might comprise representatives of shipowners, seamen, national and local authorities and the chief associations concerned, for the purposes of: (a) collecting, as far as possible in conjunction with the different authorities or organisations concerned, including the consular authorities of maritime States, all useful

⁵³⁰ Recommendation No. 105, section 1(1).

⁵³¹ Recommendation No. 105, section 2(1). The Annex to Recommendation No. 105 provides the minimum list of medicaments and medical equipment.

⁵³² Recommendation No. 105, section 3.

⁵³³ Recommendation No. 105, section 3.

⁵³⁴ Recommendation No. 105, section 4.

information and suggestions on the conditions for seamen in the port; (b) advising the competent departments, authorities and associations as to the adoption, adaptation and co-ordination of measures for the improvement of such conditions; and (c) collaborating if required with other competent bodies in carrying out such measures.⁵³⁵

Recommendation No. 48 provides that there should be laws or regulations to protect seamen from the dangers to which they are exposed in certain establishments or in the docks as such, by measures including the following: (a) the regulation of the sale of intoxicating liquor; (b) the prohibition of the employment in public houses of young persons of either sex under a certain age; (c) the application of the provisions of international agreements limiting the sale and use of narcotics to all seamen without distinction of nationality; (d) the prohibition of the entry into the docks and harbour area generally of undesirable persons; (e) the fencing off of dock areas and the protection of edges of wharves and quays and other dangerous parts of docks by fixed or movable barriers, wherever such measures are practicable; (f) the provision of sufficient lighting and, where necessary, of signposts for docks and approaches.⁵³⁶ The Recommendation also contains detailed provisions with respect to health,⁵³⁷ accommodation and recreation;⁵³⁸ savings and remittance of wages;⁵³⁹ information for seamen;⁵⁴⁰ and equality of treatment.⁵⁴¹

2.5.1.3.2. The Seafarers' Welfare Recommendation, 1970 (No. 138)

The Seafarers' Welfare Recommendation, 1970 (No. 138) provides that welfare schemes should be systematically organised and financing should be on an adequate and regular basis.⁵⁴² There should be national, regional and/or port welfare boards, on which representative shipowners' and seafarers' organisations, the competent authorities and, where desirable and appropriate, voluntary organisations and social bodies concerned should be represented.⁵⁴³ The functions of such boards should include surveying the need for, and assisting and co-ordinating, welfare facilities in the area for which the board is responsible.⁵⁴⁴

The Recommendation also provides that seafarers' hotels or hostels should be maintained in all ports of interest to international shipping where there is a 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 im-

⁵³⁵ Recommendation No. 48, section 1.

⁵³⁶ Recommendation No. 48, section 3.

⁵³⁷ Recommendation No. 48, Part III.

⁵³⁸ Recommendation No. 48, Part IV.

⁵³⁹ Recommendation No. 48, Part V.

⁵⁴⁰ Recommendation No. 48, Part VI.

⁵⁴¹ Recommendation No. 48, Part VII.

⁵⁴² Recommendation No. 138, section 1.

⁵⁴³ Recommendation No. 138, section 3.

⁵⁴⁴ Recommendation No. 138, section 4.

mediate vicinity of the docks.⁵⁴⁵ These accommodation facilities should be open to seafarers of all nationalities, irrespective of colour, race or creed.⁵⁴⁶ Without in any way infringing on 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.⁵⁴⁷ In addition to that, the Recommendation contains provisions with respect to general welfare measures in port and on board ship;⁵⁴⁸ recreation facilities in port and on board ship;⁵⁴⁹ as well as information and educational facilities in port and on board ship.⁵⁵⁰

2.5.1.3.3. *The Seafarers' Welfare Convention, 1987 (No. 163)*

The Seafarers' Welfare Convention, 1987 (No. 163) provides that each Member for which this Convention is in force undertakes to ensure that adequate welfare facilities and services are provided for seafarers both in port and on board ship.⁵⁵¹ Each Member shall also ensure that the necessary arrangements are made for financing the welfare facilities and services provided in accordance with the provisions of this Convention.⁵⁵² Under the Convention, each Member undertakes to ensure that welfare facilities and services are provided in appropriate ports of the country for all seafarers, irrespective of nationality, race, colour, sex, religion, political opinion or social origin, and irrespective of the State in which the ship on which they are employed is registered.⁵⁵³ Furthermore, each Member undertakes to ensure that the welfare facilities and services on every seagoing ship, whether publicly or privately owned, which is registered in its territory, are provided for the benefit of all seafarers on board.⁵⁵⁴

Analysis of the comments of the Committee of Experts shows three major issues relating to the application of the Convention. First, the Convention applies to any person who is employed "in any capacity" on board a seagoing ship, whether publicly or privately owned, other than a ship of war, including members of the crew that are foreign nationals and persons employed on board a seagoing ship, who are not involved in maritime duties, such as catering personnel.⁵⁵⁵ Second, welfare facilities and services shall be provided in appropriate ports of the country for all seafarers, irrespective, inter alia, of nationality and of the State in which the ship on which they are employed is registered.⁵⁵⁶ Third, the cooperation provided for in Article 6(a) of the Convention is not limited to cooperation between two

⁵⁴⁵ Recommendation No. 138, section 9.

⁵⁴⁶ Recommendation No. 138, section 10.

⁵⁴⁷ Recommendation No. 138, section 10.

⁵⁴⁸ Recommendation No. 138, Chapter III.

⁵⁴⁹ Recommendation No. 138, Chapter IV.

⁵⁵⁰ Recommendation No. 138, Chapter V.

⁵⁵¹ Convention No. 163, Article 2(1).

⁵⁵² Convention No. 163, Article 2(2).

⁵⁵³ Convention No. 163, Article 3(1).

⁵⁵⁴ Convention No. 163, Article 4.

⁵⁵⁵ See, **Slovakia** (CEACR, 2005/76th session: Direct request).

⁵⁵⁶ See, **Spain** (CEACR, 1993/63rd session: Direct request).

Members which have ratified the Convention, but also extends to cooperation between a ratifying Member and any other Member of the ILO.⁵⁵⁷

2.5.1.3.4. The Seafarers' Welfare Recommendation, 1987 (No. 173)

The Seafarers' Welfare Recommendation, 1987 (No. 173) supplements Convention No. 163, by dealing in greater detail with welfare facilities and services in ports;⁵⁵⁸ welfare facilities and services at sea;⁵⁵⁹ and savings and remittance of wages.⁵⁶⁰

2.5.1.4. Accommodation

2.5.1.4.1. The Accommodation of Crews Convention (Revised), 1949 (No. 92)

The Accommodation of Crews Convention (Revised), 1949 (No. 92) applies to every sea-going mechanically propelled vessel, whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the purpose of trade and is registered in a territory for which this Convention is in force.⁵⁶¹ This Convention does not apply to vessels of less than 500 tons; vessels primarily propelled by sail but having auxiliary engines; vessels engaged in fishing or in whaling or in similar pursuits; and tugs.⁵⁶² Nevertheless, it shall be applied where reasonable and practicable to vessels between 200 and 500 tons; and to the accommodation of persons engaged in usual sea-going routine in vessels engaged in whaling or in similar pursuits.⁵⁶³

Under the Convention, before the construction of a ship is begun, a plan of the ship, showing on a prescribed scale the location and general arrangement of the crew accommodation, shall be submitted for approval to the competent authority.⁵⁶⁴ Each Member for which this Convention is in force undertakes to maintain in force laws or regulations which ensure the application of the provisions of Parts II, III and IV of this Convention.⁵⁶⁵ These provisions prescribe specific standards of crew accommodation such as, inter alia, detailed requirements with respect to its location;⁵⁶⁶ ventilation;⁵⁶⁷ heating;⁵⁶⁸ lighting;⁵⁶⁹ floor area per person in sleep-

⁵⁵⁷ See, **Hungary** (CEACR, 1998/69th session: Direct request); **Slovakia** (CEACR, 2005/76th session: Direct request); **Spain** (CEACR, 1998/69th session: Direct request).

⁵⁵⁸ Recommendation No. 173, Chapter II.

⁵⁵⁹ Recommendation No. 173, Chapter III.

⁵⁶⁰ Recommendation No. 173, Chapter IV.

⁵⁶¹ Convention No. 92, Article 1(1).

⁵⁶² Convention No. 92, Article 1(3).

⁵⁶³ Convention No. 92, Article 1(4).

⁵⁶⁴ Convention No. 92, Article 4(1).

⁵⁶⁵ Convention No. 92, Article 3(1).

⁵⁶⁶ Convention No. 92, Article 6.

⁵⁶⁷ Convention No. 92, Article 7.

⁵⁶⁸ Convention No. 92, Article 8.

⁵⁶⁹ Convention No. 92, Article 9.

ing rooms and their equipment;⁵⁷⁰ mess room accommodation;⁵⁷¹ recreation accommodation;⁵⁷² sanitary accommodation;⁵⁷³ hospital accommodation;⁵⁷⁴ accommodation for the hanging of oilskins;⁵⁷⁵ rooms for use as an office;⁵⁷⁶ and protection against mosquitoes.⁵⁷⁷

Analysis of the comments of the Committee of Experts shows twelve major issues relating to the application of the Convention. First, the Convention applies to every seagoing vessel of 500 tons or over (Article 1(3)(a)) and, when practical, to vessels between 200 and 500 tons (Article 1(4)(a)).⁵⁷⁸ Second, under Article 1(5) of the Convention, any of the requirements contained in Part III of this Convention may be varied in the case of any ship, if the competent authority is satisfied, after consultation with the organizations of shipowners and/or the shipowners and with the bona fide trade unions of seafarers, that the variations to be made provide corresponding advantages, as a result of which the overall conditions are not less favourable than those which would result from the full application of the provisions of the Convention.⁵⁷⁹ Third, under Article 3(1) of the Convention, each member for which this Convention is in force undertakes to maintain in force laws or regulations which ensure the application of the provisions of Parts II, III and IV of this Convention.⁵⁸⁰ Fourth, the

⁵⁷⁰ Convention No. 92, Article 10.

⁵⁷¹ Convention No. 92, Article 11.

⁵⁷² Convention No. 92, Article 12.

⁵⁷³ Convention No. 92, Article 13.

⁵⁷⁴ Convention No. 92, Article 14.

⁵⁷⁵ Convention No. 92, Article 15(1).

⁵⁷⁶ Convention No. 92, Article 15(2).

⁵⁷⁷ Convention No. 92, Article 15(3).

⁵⁷⁸ See, **Australia** (CEACR, 1998/69th session: Direct request).

⁵⁷⁹ See, **United Kingdom (Isle of Man)** (CEACR, 2006/77th session: Observation).

⁵⁸⁰ See, **Algeria** (CEACR, 1990/60th session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2004/75th session: Observation; CEACR, 2005/76th session: Observation); **Brazil** (CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 2000/71st session: Observation; CEACR, 2005/76th session: Observation); **Cyprus** (CEACR, 1998/69th session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request); **Egypt** (CEACR, 1991/61st session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 2001/72nd session: Observation; CEACR, 2003/74th session: Observation; CEACR, 2004/75th session: Observation); **Iraq** (CEACR, 1990/60th session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2002/73rd session: Observation); **Italy** (CEACR, 1990/60th session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 2005/76th session: Observation); **Liberia** (CEACR, 1990/60th session: Observation; CEACR, 1991/61st session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1999/70th session: observation; CEACR, 2002/73rd session: Observation); **Luxembourg** (CEACR, 2001/72nd session: Direct request; CEACR, 2002/73rd session: Direct request); **Panama** (CEACR, 1990/60th session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1995/66th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2003/74th session: Observation); **Spain** (CEACR, 1993/63rd session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2006/77th session: Observation).

laws or regulations ensuring the application of the provisions of Parts II, III and IV of the Convention shall prescribe adequate penalties for any violation thereof.⁵⁸¹

Fifth, the general reference to “the relevant provisions of ILO Conventions Nos. 68 and 92” in the Certificate of Inspection of Crew Accommodation, issued by recognized organizations and authorized classification societies, is alone not concrete enough to ensure appropriate application of the Convention. The government shall ensure that these recognized organizations and authorized classification societies verify compliance of ships flying the flag of the respective State with every specific requirement of Convention No. 92.⁵⁸² Sixth, pursuant to Article 4 of the Convention, national laws or regulations shall include the requirement to submit ship plans for approval to the competent authority before the construction of a ship is begun, before the crew accommodation is begun and before the crew accommodation in an existing ship is altered or reconstructed.⁵⁸³ Seventh, under Article 5 of the Convention, on every occasion: (a) when a ship is registered or reregistered, (b) when the crew accommodation of a ship has been substantially altered or reconstructed, or (c) when complaint has been made to the competent authority in the prescribed manner and in time to prevent any delay to the vessel by a recognized bona fide trade union of seafarers representing all or part of the crew or by a prescribed number or proportion of the members of the crew of the ship that the crew accommodation is not in compliance with the terms of the Convention, the competent authority shall inspect the ship and satisfy itself that the crew accommodation complies with the requirements of the laws and regulations.⁵⁸⁴ Eighth, under Article 6(2) of the Convention, the bulkheads shall be airtight not only “if practicable”, but in all cases, and there shall be no direct openings into sleeping rooms from communal wash places or water closets.⁵⁸⁵ Ninth, under Article 6(6) of the Convention, main steam and exhaust pipes for winches and similar gear shall not pass through crew accommodation.⁵⁸⁶ Tenth, while limited reduction in headroom is allowed under Article 10 of Convention No. 133, no similar reduction is allowed under Article 10(7) of Convention No. 92, meaning that under no circumstances can the clear headroom in crew sleeping rooms be less than 190 centimetres.⁵⁸⁷

Eleventh, under Article 10(10) of the Convention, the competent authority may grant permission to accommodate up to ten ratings per sleeping room in the case of certain passenger ships after consultation with the organizations of shipowners and/or the shipowners

⁵⁸¹ See, **Romania** (CEACR, 2005/76th session: Direct request).

⁵⁸² See, **Panama** (CEACR, 2003/74th session: Direct request).

⁵⁸³ See, **United Kingdom** (CEACR, 2005/76th session: Direct request).

⁵⁸⁴ See, **Israel** (CEACR, 1994/64th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2000/71st session: Direct request); **Portugal** (CEACR, 1993/63rd session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 2003/74th session: Observation; CEACR, 2005/76th session: Observation); **United Kingdom** (CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2005/76th session: Direct request); **United Kingdom (Isle of Man)** (CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Direct request).

⁵⁸⁵ See, **Greece** (CEACR, 1990/60th session: Direct request; CEACR, 1991/61st session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 2003/74th session: Direct request).

⁵⁸⁶ See, **Greece** (CEACR, 1990/60th session: Direct request; CEACR, 1991/61st session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 2003/74th session: Direct request).

⁵⁸⁷ See, **China (Hong Kong Special Administrative Region)** (CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Direct request); **Poland** (CACR, 2003/74th session: Direct request).

and the bona fide trade unions of seafarers.⁵⁸⁸ Twelfth, under Article 11(3)(c) of the Convention, a single mess room may be provided for deck and engine department petty officers and other ratings in cases in which the organizations of shipowners and/or shipowners and the recognized bona fide trade unions of seafarers concerned have expressed a preference for such an agreement.⁵⁸⁹ Thirteenth, Article 13(5) of the Convention authorizes special arrangements or a reduction in the number of facilities required only for passenger vessels normally engaged on voyages of not more than four hours' duration (or when the total number of the crew exceeds 100).⁵⁹⁰ Fourteenth, under Article 13(6) of the Convention, the competent authority may fix the maximum amount of fresh water which the shipowner may be required to supply per man per day in consultation with the organizations of shipowners and/or the shipowners and with the recognized bona fide trade unions of seafarers.⁵⁹¹ Fifteenth, under Article 13(12) of the Convention, facilities for washing and drying clothes shall be provided in all ships.⁵⁹²

2.5.1.4.2. The Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)

The Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) reflected the generally recognized fact that, since the adoption of Convention No. 92, considerable advances had been made in many countries in improving the standard of crew accommodation for seafarers, and that the international minimum standards contained in Convention No. 92 on this subject were generally below existing practice in many maritime countries.⁵⁹³ Correspondingly, the standards prescribed by Convention No. 133 are higher than those set out by Convention No. 92.⁵⁹⁴

Convention No. 133 applies to every sea-going ship, whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the

⁵⁸⁸ See, **France** (CEACR, 1997/68th session: Direct request); **France (French Guyana)** (CEACR, 1997/68th session: Direct request); **France (Guadeloupe)** (CEACR, 1997/68th session: Direct request); **France (Martinique)** (CEACR, 1997/68th session: Direct request); **France (Reunion)** (CEACR, 1997/68th session: Direct request).

⁵⁸⁹ See, **France** (CEACR, 1997/68th session: Direct request); **France (French Guyana)** (CEACR, 1997/68th session: Direct request); **France (Guadeloupe)** (CEACR, 1997/68th session: Direct request); **France (Martinique)** (CEACR, 1997/68th session: Direct request); **France (Reunion)** (CEACR, 1997/68th session: Direct request).

⁵⁹⁰ See, **Azerbaijan** (CEACR, 1998/69th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2002/73rd session: Direct request); **Russian Federation** (CEACR, 1998/69th session: Direct request).

⁵⁹¹ See, **France** (CEACR, 1997/68th session: Direct request); **France (French Guyana)** (CEACR, 1997/68th session: Direct request); **France (Guadeloupe)** (CEACR, 1997/68th session: Direct request); **France (Martinique)** (CEACR, 1997/68th session: Direct request); **France (Reunion)** (CEACR, 1997/68th session: Direct request).

⁵⁹² See, **Russian Federation** (CEACR, 1998/69th session: Direct request).

⁵⁹³ ILO: *Record of proceedings*, ILC, 55th (Maritime) Session 171 (Geneva, ILO, 1970).

⁵⁹⁴ For example, while under Convention No. 92, the floor area per person of sleeping rooms intended for ratings shall be not less than 2.35 square meters (25. square feet) in vessels of 800 tons or over, but under 3,000 tons, and not less than 2.78 square meters (30 square feet) in vessels of 3,000 tons or over, under Convention No. 133 the same floor area shall be not less than 3.75 square meters (40.36 square feet) in ships of 1,000 tons and over but less than 3,000 tons, and 4.25 square meters (45.75 square feet) in ships of 3,000 tons or over but less than 10,000.

purpose of trade or is employed for any other commercial purpose, which is registered in a territory for which this Convention is in force, and of which the keel is laid, or which is at a similar stage of construction, on or after the date of coming into force of the Convention for that territory.⁵⁹⁵ It applies to tugs where reasonable and practicable.⁵⁹⁶ The Convention does not apply to ships of less than 1,000 tons; ships primarily propelled by sail, whether or not they are fitted with auxiliary engines; ships engaged in fishing or in whaling or in similar pursuits; hydrofoils and air-cushion craft.⁵⁹⁷ Nevertheless, it shall be applied where reasonable and practicable to ships between 200 and 1,000 tons; and to the accommodation of persons engaged in usual sea-going routine in ships engaged in whaling or in similar pursuits.⁵⁹⁸

Each Member for which Convention No. 133 is in force undertakes to comply, in respect of ships to which this Convention applies, with the provisions of Parts II and III of the Accommodation of Crews Convention (Revised), 1949, and the provisions of Part II of this Convention.⁵⁹⁹ Part II of the Convention prescribes detailed requirements with respect to the floor area per person of sleeping rooms;⁶⁰⁰ the floor area of mess rooms;⁶⁰¹ recreation accommodation;⁶⁰² sanitary facilities;⁶⁰³ additional sanitary facilities in ships of 1,600 tons or over;⁶⁰⁴ the minimum headroom in all crew accommodation (not less than 198 centimeters);⁶⁰⁵ and lighting.⁶⁰⁶

Analysis of the comments of the Committee of Experts shows three major issues relating to the application of the Convention. First, Convention No. 133 applies to every seagoing ship, whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the purpose of trade or is employed for any other commercial purpose, which is registered in a territory for which this Convention is in force. The Convention does not distinguish between traditional and non-traditional commercial activities.⁶⁰⁷ Second, according to Article 3 of the Convention, each Member for which this Convention is in force undertakes to comply, in respect of ships to which this Convention applies, with (a)

⁵⁹⁵ Convention No. 133, Article 1(1).

⁵⁹⁶ Convention No. 133, Article 1(3).

⁵⁹⁷ Convention No. 133, Article 1(4).

⁵⁹⁸ Convention No. 133, Article 1(5).

⁵⁹⁹ Convention No. 133, Article 3. Countries which have ratified Convention No. 92 could also ratify Convention No. 133, and other countries would have the choice of ratifying either one or the other or both of these Conventions. If a country ratifies only Convention No. 92, it is clearly not bound by the provisions of Convention No. 133. A country which ratifies both Conventions has to comply with the relevant provisions of both instruments, while a country which ratifies only the supplementary Convention is, by virtue of Article 3 of that Convention, also required to comply with the relevant substantive provisions of Convention No. 92 in respect of ships to which Convention No. 133 applies. *See, ILO: Record of proceedings, ILC, 55th (Maritime) Session 171 (Geneva, ILO, 1970).*

⁶⁰⁰ Convention No. 133, Article 5.

⁶⁰¹ Convention No. 133, Article 6.

⁶⁰² Convention No. 133, Article 7.

⁶⁰³ Convention No. 133, Article 8.

⁶⁰⁴ Convention No. 133, Article 9.

⁶⁰⁵ Convention No. 133, Article 10.

⁶⁰⁶ Convention No. 133, Article 11.

⁶⁰⁷ *See, Liberia* (CEACR, 2003/74th session: Observation; CEACR, 2004/75th session: Observation; CEACR, 2005/76th session: Observation; CEACR, 2006/77th session: Observation).

the provisions of Parts II and III of Convention No. 92; and (b) the provisions of Part II of this Convention.⁶⁰⁸ Third, under Article 4(1) of the Convention, each Member for which this Convention is in force undertakes to maintain in force laws or regulations which ensure its application.⁶⁰⁹ Fourth, under Article 4(2) of the Convention, national laws or regulations shall (a) require the competent authority to bring them to the notice of all persons concerned; (b) define the persons responsible for compliance therewith; (c) prescribe adequate penalties for any violation thereof; (d) provide for the maintenance of a system of inspection adequate to ensure effective enforcement; (e) require the competent authority to consult the organizations of shipowners and/or the shipowners and the bona fide trade unions of seafarers in regard to the framing of regulations, and to collaborate so far as practicable with such parties in the administration thereof.⁶¹⁰ Fifth, the government shall ensure that vessels built abroad and purchased by the national shipowners are in conformity with the requirements of the Convention.⁶¹¹ Sixth, the provision of the national legislation, according to which in any passenger ship the Government Inspector of Shipping may permit more than four, but not more than ten, such ratings to be accommodated in one room if he is satisfied, after consultation with the owner of the ship or with such organization or organizations as appear to him to be representative of the ratings concerned, that the comfort of these ratings will thereby be increased, is not in compliance with Articles 1(6) and 5(4) of the Convention, because the Government Inspector of Shipping is not required to consult with both shipowner and organization (organizations) of ratings.⁶¹²

Seventh, under Article 5(10) of the Convention, the minimum inside dimensions of a berth shall be 198 centimeters by 80 centimeters (6 feet 6 inches by 2 feet 7.50 inches).⁶¹³ Eighth, in accordance with Article 6(1) of the Convention, the floor area of mess rooms for officers and for ratings shall be not less than 1 square metre (10.76 square feet) per person of the planned seating capacity.⁶¹⁴ Ninth, in accordance with Article 8(6) of the Convention facilities for washing, drying and ironing clothes shall be provided in all ships.⁶¹⁵ Tenth,

⁶⁰⁸ See, **Brazil** (CEACR, 1998/69th session: Direct request; CEACR, 2003/74th session: Direct request; CEACR, 2005/76th session: Observation); **Côte d'Ivoire** (CEACR, 1995/65th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request); **Italy** (CEACR, 1994/64th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2005/76th session: Observation); **Romania** (CEACR, 2005/76th session: Direct request); **United Kingdom (Gibraltar)** (CEACR, 2002/73rd session: Direct request; CEACR, 2004/75th session: Direct request); **Uruguay** (CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: direct request; CEACR, 1998/69th session: Direct request; CEACR, 2003/74th session: Direct request; CEACR, 2006/77th session: Observation).

⁶⁰⁹ See, **Greece** (CEACR, 2006/77th session: Observation).

⁶¹⁰ See, **Greece** (CEACR, 2006/77th session: Observation).

⁶¹¹ See, **Guinea** (CEACR, 1995/66th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request).

⁶¹² See, **Nigeria** (CACR, 1999/70th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 73rd session: Direct request; CEACR, 2003/74th session: Direct request; CEACR, 2005/76th session: Direct request).

⁶¹³ See, **Poland** (CEACR, 1994/64th session: Direct request).

⁶¹⁴ See, **Greece** (CEACR, 1993/63rd session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2003/74th session: Direct request); **Sweden** (CEACR, 1994/64th session: Direct request).

⁶¹⁵ See, **Azerbaijan** (CEACR, 1998/69th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2002/73rd session: Direct request); **Russian Federation** (CEACR, 1998/69th session: Direct request); **Ukraine** (CEACR, 1998/69th session: Direct request; CEACR, 2000/71st session: Direct request).

under Article 9(1)(a) of the Convention, in ships of 1,600 tons or over there shall be provided a separate compartment containing a water closet and a wash basin having hot and cold running fresh water, within easy access of the navigating bridge deck primarily for those on duty in the area.⁶¹⁶ Eleventh, under Article 10 of the Convention, the minimum headroom in all crew accommodation where full and free movement is necessary shall be not less than 198 centimetres (6 feet 6 inches).⁶¹⁷ Twelfth, under Article 11(2) of the Convention, subject to such special arrangements as may be permitted in passenger ships, sleeping rooms and mess rooms shall be lighted by natural light and shall be provided with adequate artificial light.⁶¹⁸

2.5.1.4.3. *The Bedding, Mess Utensils and Miscellaneous Provisions (Ships' Crews) Recommendation, 1946 (No. 78)*

The Bedding, Mess Utensils and Miscellaneous Provisions (Ships' Crews) Recommendation, 1946 (No. 78) provides that each Member of the International Labour Organisation should apply the following principles and should inform the International Labour Office, as requested by the Governing Body, of the measures taken to give effect thereto:

- Clean bed linen, blankets, bedspreads and mess utensils should be supplied to the members of the crew by the shipowner for use on board during service on the ship, and such members should be responsible for their return at times specified by the master and on completion of service in the ship. In the event of any article not being returned in good condition, fair wear and tear excepted, the member of the crew concerned should pay cost price.⁶¹⁹
- Bed linen, blankets and bedspreads should be of good quality, and plates, cups and other mess utensils should be of approved material which can be easily cleaned.⁶²⁰
- Towels, soap and toilet paper for the members of the crew should be provided by the shipowner.⁶²¹

2.5.1.4.4. *The Crew Accommodation (Air Conditioning) Recommendation, 1970 (No. 140)*

The Crew Accommodation (Air Conditioning) Recommendation, 1970 (No. 140) provides that all ships of 1,000 gross register tons or over constructed after the adoption of this Recommendation, except those regularly engaged in trades where temperate climatic conditions do not require this, should be equipped with air conditioning of crew accommodation.⁶²² The competent authority should investigate the possibility of installing air conditioning in ships of less than 1,000 tons

⁶¹⁶ See, **Australia** (CEACR, 1998/69th session: Direct request).

⁶¹⁷ See, **Poland** (CEACR, 1994/64th session: Direct request).

⁶¹⁸ See, **Brazil** (CEACR, 2005/76th session: Direct request).

⁶¹⁹ Recommendation No. 78, section 1.

⁶²⁰ Recommendation No. 78, section 2.

⁶²¹ Recommendation No. 78, section 3.

⁶²² Recommendation No 140, section 1(1).

constructed after the adoption of this Recommendation.⁶²³ It should also consider the possibility of providing existing ships with air conditioning of all or part of crew accommodation spaces by means of conversion of mechanical ventilation systems to full air conditioning, at a time when substantial structural alterations are being made to the accommodation.⁶²⁴

2.5.1.4.5. *The Crew Accommodation (Noise Control) Recommendation, 1970 (No. 141)*

The Crew Accommodation (Noise Control) Recommendation, 1970 (No. 141) provides that the competent authority in each maritime country, in conjunction with the competent international bodies and with representatives of shipowners' and seafarers' organisations, should review research into the problem of noise on board ships with the object of obtaining and pooling data, on the basis of which authoritative criteria and standards can be established at an early date, so that national provisions can be drawn up to protect seafarers, so far as necessary, from the ill effects of noise.⁶²⁵ In the light of that research, it should establish provisions for the reduction of, and protection of seafarers from, excessive and harmful noise on board ship as soon as this becomes reasonably possible.⁶²⁶ The Recommendation also lists specific measures to be considered.⁶²⁷

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⁶²³ Recommendation No 140, section 2(a).

⁶²⁴ Recommendation No 140, section 2(b).

⁶²⁵ Recommendation No. 141, section 1(1).

⁶²⁶ Recommendation No. 141, section 2.

⁶²⁷ Recommendation No. 141, section 3.

2.5.2. Texts of standards

2.5.2.1. *Food and Catering (Ships' Crews) Convention, 1946 (No. 68)*

Date of entry into force: March 24, 1957

The General Conference of the International Labour Organisation,

Having been convened at Seattle by the Governing Body of the International Labour Office, and having met in its Twenty-eighth Session on 6 June 1946,

Having decided upon the adoption of certain proposals with regard to food and catering for crews on board ship, which is the fourth item on the agenda of the Session, and

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

adopts this twenty-seventh day of June of the year one thousand nine hundred and forty-six the following Convention, which may be cited as the Food and Catering (Ships' Crews) Convention, 1946:

Article 1

1. Every Member of the International Labour Organisation for which this Convention is in force is responsible for the promotion of a proper standard of food supply and catering service for the crews of its sea-going vessels, whether publicly or privately owned, which are engaged in the transport of cargo or passengers for the purpose of trade and registered in a territory for which this Convention is in force.

2. National laws or regulations or, in the absence of such laws or regulations, collective agreements between employers and workers, shall determine the vessels or classes of vessels which are to be regarded as sea-going vessels for the purpose of this Convention.

Article 2

The following functions shall be discharged by the competent authority, except in so far as these functions are adequately discharged in virtue of collective agreements:

- (a) the framing and enforcement of regulations concerning food and water supplies, catering, and the construction, location, ventilation, heating, lighting, water system and equipment of galleys and other catering department spaces on board ship, including store rooms and refrigerated chambers;
- (b) the inspection of food and water supplies and of the accommodation, arrangements and equipment on board ship for the storage, handling and preparation of food;
- (c) the certification of such members of the catering department staff as are required to possess prescribed qualifications;
- (d) research into, and educational and propaganda work concerning, methods of ensuring proper food supply and catering service.

Article 3

1. The competent authority shall work in close co-operation with the organisations of shipowners and seafarers and with national or local authorities concerned with questions of food and health, and may where necessary utilise the services of such authorities.

2. The activities of the various authorities shall be duly co-ordinated so as to avoid overlapping or uncertainty of jurisdiction.

Article 4

The competent authority shall have a permanent staff of qualified persons, including inspectors.

Article 5

1. Each Member shall maintain in force laws or regulations concerning food supply and catering arrangements designed to secure the health and well-being of the crews of the vessels mentioned in Article 1.

2. These laws or regulations shall require -

- (a) the provision of food and water supplies which, having regard to the size of the crew and the duration and nature of the voyage, are suitable in respect of quantity, nutritive value, quality and variety;
- (b) the arrangement and equipment of the catering department in every vessel in such a manner as to permit of the service of proper meals to the members of the crew.

Article 6

National laws or regulations shall provide for a system of inspection by the competent authority of -

- (a) supplies of food and water;
- (b) all spaces and equipment used for the storage and handling of food and water;
- (c) galley and other equipment for the preparation and service of meals; and
- (d) the qualification of such members of the catering department of the crew as are required by such laws or regulations to possess prescribed qualifications.

Article 7

1. National laws or regulations or, in the absence of such laws or regulations, collective agreements between employers and workers shall provide for inspection at sea at prescribed intervals by the master, or an officer specially deputed for the purpose by him, together with a responsible member of the catering department of -

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

2. The results of each such inspection shall be recorded.

Article 8

A special inspection shall be made by the representatives of the competent authority of the territory of registration on written complaint made by a number or proportion of the crew prescribed by national laws or regulations or on behalf of a recognised organisation of shipowners or seafarers. In order to avoid delay in sailing, such complaints should be submitted as soon as possible and at least twenty-four hours before the scheduled time of departure from port.

Article 9

1. Inspectors shall have authority to make recommendations to the owner of a ship, or to the master or other person responsible, with a view to the improvement of the standard of catering.

2. National laws or regulations shall prescribe penalties for -

- (a) failure by an owner, master, member of the crew, or other person responsible to comply with the requirements of the national laws or regulations in force; and
 - (b) any attempt to obstruct an inspector in the discharge of his duties.
3. Inspectors shall submit regularly to the competent authority reports framed on uniform lines dealing with their work and its results.

Article 10

1. The competent authority shall prepare an annual report.
2. The annual report shall be issued as soon as practicable after the end of the year to which it relates and shall be made readily available to all bodies and persons concerned.
3. Copies of the annual report shall be transmitted to the International Labour Office.

Article 11

1. Courses of training for employment in the catering department of sea-going ships shall be organised either in approved schools or by means of other arrangements acceptable to both shipowners' and seafarers' organisations.
2. Facilities shall be provided for refresher courses to enable persons already trained to bring their knowledge and skill up to date.

Article 12

1. The competent authority shall 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 ship.
2. This information shall be made available, free of charge or at reasonable cost, to manufacturers of and traders in ships' food supplies and equipment, ships' masters, stewards and cooks, and shipowners and seafarers and their organisations generally; appropriate forms of publicity, such as manuals, brochures, posters, charts or advertisements in trade journals, shall be used for this purpose.
3. The competent authority shall issue recommendations to avoid wastage of food, facilitate the maintenance of a proper standard of cleanliness, and ensure the maximum practicable convenience in working.

Article 13

Any of the functions of the competent authority in respect of the certification of catering department staff and the collection and distribution of information may be discharged by delegating the work, or part of it, to a central organisation or authority exercising similar functions in respect of seafarers generally.

Article 14

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 15

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force six months after the date on which there have been registered ratifications by nine of the following countries: United States of America, Argentine Republic, Australia, Belgium, Brazil, Canada, Chile, China, Denmark, Finland, France, United Kingdom of Great Britain and Northern Ireland, Greece, India, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Sweden, Turkey and Yugoslavia, including at least five coun-

tries each of which has at least one million gross register tons of shipping. This provision is included for the purpose of facilitating and encouraging early ratification of the Convention by Member States.

3. Thereafter, this Convention shall come into force for any Member six months after the date on which its ratification has been registered.

Article 16

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 17

1. The Director-General of the International Labour Office shall notify the all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the last ratification required to bring the Convention into force, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 18

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 by him in accordance with the provisions of the preceding Articles.

Article 19

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 20

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 16 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 21

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

2.5.2.2. Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)

Date of entry into force: February 17, 1973

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-fifth Session on 14 October 1970, and

Noting the terms of existing international labour Conventions and Recommendations applicable to work on board ship and in port and relevant to the prevention of occupational accidents to seafarers, and in particular of the Labour Inspection (Seamen) Recommendation, 1926, the Prevention of Industrial Accidents Recommendation, 1929, the Protection against Accidents (Dockers) Convention (Revised), 1932, the Medical Examination (Seafarers) Convention, 1946, and the Guarding of Machinery Convention and Recommendation, 1963, and

Noting the terms of the Safety of Life at Sea Convention, 1960, and the Regulations annexed to the International Load Line Convention, as revised in 1966, which provide for a number of safety measures on board ship which provide protection for persons employed thereon, and

Having decided upon the adoption of certain proposals with regard to accident prevention on board ship at sea and in port, which is the fifth item on the agenda of the session, and

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

Noting that, for the success of action in the field of accident prevention on board ship, it is important that close co-operation be maintained in their respective fields between the International Labour Organisation and the Inter-Governmental Maritime Consultative Organization, and

Noting that the following standards have accordingly been framed with the co-operation of the Inter-Governmental Maritime Consultative Organization, and that it is proposed to seek its continuing co-operation in the application of these standards,

adopts this thirtieth day of October of the year one thousand nine hundred and seventy the following Convention, which may be cited as the Prevention of Accidents (Seafarers) Convention, 1970:

Article 1

1. For the purpose of this Convention, the term seafarer covers all persons who are employed in any capacity on board a ship, other than a ship of war, registered in a territory for which the Convention is in force and ordinarily engaged in maritime navigation.

2. In the event of any doubt 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 country after consultation with the shipowners' and seafarers' organisations concerned.

3. For the purpose of this Convention, the term occupational accidents covers accidents to seafarers arising out of or in the course of their employment.

Article 2

1. The competent authority in each maritime country shall take the necessary measures to ensure that occupational accidents are adequately reported and investigated, and comprehensive statistics of such accidents kept and analysed.

2. All occupational accidents shall be reported and statistics shall not be limited to fatalities or to accidents involving the ship.

3. The statistics shall record the numbers, nature, causes and effects of occupational accidents, with a clear indication of the department on board ship - for instance, deck, engine or catering - and of the area--for instance, at sea or in port - where the accident occurred.

4. The competent authority shall undertake an investigation into the causes and circumstances of occupational accidents resulting in loss of life or serious personal injury, and such other accidents as may be specified in national laws or regulations.

Article 3

In order to provide a sound basis for the prevention of accidents which are due to particular hazards of maritime employment, research shall be undertaken into general trends and into such hazards as are brought out by statistics.

Article 4

1. Provisions concerning the prevention of occupational accidents shall be laid down by laws or regulations, codes of practice or other appropriate means.

2. These provisions shall refer to any general provisions on the prevention of accidents and the protection of health in employment which may be applicable to the work of seafarers, and shall specify measures for the prevention of accidents which are peculiar to maritime employment.

3. In particular, these provisions shall cover the following matters:

- (a) general and basic provisions;
- (b) structural features of the ship;
- (c) machinery;
- (d) special safety measures on and below deck;
- (e) loading and unloading equipment;
- (f) fire prevention and fire-fighting;
- (g) anchors, chains and lines;
- (h) dangerous cargo and ballast;
- (i) personal protective equipment for seafarers.

Article 5

1. The accident prevention provisions referred to in Article 4 shall clearly specify the obligation of shipowners, seafarers and others concerned to comply with them.

2. Generally, any obligation on the shipowner to provide protective equipment or other accident prevention safeguards shall 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 measures.

Article 6

1. Appropriate measures shall be taken to ensure the proper application of the provisions referred to in Article 4, by means of adequate inspection or otherwise.

2. Appropriate measures shall be taken to ensure compliance with these provisions.

3. All necessary steps shall be taken to ensure that inspection and enforcement authorities are familiar with maritime employment and its practices.

4. In order to facilitate application, copies or summaries of the provisions shall be brought to the attention of seafarers, for instance by display in a prominent position on board ship.

Article 7

Provision shall be made for the appointment, from amongst the crew of the ship, of a suitable person or suitable persons or of a suitable committee responsible, under the Master, for accident prevention.

Article 8

1. Programmes for the prevention of occupational accidents shall be established by the competent authority with the co-operation of shipowners' and seafarers' organisations.

2. Implementation of such programmes shall be so organised that the competent authority, shipowners and seafarers or their representatives and other appropriate bodies may play an active part.

3. In particular, national or local joint accident prevention committees or ad hoc working parties, on which both shipowners' and seafarers' organisations are represented, shall be established.

Article 9

1. The competent authority shall promote and, in so far as appropriate under national conditions, ensure the inclusion, as part of the instruction in professional duties, of instruction in the prevention of accidents and in measures for the protection of health in employment in the curricula, for all categories and grades of seafarers, of vocational training institutions.

2. All appropriate and practicable measures shall also be taken to bring to the attention of seafarers information concerning particular hazards, for instance by means of official notices containing relevant instructions.

Article 10

Members, with the assistance as appropriate of intergovernmental and other international organisations, shall endeavour, in co-operation with each other, to achieve the greatest possible measure of uniformity of other action for the prevention of occupational accidents.

Article 11

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 12

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 13

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 14

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 15

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 by him in accordance with the provisions of the preceding Articles.

Article 16

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 17

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 18

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

2.5.2.3. Prevention of Accidents (Seafarers) Recommendation, 1970 (No. 142)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-fifth Session on 14 October 1970, and

Considering that, although much is being done in a number of countries to reduce occupational accidents to seafarers, there is room for further study of such accidents and for further measures for their prevention, and that international standards embodying a relevant programme of action for the maritime sector are accordingly desirable, and

Having decided upon the adoption of certain proposals with regard to accident prevention on board ship at sea and in port, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Prevention of Accidents (Seafarers) Convention, 1970, and

Noting that the following standards have been framed with the co-operation of the Inter-Governmental Maritime Consultative Organization, and that it is proposed to seek its continuing co-operation in promoting and securing the application of these standards,

adopts this thirtieth day of October of the year one thousand nine hundred and seventy, the following Recommendation, which may be cited as the Prevention of Accidents (Seafarers) Recommendation, 1970:

1. For the purpose of this Recommendation -

- (a) the term "seafarer" covers all persons who are employed in any capacity on board a ship, other than a ship of war, ordinarily engaged in maritime navigation;
- (b) the term "occupational accidents" covers accidents to seafarers arising out of or in the course of their employment.

2. In giving effect to paragraph 3 of Article 2 of the Prevention of Accidents (Seafarers) Convention, 1970, Members should have due regard to any international system of recording accidents to seafarers which may have been established by the International Labour Organisation.

3. Subjects to be investigated in pursuance of Article 3 of the Prevention of Accidents (Seafarers) Convention, 1970, might include -

- (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 ship, in particular as consequence of increased workload;
- (e) problems arising from and effects of technical developments and their influence on the composition of crews;
- (f) problems arising from any human failures such as carelessness.

4. In formulating the accident prevention provisions called for by Article 4 of the Prevention of Accidents (Seafarers) Convention, 1970, 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.

5. In giving effect to Article 5 of the Prevention of Accidents (Seafarers) Convention, 1970, account should be taken of Articles 7 and 11 of the Guarding of Machinery Convention, 1963 - and the corresponding provisions of the Guarding of Machinery Recommendation, 1963 - 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.

6. (1) The functions of the committees and other bodies referred to in paragraph 3 of Article 8 of the Prevention of Accidents (Seafarers) Convention, 1970, might include -

- (a) the preparation of accident prevention provisions, rules and manuals;
- (b) the organisation of accident prevention training and programmes;
- (c) the organisation of accident prevention publicity, including films, posters, notices and brochures;
- (d) the distribution of accident prevention literature and information so that it reaches seafarers on board ship.

(2) Relevant provisions or recommendations adopted by the appropriate national authorities or organisations or responsible international maritime organisations should be taken into account by those preparing texts of accident prevention measures and/or recommended practices.

7. The syllabuses of the instruction referred to in Article 9 of the Prevention of Accidents (Seafarers) Convention, 1970, 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 crewing practices, nationality, language and the organisation of work on board ship.

8. (1) There should be continuous accident prevention publicity.

(2) 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 ship;
- (b) display of safety posters on board ship;
- (c) inclusion of articles on hazards of maritime employment and accident prevention measures in periodicals read by seafarers;
- (d) special campaigns, during which various media of publicity are used to instruct seafarers in 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 ship.

9. (1) In giving effect to Article 10 of the Accident Prevention (Seafarers) Convention, 1970, Members should have due regard to relevant Model Codes of Safety Regulations or Codes of Practice published by the International Labour Office and the appropriate standards of international organisations for standardisation.

(2) Members should further have regard to the need for international co-operation in the continuous promotion of action for the prevention of occupational accidents; such co-operation might take the form of -

- (a) bilateral or multilateral arrangements for uniformity in accident prevention standards and safeguards;
- (b) exchange of information on particular hazards affecting seafarers and on means of preventing accidents;
- (c) assistance in testing of equipment and inspection according to the national regulations of the country of registration of the ship;
- (d) collaboration in the preparation and dissemination of 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 accident prevention and safe working practices.

2.5.2.4. Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)

Date of entry into force: January 11, 1991

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Seventy-fourth Session on 24 September 1987, and

Noting the provisions of the Medical Examination (Seafarers) Convention, 1946, the Accommodation of Crews Convention (Revised), 1949, the Accommodation of Crews (Supplementary Provisions) Convention, 1970, the Ships' Medicine Chests Recommendation, 1958, the Medical Advice at Sea Recommendation, 1958, and the Prevention of Accidents (Seafarers) Convention and Recommendation, 1970, and

Noting the terms of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as regards training in medical aid in the case of accidents or illnesses that are likely to occur on board ship, and

Noting that for the success of action in the field of health protection and medical care for seafarers, it is important that close co-operation be maintained in their respective fields between the International Labour Organisation, the International Maritime Organization and the World Health Organization, and

Noting that the following standards have accordingly been framed with the co-operation of the International Maritime Organization and the World Health Organization, and that it is proposed to seek their continuing co-operation in the application of these standards, and

Having decided upon the adoption of certain proposals with regard to health protection and medical care for seafarers, which is the fourth item on the agenda of the session, and

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

adopts this eighth day of October of the year one thousand nine hundred and eighty-seven the following Convention which may be cited as the Health Protection and Medical Care (Seafarers) Convention, 1987:

Article 1

1. This Convention applies to every seagoing ship whether publicly or privately owned, which is registered in the territory of any Member for which the Convention is in force and which is ordinarily engaged in commercial maritime navigation.

2. To the extent it deems practicable, after consultation with the representative organisations of fishing-vessel owners and fishermen, the competent authority shall apply the provisions of this Convention to commercial maritime fishing.

3. In the event of doubt as to whether or not any ships are to be regarded as engaged in commercial maritime navigation or commercial maritime fishing for the purpose of this Convention, the question shall be determined by the competent authority after consultation with the organisations of shipowners, seafarers and fishermen concerned.

4. For the purpose of this Convention the term "seafarer" means any person who is employed in any capacity on board a seagoing ship to which this Convention applies.

Article 2

Effect shall be given to this Convention by national laws or regulations, collective agreements, works rules, arbitration awards or court decisions or other means appropriate to national conditions.

Article 3

Each Member shall by national laws or regulations make shipowners responsible for keeping ships in proper sanitary and hygienic conditions.

Article 4

Each Member shall ensure that measures providing for health protection and medical care for seafarers on board ship are adopted which -

- (a) ensure the application to seafarers of any general provisions on occupational health protection and medical care relevant to the seafaring profession, as well as of special provisions peculiar to work on board;
- (b) aim at providing seafarers with health protection and medical care as comparable as possible to that which is generally available to workers ashore;
- (c) guarantee seafarers the right to visit a doctor without delay in ports of call where practicable;
- (d) ensure that, in accordance with national law and practice, medical care and health protection while a seafarer is serving on articles are provided free of charge to seafarers;
- (e) are not limited to treatment of sick or injured seafarers but include measures of a preventive character, and devote particular attention to the development of health promotion and health education programmes in order that seafarers themselves may play an active part in reducing the incidence of ill-health among their number.

Article 5

1. Every ship to which this Convention applies shall be required to carry a medicine chest.

2. The contents of the medicine chest and the medical equipment carried on board shall be prescribed by the competent authority taking into account such factors as the type of ship, the number of persons on board and the nature, destination and duration of voyages.

3. In adopting or reviewing the national provisions concerning the contents of the medicine chest and the medical equipment carried on board, the competent authority shall take into account international recommendations in this field, such as the most recent edition of the *International Medical Guide for Ships* and the *List of Essential Drugs* published by the World Health Organization, as well as advances in medical knowledge and approved methods of treatment.

4. The medicine chest and its contents as well as the medical equipment carried on board shall be properly maintained and inspected at regular intervals, not exceeding 12 months, by responsible persons designated by the competent authority, who shall ensure that the expiry dates and conditions of storage of all medicines are checked.

5. The competent authority shall ensure that the contents of the medicine chest are listed and labelled with generic names in addition to any brand names used, expiry dates and conditions of storage, and that they conform to the medical guide used nationally.

6. The competent authority shall ensure that 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 is made available to the master, seafarers and other interested persons. Such specific antidotes and personal protective devices shall be on board whenever dangerous goods are carried.

7. In cases of urgent necessity and when a medicine prescribed by qualified medical personnel for a seafarer is not available in the medicine chest, the shipowner shall take all necessary steps to obtain it as soon as possible.

Article 6

1. Every ship to which this Convention applies shall be required to carry a ship's medical guide adopted by the competent authority.

2. The medical guide shall explain how the contents of the medicine chest are to be used and shall be designed to enable persons other than a doctor to care for the sick or injured on board both with and without medical advice by radio or satellite communication.

3. In adopting or reviewing the ship's medical guide used nationally, the competent authority shall take into account international recommendations in this field, including the most recent edition of the *International Medical Guide for Ships* and the *Medical First Aid Guide for Use in Accidents Involving Dangerous Goods*.

Article 7

1. 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.

2. Such 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 territory in which they are registered.

3. With a view to ensuring that optimum use is made of facilities available for medical advice by radio or satellite communication -

- (a) all ships to which this Convention applies which are equipped with radio installations shall carry a complete list of radio stations through which medical advice can be obtained;
- (b) all ships to which this Convention applies which are equipped with a system of satellite communication shall carry a complete list of coast earth stations through which medical advice can be obtained;
- (c) the lists shall be kept up to date and in the custody of the person on board responsible for communication duties.

4. Seafarers on board requesting medical advice by radio or satellite communication shall 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.

5. The competent authority shall ensure that doctors providing medical advice in accordance with this Article receive appropriate training and are aware of shipboard conditions.

Article 8

1. All ships to which this Convention applies carrying 100 or more seafarers and ordinarily engaged on international voyages of more than three days' duration shall carry a medical doctor as a member of the crew responsible for providing medical care.

2. National laws or regulations shall determine which other ships shall be required to carry a medical doctor as a member of the crew, taking into account, inter alia, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board.

Article 9

1. All ships to which this Convention applies and which do not carry a doctor shall carry as members of the crew one or more specified persons in charge of medical care and the administering of medicines as part of their regular duties.

2. Persons in charge of medical care on board who are not doctors shall have satisfactorily completed a course approved by the competent authority of theoretical and applied training in medical skills. This course shall comprise -

- (a) for ships of less than 1,600 gross tonnage which ordinarily are capable of reaching qualified medical care and medical facilities within eight hours, elementary training which will enable such persons to take immediate, effective action in case of accidents or illnesses likely to occur on board ship and to make use of medical advice by radio or satellite communication;
- (b) for all other ships, more advanced medical training, 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 co-ordinated 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. Wherever possible, this training shall be provided under the supervision of a physician with a thorough knowledge and understanding of the medical problems and circumstances relating to the seafaring profession, including expert knowledge of radio or satellite communication medical services.

3. The courses referred to in this Article shall 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.

4. Persons referred to in paragraph 2 of this Article and such other seafarers as may be required by the competent authority shall 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.

5. All seafarers, during their maritime vocational training, shall receive instruction on the immediate action that should be taken on encountering an accident or other medical emergency on board.

6. In addition to the person or persons in charge of medical care on board, a specified crew member or crew members shall receive elementary training in medical care to enable him or them to take immediate effective action in case of accidents or illnesses likely to occur on board ship.

Article 10

All ships to which this Convention applies shall provide all possible medical assistance, where practicable, to other vessels which may request it.

Article 11

1. In any ship of 500 or more gross tonnage, carrying 15 or more seafarers and engaged in a voyage of more than three days' duration, separate hospital accommodation shall be provided. The competent authority may relax this requirement in respect of ships engaged in coastal trade.

2. In any ship of between 200 and 500 gross tonnage and in tugs this Article shall be applied where reasonable and practicable.

3. This Article does not apply to ships primarily propelled by sail.

4. The hospital accommodation shall be suitably situated, so that it is easy of access and so that the occupants may be comfortably housed and may receive proper attention in all weathers.

5. The hospital accommodation shall be so designed as to facilitate consultation and the giving of medical first aid.

6. The arrangement of the entrance, berths, lighting, ventilation, heating and water supply shall be designed to ensure the comfort and facilitate the treatment of the occupants.

7. The number of hospital berths required shall be prescribed by the competent authority.

8. Water closet accommodation shall be provided for the exclusive use of the occupants of the hospital accommodation, either as part of the accommodation or in close proximity thereto.

9. Hospital accommodation shall not be used for other than medical purposes.

Article 12

1. A standard medical report form for seafarers shall be adopted by the competent authority as a model for use by ships' doctors, masters or persons in charge of medical care on board and hospitals or doctors ashore.

2. The form shall be specially designed to facilitate the exchange of medical and related information concerning individual seafarers between ship and shore in cases of illness or injury.

3. The information contained in the medical report form shall be kept confidential and shall be used for no other purpose than to facilitate the treatment of seafarers.

Article 13

1. Members for which this Convention is in force shall co-operate with one another in promoting protection of the health of seafarers and medical care for them on board ship.

2. Such co-operation might cover the following matters:

- (a) developing and co-ordinating 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 of Maritime Search and Rescue, 1979, and the *Merchant Ship Search and Rescue Manual* and *IMO Search and Rescue Manual* developed by the International Maritime Organization;
- (b) making optimum use of fishing vessels 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 world-wide to provide emergency medical care to seafarers;
- (d) landing seafarers in port for emergency treatment;
- (e) repatriating seafarers hospitalised 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 harmonising them with any existing national system of statistics on occupational accidents, diseases and fatalities covering other categories of workers;
- (i) organising 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;
- (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.

3. International co-operation in the field of health protection and medical care for seafarers shall be based on bilateral or multilateral agreements or consultations among Members.

Article 14

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 15

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 16

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 17

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 18

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 by him in accordance with the provisions of the preceding Articles.

Article 19

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 20

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provide -

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 16 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 21

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

2.5.2.5. *Ships' Medicine Chest Recommendation, 1958 (No. 105)*

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-first Session on 29 April 1958, and

Having decided upon the adoption of certain proposals with regard to the contents of medicine chests on board ship, which are included in the fifth item on the agenda of the session, and

Having decided that these proposals shall take the form of a Recommendation,

adopts this thirteenth day of May of the year one thousand nine hundred and fifty-eight, the following Recommendation, which may be cited as the *Ships' Medicine Chests Recommendation, 1958*:

The Conference recommends that each Member should apply the following provisions:

1. (1) Every vessel engaged in maritime navigation should be required to carry a medicine chest, the contents of which should be prescribed by the competent authority, taking into account such factors as the number of persons on board, and the nature and the duration of the voyage. Special provision should be made for the custody, by the master or other responsible officer, of medicaments the use of which is restricted.

(2) The rules and regulations concerning the minimum contents of the medicine chests should apply whether there is a ship's doctor on board or not.

2. (1) In establishing or reviewing rules or regulations concerning the contents of the various types of medicine chests, the competent authority should take into consideration the list of minimum contents appended to this Recommendation.

(2) Such rules or regulations should be subject to periodical revision in the light of new medical discoveries, advances and approval methods of treatment, in accordance with any proposals for such revision which may be adopted in a manner agreed between the International Labour Organisation and the World Health Organisation.

3. All medicine chests should contain a medical guide approved by the competent authority, which explains fully how the contents of the medicine chest are to be used. The guide should be sufficiently detailed to enable persons other than a ship's doctor to administer to the needs of sick or injured persons on board both with and without supplementary medical advice by radio.

4. The rules and regulations should provide for the proper maintenance and care of medicine chests and their contents and their regular inspection at intervals not normally exceeding 12 months by persons authorised by the competent authority.

ANNEX

Minimum List of Medicaments and Medical Equipment¹

A. Medicaments Corresponding to the Following Preparations Described in the International Pharmacopoeia

(a) In Volume I:

- (Optional) Antidiphtheria serum.
- (Optional) Antitetanus serum (small quantities).
- Ethanol solution of iodine.
- Tincture of opium (and/or equivalent).

(b) In Volume II:

- (Optional) Injection of adrenalin.
- (Optional) Injection of atropine sulfate.
- Injection of morphine.
- (Optional) Injection of nikethamide.
- (Optional) Injection of procaine hydrochloride.
- Tablets of acetylsalicylic acid.
- (Optional) Tablets of ascorbic acid.
- (Optional.) Tablets of amphetamine sulfate.
- Tablets of codeine phosphate (and/or equivalent).
- Tablets of ephedrine hydrochloride.
- (Optional) Tablets of glyceryl trinitrate.
- (Optional) Tablets of mercurous chloride (calomel).
- Tablets of proguanil hydrochloride (and/or other anti-malarial drug).
- Tablets of succinylsulfathiazole (or equivalent).
- Tablets of sulfadiazine (or equivalent).
- (Optional) Tincture of belladonna.
- Water for injection.

¹ It is recommended that medicaments given by injection and included in this list, such as adrenalin, should whenever possible be supplied in single-dose containers.

B. *Other Medicaments*

(a) Preparations for external application:

An antiseptic for use in wounds.

A disinfectant.

An insecticide.

A liniment.

A lotion for acute dermatitis.

An ointment for haemorrhoids.

A preparation for ringworm, such as compound of benzoic and salicylic acid.

A preparation for chronic skin inflammations, e.g. compound zinc oxide paste. A preparation for burns.

An application of benzyl benzoate for scabies.

(Optional) A venereal-disease prophylactic package.

(b) Preparations for use in the eye:

An anaesthetic.

An antiseptic.

(Optional) Yellow mercury oxide eye-ointment.

(c) A preparation for toothache.

(d) Preparations for internal use:

Tablets of barbituric acid derivatives: (i) short-acting and hypnotic; (ii) long-acting and sedative.

Tablets of hyoscyne hydrobromide (scopolamine hydrobromide) or equivalent sea-sickness remedy.

Tablets of sodium chloride (for heat cramp).

An injection of repository form of penicillin, e.g. procaine penicillin G fortified (procaine penicillin G with crystalline penicillin), or PAM (procaine penicillin G in oil with aluminium monostearate), or benzathine penicillin G.

(Optional) An antibiotic for oral use, e.g. oxytetracycline hydrochloride or penicillin V.

(Optional) An antihistamine preparation.

Medicine to control gastric acidity.

Laxatives.

(e) Others:

Olive oil (or equivalent).

A copy of the *International List of Venereal-Disease Treatment Centres at Ports*, published by the World Health Organisation. Personal booklets for venereal-disease treatment in the form appended to the above publication.

Of the above list, the tablets of barbituric acid derivatives and of codeine phosphate, the injection of morphine and the tinctures of opium and of belladonna should be kept under lock and key by the master of the vessel or other responsible officer, who should also be responsible for the procaine and penicillin.

C. *Surgical Instruments, Appliances and Equipment*

Thermometer.

Hypodermic syringe and needles (suitable both for serums and for other injections).

Suture and ligatures (catgut, silkworm gut).

Suture needles (and possibly a needle holder).

Haemostatic forceps.

Splinter forceps.

Dissecting forceps.

Scalpel (stainless).

Surgical scissors.
Tourniquet.
Eye spud.
Eye cup.
Droppers.
Soft-rubber catheters of various sizes.
Splints (wooden or wire).
Bedpan.
Urine bottle.
Kidney dish.
Feeding cup.
Hot-water bottle.
Stretcher (a type suitable for transferring patients from one part of the ship to another, such as the Neil-Robertson stretcher or equivalent).
Bandage scissors.
Wooden applicators.
Bandages.
Gauze.
Cotton wool.
Adhesive tape.
Elastic adhesive bandages.
Plaster of Paris bandages.

2.5.2.6. Medical Advice at Sea Recommendation, 1958 (No. 106)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-first Session on 29 April 1958, and

Having decided upon the adoption of certain proposals with regard to medical advice by radio to ships at sea, which are included in the fifth item on the agenda of the session, and

Having decided that these proposals shall take the form of a Recommendation,

adopts this thirteenth day of May of the year one thousand nine hundred and fifty-eight, the following Recommendation, which may be cited as the Medical Advice at Sea Recommendation, 1958:

The Conference recommends that each Member should apply the following provisions:

Members should ensure by a pre-arranged system that -

- (a) medical advice by radio to ships at sea is available free of charge at any hour of the day or night;
- (b) the medical advice available includes, where necessary and practicable, specialist advice;
- (c) adequate use is made of the radio advice facilities available, inter alia, by instruction of seagoing personnel and by medical guides which indicate clearly and concisely the type of information which will help the doctor in giving his advice, so that the person on board ship who seeks advice understands what sort of information is required by the advising doctor;
- (d) an up-to-date and complete list of radio stations from which medical advice can be obtained is carried on each ship equipped with radio installations, and kept in the custody of the radio officer or, in the case of smaller vessels, of the person responsible for radio duties.

2.5.2.7. Seamen's Welfare in Port Recommendation, 1936 (No. 48)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Twenty-first Session on 6 October 1936, and

Having decided upon the adoption of certain proposals with regard to the promotion of seamen's welfare in ports, which is the third item on the agenda of the Session, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this twenty-fourth day of October of the year one thousand nine hundred thirty-six, the following Recommendation, which may be cited as the Seamen's Welfare in Ports Recommendation, 1936:

Whereas by the nature of their calling seamen are frequently deprived for long periods of the advantages of family life and may be exposed while in ports, particularly in foreign countries, to special dangers and difficulties and whereas it is not always possible for them to have the benefit of arrangements made to organise the spare time, promote the welfare and safeguard the health of the general body of workers;

Whereas certain Governments and different private associations have successfully taken various measures for the special help and protection of seamen in ports and whereas such protection should be extended to as large a number of seamen as possible; and

Whereas it is important, notwithstanding differences which may exist in national and local needs and customs, to develop and co-ordinate nationally and internationally the principal forms of action, in a manner which draws no distinction of race between seamen;

The Conference recommends that each Member of the International Labour Organisation should take the following principles and methods into consideration for the promotion of the welfare of both national and foreign seamen in ports.

Part I. General Organisation

1. It is desirable to create in every important port an official or officially recognised body, which might comprise representatives of shipowners, seamen, national and local authorities and the chief associations concerned, for the purposes of -

- (a) collecting, as far as possible in conjunction with the different authorities or organisations concerned, including the consular authorities of maritime States, all useful information and suggestions on the conditions for seamen in the port;
- (b) advising the competent departments, authorities and associations as to the adoption, adaptation and co-ordination of measures for the improvement of such conditions; and
- (c) collaborating if required with other competent bodies in carrying out such measures.

2. It is desirable, in order to enable the International Labour Office to inform the Governments of the maritime States and to assist them to co-ordinate their action, that each of them should keep in touch with the Office and furnish it every three years with all useful information on the experience acquired in the promotion of seamen's welfare in ports and on the progress made in this field.

Part II. Regulation

3. There should be laws or regulations to protect seamen, by measures including the following, from the dangers to which they are exposed in certain establishments or in the docks as such:

- (a) the regulation of the sale of intoxicating liquor;
- (b) the prohibition of the employment in public houses of young persons of either sex under a certain age;

- (c) the application of the provisions of international agreements limiting the sale and use of narcotics to all seamen without distinction of nationality;
- (d) the prohibition of the entry into the docks and harbour area generally of undesirable persons;
- (e) the fencing off of dock areas and the protection of edges of wharves and quays and other dangerous parts of docks by fixed or movable barriers, wherever such measures are practicable;
- (f) the provision of sufficient lighting and, where necessary, of signposts for docks and approaches.

4. In order to ensure the strict enforcement of the measures indicated above and to increase their efficacy, there should be arrangements for supervision, including –

- (a) supervision of establishments where intoxicating liquors are sold and, where necessary and practicable, of hotels, cafés, lodging houses and other similar establishments in the harbour area;
- (b) supervision, which might be carried out jointly by masters and the public authorities, of persons visiting ships, including boatmen plying between ships and the shore, with a view to preventing intoxicating liquor or narcotics being wrongfully brought on board or the fulfilment of any other illicit purpose;
- (c) the maintenance in the harbour area of adequate police forces, specially trained and equipped, which should keep in touch with the other supervising bodies.

5. For the better protection of foreign seamen, measures should be taken to facilitate –

- (a) their relations with their consuls; and
- (b) effective co-operation between consuls and the local or national authorities.

Part III. Health

6. Soliciting and enticing, whether directly or indirectly, in the neighbourhood of the harbour and in districts frequented by seamen should be energetically repressed.

7. All suitable measures should be taken to make known to seamen entering the port, irrespective of their nationality –

- (a) the dangers and means of preventing diseases to which they are exposed, including more particularly tuberculosis and tropical and venereal diseases;
- (b) the necessity for persons suffering from disease to undergo treatment and the facilities available for such treatment; and
- (c) the dangers arising from the habit of using narcotics.

8. The treatment of seamen suffering from disease should be facilitated by suitable measures including –

- (a) as wide extension as possible, especially in the dock area, of free and continued treatment for venereal diseases, as provided, for example, by the Agreement concerning Facilities to be given to Merchant Seamen for the Treatment of Venereal Diseases, signed at Brussels, 1 December 1924;
- (b) the admission of seamen to clinics and hospitals in ports, without difficulty and irrespective of nationality or religious belief;
- (c) as wide application as possible to foreign seamen of the provision made for the protection of nationals against tuberculosis;
- (d) the provision, whenever possible, of arrangements, designed to ensure, when necessary, continuation of treatment with a view to supplementing the medical facilities available to seamen.

Part IV. Accommodation and Recreation

9. Arrangements should be made, at least in the larger ports, for the material and general assistance of seamen while in the port and such arrangements should more particularly include -

- (a) the institution or development of seamen's hostels of a satisfactory character and furnishing suitable board and lodging at reasonable prices;
- (b) the institution or development of institutes--which might be distinct from the seamen's hostels, but should keep as far as possible in touch with them--providing meeting and recreation rooms (canteens, rooms for games, libraries, etc.);
- (c) the organisation, where possible in co-operation with ships' sports clubs, of healthy recreations, such as sports, excursions, etc.;
- (d) the promotion, by every possible means, of the family life of seamen.

Part V. Savings and Remittance of Wages

10. In order to help seamen to save and to transmit their savings to their families -

- (a) there should be adopted a simple, rapid and safe system, operating with the assistance of consuls, masters, shipowners' agents or reliable private institutions, for enabling seamen, and more especially those who are in a foreign country, to deposit or remit the whole or part of their wages;
- (b) a system for enabling seamen, at the time of their signing on or during the voyage, to allot, if they so desire, a proportion of their wages for remittance at regular intervals to their families should be instituted or made of more general application.

Part VI. Information for Seamen

11. In view of the fact that the success of most of the measures recommended above must depend to a large extent on suitable publicity among seamen, such publicity should be organised and undertaken by the public authorities, the bodies referred to in Part I of this Recommendation, and the competent associations, assisted as far as possible by the ship's officers and doctor and by ships' sports clubs.

12. Such publicity might include -

- (a) the distribution on shore and, subject to the consent of the master, on board ship, of pamphlets in the most appropriate languages giving clear information as to the facilities available for seamen in the port of call or in the next ports for which the ship is bound;
- (b) the creation in the larger ports of information offices, either at shipping offices or elsewhere, easily accessible to seamen and staffed by persons capable of giving directly such explanations or guidance as may be useful;
- (c) the inclusion of some useful information for the physical well-being and general protection of seamen in seamen's books, discharge books or other documents habitually carried by seamen, or in notices posted in a conspicuous place in the crew's quarters;
- (d) the frequent publication of articles of general and educational interest to seamen in periodicals read by seamen, both of specialised and general interest, and also the use of the cinema for this purpose;
- (e) the distribution of information concerning the tariffs of local transport and of local places of interest and entertainment.

Part VII. Equality of Treatment

13. Governments, authorities and organisations which may have to administer funds for the welfare of seamen are specially urged not to concern themselves solely with seamen of a particular nationality, but to act as generously as possible in the spirit of international solidarity.

2.5.2.8. Seafarers' Welfare Recommendation, 1970 (No. 138)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-fifth Session on 14 October 1970, and

Noting the provisions of the Seamen's Welfare in Ports Recommendation, 1936, and

Conscious of the fundamental need for the provision of welfare facilities both in port and on board ship, and in particular, in the light of changing characteristics of the shipping industry, the need for continuing development of the former and the growing importance of the latter, and

Considering the importance of recognising the role of statutory welfare bodies and voluntary organisations in this field and of seeking their expert assistance, and

Having decided upon the adoption of certain proposals with regard to seafarers' welfare at sea and in port, which is the seventh item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation, adopts this twenty-ninth day of October of the year one thousand nine hundred and seventy, the following Recommendation, which may be cited as the Seafarers' Welfare Recommendation, 1970:

I. Organisation and Financing of Welfare Activities

1. Welfare schemes should be systematically organised and financing should be on an adequate and regular basis.

2. Welfare services should be reviewed frequently to ensure that they keep pace with changes in the needs of seafarers resulting from technical, operational and other developments in the shipping industry.

3. There should be national, regional and/or port welfare boards, on which representative shipowners' and seafarers' organisations, the competent authorities and, where desirable and appropriate, voluntary organisations and social bodies concerned should be represented.

4. The functions of such boards should include surveying the need for, and assisting and co-ordinating, welfare facilities in the area for which the board is responsible.

5. Consuls and local representatives of foreign welfare organisations should, as appropriate, be associated with the work of regional and port welfare boards,

6. Measures should be taken to ensure that, as necessary, technically competent persons are employed full time in the operation of seafarers' welfare facilities, in addition to voluntary workers.

7. 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 should consult and co-operate with the competent authorities and bodies of the country in which the port is situated and with each other, with a view both to the pooling of resources and to avoiding unnecessary duplication.

8. With a view to better organising welfare and leisure activities and stimulating the use of welfare materials on board ship, instruction in the organisation of welfare activities on board should be included in training courses for officers and ratings. Consideration should be given to the periodic assignment to merchant vessels of an officer specially trained in such work.

II. Accommodation in Ports

9. Seafarers' hotels or hostels should be maintained in all ports of interest to international shipping where there is a 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.

10. 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.

11. Where necessary and possible, provision should be made for accommodating seafarers' families in seafarers' hotels and hostels.

12. Prices charged for board and accommodation in seafarers' hotels and hostels should be kept at a reasonable level.

13. Seafarers' hotels and hostels should be properly supervised on the same basis as other comparable establishments.

III. General Welfare Measures in Port and on Board Ship

14. Governments should take measures designed to overcome restrictions on and 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.

15. Every effort should be made to ensure that the forwarding of seafarers' mail is as reliable and expeditious as possible. Efforts should be made also to avoid seafarers being required to pay additional postage when mail has to be readdressed owing to circumstances beyond their control.

16. Adequate means of transportation at moderate prices should be available at any reasonable time when needed in order to enable seafarers to reach city centres from port areas.

17. Every effort should be made by those responsible to facilitate the granting of shore leave to officers and ratings as soon as possible after a ship's arrival in port.

18. In order to ensure the maintenance of seafarers' family ties in the special conditions of their employment, the granting of leave at home at reasonable intervals should be encouraged.

19. Measures should be taken to ensure, subject to any national or international laws or regulations, that whenever possible and reasonable both officers and ratings are expeditiously granted permission to have their wives, other relatives and friends as visitors on board their ships when in port.

20. Consideration should be given to the possibility of allowing the wives of seafarers to accompany their husbands on an occasional voyage, where this is practicable and reasonable. Wives who so accompany their husbands should carry adequate insurance cover against accident and illness; the shipowner should give every assistance to the seafarer to effect such insurance.

21. Where possible and appropriate, the provision of canteens on board ship for officers and ratings should be considered, unless this is contrary to national, religious or social customs.

22. Where possible, consideration should be given to the provision on board ship of facilities for the projection of films, television viewing, handicrafts and reading.

IV. Recreation Facilities in Port and on Board Ship

23. Centres providing meeting and recreation rooms for seafarers of all nationalities should be established or developed in all ports of interest to international shipping where there is a need for them.

24. Healthy recreation such as hobbies, gymnastics, games or sports, both ashore and on board, as well as excursions to places of interest, should be encouraged and should be organised by and for seafarers with assistance as appropriate from the port welfare bodies. Where possible, facilities for swimming should be provided on board ship.

25. All seafarers visiting a port should, where practicable and possible, have the opportunity of taking part in sports and outdoor recreation; for this purpose suitable facilities should be made available, for example by providing sports fields for the use of seafarers or by arranging for them access to existing sports fields.

26. There should be co-operation among the competent authorities of different countries, shipowners' and seafarers' organisations, welfare organisations and ships' captains in the establishment of international seafarers' sports competitions such as lifeboat races, athletics and football matches.

V. Information and Educational Facilities in Port and on Board Ship

27. Appropriate vocational training schemes for seafarers should include education and information on matters affecting their welfare, including general health hazards.

28. Information should be disseminated among seafarers concerning facilities open to the general public in ports of call—particularly transport, welfare and educational facilities and places of worship - as well as facilities provided specifically for seafarers. Such information could be in the form of a booklet, printed in several languages, which also contains a plan of the city and port.

29. Interesting and culturally profitable spare-time activities on board ship should be encouraged through the supply of suitable literature and assistance in pursuing hobby activities and amateur entertainment.

30. Correspondence courses in a variety of subjects of interest to seafarers should be available; other educational aids, such as film projectors, film library services and a tape recorder, should be provided on individual ships where appropriate.

2.5.2.9. Seafarers' Welfare Convention, 1987 (No. 163)

Date of entry into force: October 3, 1990

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Seventy-fourth Session on 24 September 1987, and

Recalling the provisions of the Seamen's Welfare in Ports Recommendation, 1936, and the Seafarers' Welfare Recommendation, 1970, and

Having decided upon the adoption of certain proposals with regard to seafarers' welfare at sea and in port which is the second item on the agenda of the session, and

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

adopts this eighth day of October of the year one thousand nine hundred and eighty-seven the following Convention which may be cited as the Seafarers' Welfare Convention, 1987:

Article 1

1. For the purposes of this Convention-

- (a) the term "seafarer" means any person who is employed in any capacity on board a seagoing ship, whether publicly or privately owned, other than a ship of war;
- (b) the term "welfare facilities and services" means welfare, cultural, recreational and information facilities and services.

2. Each Member shall determine by national laws or regulations, after consultation with the representative organisations of shipowners and seafarers, which ships registered in its territory are to be regarded as seagoing ships for the purpose of the provisions of this Convention relating to welfare facilities and services on board ship.

3. To the extent it deems practicable, after consultation with the representative organisations of fishing vessel owners and fishermen, the competent authority shall apply the provisions of this Convention to commercial maritime fishing.

Article 2

1. Each Member for which this Convention is in force undertakes to ensure that adequate welfare facilities and services are provided for seafarers both in port and on board ship.

2. Each Member shall ensure that the necessary arrangements are made for financing the welfare facilities and services provided in accordance with the provisions of this Convention.

Article 3

1. Each Member undertakes to ensure that welfare facilities and services are provided in appropriate ports of the country for all seafarers, irrespective of nationality, race, colour, sex, religion, political opinion or social origin and irrespective of the State in which the ship on which they are employed is registered.

2. Each Member shall determine, after consultation with the representative organisations of shipowners and seafarers, which ports are to be regarded as appropriate for the purposes of this Article.

Article 4

Each Member undertakes to ensure that the welfare facilities and services on every seagoing ship, whether publicly or privately owned, which is registered in its territory, are provided for the benefit of all seafarers on board.

Article 5

Welfare facilities and services shall 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.

Article 6

Each Member undertakes -

- (a) to co-operate with other Members with a view to ensuring the application of this Convention; and
- (b) to ensure co-operation between the parties engaged and interested in promoting the welfare of seafarers at sea and in port.

Article 7

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 8

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 9

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 11

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 by him in accordance with the provisions of the preceding Articles.

Article 12

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 13

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides -

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 14

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

2.5.2.10. Seafarers' Welfare Recommendation, 1987 (No. 173)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Seventy-fourth Session on 24 September 1987, and

Recalling the provisions of the Seamen's Welfare in Ports Recommendation, 1936, and the Seafarers' Welfare Recommendation, 1970, and

Having decided upon the adoption of certain proposals with regard to seafarers' welfare at sea and in port which is the second item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Seafarers' Welfare Convention, 1987,

adopts this eighth day of October of the year one thousand nine hundred and eighty-seven, the following Recommendation, which may be cited as the Seafarers' Welfare Recommendation, 1987.

I. General

1. For the purposes of this Recommendation:

- (a) the term "seafarer" means any person who is employed in any capacity on board a seagoing ship, whether publicly or privately owned, other than a ship of war;
- (b) the term "welfare facilities" and services means welfare, cultural, recreational and information facilities and services.

2. To the extent it deems practicable, after consultation with the representative organisations of fishing vessel owners and fishermen, the competent authority should apply the provisions of this Recommendation to commercial maritime fishing.

3. (1) Measures should be taken by Members to ensure that adequate welfare facilities and services are provided for seafarers both in port and on board ship, 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.

4. Arrangements for the supervision of welfare facilities and services should include participation by representative organisations of seafarers and shipowners.

5. The welfare facilities and services provided pursuant to this Recommendation should be available to all seafarers, irrespective of nationality, race, colour, sex, religion, political

opinion or social origin and irrespective of the State in which the ship on which they are employed is registered.

6. Members should co-operate with one another in promoting the welfare of seafarers at sea and in port. Such co-operation 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 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) organising international sports competitions and encouraging the participation of seafarers in sports activities;
- (d) organising international seminars on the subject of welfare of seafarers at sea and in port.

II. Welfare Facilities and Services in Ports

7. (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) Members should consult with the representative organisations of shipowners and seafarers in determining the appropriate ports.

(3) Welfare 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.

8. (1) 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 shipowners' and seafarers' organisations under collective agreements or other agreed arrangements;
- (c) voluntary organisations.

(2) 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.

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

- (a) keeping under review the adequacy of existing welfare facilities and monitoring the need for the provision of additional facilities or the withdrawal of underutilised facilities;
- (b) assisting and advising those responsible for providing welfare facilities and ensuring co-ordination between them.

(2) Welfare boards should include among their members representatives of organisations of shipowners and seafarers, the competent authorities and, where appropriate, voluntary organisations and social bodies.

(3) As appropriate, consuls of maritime States and local representatives of foreign welfare organisations should be associated with the work of port, regional and national welfare boards in accordance with national laws and regulations.

10. (1) Members should ensure that adequate and regular financial support is provided for seafarers' welfare facilities and services.

(2) In accordance with national conditions and practice, this 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 organisations;

(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.

11. Hotels or hostels suitable for seafarers should be available where there is need for them. 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.

12. (1) 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;
- (d) where appropriate, facilities for religious observances and for personal counselling.

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

13. 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.

14. (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) The means of disseminating such information might include -

- (a) the distribution on shore and, subject to the consent of the master, on board ship, of booklets in the most appropriate languages giving clear information as to the facilities available for seafarers in the port of call or in the next port for which the ship is bound; such booklets should contain a plan of the urban area and port;
- (b) the creation in the larger ports of information offices, easily accessible to seafarers and staffed by persons capable of giving directly such explanations and guidance as may be useful.

15. Adequate means of transportation at moderate prices should be available at any reasonable time, when needed in order to enable seafarers to reach urban areas from convenient locations in the port.

16. All suitable measures should be taken to make known to seafarers entering port -

- (a) any particular hazards and diseases to which they may be exposed and means of avoiding them;
- (b) the necessity for persons suffering from diseases to undergo early treatment and the nearest facilities available for such treatment;
- (c) the dangers arising from the use of narcotics and alcohol.

17. Measures should be taken to ensure that seafarers have access when in port to -

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

18. 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 jeopardise their freedom.

19. 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.

20. (1) For the protection of foreign seafarers, measures should be taken to facilitate -
- (a) access to their consuls;
 - (b) effective co-operation between consuls and the local or national authorities.

(2) Whenever a seafarer is detained for any reason in the territory of a Member, the competent authority should, if he 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. If a seafarer is interned, the Member should allow consular officers of these States immediate access to the seafarer and regular visits thereafter so long as the seafarer is interned.

(3) The case of a detained seafarer should be dealt with promptly under due process of law, and the flag State and the State of nationality of the detained seafarer should be kept informed of developments as they occur.

21. (1) Every possible practical assistance should be given to seafarers stranded in foreign ports pending their repatriation.

(2) 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.

22. 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.

III. Welfare Facilities and Services at Sea

23. (1) Welfare facilities and amenities should be provided on board ship for the benefit of the seafarers. Where practicable such facilities should include -

- (a) television viewing and the reception of radio broadcasts;
- (b) 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;
- (c) sports equipment including exercise equipment, table games, deck games;
- (d) where possible, facilities for swimming;
- (e) 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;
- (f) facilities for recreational handicrafts.

(2) Where possible and appropriate, the provision of bars on board ship for seafarers should be considered, unless this is contrary to national, religious or social customs.

24. Vocational training schemes for seafarers should, where appropriate, include education and information on matters affecting their welfare, including general health hazards.

25. (1) Access to ship-to-shore telephone communications, where available, should be granted and charges for the use of the service should be reasonable in amount.

(2) Every effort should be made to ensure that the forwarding of seafarers' mail is as reliable and expeditious as possible. Efforts should also be made to avoid seafarers being required to pay additional postage when mail has to be readdressed owing to circumstances beyond their control.

26. (1) Measures should be taken 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.

(2) Consideration should be given to the possibility of allowing seafarers to be accompanied by their spouses on an occasional voyage where this is practicable and reasonable.

Such spouses should carry adequate insurance cover against accident and illness; the shipowners should give every assistance to the seafarer to effect such insurance.

27. Every effort should be made by those responsible in port and on board ship to facilitate shore leave for seafarers as soon as possible after a ship's arrival in port.

IV. Savings and Remittance of Wages

28. In order to help seafarers to save and to transmit their savings to their families -

- (a) there should be adopted a simple, rapid and safe system, operating with the assistance of consuls or other competent authorities, masters, shipowners' agents or reliable financial institutions, for enabling seafarers, and more especially those who are in a foreign country or serving in a ship registered in a country other than their own, to deposit or remit the whole or part of their wages;
- (b) a system for enabling seafarers, at the time of their signing on or during the voyage, to allot, if they so desire, a proportion of their wages for remittance at regular intervals to their families should be instituted or made of more general application;
- (c) allotments should be remitted in due time and directly to the person or persons nominated by the seafarers;
- (d) efforts should be made to provide independent confirmation that seafarers' allotments are actually remitted to the person or persons nominated.

2.5.2.11. Accommodation of Crews Convention (Revised), 1949 (No. 92)

Date of entry into force: January 29, 1953

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-second Session on 8 June 1949, and

Having decided upon the adoption of certain proposals with regard to the partial revision of the Accommodation of Crews Convention, 1946, adopted by the Conference at its Twenty-eighth Session, which is included in the twelfth item on the agenda of the session, and

Considering that these proposals must take the form of an international Convention, adopts this eighteenth day of June of the year one thousand nine hundred and forty-nine the following Convention, which may be cited as the Accommodation of Crews Convention (Revised), 1949:

Part I. General provisions

Article 1

1. This Convention applies to every sea-going mechanically propelled vessel, whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the purpose of trade and is registered in a territory for which this Convention is in force.

2. National laws or regulations shall determine when vessels are to be regarded as sea-going vessels for the purpose of this Convention.

3. This Convention does not apply to -

- (a) vessels of less than 500 tons;
- (b) vessels primarily propelled by sail but having auxiliary engines;
- (c) vessels engaged in fishing or in whaling or in similar pursuits;
- (d) tugs.

4. Provided that the Convention shall be applied where reasonable and practicable to -
- (a) vessels between 200 and 500 tons; and
 - (b) the accommodation of persons engaged in usual sea-going routine in vessels engaged in whaling or in similar pursuits.

5. Provided also that any of the requirements contained in Part III of this Convention may be varied in the case of any ship if the competent authority is satisfied, after consultation with the organisations of shipowners and/or the shipowners and with the bona fide trade unions of seafarers, that the variations to be made provide corresponding advantages as a result of which the over-all conditions are not less favourable than those which would result from the full application of the provisions of the Convention; particulars of all such variations shall be communicated by the Member to the Director-General of the International Labour Office, who shall notify the Members of the International Labour Organisation.

Article 2

In this Convention -

- (a) the term ship means a vessel to which the Convention applies;
- (b) the term tons means gross register tons;
- (c) the term passenger ship means a ship in respect of which there is in force either (i) a safety certificate issued in accordance with the provisions of the International Convention for the Safety of Life at Sea for the time being in force or (ii) a passenger certificate;
- (d) the term officer means a person other than a master ranked as an officer by national laws or regulations, or, in the absence of any relevant laws or regulations, by collective agreement or custom;
- (e) the term rating means a member of the crew other than an officer;
- (f) the term petty officer means a rating serving in a supervisory position or position of special responsibility who is classed as petty officer by national laws or regulations, or, in the absence of any relevant laws or regulations, by collective agreement or custom;
- (g) the term crew accommodation includes such sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation and recreation accommodation as are provided for the use of the crew;
- (h) the term prescribed means prescribed by national laws or regulations or by the competent authority;
- (i) the term approved means approved by the competent authority;
- (j) the term re-registered means re-registered on the occasion of a simultaneous change in the territory of registration and ownership of the vessel.

Article 3

1. Each Member for which this Convention is in force undertakes to maintain in force laws or regulations which ensure the application of the provisions of Parts II, III and IV of this Convention.

2. The laws or regulations shall -

- (a) require the competent authority to bring them to the notice of all persons concerned;
- (b) define the persons responsible for compliance therewith;
- (c) prescribe adequate penalties for any violation thereof;
- (d) provide for the maintenance of a system of inspection adequate to ensure effective enforcement;

- (e) require the competent authority to consult the organisations of shipowners and/or the shipowners and the recognised bona fide trade unions of seafarers in regard to the framing of regulations, and to collaborate so far as practicable with such parties in the administration thereof.

Part II. Planning and control of crew accommodation

Article 4

1. Before the construction of a ship is begun a plan of the ship, showing on a prescribed scale the location and general arrangement of the crew accommodation, shall be submitted for approval to the competent authority.

2. Before the construction of the crew accommodation is begun and before the crew accommodation in an existing ship is altered or reconstructed, detailed plans of, and information concerning, the accommodation, showing on a prescribed scale and in prescribed detail the allocation of each space, the disposition of furniture and fittings, the means and arrangement of ventilation, lighting and heating, and the sanitary arrangements, shall be submitted for approval to the competent authority: Provided that in the case of emergency or temporary alterations or reconstruction effected outside the territory of registration it shall be sufficient compliance with this provision if the plans are subsequently submitted for approval to the competent authority.

Article 5

On every occasion when -

- (a) a ship is registered or re-registered,
- (b) the crew accommodation of a ship has been substantially altered or reconstructed, or
- (c) complaint has been made to the competent authority in the prescribed manner and in time to prevent any delay to the vessel by a recognised bona fide trade union of seafarers representing all or part of the crew or by a prescribed number or proportion of the members of the crew of the ship that the crew accommodation is not in compliance with the terms of this Convention,

the competent authority shall inspect the ship and satisfy itself that the crew accommodation complies with the requirements of the laws and regulations.

Part III. Crew accommodation requirements

Article 6

1. The location, means of access, structure and arrangement in relation to other spaces of crew accommodation shall be such as to ensure adequate security, protection against weather and sea, and insulation from heat or cold, undue noise or effluvia from other spaces.

2. There shall be no direct openings into sleeping rooms from spaces for cargo and machinery or from galleys, lamp and paint rooms or from engine, deck and other bulk store-rooms, drying rooms, communal wash places or water closets. That part of the bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or other approved substance and shall be watertight and gastight.

3. External bulkheads of sleeping rooms and mess rooms shall be adequately insulated. All machinery casings and all boundary bulkheads of galleys and other spaces in which heat is produced shall be adequately insulated where there is a possibility of resulting heat

effects in adjoining accommodation or passageways. Care shall also be taken to provide protection from heat effects of steam and/or hot-water service pipes.

4. Internal bulkheads shall be of approved material which is not likely to harbour vermin.

5. Sleeping rooms, mess rooms, recreation rooms and alley-ways in the crew accommodation space shall be adequately insulated to prevent condensation or overheating.

6. Main steam and exhaust pipes for winches and similar gear shall not pass through crew accommodation nor, whenever technically possible, through alley-ways leading to crew accommodation; where they do pass through such alley-ways they shall be adequately insulated and encased.

7. Inside panelling or sheeting shall be of material with a surface easily kept clean. Tongued and grooved boarding or any other form of construction likely to harbour vermin shall not be used.

8. The competent authority shall decide to what extent fire-prevention or fire-retarding measures shall be required to be taken in the construction of the accommodation.

9. The wall surface and deckheads in sleeping rooms and mess rooms shall be capable of being easily kept clean and, if painted, shall be light in colour; lime wash must not be used.

10. The wall surfaces shall be renewed or restored as necessary.

11. The decks in all crew accommodation shall be of approved material and construction and shall provide a surface impervious to damp and easily kept clean.

12. Where the floorings are of composition the joinings with sides shall be rounded to avoid crevices.

13. Sufficient drainage shall be provided.

Article 7

1. Sleeping rooms and mess rooms shall be adequately ventilated.

2. The system of ventilation shall 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.

3. Ships regularly engaged on voyages in the tropics and the Persian Gulf shall be equipped with both mechanical means of ventilation and electric fans: Provided that one only of these means need be adopted in spaces where this ensures satisfactory ventilation.

4. Ships engaged outside the tropics shall be equipped with either mechanical means of ventilation or electric fans. The competent authority may exempt ships normally employed in the cold waters of the northern or southern hemispheres from this requirement.

5. Power for the operation of the aids to ventilation required by paragraphs 3 and 4 shall, when practicable, be available at all times when the crew is living or working on board and conditions so require.

Article 8

1. An adequate system of heating the crew accommodation shall be provided except in ships engaged exclusively in voyages in the tropics and the Persian Gulf.

2. The heating system shall, when practicable, be in operation at all times when the crew is living or working on board and conditions require its use.

3. In all ships in which a heating system is required, the heating shall be by means of steam, hot water, warm air or electricity.

4. In any ships in which heating is provided by a stove, measures shall be taken to ensure that the stove is of sufficient size and is properly installed and guarded and that the air is not fouled.

5. The heating system shall be capable of maintaining the temperature in crew accommodation at a satisfactory level under normal conditions of weather and climate likely to be met with on service; the competent authority shall prescribe the standard to be provided.

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

Article 9

1. Subject to such special arrangements as may be permitted in passenger ships, sleeping rooms and mess rooms shall be properly lighted by natural light and shall be provided with adequate artificial light.

2. All crew spaces shall be adequately lighted. The minimum standard for natural lighting in living rooms shall be such as to permit a person with a normal vision to read on a clear day an ordinary newspaper in any part of the space available for free movement. When it is not possible to provide adequate natural lighting, artificial lighting of the above minimum standard shall be provided.

3. In all ships electric lights shall be provided in the crew accommodation. If there are not two independent sources of electricity for lighting, additional lighting shall be provided by properly constructed lamps or lighting apparatus for emergency use.

4. Artificial lighting shall be so disposed as to give the maximum benefit to the occupants of the room.

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

Article 10

1. Sleeping rooms shall be situated above the load line amidships or aft.

2. In exceptional cases the competent authority may, if the size, type or intended service of the ship render any other location unreasonable or impracticable, permit the location of sleeping rooms in the fore part of the ship, but in no case forward of the collision bulkhead.

3. In passenger ships the competent authority may, on condition that satisfactory arrangements are made for lighting and ventilation, permit the location of sleeping rooms below the load line, but in no case immediately beneath working alley-ways.

4. The floor area per person of sleeping rooms intended for ratings shall be not less than -

- (a) 20 sq. ft. or 1.85 sq. m. in vessels under 800 tons;
- (b) 25 sq. ft. or 2.35 sq. m. in vessels of 800 tons or over, but under 3,000 tons;
- (c) 30 sq. ft. or 2.78 sq. m. in vessels of 3,000 tons or over:

Provided that, in the case of passenger ships in which more than four ratings are berthed in one room, the minimum per person may be 24 sq. ft. (2.22 sq. m.).

5. In the case of ships in which are employed such groups of ratings as necessitate the employment of a substantially larger number of ratings than would otherwise be employed, the competent authority may, in respect of such groups, reduce the minimum floor area of sleeping rooms per person, subject to the conditions that -

- (a) the total sleeping space allotted to the group or groups is not less than would have been allotted had the numbers not been so increased, and
- (b) the minimum floor area of sleeping rooms is not less than -
 - (i) 18 sq. ft. (1.67 sq. m.) per person in ships under 3,000 tons;
 - (ii) 20 sq. ft. (1.85 sq. m.) per person in ships of 3,000 tons or over.

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

7. The clear head room in crew sleeping rooms shall not be less than 6 ft. 3 ins. (190 cm.).

8. There shall be a sufficient number of sleeping rooms to provide a separate room or rooms for each department: Provided that the competent authority may relax this requirement in the case of small ships.

9. The number of persons allowed to occupy sleeping rooms shall not exceed the following maxima:

- (a) officers in charge of a department, navigating and engineer officers in charge of a watch and senior radio officers or operators: one person per room;
- (b) other officers: one person per room wherever possible, and in no case more than two;
- (c) petty officers: one or two persons per room, and in no case more than two;
- (d) other ratings: two or three persons per room wherever possible, and in no case more than four.

10. With a view to ensuring adequate and more comfortable accommodation the competent authority may, after consultation with the organisations of shipowners and/or the shipowners and the bona fide trade unions of seafarers, grant permission to accommodate up to ten ratings per sleeping room in the case of certain passenger ships.

11. The maximum number of persons to be accommodated in any sleeping room shall be indelibly and legibly marked in some place in the room where it can conveniently be seen.

12. Members of the crew shall be provided with individual berths.

13. Berths shall not be placed side by side in such a way that access to one berth can be obtained only over another.

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

15. The lower berth in a double tier shall be not less than 12 ins. (30 cm.) above the floor; the upper berth shall be placed approximately midway between the bottom of the lower berth and the lower side of the deckhead beams.

16. The minimum inside dimensions of a berth shall be 6 ft. 3 ins. by 2 ft. 3 ins. (190 cm. by 68 cm.).

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

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

19. Each berth shall be fitted with a spring bottom or a spring mattress and with a mattress of approved material. Stuffing of straw or other material likely to harbour vermin shall not be used.

20. When one berth is placed over another a dust-proof bottom of wood, canvas or other suitable material shall be fitted beneath the spring bottom of the upper berth.

21. Sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness.

22. The furniture shall include a clothes locker for each occupant. The clothes lockers shall be not less than 5 ft. (152 cm.) in height and of a cross-section area of 300 sq. ins. (19.30 sq. decimetres) and shall be fitted with a shelf and a hasp for a padlock. The padlock shall be provided by the occupant.

23. Each sleeping room shall be provided with a table or desk, which may be of the fixed, dropleaf or slide-out type, and with comfortable seating accommodation as necessary.

24. The furniture shall be of smooth, hard material not liable to warp or corrode.

25. The drawer or equivalent space for each occupant shall be not less than 2 cu. ft. (.056 cu. m.).

26. Sleeping rooms shall be fitted with curtains for the sidelights.

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

28. As far as practicable berthing of crew members shall be so arranged that watches are separated and that no daymen share a room with watch-keepers.

Article 11

1. Sufficient mess room accommodation shall be provided in all ships.

2. In ships of less than 1,000 tons separate mess room accommodation shall be provided for -

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

3. In ships of 1,000 tons and over, separate mess room accommodation shall be provided for -

- (a) master and officers;
- (b) deck department petty officers and other ratings;
- (c) engine department petty officers and other ratings;

Provided that -

(i) one of the two mess rooms for the petty officers and other ratings may be allotted to the petty officers and the other to the other ratings;

(ii) a single mess room may be provided for deck and engine department petty officers and other ratings in cases in which the organisations of shipowners and/or shipowners and the recognised bona fide trade unions of seafarers concerned have expressed a preference for such an arrangement.

4. Adequate mess room accommodation shall be provided for the catering department, either by the provision of a separate mess room or by giving them the right to the use of the mess rooms assigned to other groups; in the case of ships of 5,000 tons or over with more than five persons in the catering department consideration shall be given to the provision of a separate mess room.

5. The dimensions and equipment of each mess room shall be sufficient for the number of persons likely to use it at any one time.

6. Mess rooms shall be equipped with tables and approved seats sufficient for the number of persons likely to use them at any one time.

7. The competent authority may permit such exceptions to the foregoing rules concerning mess room accommodation as may be necessary to meet the special conditions in passenger ships.

8. Mess rooms shall be located apart from the sleeping rooms and as close as practicable to the galley.

9. Where available pantries are not accessible to mess rooms, adequate lockers for mess utensils and proper facilities for washing utensils shall be provided.

10. The tops of tables and seats shall be of damp-resisting material, without cracks and capable of being easily cleaned.

Article 12

1. In all ships a space or spaces to which the crew can have access when off duty shall be provided on an open deck; the space or spaces shall be of adequate area, having regard to the size of the ship and the crew.

2. Recreation accommodation, conveniently situated and appropriately furnished, shall be provided for officers and for ratings. Where this is not provided separately from the

mess rooms the latter shall be planned, furnished, and equipped to give recreational facilities.

Article 13

1. Sufficient sanitary accommodation, including wash basins and tub and/or shower baths, shall be provided in all ships.

2. The following minimum number of separate water closets shall be provided:

- (a) in ships of under 800 tons: three;
- (b) in ships of 800 tons or over, but under 3,000 tons: four;
- (c) in ships of 3,000 tons or over: six;
- (d) in ships where the radio officers or operators are accommodated in an isolated position, sanitary facilities near or adjacent thereto shall be provided.

3. National laws or regulations shall prescribe the allocation of water closets to various groups, subject to the provisions of paragraph 4 of this Article.

4. Sanitary facilities for all members of the crew who do not occupy rooms to which private facilities are attached shall be provided for each group of the crew on the following scale:

- (a) one tub and/or shower bath for every eight persons or less;
- (b) one water closet for every eight persons or less;
- (c) one wash basin for every six persons or less:

Provided that when the number of persons in a group exceeds an even multiple of the specified number by less than one-half of the specified number this surplus may be ignored for the purpose of this paragraph.

5. When the total number of the crew exceeds 100 and in passenger vessels 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.

6. Cold fresh water and hot fresh water or means of heating water shall be available in all communal wash places. The competent authority, in consultation with the organisations of shipowners and/or the shipowners and with the recognised bona fide trade unions of seafarers, may fix the maximum amount of fresh water which the shipowner may be required to supply per man per day.

7. Wash basins and tub baths shall be of adequate size and constructed of approved material with a smooth surface not liable to crack, flake or corrode.

8. All water closets shall have ventilation to the open air, independently of any other part of the accommodation.

9. All water closets shall be of an approved pattern and provided with an ample flush of water, available at all times and independently controllable.

10. Soil pipes and waste pipes shall be of adequate dimensions and shall be so constructed as to minimise the risk of obstruction and to facilitate cleaning.

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

- (a) floors shall be of approved durable material, easily cleaned and impervious to damp, and shall be properly drained;
- (b) bulkheads shall be of steel or other approved material and shall be watertight up to at least 9 ins. (23 cm.) above the level of the deck;
- (c) the accommodation shall be sufficiently lighted, heated and ventilated;
- (d) water closets shall 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: Provided that this

requirement shall not apply where a water closet is located in a compartment between two sleeping rooms having a total of not more than four persons;

- (e) where there is more than one water closet in a compartment, they shall be sufficiently screened to ensure privacy.

12. In all ships facilities for washing and drying clothes shall be provided on a scale appropriate to the size of the crew and the normal duration of the voyage.

13. The facilities for washing clothes shall include suitable sinks, which may be installed in wash rooms, if separate laundry accommodation is not reasonably practicable, with an adequate supply of cold fresh water and hot fresh water or means of heating water.

14. The facilities for drying clothes shall be provided in a compartment separate from sleeping rooms and mess rooms, adequately ventilated and heated and equipped with lines or other fittings for hanging clothes.

Article 14

1. In any ship carrying a crew of fifteen or more and engaged in a voyage of more than three days' duration, separate hospital accommodation shall be provided. The competent authority may relax this requirement in respect of vessels engaged in coastal trade.

2. The hospital accommodation shall be suitably situated, so that it is easy of access and so that the occupants may be comfortably housed and may receive proper attention in all weathers.

3. The arrangement of the entrance, berths, lighting, ventilation, heating and water supply shall be designed to ensure the comfort and facilitate the treatment of the occupants.

4. The number of hospital berths required shall be prescribed by the competent authority.

5. Water closet accommodation shall be provided for the exclusive use of the occupants of the hospital accommodation, either as part of the accommodation or in close proximity thereto.

6. Hospital accommodation shall not be used for other than medical purposes.

7. An approved medicine chest with readily understandable instructions shall be carried in every ship which does not carry a doctor.

Article 15

1. Sufficiently and adequately ventilated accommodation for the hanging of oilskins shall be provided outside but convenient to the sleeping rooms.

2. In ships of over 3,000 tons one room for the deck department and one room for the engine department shall be provided and equipped for use as an office.

3. In ships regularly trading to mosquito-infested ports provision shall be made to protect the crews' quarters against the admission of mosquitoes by the fitting of suitable screens to side scuttles, ventilators and doors to the open deck.

4. All ships trading regularly to or in the tropics and the Persian Gulf shall be equipped with awnings for use over exposed decks above crew accommodation and over recreation deck space or spaces.

Article 16

1. In the case of the ships mentioned in paragraph 5 of Article 10 the competent authority may, in respect of the members of the crew there referred to, modify the requirements laid down in the foregoing articles as far as may be necessary to take account of their distinctive national habits and customs and in particular may make special arrangements con-

cerning the number of persons occupying sleeping rooms and concerning mess room and sanitary facilities.

2. In modifying the said requirements the competent authority shall be bound by the specifications set forth in paragraphs 1 and 2 of Article 10 and by the minimum sleeping space requirements prescribed for such groups of ratings in paragraph 5 of Article 10.

3. In ships in which the crew in any department are persons of widely different national habits and customs, separate and appropriate sleeping and living accommodation shall be provided as may be necessary to meet the requirements of the different groups.

4. In the case of the ships mentioned in paragraph 5 of Article 10 the hospital, dining, bathing and sanitary facilities shall be provided and maintained on a standard, in regard to their quantity and practical usefulness, equal or comparable to that which obtains aboard all other ships of similar type and belonging to the same registry.

5. The competent authority shall, when framing special regulations under this Article, consult the recognised bona fide trade unions of seafarers concerned and the organisations of shipowners and/or the shipowners employing them.

Article 17

1. Crew accommodation shall be maintained in a clean and decently habitable condition and shall be kept free of goods and stores not the personal property of the occupants.

2. The master, or an officer specially deputed for the purpose by him, accompanied by one or more members of the crew, shall inspect all crew accommodation at intervals of not more than one week. The results of each such inspection shall be recorded.

Part IV. Application of Convention to existing ships

Article 18

1. Subject to the provisions of paragraphs 2, 3 and 4 of this Article, this Convention applies to ships the keels of which are laid down subsequent to the coming into force of the Convention for the territory of registration.

2. In the case of a ship which is fully complete on the date of the coming into force of this Convention for the territory of registration and which is below the standard set by Part III of this Convention, the competent authority may, after consultation with the organisations of shipowners and/or the shipowners and with the bona fide trade unions of seafarers, require such alterations for the purpose of bringing the ship into conformity with the requirements of the Convention as it deems possible, having regard to the practical problems involved, to be made when -

- (a) the ship is re-registered;
- (b) substantial structural alterations or major repairs are made to the vessel as a result of long-range plans and not as a result of an accident or emergency.

3. In the case of a ship in the process of building and/or reconversion on the date of the coming into force of this Convention for the territory of registration, the competent authority may, after consultation with the organisations of shipowners and/or the shipowners and with the bona fide trade unions of seafarers, require such alterations for the purpose of bringing the ship into conformity with the requirements of the Convention as it deems possible having regard to the practical problems involved; such alterations shall constitute final compliance with the terms of this Convention, unless and until the ship be re-registered.

4. In the case of a ship, other than such a ship as is referred to in paragraphs 2 and 3 of this Article or a ship to which the provisions of this Convention were applicable while she was under construction, being re-registered in a territory after the date of the coming into

force of this Convention for that territory, the competent authority may, after consultation with the organisations of shipowners and/or the shipowners and with the bona fide trade unions of seafarers, require such alterations for the purpose of bringing the ship into conformity with the requirements of the Convention as it deems possible having regard to the practical problems involved; such alterations shall constitute final compliance with the terms of this Convention, unless and until the ship is again re-registered.

Part V. Final provisions

Article 19

Nothing in this Convention shall affect any law, award, custom or agreement between shipowners and seafarers which ensures more favourable conditions than those provided for by this Convention.

Article 20

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 21

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force six months after the date on which there have been registered ratifications by seven of the following countries: United States of America, Argentine Republic, Australia, Belgium, Brazil, Canada, Chile, China, Denmark, Finland, France, United Kingdom of Great Britain and Northern Ireland, Greece, India, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Sweden, Turkey and Yugoslavia, including at least four countries each of which has at least one million gross register tons of shipping. This provision is included for the purpose of facilitating and encouraging early ratification of the Convention by Member States.

3. Thereafter, this Convention shall come into force for any Member six months after the date on which its ratification has been registered.

Article 22

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 23

1. The Director-General of the International Labour Office shall notify all the Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the last of the ratifications required to bring the Convention into force, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 24

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 by him in accordance with the provisions of the preceding Articles.

Article 25

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 26

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 22 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 27

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

2.5.2.12. Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)

Date of entry into force: August 27, 1991

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-fifth Session on 14 October 1970, and

Noting that the Accommodation of Crews Convention (Revised), 1949, lays down detailed specifications concerning such matters as sleeping accommodation, mess and recreation rooms, ventilation, heating, lighting and sanitary facilities on board ship, and

Considering that in the light of the rapidly changing characteristics of both the construction and the operation of modern ships further improvements in crew accommodation can be provided, and

Having decided upon the adoption of certain proposals with regard to crew accommodation, which is the second item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention supplementing the Accommodation of Crew Convention (Revised), 1949,

adopts this thirtieth day of October of the year one thousand nine hundred and seventy the following Convention, which may be cited as the Accommodation of Crews (Supplementary Provisions) Convention, 1970:

Part I. General provisions

Article 1

1. This Convention applies to every sea-going ship, whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the purpose of trade or is employed for any other commercial purpose, which is registered in a territory for which this Convention is in force, and of which the keel is laid, or which is at a similar stage of construction, on or after the date of coming into force of the Convention for that territory.

2. National laws or regulations shall determine when ships are to be regarded as sea-going ships for the purpose of this Convention.

3. This Convention applies to tugs where reasonable and practicable.

4. This Convention does not apply to -

- (a) ships of less than 1,000 tons;
- (b) ships primarily propelled by sail, whether or not they are fitted with auxiliary engines;
- (c) ships engaged in fishing or in whaling or in similar pursuits;
- (d) hydrofoils and air-cushion craft.

5. Provided that the Convention shall be applied where reasonable and practicable to -

- (a) ships between 200 and 1,000 tons; and
- (b) the accommodation of persons engaged in usual sea-going routine in ships engaged in whaling or in similar pursuits.

6. Provided also that any of the requirements applicable by virtue of Article 3 of this Convention may be varied in the case of any ship if the competent authority is satisfied, after consultation with the organisations of shipowners and/or the shipowners and with the bona fide trade unions of seafarers, that the variations to be made provide corresponding advantages as a result of which the over-all conditions are not less favourable than those which would result from the full application of the provisions of the Convention; particulars of all such variations shall be communicated by the Member concerned to the Director-General of the International Labour Office.

7. Provided further that the competent authority shall, after consultation with the organisations of shipowners and/or the shipowners and with the bona fide trade unions of seafarers, determine the extent to which it is appropriate, taking into consideration the need for off-duty accommodation, to make exceptions or to diverge from the provisions of this Convention in the case of -

- (a) sea-going ferries, feeder ships and similar ships which are not continuously manned with one permanent crew;
- (b) sea-going ships when repair personnel are carried temporarily in addition to the ship's crew;
- (c) sea-going ships engaged on short voyages which allow members of the crew to go home or to make use of comparable facilities for part of each day.

Article 2

In this Convention -

- (a) the term "ship" means a vessel to which the Convention applies;
- (b) the term "tons" means gross register tons;
- (c) the term "passenger ship" means a ship in respect of which there is in force either (i) a passenger ship safety certificate issued in accordance with the provisions of the International Convention for the Safety of Life at Sea for the time being in force, or (ii) a passenger certificate;
- (d) the term "officer" means a person other than a master ranked as an officer by national laws or regulations, or, in the absence of any relevant laws or regulations, by collective agreement or custom;
- (e) the term "rating" means a member of the crew other than an officer;
- (f) the term "petty officer" means a rating serving in a supervisory position or position of special responsibility who is classed as petty officer by national laws or regulations, or, in the absence of any relevant laws or regulations, by collective agreement or custom;
- (g) the term "adult" means a person who is at least 18 years of age;
- (h) the term "crew accommodation" includes such sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation and recreation accommodation as are provided for the use of the crew;
- (i) the term "prescribed" means prescribed by national laws or regulations or by the competent authority;
- (j) the term "approved" means approved by the competent authority;
- (k) the term "re-registered" means re-registered on the occasion of a simultaneous change in the territory of registration and ownership of the ship.

Article 3

Each Member for which this Convention is in force undertakes to comply, in respect of ships to which this Convention applies, with -

- (a) the provisions of Parts II and III of the Accommodation of Crews Convention (Revised), 1949; and
- (b) the provisions of Part II of this Convention.

Article 4

1. Each Member for which this Convention is in force undertakes to maintain in force laws or regulations which ensure its application.

2. The laws or regulations shall -

- (a) require the competent authority to bring them to the notice of all persons concerned;
- (b) define the persons responsible for compliance therewith;
- (c) prescribe adequate penalties for any violation thereof;
- (d) provide for the maintenance of a system of inspection adequate to ensure effective enforcement;
- (e) require the competent authority to consult the organisations of shipowners and/or the shipowners and the bona fide trade unions of seafarers in regard to the framing of regulations, and to collaborate so far as practicable with such parties in the administration thereof.

Part II. Crew accommodation requirements

Article 5

1. The floor area per person of sleeping rooms intended for ratings shall be not less than -
 - (a) 3.75 square metres (40.36 square feet) in ships of 1,000 tons or over but less than 3,000 tons;
 - (b) 4.25 square metres (45.75 square feet) in ships of 3,000 tons or over but less than 10,000 tons;
 - (c) 4.75 square metres (51.13 square feet) in ships of 10,000 tons or over.
2. Provided that the floor area per person of sleeping rooms intended for two ratings shall be not less than -
 - (a) 2.75 square metres (29.60 square feet) in ships of 1,000 tons or over but less than 3,000 tons;
 - (b) 3.25 square metres (34.98 square feet) in ships of 3,000 tons or over but less than 10,000 tons;
 - (c) 3.75 square metres (40.36 square feet) in ships of 10,000 tons or over.
3. Provided also that the floor area of sleeping rooms intended for ratings in passenger ships shall be not less than -
 - (a) 2.35 square metres (25.30 square feet) per person in ships of 1,000 tons or over but less than 3,000 tons;
 - (b) in ships of 3,000 tons or over -
 - (i) 3.75 square metres (40.36 square feet) in rooms accommodating one person;
 - (ii) 6.00 square metres (64.58 square feet) in rooms accommodating two persons;
 - (iii) 9.00 square metres (96.88 square feet) in rooms accommodating three persons;
 - (iv) 12.00 square metres (129.17 square feet) in rooms accommodating four persons.
4. The number of ratings occupying sleeping rooms shall not exceed two persons per room, except in passenger ships where the maximum number permissible shall be four.
5. The number of petty officers occupying sleeping rooms shall not exceed one or two persons per room.
6. In sleeping rooms for officers, where no private sitting room or day room is provided, the floor area per person shall not be less than 6.50 square metres (69.96 square feet) in ships of less than 3,000 tons, and not less than 7.50 square metres (80.73 square feet) in ships of 3,000 tons or over.
7. In ships other than passenger ships an individual sleeping room shall be provided for each adult member of the crew, where the size of the ship, the activity in which it is to be engaged, and its layout make this reasonable and practicable.

8. Where practicable in ships of 3,000 tons or over, the chief engineer officer and the chief navigating officer shall have, in addition to their sleeping room, an adjoining sitting room or day room.

9. Space occupied by berths and lockers, chests of drawers and seats shall 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 shall be excluded.

10. The minimum inside dimensions of a berth shall be 198 centimetres by 80 centimetres (6 feet 6 inches by 2 feet 7.50 inches).

Article 6

1. The floor area of mess rooms for officers and for ratings shall be not less than 1 square metre (10.76 square feet) per person of the planned seating capacity.

2. Mess rooms shall be equipped with tables and approved seats, fixed or movable, sufficient to accommodate the greatest number of members of the crew likely to use them at any one time.

3. There shall be available at all times when members of the crew are on board -

- (a) a refrigerator, which shall 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.

4. The competent authority may permit such exceptions to the provisions of paragraphs 1 and 2 of this Article concerning mess room accommodation as may be necessary to meet the special conditions in passenger ships.

Article 7

1. Recreation accommodation, conveniently situated and appropriately furnished, shall be provided for officers and for ratings. Where this is not provided separately from the mess rooms the latter shall be planned, furnished and equipped to give recreational facilities.

2. Furnishing for recreation accommodation shall as a minimum include a bookcase and facilities for reading, writing and, where practicable, for games.

3. In respect of ships of 8,000 tons or over, a smoking room or library room in which films or television may be shown and a hobby and games room shall be provided; consideration shall be given to the provision of a swimming pool.

4. In connection with the planning of recreation accommodation, the competent authority shall give consideration to the provision of a canteen.

Article 8

1. In all ships a minimum of one water closet and one tub and/or shower bath for every six persons or less who do not have facilities in pursuance of paragraphs 2 to 4 of this Article shall be provided at a convenient location for officers and for ratings. When women are employed in a ship, separate sanitary facilities shall be provided for them.

2. In ships of 5,000 tons or over but less than 15,000 tons, individual sleeping rooms for at least five officers shall have attached to them a separate private bathroom fitted with a water closet as well as a tub and/or shower bath and a wash basin having hot and cold running fresh water; the wash basin may be situated in the sleeping room. In addition, in ships of 10,000 tons or over but less than 15,000 tons, the sleeping rooms of all other officers shall have private intercommunicating bathrooms similarly fitted.

3. In ships of 15,000 tons or over, individual sleeping rooms for officers shall have attached to them a separate private bathroom fitted with a water closet as well as a tub and/or shower bath and a wash basin having hot and cold running fresh water; the wash basin may be situated in the sleeping room.

4. In ships of 25,000 tons or over, other than passenger ships, a bathroom for every two ratings shall be provided, either in an intercommunicating compartment between adjoining sleeping rooms or opposite the entrance of such rooms, which shall be fitted with a water closet as well as a tub and/or shower bath and a wash basin having hot and cold running fresh water.

5. In ships of 5,000 tons or over, other than passenger ships, each sleeping room, whether for officers or ratings, shall be provided with a wash basin having hot and cold running fresh water, except where such wash basin is situated in a bathroom provided in conformity with paragraph 2, 3 or 4 of this Article.

6. In all ships, facilities for washing, drying and ironing clothes shall be provided for officers and ratings on a scale appropriate to the size of the crew and the normal duration of the voyage. These facilities shall, whenever possible, be located within easy access of their accommodation.

7. The facilities to be provided shall be -

- (a) washing machines;
- (b) drying machines or adequately heated and ventilated drying rooms; and
- (c) iron and ironing boards or their equivalent.

Article 9

1. In ships of 1,600 tons or over there shall be provided -

- (a) a separate compartment containing a water closet and a wash basin having hot and cold running fresh water, within easy access of the navigating bridge deck primarily for those on duty in the area; and
- (b) a water closet and a wash basin having hot and cold running fresh water, within easy access of the machinery space if not fitted near the engine room control centre.

2. In ships of 1,600 tons or over, other than ships in which private sleeping rooms and private or semi-private bathrooms are provided for all engine department personnel, facilities for changing clothes shall be provided which shall 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 baths and wash basin having hot and cold running fresh water.

Article 10

The minimum headroom in all crew accommodation where full and free movement is necessary shall be not less than 198 centimetres (6 feet 6 inches): Provided that 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 it is reasonable to do so and also that such reduction will not result in discomfort to the crew.

Article 11

1. Crew accommodation shall be properly lighted.

2. Subject to such special arrangements as may be permitted in passenger ships, sleeping rooms and mess rooms shall be lighted by natural light and shall be provided with adequate artificial light.

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

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

5. Suitable standards of natural and artificial lighting shall be fixed by the competent authority.

Article 12

In the case of ships the manning of which has to take account, without discrimination, of the interests of crews having differing and distinctive religious and social practices, the competent authority may, after consultation with the organisations of shipowners and/or the shipowners and with the bona fide trade unions of the seafarers concerned, and provided that these two sides are in agreement, permit variations in respect of the provisions of paragraphs 1 to 4 and paragraph 7 of Article 5 and paragraphs 1 and 4 of Article 8 of this Convention on condition that such variations do not result in over-all facilities less favourable than those which would result from the application of the provisions of the Convention. Particulars of all such variations shall be communicated by the Member concerned to the Director-General of the International Labour Office who shall notify the Members of the International Labour Organisation.

Part III. Application of the Convention to existing ships

Article 13

1. In the case of a ship which is fully complete on the date of the coming into force of this Convention for the territory of registration and which is below the standard set by this Convention, the competent authority may, after consultation with the organisations of shipowners and/or the shipowners and with the bona fide trade unions of seafarers, require such alterations for the purpose of bringing the ship into conformity with the requirements of the Convention as it deems reasonable and practicable, having regard in particular to technical, economic and other problems involved in the application of Articles 5, 8 and 10, to be made when -

- (a) the ship is re-registered;
- (b) substantial structural alterations or major repairs are made to the ship as a result of long-range plans and not as a consequence of an accident or emergency.

2. In the case of a ship in the process of building and/or conversion on the date of the coming into force of this Convention for the territory of registration, the competent authority may, after consultation with the organisations of shipowners and/or the shipowners and with the bona fide trade unions of seafarers, require such alterations for the purpose of bringing the ship into conformity with the requirements of the Convention as it deems reasonable and practicable, having regard in particular to technical, economic and other problems involved in the application of Articles 5, 8 and 10; such alterations shall constitute final compliance with the terms of this Convention.

3. In the case of a ship, other than such a ship as is referred to in paragraphs 1 and 2 of this Article or a ship to which the provisions of this Convention were applicable while she was under construction, being re-registered in a territory after the date of the coming into force of this Convention for that territory, the competent authority may, after consultation with the organisations of shipowners and/or the shipowners and with the bona fide trade unions of seafarers, require such alterations for the purpose of bringing the ship into conformity with the requirements of the Convention as it deems reasonable and practicable, hav-

ing regard in particular to technical, economic and other problems involved in the application of Articles 5, 8 and 10; such alterations shall constitute final compliance with the terms of this Convention.

Part IV. Final provisions

Article 14

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 15

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which there have been registered ratifications by twelve Members each of which has more than one million tons of shipping, including at least four Members each of which has at least two million tons of shipping.

3. Thereafter, this Convention shall come into force for any Member six months after the date on which its ratification has been registered.

Article 16

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 17

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the last of the ratifications required to bring the convention into force, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 18

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 by him in accordance with the provisions of the preceding Articles.

Article 19

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 20

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 16 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 21

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

2.5.2.13. *Bedding, Mess Utensils and Miscellaneous Provisions (Ships' Crews) Recommendation, 1946 (No. 78)*

The General Conference of the International Labour Organisation,

Having been convened at Seattle by the Governing Body of the International Labour Office, and having met in its Twenty-eighth Session on 6 June 1946, and

Having decided upon the adoption of certain proposals with regard to the provision to crews by shipowners of bedding, mess utensils and other articles, which is included in the third item on the agenda of the Session, and

Having determined that these proposals shall take the form of a Recommendation, adopts this twenty-ninth day of June of the year one thousand nine hundred and forty-six, the following Recommendation, which may be cited as the Bedding, Mess Utensils and Miscellaneous Provisions (Ships' Crews) Recommendation, 1946:

The Conference recommends that each Member of the International Labour Organisation should apply the following principles and should inform the International Labour Office, as requested by the Governing Body, of the measures taken to give effect thereto:

1. (1) Clean bed linen, blankets, bedspreads and mess utensils should be supplied to the members of the crew by the shipowner for use on board during service on the ship, and such members should be responsible for their return at times specified by the master and on completion of service in the ship.

(2) In the event of any article not being returned in good condition, fair wear and tear excepted, the member of the crew concerned should pay cost price.

2. Bed linen, blankets and bedspreads should be of good quality, and plates, cups and other mess utensils should be of approved material which can be easily cleaned.

3. Towels, soap and toilet paper for the members of the crew should be provided by the shipowner.

2.5.2.14. Crew Accommodation (Air Conditioning) Recommendation, 1970 (No. 140)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-fifth Session on 14 October 1970, and

Noting that the Accommodation of Crews Convention (Revised), 1949, lays down minimum standards for the accommodation of crews on board ship, and

Considering that in the light of the rapidly changing characteristics of both the construction and the operation of modern ships further improvements in crew accommodation can be provided, and

Having decided upon the adoption of certain proposals with regard to crew accommodation, which is the second item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this thirtieth day of October of the year one thousand nine hundred and seventy, the following Recommendation, which may be cited as the Crew Accommodation (Air Conditioning) Recommendation, 1970:

1. (1) All ships of 1,000 gross register tons or over constructed after the adoption of this Recommendation, except those regularly engaged in trades where temperate climatic conditions do not require this, should be equipped with air conditioning of crew accommodation.

(2) Whenever possible such ships should also have air conditioning of the radio room and any centralised machinery control room.

2. The competent authority should -

- (a) investigate the possibility of installing air conditioning in ships of less than 1,000 tons constructed after the adoption of this Recommendation;
- (b) consider the possibility of providing existing ships with air conditioning of all or part of crew accommodation spaces by means of conversion of mechanical ventilation systems to full air conditioning at a time when substantial structural alterations are being made to the accommodation.

3. The air-conditioning system, whether of a centralised or individual unit type, should be designed -

- (a) to maintain the air at a satisfactory temperature and relative humidity as compared to outside air conditions, and to ensure a sufficiency of air changes in all air-conditioned spaces;
- (b) to take account of the particular characteristics of operations at sea and not to produce objectionable noises or vibrations.

2.5.2.15. Crew Accommodation (Noise Control) Recommendation, 1970 (No. 141)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-fifth Session on 14 October 1970, and

Noting that the Accommodation of Crews Convention (Revised), 1949, lays down minimum standards for the accommodation of crews on board ship, and

Considering that in the light of the rapidly changing characteristics of both the construction and the operation of modern ships further improvements in crew accommodation can be provided, and

Having decided upon the adoption of certain proposals with regard to crew accommodation, which is the second item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this thirtieth day of October of the year one thousand nine hundred and seventy, the following Recommendation, which may be cited as the Crew Accommodation (Noise Control) Recommendation, 1970:

1. (1) The competent authority in each maritime country, in conjunction with the competent international bodies and with representatives of shipowners' and seafarers' organisations, should review research into the problem of noise on board ships with the object of obtaining and pooling data on the basis of which authoritative criteria and standards can be established at an early date, so that national provisions can be drawn up to protect seafarers, so far as necessary, from the ill effects of noise.

(2) Such research should cover -

- (a) the effect of exposure to excessive noise on the hearing, health and comfort of seafarers;
- (b) the measures which should be prescribed to reduce shipboard noise and/or to protect the hearing of seafarers.

2. The competent authority in each country should, in the light of that research, establish provisions for the reduction of, and protection of seafarers from, excessive and harmful noise on board ship as soon as this becomes reasonably possible.

3. As appropriate in the light of the research, the measures to be considered might 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 ear plugs and/or ear muffs, approved by the competent authority, to seafarers in the engine room where necessary;
- (c) the reduction of noise in sleeping rooms, mess rooms, recreation rooms and other crew 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;
 - (ii) the use of acoustic insulation and 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;
- (d) the reduction and control of noise levels in engine rooms and other machinery spaces by -
 - (i) provision, wherever practicable, of sound-proof centralised 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;
 - (iii) measures to reduce noise in the operation of machinery.

2.6. Conventions and Recommendations concerning social security for seafarers

2.6.1. Content and practical application of standards

2.6.1.1. *The Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)*

The Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8), provides that, in every case of loss or foundering of any vessel, the owner or person with whom the seaman has contracted for service on board the vessel shall pay to each seaman employed thereon an indemnity against unemployment resulting from such loss or foundering.⁶²⁸ This indemnity shall be paid for the days during which the seaman remains in fact unemployed, at the same rate as the wages payable under the contract, but the total indemnity payable under this Convention to any one seaman may be limited to two months' wages.⁶²⁹

Analysis of the Comments of the Committee of Experts shows seven major issues relating to the application of the Convention. In the first place, the Convention applies to all ships and boats of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned and regardless of their size.⁶³⁰ Second, the Convention applies to all persons employed on any vessel engaged in maritime navigation, including ship's masters.⁶³¹

⁶²⁸ Convention No. 8, Article 2(1).

⁶²⁹ Convention No. 8, Article 2(2).

⁶³⁰ See, **Australia** (CEACR, 2004/75th session: Direct request); **Croatia** (CEACR, 1999/70th session: Direct request); **Fiji** (CEACR, 1995/66th session: Direct request; CEACR 1998/69th session: Direct request; CEACR 1999/70th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request); **Panama** (CEACR, 1992/62nd session: Observation); **Papua New Guinea** (CEACR, 1990/60th session: Direct request; CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2005, 76th session: Direct request); **Singapore** (CEACR, 1995/65th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2005/76th session: Direct request); **Solomon Islands** (CEACR, 2005/76th session: Direct request); **Tunisia** (CEACR, 1993/63rd session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1995/66th session: Observation).

⁶³¹ See, **Costa Rica** (CEACR, 1995/66th session: Direct request); **Croatia** (CEACR, 1999/70th session: Direct request; CEACR, 2004/75th session: Direct request); **Denmark (Faeroe Islands)** (CEACR, 1992/62nd session: Direct request); **Fiji** (CEACR, 1995/66th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request); **Ghana** (CEACR, 2005/76th session: Direct request); **Latvia** (CEACR, 2005/76th session: Direct request); **Nicaragua** (CEACR, 1996/67th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2005/76th session: Observation); **Santa Lucia** (CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request); **Seychelles** (CEACR, 1997/68th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR 1999/70th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request).

Third, the Convention applies to all seamen employed on board the vessel, regardless of whether they are residents of the respective country or its nationals.⁶³² Fourth, the provisions of the Convention are not self-executing; national legislation specifically giving effect to these provisions shall be adopted.⁶³³ Fifth, the total indemnity paid under the Convention may not be less than two months' wages.⁶³⁴ Sixth, in case of shipwreck, seafarers shall be entitled to unemployment indemnities of at least two months' wages without minimum qualifying or contribution conditions.⁶³⁵ Finally, the provisions of the national legislation providing for the possibility of depriving a seaman of the right to unemployment indemnity under the Convention, if he did not exert himself to save the vessel, its cargo and stores, or using similar formulas, are contrary to the requirements of the Convention.⁶³⁶

Direct request); **Singapore** (CEACR, 1996/65th session: Direct request); **United Kingdom** (CEACR, 2005/76th session: Direct request).

⁶³² See, **Iraq** (CEACR, 1991/61st session: Observation); **Luxembourg** (CEACR, 1997/68th session: Direct request); **Norway** (CEACR, 1992/62nd session: Direct request; CEACR, 1995, 66th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1999/70th session: Direct request).

⁶³³ See, **Iraq** (CEACR, 1995/66th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2001/71st session: Observation; CEACR, 2004/75th session: Observation); **France (French Southern and Antarctic Territories)** (CEACR, 2002/73rd session: Observation; CEACR, 2004, 75th session: Observation); **Nicaragua** (CEACR, 2005/76th session: Observation); **Poland** (CEACR, 1995/66th session: Direct request; CEACR, 1998, 69th session: Direct request; CEACR, 2000, 71st session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request); **Seychelles** (CEACR, 1995/65th session: Observation; CEACR, 1996/67th session: Observation).

⁶³⁴ See, **Iraq** (CEACR, 1991, 61st session: Observation); **Solomon Islands** (CEACR, 2005/76th session: Direct request); **Spain** (CEACR, 2005/76th session: Direct request).

⁶³⁵ See, **Bosnia and Herzegovina** (CEACR, 1999/70th session: Direct request; CEACR, 2005/76th session: Direct request); **Dominica** (CEACR, 2005/76th session: Direct request); **Estonia** (CEACR, 1999/70th session: Direct request); **Spain** (CEACR, 1999/70th session: Direct request).

⁶³⁶ See, **China (Hong Kong Special Administrative Region)** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation;); **Dominica** (CEACR, 1991/61st session: Direct request; CEACR, 1995/65th session: Direct request); **Jamaica** (CEACR, 1990/60th session: Observation; CEACR, 1991/61st session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1994/64th session: Observation; CEACR 1995/65th session: Observation; CEACR, 1998/69th session: Observation; CEACR 2001/72nd session: Observation; CEACR, 2005/76th session: Observation;); **Lebanon** (CEACR 1997/68th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2005/76th session: Direct request); **Mauritius** (CEACR, 1992/62nd session: Observation); **Papua New Guinea** (CEACR, 1990/60th session: Direct request; CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1993/63rd session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1998/69th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2005/76th session: Direct request); **Portugal** (CEACR, 1993/63rd session: Observation; CEACR, 1996/67th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2005/76th session: Observation); **Saint Lucia** (CEACR, 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request); **Seychelles** (CEACR, 1991/61st session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2005/76th session: Observation); **Sierra Leone** (CEACR, 1991/61st session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1995/66th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 2000/71st session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR 2003/74th session: Observation; CEACR, 2004/75th session: Observation); **Singapore** (CEACR, 1991/61st session: Direct request; CEACR, 1992/62nd

2.6.1.2. *The Unemployment Insurance (Seamen) Recommendation, 1920 (No. 10)*

The Unemployment Insurance (Seamen) Recommendation, 1920 (No. 10), provides that each Member of the International Labour Organisation should establish for seamen an effective system of insurance against unemployment arising out of shipwreck or any other cause, either by means of Government insurance or by means of Government subventions to industrial organisations whose rules provide for the payment of benefits to their unemployed members.

2.6.1.3. *The Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)*

Under the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55), the shipowner shall be liable in respect of (a) sickness and injury occurring between the date specified in the articles of agreement for reporting for duty and the termination of the engagement; (b) death resulting from such sickness or injury.⁶³⁷ The shipowner, as a general rule, shall be liable to defray the expense of medical care and maintenance until the sick or injured person has been cured, or until the sickness or incapacity has been declared of a permanent character.⁶³⁸ Where the sickness or injury results in incapacity for work the shipowner, normally, shall be liable (a) to pay full wages as long as the sick or injured person remains on board; (b) if the sick or injured person has dependants, to pay wages in whole or in part as prescribed by national laws or regulations, from the time when he is landed until he has been cured, or until the sickness or incapacity has been declared of a permanent character.⁶³⁹

session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2005/76th session: Direct request); **United Kingdom (Anguilla)** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 2005/76th session: Observation; CEACR, 2006/77th session: Observation); **United Kingdom (British Virgin Islands)** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation; CEACR 1999/70th session: Direct request; CEACR, 2005/76th session: Direct request); **United Kingdom (Falkland Islands (Malvinas))** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 2005/76th session: Observation; CEACR, 2006/77th session: Observation); **United Kingdom (Montserrat)** (CEACR, 1991/61st session: Observation; CEACR, 1995/65th session: Observation; CEACR, 1999/70th session: Observation; CEACR, 2005, 76th session: Observation; CEACR, 2006/77th session: Observation); **United Kingdom (St. Helena)** (CEACR, 1991/61st session: Observation). The origins of the formula according to which a seaman could lose his wages in cases of wreck or loss of the ship where it could be shown that he did not exert himself to the utmost to save the vessel, its cargo and stores could be traced to section 183 of the United Kingdom Merchant Shipping Act of 1854 and section 157 of the United Kingdom Merchant Shipping Act of 1894. *See*, Jonathan S. Kitchen, *The Employment of Merchant Seamen* 433-436 (Croom Helm, London, 1980).

⁶³⁷ Convention No. 55, Article 2(1).

⁶³⁸ Convention No. 55, Article 4(1). For the purpose of this Convention, medical care and maintenance at the expense of the shipowner comprise (a) medical treatment and the supply of proper and sufficient medicines and therapeutical appliances; and (b) board and lodging. *See*, Convention No. 55, Article 3.

⁶³⁹ Convention No. 55, Article 5(1).

In addition to that, the shipowner shall be liable to defray the expense of repatriating every sick or injured person who is landed during the voyage in consequence of sickness or injury.⁶⁴⁰ The shipowner shall also be liable to defray burial expenses in case of death occurring on board, or in case of death occurring on shore, if at the time of his death the deceased person was entitled to medical care and maintenance at the shipowner's expense.⁶⁴¹ Finally, national laws or regulations shall require the shipowner or his representative to take measures for safeguarding property left on board by sick, injured or deceased persons to whom this Convention applies.⁶⁴²

Analysis of the Comments of the Committee of Experts shows ten major issues relating to the application of the Convention. First, subject to a limited number of exemptions, the Convention applies to all persons employed on board any vessel, other than ships of war, registered in a territory for which this Convention is in force and ordinarily engaged in maritime navigation.⁶⁴³ Second, when no compulsory sickness insurance scheme exists, the liability of the shipowner is maintained until the sick or injured person has been cured or until the incapacity has been declared to be of a permanent character, whatever the port of disembarkation (on the understanding that the liability of the shipowner may be limited to a period of 16 weeks from the day of the injury or commencement of the sickness).⁶⁴⁴ Third, the limitation of the liability of the shipowner to pay wages in whole or in part in respect of a person no longer on board may only be limited to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.⁶⁴⁵

Fourth, under Article 5 of the Convention, under this provision of the Convention the shipowner is liable to pay wages in whole or in part, as appropriate, for a period which shall not be less than 16 weeks, irrespective of the date on which the articles of agreement may expire. Correspondingly, the provisions of the national legislation according to which the shipowner is under an obligation to pay, in the event of sickness affecting the seafarer giving rise to incapacity for work, the full amount of wages while the seafarer is on board or on shore until the recovery of the seafarer or until the determination of the permanent nature of the incapacity or until the termination of the engagement, is not in conformity with the Convention, because this latter limitation is not provided by Article 5, paragraph 1, of

⁶⁴⁰ Convention No. 55, Article 6(1).

⁶⁴¹ Convention No. 55, Article 7(1).

⁶⁴² Convention No. 55, Article 8.

⁶⁴³ See, **Bulgaria** (CEACR, 2005/76th session: Direct request); **Liberia** (CEACR 1990/60th session: Observation; CEACR 1991/61st session: Observation; CEACR 1992/62nd session: Observation; CEACR 1993/63rd session: Observation; CEACR 1994/64th session: Observation; CEACR 1997/68th session: Observation; CEACR 1998/69th session: Observation; CEACR 1999/70th session: Observation; CEACR 2000/71st session: Observation; CEACR 2001/72nd session: Observation; CEACR 2002/73rd session: Observation; CEACR 2003/74th session: Observation; CEACR 2004/75th session: Observation; CEACR 2005/76th session: Observation; CEACR, 2006/77th session: Observation.); **Panama** (CEACR, 2005/76th session: Observation).

⁶⁴⁴ See, **Djibouti** (CEACR 1991/61st session: Direct request; CEACR, 1992/62nd session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 1996/67th session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 1999/70th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request); **Peru** (CEACR, 2000/71st session: Observation; CEACR 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation;).

⁶⁴⁵ See, **Panama** (CEACR, 2001/72nd session: Observation; CEACR, 2005/76th session: Observation).

the Convention.⁶⁴⁶ Fifth, a ratifying Member shall include provisions in its legislation making it compulsory to seek the approval of the competent authority when the parties agree to a port of repatriation other than those laid down in Article 6, paragraph 2(a), (b) or (c), of the Convention.⁶⁴⁷

Sixth, the national legislation shall establish explicitly, in accordance with the Convention, the liability of the shipowner to defray the burial expenses in the case of death occurring on board.⁶⁴⁸ Seventh, the provisions of Articles 6 (repatriation), 7 (burial expenses) and 8 (safeguarding of property left on board) of the Convention are not self-executing, in that their application requires the adoption of necessary laws or regulations.⁶⁴⁹ Eighth, the national legislation shall contain rules applicable for the resolution of disputes, where neither the shipowner nor the seafarer is resident in the territory of a ratifying Member, and the measures shall be taken to ensure compliance with any court ruling or arbitration award relating to disputes occurring abroad.⁶⁵⁰

Ninth, in accordance with Article 11 of the Convention, all seafarers, irrespective of nationality, domicile or race, must enjoy equality of treatment. As the Convention does not allow for the right to protection to be made subject to any prior condition, foreign seafarers should therefore be able to claim for compensation in the same way as national seafarers.⁶⁵¹ Finally, the provisions of the Convention shall be applied to foreign seafarers whatever the length of their contract be and whether or not a reciprocity agreement has been concluded.⁶⁵²

2.6.1.4. *The Sickness Insurance (Sea) Convention, 1036 (No. 56)*

The Sickness Insurance (Sea) Convention, 1936 (No. 56), requires that every person employed as master or member of the crew or otherwise in the service of the ship, on board any vessel, other than a ship of war, registered in a territory for

⁶⁴⁶ See, **Panama** (CEACR, 1998/69th session: Observation; CEACR, 2001/72nd session: Observation).

⁶⁴⁷ See, **Liberia** (CEACR, 1990/60th session: Observation; CEACR, 1991/61st session: Observation; CEACR 1992/62nd session: Observation; CEACR, 1993/63rd session: Observation; CEACR, 1994/64th session: Observation; CEACR, 1997/68th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 1999/70th session: Observation; CEACR 2000/71st session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR 2003/74th session: Observation; CEACR 2004/75th session: Observation; CEACR, 2005/76th session: Observation; CEACR, 2006/77th session: Observation); **Luxembourg** (CEACR, 1997/68th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request).

⁶⁴⁸ See, **Bulgaria** (CEACR, 2005/76th session: Direct request); **Panama** (CEACR, 1998/69th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2005/76th session: Observation); **Spain** (CEACR, 1997/68th session: Direct request; CEACR, 73rd session: Direct request).

⁶⁴⁹ See, **Spain** (CEACR, 2002/73rd session: Direct request).

⁶⁵⁰ See, **Panama** (CEACR, 1998/69th session: Observation; CEACR, 2001/72nd session: Observation).

⁶⁵¹ See, **United States of America** (CEACR, 1991/61st session: Direct request; CEACR, 1995/66th session: Direct request; CEACR 2002/73rd session: Direct request; CEACR, 2005/76th session: Direct request); **United States of America (American Samoa)** (CEACR, 1995/66th session: Direct request); **United States of America (Guam)** (CEACR, 1995/66th session: Direct request); **United States of America (Puerto Rico)** (CEACR, 1995/66th session: Direct request); **United States of America (United States Virgin Islands)** (CEACR, 1995/66th session: Direct request).

⁶⁵² See, **Egypt** (CEACR, 1992/62nd session: Observation; CEACR, 1995/66th session: Observation; CEACR, 2000/71st session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2004/75th session: Observation); **Spain** (CEACR, 1992/62nd session: Direct request; CEACR, 1997/68th session: Direct request; CEACR, 2002/73rd session: Observation).

which this Convention is in force and engaged in maritime navigation or sea-fishing, shall be insured under a compulsory sickness insurance scheme.⁶⁵³ An insured person who is rendered incapable of work and deprived of his wages by reason of sickness shall be entitled to a cash benefit for at least the first twenty-six weeks or one hundred and eighty days of incapacity from and including the first day for which benefit is payable.⁶⁵⁴ Cash benefit may be withheld (a) while the insured person is on board or abroad; (b) while the insured person is maintained by the insurance institution or from public funds, provided that in such case it shall only partially be withheld when the insured person has family responsibilities; (c) while in respect of the same illness the insured person receives compensation from another source to which he is entitled by law, so however that in such case benefit shall only be wholly or partially withheld, if and so far as such compensation is equal to or less than the amount of the benefit payable under the sickness insurance scheme.⁶⁵⁵

The Convention also requires that an insured person shall be entitled free of charge, as from the commencement of his illness and at least until the period prescribed for the grant of sickness benefit expires, to medical treatment by a fully qualified medical practitioner and to the supply of proper and sufficient medicines and appliances.⁶⁵⁶ Furthermore, national laws or regulations shall prescribe the conditions under which an insured woman, while in the territory of the Member, shall be entitled to maternity benefit.⁶⁵⁷

Analysis of the Comments of the Committee of Experts shows ten major issues relating to the application of the Convention. First, the ratifying Members shall establish a sickness insurance system applicable to seafarers that will guarantee them protection in conformity with that envisaged by the Convention.⁶⁵⁸ Second, the Convention makes no distinction on the basis of nationality, with the sole exception provided for in Article 1, paragraph 2(d), of persons not resident in the territory of the member State. Therefore, all foreign workers (especially those married to women who are not nationals of this member State) employed on registered vessels in this State assigned to international service, or at least those residing in this member State, shall be covered by the compulsory social security scheme.⁶⁵⁹ Third, Article 2(2) of the Convention permits making the right to the benefit conditional upon completion of a waiting period of a few days to be counted from the beginning of the incapacity. As a result, the provision of the national legislation which sets out a waiting period of

⁶⁵³ Convention No. 56, Article 1(1).

⁶⁵⁴ Convention No. 56, Article 2(1).

⁶⁵⁵ Convention No. 56, Article 2(4).

⁶⁵⁶ Convention No. 56, Article 3(1).

⁶⁵⁷ Convention No. 56, Article 5(1).

⁶⁵⁸ See, **Djibouti** (CEACR, 1991/61st session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1995/65th session: Observation; CEACR, 2001/71st session: Observation; CEACR, 2004/75th session: Observation; CEACR, 2005/76th session: Observation); **Peru** (CEACR, 1998/69th session: Observation; CEACR, 1999/71st session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2004/75th session: Observation;).

⁶⁵⁹ See, **Panama** (CEACR, 1991/61st session: Observation; CEACR, 1992/62nd session: Observation; CEACR, 1995/66th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2005/76th session: Observation).

30 working days for the payment of sickness benefit (subject to a certain number of exceptions), is not in conformity with this requirement of the Convention.⁶⁶⁰

Fourth, medical care has to be provided and sickness benefit paid to all persons covered by the Convention. Although the Convention allows the suspension of benefits in certain circumstances, the non-payment of contributions by employers is not one of them.⁶⁶¹ Fifth, the Convention permits only partial suspension of sickness benefit in case of imprisoned or legally detained beneficiaries with dependants.⁶⁶² Sixth, Article 3 of the Convention does not authorise the provision of medical treatment to be subject to any qualifying period.⁶⁶³ Seventh, pursuant to Article 4(1) of the Convention, when the insured person is abroad and by reason of sickness has lost his right to wages, in whole or in part due to sickness, national legislation must provide that the benefit to which he would have been entitled, had he not been abroad, shall be paid in whole or in part to his family until his return to the national territory.⁶⁶⁴

Eighth, under the Convention, a right for the family to receive the benefit in whole or in part is not subject to any conditions or restrictions, such as the existence of a procurator to this effect.⁶⁶⁵ Ninth, in accordance with the Convention, if a seafarer's affiliation to the insurance ceases upon termination of an engagement, he should continue to enjoy full rights to the benefits provided by the insurance for a period to be fixed by national laws or regulations, after the termination of the last engagement.⁶⁶⁶ Finally, the insured persons and their employers shall share in providing the financial resources of the sickness insurance scheme.⁶⁶⁷

2.6.1.5. *The Seafarers' Pensions Convention, 1946 (No. 71)*

The Seafarers' Pensions Convention, 1946 (No. 71) provides that each Member of the International Labour Organisation for which this Convention is in force shall, in accordance with national laws or regulations, establish or secure the establishment of a scheme for the payment of pensions to seafarers on retirement from sea

⁶⁶⁰ See, **Slovenia** (CEACR, 1995/66th session: Direct request).

⁶⁶¹ See, **Panama** (CEACR, 1995/66th session: Observation; CEACR, 1998/69th session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2005/76th session: Observation); **Peru** (CEACR, 1991/61st session: Observation; CEACR, 1992/62nd session: Observation).

⁶⁶² See, **United Kingdom (Guernsey)** (CEACR, 1992/62nd session: Direct request (with reference also to Article 3, paragraph 3(b), of the Sickness Insurance (Industry) Convention, 1927 (No. 24); CEACR, 1995/65th session: Direct request (with the same reference)).

⁶⁶³ See, **Peru** (CEACR, 1990/60th session: Observation).

⁶⁶⁴ See, **Egypt** (CEACR, 1991/61st session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2004/75th session: Direct request).

⁶⁶⁵ See, **Algeria** (CEACR, 1992/62nd session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2004/75th session: Direct request; CEACR, 2005/76th session: Direct request).

⁶⁶⁶ See, **Egypt** (CEACR, 1991/61st session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request; CEACR, 1995/66th session: Direct request; CEACR, 2000/71st session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2004/75th session: Direct request); **Peru** (1998/69th session: Observation; CEACR, 1999/71st session: Observation; CEACR, 2001/72nd session: Observation; CEACR, 2002/73rd session: Observation; CEACR, 2004/75th session: Observation).

⁶⁶⁷ See, **Croatia** (CEACR, 1998/69th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request).

service.⁶⁶⁸ The scheme shall comply with one of the following conditions: (a) the pensions provided by the scheme (i) shall be payable to seafarers having completed a prescribed period of sea service on attaining the age of fifty-five or sixty years as may be prescribed by the scheme; and (ii) shall, together with any other social security pension payable simultaneously to the pensioner, be at a rate not less than the total obtained by computing, for each year of his sea service, 1.5 per cent of the remuneration on the basis of which contributions were paid in respect of him for that year if the scheme provides pensions on attaining the age of fifty-five years or 2 per cent of such remuneration, if the scheme provides pensions at the age of sixty years; or (b) the scheme shall provide pensions, the financing of which, together with the financing of any other social security pension payable simultaneously to the pensioner and any social security benefits payable to the dependants (as defined by national laws or regulations) of deceased pensioners, requires a premium income from all sources which is not less than 10 per cent of the total remuneration on the basis of which contributions are paid to the scheme.⁶⁶⁹ The Convention also provides that seafarers collectively shall not contribute more than half the cost of the pensions payable under the scheme.⁶⁷⁰

Analysis of the Comments of the Committee of Experts shows three major issues relating to the application of the Convention. First, the Convention envisages the establishment of a specific pension scheme for seafarers. Consequently, national legislation providing for inclusion of seafarers in schemes which were not necessarily established for them, but under which they can be insured, does not satisfy the requirements of the Convention.⁶⁷¹ Second, Article 4(3) of the Convention allows forfeiture or suspension of the right to a pension only if the beneficiary has acted fraudulently.⁶⁷² Third, under the Convention, seafarers collectively shall not contribute more than half the cost of the pensions payable under the scheme.⁶⁷³

2.6.1.6. The Seafarers' Social Security (Agreements) Recommendation, 1946 (No. 75)

The Seafarers' Social Security (Agreements) Recommendation, 1946 (No. 75) proposes that Members enter into agreements so as to ensure that seafarers belonging to one country and employed on board or in the service of a vessel of another country, either remain subject to the schemes of compulsory social insurance or workmen's compensation of their own country, or are subject to the corresponding schemes of the other country.⁶⁷⁴ Where seafarers residing in the territory of one

⁶⁶⁸ Convention No. 71, Article 2(1).

⁶⁶⁹ Convention No. 71, Article 3(1).

⁶⁷⁰ Convention No. 71, Article 3(2).

⁶⁷¹ See, **Lebanon** (CEACR, 1997/68th session: Direct request; CEACR, 2001/72nd session: Direct request; CEACR, 2005/76th session: Direct request); **Peru** (CEACR, 2001/72nd session: Direct request; CEACR, 2002/73rd session: Direct request).

⁶⁷² See, **Greece** (CEACR, 1991/61st session: Direct request; CEACR, 1994/64th session: Direct request; CEACR, 1995/65th session: Direct request).

⁶⁷³ See, **Panama** (CEACR, 1991/61st session: Direct request); **Peru** (CEACR, 1990/60th session: Observation).

⁶⁷⁴ Recommendation No. 75, section 1.

Member and employed on board or in the service of vessels registered in the territory of another Member suffer employment injuries, and are not protected either by a workmen's compensation scheme or by any alternative scheme, the second Member should take steps to secure that they are fully protected, either by entering into agreements with the first Member, or otherwise.⁶⁷⁵

2.6.1.7. *The Seafarers (Medical Care for Dependants) Recommendation, 1946 (No. 76)*

The Seafarers (Medical Care for Dependants) Recommendation, 1946 (No. 76) recommends that Members of the ILO should endeavour to provide proper and sufficient medical care for the dependants of seafarers, pending the development of a medical care service which would include within its scope workers generally and their dependants, and should inform the International Labour Office, as requested by the Governing Body, concerning the measures taken for this purpose.

2.6.1.8. *The Social Security (Seafarers) Convention (Revised), 1987 (No. 165)*

The Social Security (Seafarers) Convention (Revised), 1987 (No. 165) provides that the ratifying Members are bound to comply with the provisions of Article 9 or Article 11 in respect of at least three of the following branches of social security: (a) medical care; (b) sickness benefit; (c) unemployment benefit; (d) old-age benefit; (e) employment injury benefit; (f) family benefit; (g) maternity benefit; (h) invalidity benefit; (i) survivors' benefit; including at least one of the branches specified in subparagraphs (c), (d), (e), (h) and (i).⁶⁷⁶

When a Member has undertaken to apply the provisions of Article 9 to any branch of social security, seafarers and, where applicable, their dependants and survivors who are protected by the legislation of that Member, shall be entitled to social security benefits not less favourable in respect of contingencies covered, conditions of award, level and duration than those specified in the following provisions of the Social Security (Minimum Standards) Convention, 1952 (No. 102), for the branch in question.⁶⁷⁷ Article 11 contains a similar reference to the superior social security standards specified by the Maternity Protection Convention (Revised), 1952 (No. 103); the Employment Injury Benefits Convention, 1964 (No. 121); the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128); and the Medical Care and Sickness Benefits Convention, 1969 (No. 130).⁶⁷⁸

According to the Convention, the shipowner shall be required to provide to seafarers whose condition requires medical care while they are on board or who are left behind by reason of their condition in the territory of a State other than the competent Member: (a) proper and sufficient medical care until their recovery or until their repatriation, whichever first occurs; (b) board and lodging until they are

⁶⁷⁵ Recommendation No. 75, section 3.

⁶⁷⁶ Convention No. 165, Article 3.

⁶⁷⁷ Convention No. 165, Article 9.

⁶⁷⁸ Convention No. 165, Article 11.

able to obtain suitable employment or are repatriated, whichever first occurs; and (c) repatriation.⁶⁷⁹ The Convention also prescribes requirements with respect to social security protection of foreign or migrant seafarers,⁶⁸⁰ as well as legal and administrative safeguards,⁶⁸¹ including the right of every person concerned to appeal in case of refusal of the benefit in question, or complaint as to its nature, level, amount or quality.⁶⁸²

Analysis of the Comments of the Committee of Experts shows three major issues relating to the application of the Convention. First, in one instance, the Committee noted the Government's report that currently no national enterprise employed seafarers, either nationals of this country or foreigners. Even nationals of this country employed on nationally-owned ships under the national flag had mostly fixed-term work contracts concluded by companies (placement offices or navigation companies) registered abroad. The Government further specified that seafarers were independent foreign employees entitled to conclude a social security contract for their own coverage, but states that no foreign seafarers were employed. On the other hand, the report indicated that seafarers' employment contracts usually guaranteed the allowances specified under points (b), (e), (h) and (i) of Article 9 of the Convention, and that social security coverage of seafarers was identical to that of workers employed on shore, in line with its Article 7. In view of this rather controversial information, the Committee requested that the respective Government specify the number of seafarers, both nationals of this country and foreigners, employed on board ships under the national flag, irrespective of the nature of their employer, and to clarify whether and to what extent the national social security legislation was made applicable to such ships and seafarers, and by virtue of which provision.⁶⁸³

In another instance, with reference to Article 11(d) of the Convention (read in conjunction with Article 21 of Convention No. 121), the Committee asked the respective Government to provide, with its next report, all the statistics requested under Article 21 (review of benefits) in the report form adopted by the ILO Governing Body for Convention No. 121 and appearing in the appendix to the report form on Convention No. 165 in particular the statistics on the changes in the cost of living and the wage index on the one hand, and in benefits paid in case of occupational injuries on the other hand, for the period covered by the report.⁶⁸⁴ Finally, under the Convention, the seafarers who are subject to the legislation of a Member and are nationals of another Member, or are refugees or stateless persons resident in the territory of a Member, shall enjoy under that legislation equality of treatment with the nationals of the first Member, both as regards coverage and as regards the right to benefits. They shall enjoy equality of treatment without any condition of residence on the territory of the first Member, if its nationals are protected without any such conditions.⁶⁸⁵

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⁶⁷⁹ Convention No. 165, Article 13.

⁶⁸⁰ Convention No. 165, Articles 16-29.

⁶⁸¹ Convention No. 165, Articles 30-35.

⁶⁸² Convention No. 165, Article 30.

⁶⁸³ See, **Hungary** (CEACR, 2000/71st session: Direct request; CEACR, 2002/73rd session: Direct request; CEACR, 2003/74th session: Direct request).

⁶⁸⁴ See, **Spain** (CEACR, 1997/68th session: Direct request).

⁶⁸⁵ See, **Spain** (CEACR, 1997/68th session: Direct request) (with reference to Hungarian nationals employed on vessels sailing under the Spanish flag).

2.6.2. Texts of standards

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

Date of entry into force: March 16, 1923

The General Conference of the International Labour Organisation,

Having been convened at Genoa by the Governing Body of the International Labour Office, on the 15th day of June 1920, and

Having decided upon the adoption of certain proposals with regard to the “supervision of articles of agreement; provision of facilities for finding employment for seamen; application to seamen of the Convention and Recommendations adopted at Washington in November last in regard to unemployment and unemployment insurance”, which is the second item in the agenda for the Genoa meeting of the Conference, and

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

adopts the following Convention, which may be cited as the Unemployment Indemnity (Shipwreck) Convention, 1920, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation:

Article 1

1. For the purpose of this Convention, the term seamen includes all persons employed on any vessel engaged in maritime navigation.

2. For the purpose of this Convention, the term vessel includes all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned; it excludes ships of war.

Article 2

1. In every case of loss or foundering of any vessel, the owner or person with whom the seaman has contracted for service on board the vessel shall pay to each seaman employed thereon an indemnity against unemployment resulting from such loss or foundering.

2. This indemnity shall be paid for the days during which the seaman remains in fact unemployed at the same rate as the wages payable under the contract, but the total indemnity payable under this Convention to any one seaman may be limited to two months' wages.

Article 3

Seamen shall have the same remedies for recovering such indemnities as they have for recovering arrears of wages earned during the service.

Article 4

1. Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, protectorates and possessions which are not fully self-governing -

- (a) except where owing to the local conditions its provisions are inapplicable; or
- (b) subject to such modifications as may be necessary to adapt its provisions to local conditions.

2. Each Member shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

Article 5

The formal ratifications of this Convention, under the conditions set forth in the Constitution of the International Labour Organisation, shall be communicated to the Director-General of the International Labour Office for registration.

Article 6

As soon as the ratifications of two Members of the International Labour Organisation have been registered with the International Labour Office, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation.

Article 7

This Convention shall come into force at the date on which such notification is issued by the Director-General of the International Labour Office, and it shall then be binding only upon those Members which have registered their ratifications with the International Labour Office. Thereafter this Convention will come into force for any other Member at the date on which its ratification is registered with the International Labour Office.

Article 8

Subject to the provisions of Article 7, each Member which ratifies this Convention agrees to bring its provisions into operation not later than 1 July 1922, and to take such action as may be necessary to make these provisions effective.

Article 9

A Member which has ratified this Convention may denounce it after the expiration of five 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 with the International Labour Office.

Article 10

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 11

The French and English texts of this Convention shall both be authentic.

2.6.2.2. *Unemployment Insurance (Seamen) Recommendation, 1920 (No. 10)*

The General Conference of the International Labour Organisation,

Having been convened at Genoa by the Governing Body of the International Labour Office on the 15 June 1920, and

Having decided upon the adoption of certain proposals with regard to the supervision of articles of agreement; provision of facilities for finding employment for seamen; application to seamen of the Convention and Recommendations adopted at Washington in November last in regard to unemployment and unemployment insurance, which is the second item in the agenda for the Genoa meeting of the Conference, and

Having determined that these proposals shall take the form of a Recommendation,

adopts the following Recommendation, which may be cited as the Unemployment Insurance (Seamen) Recommendation, 1920, to be submitted to the Members of the International Labour Organisation for consideration with a view to effect being given to it by national legislation or otherwise, in accordance with the provisions of the Constitution of the International Labour Organisation:

The General Conference, with a view to securing the application to seamen of Part III of the Recommendation concerning unemployment adopted at Washington on 28 November 1919, recommends that each Member of the International Labour Organisation should establish for seamen an effective system of insurance against unemployment arising out of shipwreck or any other cause, either by means of Government insurance or by means of Government subventions to industrial organisations whose rules provide for the payment of benefits to their unemployed members.

2.6.2.3. *Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)*

Date of entry into force: October 29, 1939

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Twenty-first Session on 6 October 1936, and

Having decided upon the adoption of certain proposals with regard to the liability of the shipowner in case of sickness, injury or death of seamen, which is included in the second item on the agenda of the Session, and

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

adopts this twenty-fourth day of October of the year one thousand nine hundred and thirty-six the following Convention, which may be cited as the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936:

Article 1

1. This Convention applies to all persons employed on board any vessel, other than a ship of war, registered in a territory for which this Convention is in force and ordinarily engaged in maritime navigation.

2. Provided that any Member of the International Labour Organisation may in its national laws or regulations make such exceptions as it deems necessary in respect of -

- (a) persons employed on board,
 - (i) vessels of public authorities when such vessels are not engaged in trade;
 - (ii) coastwise fishing boats;

- (iii) boats of less than twenty-five tons gross tonnage;
- (iv) wooden ships of primitive build such as dhows and junks;
- (b) persons employed on board by an employer other than the shipowner;
- (c) persons employed solely in ports in repairing, cleaning, loading or unloading vessels;
- (d) members of the shipowner's family;
- (e) pilots.

Article 2

1. The shipowner shall be liable in respect of -
 - (a) sickness and injury occurring between the date specified in the articles of agreement for reporting for duty and the termination of the engagement;
 - (b) death resulting from such sickness or injury.
2. Provided that national laws or regulations may make exceptions 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 person;
 - (c) sickness or infirmity intentionally concealed when the engagement is entered into.
3. National laws or regulations may provide that the shipowner shall not be liable in respect of sickness, or death directly attributable to sickness, if at the time of engagement the person employed refused to be medically examined.

Article 3

For the purpose of this Convention, medical care and maintenance at the expense of the shipowner comprises -

- (a) medical treatment and the supply of proper and sufficient medicines and therapeutical appliances; and
- (b) board and lodging.

Article 4

1. The shipowner shall be liable to defray the expense of medical care and maintenance until the sick or injured person has been cured, or until the sickness or incapacity has been declared of a permanent character.
2. Provided that national laws or regulations may limit the liability of the shipowner to defray the expense of medical care and maintenance to a period which shall not be less than sixteen weeks from the day of the injury or the commencement of the sickness.
3. Provided also that, if there is in force in the territory in which the vessel is registered a scheme applying to seamen of compulsory sickness insurance, compulsory accident insurance or workmen's compensation for accidents, national laws or regulations may provide -
 - (a) that a shipowner shall cease to be liable in respect of a sick or injured person from the time at which that person becomes entitled to medical benefits under the insurance or compensation scheme;
 - (b) that the shipowner shall cease to be liable from the time prescribed by law for the grant of medical benefits under the insurance or compensation scheme to the beneficiaries of such schemes, even when the sick or injured person is not covered by the scheme in question, unless he is excluded from the scheme by reason of any restriction which affects particularly foreign workers or workers not resident in the territory in which the vessel is registered.

Article 5

1. 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 person remains on board;
- (b) if the sick or injured person has dependants, to pay wages in whole or in part as prescribed by national laws or regulations from the time when he is landed until he has been cured or the sickness or incapacity has been declared of a permanent character.

2. Provided that national laws or regulations may limit the liability of the shipowner to pay wages in whole or in part in respect of a person no longer on board to a period which shall not be less than sixteen weeks from the day of the injury or the commencement of the sickness.

3. Provided also that, if there is in force in the territory in which the vessel is registered a scheme applying to seamen of compulsory sickness insurance, compulsory accident insurance or workmen's compensation for accidents, national laws or regulations may provide -

- (a) that a shipowner shall cease to be liable in respect of a sick or injured person from the time at which that person becomes entitled to cash benefits under the insurance or compensation scheme;
- (b) that the shipowner shall cease to be liable from the time prescribed by law for the grant of cash benefits under the insurance or compensation scheme to the beneficiaries of such schemes, even when the sick or injured person is not covered by the scheme in question, unless he is excluded from the scheme by reason of any restriction which affects particularly foreign workers or workers not resident in the territory in which the vessel is registered.

Article 6

1. The shipowner shall be liable to defray the expense of repatriating every sick or injured person who is landed during the voyage in consequence of sickness or injury.

2. The port to which the sick or injured person is to be returned shall be -

- (a) the port at which he was engaged; or
- (b) the port at which the voyage commenced; or
- (c) a port in his own country or the country to which he belongs; or

another port agreed upon by him and the master or shipowner, with the approval of the competent authority.

3. The expense of repatriation shall include all charges for the transportation, accommodation and food of the sick or injured person during the journey and his maintenance up to the time fixed for his departure.

4. If the sick or injured person is capable of work, the shipowner may discharge his liability to repatriate him by providing him with suitable employment on board a vessel proceeding to one of the destinations mentioned in paragraph 2 of this Article.

Article 7

1. The shipowner shall be liable to defray burial expenses in case of death occurring on board, or in case of death occurring on shore if at the time of his death the deceased person was entitled to medical care and maintenance at the shipowner's expense.

2. 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 person under laws or regulations relating to social insurance or workmen's compensation.

Article 8

National laws or regulations shall require the shipowner or his representative to take measures for safeguarding property left on board by sick, injured or deceased persons to whom this Convention applies.

Article 9

National laws or regulations shall make provision for securing the rapid and inexpensive settlement of disputes concerning the liability of the shipowner under this Convention.

Article 10

The shipowner may be exempted from liability under Articles 4, 6 and 7 of this Convention in so far as such liability is assumed by the public authorities.

Article 11

This Convention and national laws or regulations relating to benefits under this Convention shall be so interpreted and enforced as to ensure equality of treatment to all seamen irrespective of nationality, domicile or race.

Article 12

Nothing in this Convention shall affect any law, award, custom or agreement between shipowners and seamen which ensures more favourable conditions than those provided by this Convention.

Article 13

1. In respect of the territories referred to in Article 35 of the Constitution of the International Labour Organisation, each Member of the Organisation which ratifies this Convention shall append to its ratification a declaration stating -

- (a) the territories in respect of which it undertakes to apply the provisions of the Convention without modification;
- (b) the territories in respect of which it undertakes to apply the provisions of the Convention subject to modifications, together with details of the said modifications;
- (c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
- (d) the territories in respect of which it reserves its decision.

2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 1 of this Article.

Article 14

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 15

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Article 16

As soon as the ratifications of two Members of the International Labour Organisation have been registered, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Article 17

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 18

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 19

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 17 above, if and when the new revising Convention shall have come into force;
- b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 20

The French and English texts of this Convention shall both be authentic.

2.6.2.4. Sickness Insurance (Sea) Convention, 1936 (No. 56)

Date of entry into force: December 9, 1949

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Twenty-first Session on 6 October 1936, and

Having decided upon the adoption of certain proposals with regard to sickness insurance for seamen, which is included in the second item on the agenda of the Session, and

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

adopts this twenty-fourth day of October of the year one thousand nine hundred and thirty-six the following Convention, which may be cited as the Sickness Insurance (Sea) Convention, 1936:

Article 1

1. Every person employed as master or member of the crew or otherwise in the service of the ship, on board any vessel, other than a ship of war, registered in a territory for which this Convention is in force and engaged in maritime navigation or sea-fishing, shall be insured under a compulsory sickness insurance scheme.

2. Provided that any Member of the International Labour Organisation may in its national laws or regulations make such exceptions as it deems necessary in respect of -

- (a) persons employed on board vessels of public authorities when such vessels are not engaged in trade;
- (b) persons whose wages or income exceed a prescribed amount;
- (c) persons who are not paid a money wage;
- (d) persons not resident in the territory of the Member;
- (e) persons below or above prescribed age-limits;
- (f) members of the employer's family;
- (g) pilots.

Article 2

1. An insured person who is rendered incapable of work and deprived of his wages by reason of sickness shall be entitled to a cash benefit for at least the first twenty-six weeks or one hundred and eighty days of incapacity from and including the first day for which benefit is payable.

2. The right to benefit may be made conditional upon the completion of a qualifying period and of a waiting period of a few days to be counted from the beginning of the incapacity.

3. The cash benefit granted to the insured person shall never be fixed at a rate lower than that fixed by the general scheme of compulsory sickness insurance, where such a scheme exists but does not apply to seamen.

4. Cash benefit may be withheld -

- (a) while the insured person is on board or abroad;
- (b) while the insured person is maintained by the insurance institution or from public funds. Provided that in such case it shall only partially be withheld when the insured person has family responsibilities;
- (c) while in respect of the same illness the insured person receives compensation from another source to which he is entitled by law, so however that in such case benefit shall only be wholly or partially withheld if and so far as such compensation is equal to or less than the amount of the benefit payable under the sickness insurance scheme.

5. Cash benefit may be reduced or refused in the case of sickness caused by the insured person's wilful misconduct.

Article 3

1. The insured person shall be entitled free of charge, as from the commencement of his illness and at least until the period prescribed for the grant of sickness benefit expires, to medical treatment by a fully qualified medical practitioner and to the supply of proper and sufficient medicines and appliances.

2. Provided that the insured person may be required to pay such part of the cost of medical benefit as may be prescribed by national laws or regulations.

3. Medical benefit may be withheld while the insured person is on board or abroad.

4. Whenever the circumstances so require, the insurance institution may provide for the treatment of the sick person in hospital and in such case shall grant him full maintenance together with the necessary medical attention and care.

Article 4

1. When the insured person is abroad and by reason of sickness has lost his right to wages, whether previously payable in whole or in part, the cash benefit to which he would have been entitled had he not been abroad shall be paid in whole or in part to his family until his return to the territory of the Member.

2. National laws or regulations may prescribe or authorise the provision of the following benefits:

- (a) when the insured person has family responsibilities, a cash benefit additional to that provided for in Article 2;
- (b) in case of the sickness of members of the insured person's family living in his home and dependent on him, aid in kind or in cash.

Article 5

1. National laws or regulations shall prescribe the conditions under which an insured woman, while in the territory of the Member, shall be entitled to maternity benefit.

2. National laws or regulations may prescribe the conditions under which the wife of an insured man, while in the territory of the Member, shall be entitled to maternity benefit.

Article 6

1. On the death of the insured person, a cash benefit of an amount prescribed by national laws or regulations shall be paid to the members of the family of the deceased or be applied for defraying the funeral expenses.

2. Where there is in force a pension scheme for the survivors of deceased seamen, the grant of the cash benefit provided for in the preceding paragraph shall not be compulsory.

Article 7

The right to insurance benefit shall continue even in respect of sickness occurring during a definite period after the termination of the last engagement, which period shall be fixed by national laws or regulations in such a way as to cover the normal interval between successive engagements.

Article 8

1. The insured persons and their employers shall share in providing the financial resources of the sickness insurance scheme.

2. National laws or regulations may provide for a financial contribution by the public authorities.

Article 9

1. Sickness insurance shall be administered by self-governing institutions, which shall be under the administrative and financial supervision of the public authorities and shall not be carried on with a view to profit.

2. Insured persons, and in the case of insurance institutions set up specially for seamen under laws or regulations the employers also, shall participate in the management of the institutions under such conditions as may be prescribed by national laws or regulations, which may also provide for the participation of other persons concerned.

3. Provided that the administration of sickness insurance may be undertaken directly by the State where and so long as its administration by self-governing institutions is rendered difficult or impossible by reason of national conditions.

Article 10

1. The insured person shall have a right of appeal in case of dispute concerning his right to benefit.

2. The procedure for dealing with disputes shall be rendered rapid and inexpensive for the insured person by means of special courts or any other method deemed appropriate under national laws or regulations.

Article 11

Nothing in this Convention shall affect any law, award, custom or agreement between shipowners and seamen which ensures more favourable conditions than those provided by this Convention.

Article 12

1. In respect of the territories referred to in Article 35 of the Constitution of the International Labour Organisation, each Member of the Organisation which ratifies this Convention shall append to its ratification a declaration stating -

- (a) the territories in respect of which it undertakes to apply the provisions of the Convention without modification;
- (b) the territories in respect of which it undertakes to apply the provisions of the Convention subject to modifications, together with details of the said modifications;
- (c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
- (d) the territories in respect of which it reserves its decision.

2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 1 of this Article.

Article 13

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 14

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Article 15

As soon as the ratifications of two Members of the International Labour Organisation have been registered, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Article 16

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 17

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 18

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 16 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 19

The French and English texts of this Convention shall both be authentic.

2.6.2.5. Seafarers' Pensions Convention, 1946 (No. 71)

Date of entry into force: October 10, 1962

The General Conference of the International Labour Organisation,

Having been convened at Seattle by the Governing Body of the International Labour Office, and having met in its Twenty-eighth Session on 6 June 1946, and

Having decided upon the adoption of certain proposals with regard to seafarers' pensions, which is included in the second item on the agenda of the Session, and

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

adopts this twenty-eighth day of June of the year one thousand nine hundred and forty-six the following Convention, which may be cited as the Seafarers' Pensions Convention, 1946:

Article 1

In this Convention the term "seafarer" includes every person employed on board or in the service of any sea-going vessel, other than a ship of war, which is registered in a territory for which the Convention is in force.

Article 2

1. Each Member of the International Labour Organisation for which this Convention is in force shall, in accordance with national laws or regulations, establish or secure the establishment of a scheme for the payment of pensions to seafarers on retirement from sea service.

2. The scheme may embody such exceptions as the Member deems necessary in respect of -

- (a) persons employed on board or in the service of -
 - (i) vessels of public authorities when such vessels are not engaged in trade;
 - (ii) vessels which are not engaged in the transport of cargo or passengers for the purpose of trade;
 - (iii) fishing vessels;
 - (iv) vessels engaged in hunting seals;
 - (v) vessels of less than 200 gross register tons;
 - (vi) wooden ships of primitive build such as dhows and junks;
 - (vii) in so far as ships registered in India are concerned and for a period not exceeding five years from the date of the registration of the ratification of the Convention by India, home-trade vessels of a gross register tonnage not exceeding 300 tons;
- (b) members of the shipowner's family;
- (c) pilots not members of the crew;
- (d) persons employed on board or in the service of the ship by an employer other than the shipowner, except radio officers or operators and catering staff;
- (e) persons employed in port who are not ordinarily employed at sea;
- (f) salaried employees in the service of a national public authority who are entitled to benefits at least equivalent on the whole to those provided for in this Convention;

- (g) persons not remunerated for their services or remunerated only by a nominal salary or wage, or remunerated exclusively by a share of profits;
- (h) persons working exclusively on their own account;
- (i) persons employed on board or in the service of whale-catching, floating factory or transport vessels or otherwise for the purpose of whaling or similar operations under conditions regulated by the provisions of a special collective whaling or similar agreement determining the rates of pay, hours of work and other conditions of service concluded by an organisation of seafarers concerned;
- (j) persons not resident in the territory of the Member;
- (k) persons not nationals of the Member.

Article 3

1. The scheme shall comply with one of the following conditions:
 - (a) the pensions provided by the scheme -
 - (i) shall be payable to seafarers having completed a prescribed period of sea service on attaining the age of fifty-five or sixty years as may be prescribed by the scheme; and
 - (ii) shall, together with any other social security pension payable simultaneously to the pensioner, be at a rate not less than the total obtained by computing for each year of his sea service 1.5 per cent. of the remuneration on the basis of which contributions were paid in respect of him for that year if the scheme provides pensions on attaining the age of fifty-five years or 2 per cent. of such remuneration if the scheme provides pensions at the age of sixty years; or
 - (b) the scheme shall provide pensions the financing of which, together with the financing of any other social security pension payable simultaneously to the pensioner and any social security benefits payable to the dependants (as defined by national laws or regulations) of deceased pensioners, requires a premium income from all sources which is not less than 10 per cent. of the total remuneration on the basis of which contributions are paid to the scheme.
2. Seafarers collectively shall not contribute more than half the cost of the pensions payable under the scheme.

Article 4

1. The scheme shall make appropriate provision for the maintenance of rights in course of acquisition by persons ceasing to be subject thereto or for the payment to such persons of a benefit representing a return for the contributions credited to their account.
2. The scheme shall grant a right of appeal in any dispute arising thereunder.
3. The scheme may provide for the forfeiture or suspension of the right to a pension in whole or in part if the person concerned has acted fraudulently.
4. The shipowners and the seafarers who contribute to the cost of the pensions payable under the scheme shall be entitled to participate through representatives in the management of the scheme.

Article 5

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 6

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force six months after the date on which there have been registered ratifications by five of the following countries: United States of America, Argentine Republic, Australia, Belgium, Brazil, Canada, Chile, China, Denmark, Finland, France, United Kingdom of Great Britain and Northern Ireland, Greece, India, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Sweden, Turkey and Yugoslavia, including at least three countries each of which has at least one million gross register tons of shipping. This provision is included for the purpose of facilitating and encouraging early ratification of the Convention by Member States.

3. Thereafter, this Convention shall come into force for any Member six months after the date on which its ratification has been registered.

Article 7

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 8

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the last of the ratifications required to bring the Convention into force, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 9

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 by him in accordance with the provisions of the preceding articles.

Article 10

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 11

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 7 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 12

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

2.6.2.6. Seafarers' Social Security (Agreements) Recommendation, 1946 (No. 75)

The General Conference of the International Labour Organization,

Having been convened at Seattle by the Governing Body of the International Labour Office, and having met in its Twenty-eighth Session on 6 June 1946, and

Having decided upon the adoption of certain proposals with regard to agreements relating to social security for seafarers, which is included in the second item on the agenda of the Session, and

Having determined that these proposals shall take the form of a Recommendation, adopts this twenty-eighth day of June of the year one thousand nine hundred and forty-six, the following Recommendation, which may be cited as the Seafarers' Social Security (Agreements) Recommendation, 1946:

The Conference recommends the Members of the Organisation to apply the following principles and to inform the International Labour Office, as requested by the Governing Body, concerning the measures taken to give effect to these principles:

1. Members should enter into agreements so as to ensure that seafarers belonging to one country and employed on board or in the service of a vessel of another country either remain subject to the schemes of compulsory social insurance or workmen's compensation of their own country or are subject to the corresponding schemes of the other country.

2. Such agreements might provide, for example, for Members to act as agents for one another in taking claims, obtaining necessary evidence and making payments or providing services as benefits to seafarers or dependants of seafarers entitled to benefit under the social insurance laws of one Member but present in the territory of another Member; or for the transfer of contributions; or for the application of the provisions of the Maintenance of Migrants' Pension Rights Convention, 1935; or for a combination of such methods.

3. Where seafarers residing in the territory of one Member and employed on board or in the service of vessels registered in the territory of another Member suffer employment injuries and are not protected either by a workmen's compensation scheme or by any alternative scheme, the second Member should take steps to secure that they are fully protected, either by entering into agreements with the first Member, or otherwise.

4. Where the shipowners of a Member enter into collective agreements providing for seafarers residing in its territory benefits supplementary to those prescribed by its laws or regulations and employ seafarers residing in the territory of another Member, the same supplementary benefits should be extended to such non-resident seafarers.

2.6.2.7. Seafarers (Medical Care for Dependants) Recommendation, 1946 (No. 76)

The General Conference of the International Labour Organisation,

Having been convened at Seattle by the Governing Body of the International Labour Office, and having met in its Twenty-eight Session on 6 June 1946, and

Having decided upon the adoption of certain proposals with regard to medical care for seafarers' dependants, which is included in the second item on the agenda of the Session, and

Having adopted the Social Security (Seafarers) Convention, 1946, and having decided to supplement the provisions of this Convention by a Recommendation,

adopts this twenty-eighth day of June of the year one thousand nine hundred and forty-six, the following Recommendation, which may be cited as the Seafarers (Medical Care for Dependants) Recommendation, 1946:

The Conference recommends that Members of the Organisation should endeavour to provide proper and sufficient medical care for the dependants of seafarers pending the development of a medical care service which would include within its scope workers generally and their dependants and should inform the International Labour Office, as requested by the Governing Body, concerning the measures taken for this purpose.

2.6.2.8. Social Security (Seafarers) Convention (Revised), 1987 (No. 165)

Date of entry into force: July 2, 1992

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Seventy-fourth Session on 24 September 1987, and

Having decided upon the adoption of certain proposals with regard to the social security protection for seafarers including those serving in ships flying flags other than those of their own country, which is the third item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention revising the Sickness Insurance (Sea) Convention, 1936, and the Social Security (Seafarers) Convention, 1946,

adopts this ninth day of October of the year one thousand nine hundred and eighty-seven the following Convention, which may be cited as the Social Security (Seafarers) Convention (Revised), 1987.

Part I. General provisions**Article 1**

In this Convention -

- (a) the term Member means any Member of the International Labour Organisation that is bound by the Convention;
- (b) the term legislation includes any social security rules as well as laws and regulations;
- (c) the term seafarers means persons employed in any capacity on board a seagoing ship which is engaged in the transport of cargo or passengers for the purpose of trade, is utilised for any other commercial purpose or is a seagoing tug, with the exception of persons employed on -

- (i) small vessels including those primarily propelled by sail, whether or not they are fitted with auxiliary engines;
 - (ii) vessels such as oil rigs and drilling platforms when not engaged in navigation;
- the decision as to which vessels and installations are covered by clauses (i) and (ii) being taken by the competent authority of each Member in consultation with the most representative organisations of shipowners and seafarers;
- (d) the term dependant has the meaning assigned to it by national legislation;
 - (e) the term survivors means persons defined or recognised as such by the legislation under which the benefits are awarded; where persons are defined or recognised as survivors under the relevant legislation only on the condition that they were living with the deceased, this condition shall be deemed to be satisfied in respect of persons who obtained their main support from the deceased;
 - (f) the term competent Member means the Member under whose legislation the person concerned can claim benefit;
 - (g) the term residence and resident refer to ordinary residence;
 - (h) the term temporarily resident refers to a temporary stay;
 - (i) the term repatriation means transportation to a place to which seafarers are entitled to be returned under laws and regulations or collective agreements applicable to them;
 - (j) the term non-contributory applies to benefits the award of which does not depend on direct financial participation by the persons protected or by their employer, or on a qualifying period of occupational activity;
 - (k) the term refugee has the meaning assigned to it in Article 1 of the Convention relating to the Status of Refugees of 28 July 1951 and in paragraph 2 of Article 1 of the Protocol relating to the Status of Refugees of 31 January 1967;
 - (l) the term stateless person has the meaning assigned to it in Article 1 of the Convention relating to the Status of Stateless Persons of 28 September 1954.

Article 2

1. The Convention applies to all seafarers and, where applicable, their dependants and their survivors.

2. To the extent it deems practicable, after consultation with the representative organisations of fishing vessel owners and fishermen, the competent authority shall apply the provisions of this Convention to commercial maritime fishing.

Article 3

Members are bound to comply with the provisions of Article 9 or Article 11 in respect of at least three of the following branches of social security:

- (a) medical care;
 - (b) sickness benefit;
 - (c) unemployment benefit;
 - (d) old-age benefit;
 - (e) employment injury benefit;
 - (f) family benefit;
 - (g) maternity benefit;
 - (h) invalidity benefit;
 - (i) survivors' benefit;
- including at least one of the branches specified in subparagraphs (c), (d), (e), (h) and (i).

Article 4

Each Member shall specify at the time of its ratification in respect of which of the branches mentioned in Article 3 it accepts the obligations of Article 9 or Article 11, and shall indicate separately in respect of each of the branches specified whether it undertakes to apply the minimum standards of Article 9 or the superior standards of Article 11 to that branch.

Article 5

Each Member may subsequently notify the Director-General of the International Labour Office that it accepts, with effect from the date of the notification, the obligations of this Convention in respect of one or more of the branches mentioned in Article 3 not already specified at the time of its ratification, indicating separately in respect of each of these branches whether it undertakes to apply to that branch the minimum standards of Article 9 or the superior standards of Article 11.

Article 6

A Member may by a notification to the Director-General of the International Labour Office, which shall take effect as from the date of the notification, subsequently replace the application of the provisions of Article 9 by that of the provisions of Article 11 in respect of any branch accepted.

Part II. Protection provided

GENERAL STANDARDS

Article 7

The legislation of each Member shall provide for seafarers to whom the legislation of that Member is applicable social security protection not less favourable than that enjoyed by shoreworkers in respect of each of the branches of social security mentioned in Article 3 for which it has legislation in force.

Article 8

Arrangements for the maintenance of rights in course of acquisition by a person who, having ceased to be subject to a Member's scheme of compulsory social security for seafarers, becomes subject to an equivalent scheme of that Member for shoreworkers, or vice versa, shall be made between the schemes concerned.

MINIMUM STANDARDS

Article 9

When a Member has undertaken to apply the provisions of this Article to any branch of social security, seafarers and, where applicable, their dependants and survivors who are protected by the legislation of that Member shall be entitled to social security benefits not less favourable in respect of contingencies covered, conditions of award, level and duration than those specified in the following provisions of the Social Security (Minimum Standards) Convention, 1952, for the branch in question:

- (a) for *medical care* in Articles 8, 10 (paragraphs 1, 2 and 3), 11 and 12 (paragraph 1);
- (b) for *sickness benefit* in Articles 14, 16 (in conjunction with Article 65 or 66 or 67), 17 and 18 (paragraph 1);
- (c) for *unemployment benefit* in Articles 20, 22 (in conjunction with Article 65 or 66 or 67), 23 and 24;
- (d) for *old-age benefit* in Articles 26, 28 (in conjunction with Article 65 or 66 or 67), 29 and 30;
- (e) for *employment injury benefit* in Articles 32, 34 (paragraphs 1, 2 and 4), 35, 36 (in conjunction with Article 65 or 66) and 38;
- (f) for *family benefit* in Articles 40, 42, 43, 44 (in conjunction with Article 66, where applicable) and 45;
- (g) for *maternity benefit* in Articles 47, 49 (paragraphs 1, 2 and 3), 50 (in conjunction with Article 65 or 66), 51 and 52;
- (h) for *invalidity benefit* in Articles 54, 56 (in conjunction with Article 65 or 66 or 67), 57 and 58;
- (i) for *survivors' benefit* in Articles 60, 62 (in conjunction with Article 65 or 66 or 67), 63 and 64.

Article 10

For the purpose of compliance with the provisions of subparagraphs (a), (b), (c), (d), (g) (as regards medical care), (h) or (i) of Article 9, a Member may take account of protection effected by means of insurance which is not made compulsory for seafarers by its legislation when this insurance -

- (a) is supervised by the public authorities or administered, in accordance with prescribed standards, by joint operation of shipowners and seafarers;
- (b) covers a substantial proportion of the seafarers whose earnings do not exceed those of a skilled employee; and
- (c) complies, in conjunction with other forms of protection where appropriate, with the relevant provisions of the Social Security (Minimum Standards) Convention, 1952.

SUPERIOR STANDARDS

Article 11

When a Member has undertaken to apply the provisions of this Article to any branch of social security, seafarers and, where applicable, their dependants and survivors who are protected by the legislation of that Member shall be entitled to social security benefits not less favourable in respect of contingencies covered, conditions of award, level and duration than those specified -

- (a) for *medical care* in Articles 7 (a), 8, 9, 13, 15, 16 and 17 of the Medical Care and Sickness Benefits Convention, 1969;
- (b) for *sickness benefit* in Articles 7 (b), 18, 21 (in conjunction with Article 22 or 23 or 24), 25 and 26 (paragraphs 1 and 3) of the Medical Care and Sickness Benefits Convention, 1969;
- (c) for *old-age benefit* in Articles 15, 17 (in conjunction with Article 26 or 27 or 28), 18, 19 and 29 (paragraph 1) of the Invalidity, Old-Age and Survivors' Benefits Convention, 1967;
- (d) for *employment injury benefit* in Articles 6, 9 (paragraphs 2 and 3 (introductory sentence)), 10, 13 (in conjunction with Article 19 or 20), 14 (in conjunction with Article 19 or 20), 15 (paragraph 1), 16, 17, 18 (paragraphs 1 and 2) (in conjunction with Arti-

- cle 19 or 20) and 21 (paragraph 1) of the Employment Injury Benefits Convention, 1964;
- (e) for *maternity benefit* in Articles 3 and 4 of the Maternity Protection Convention (Revised), 1952;
 - (f) for *invalidity benefit* in Articles 8, 10 (in conjunction with Article 26 or 27 or 28), 11, 12, 13 and 29 (paragraph 1) of the Invalidity, Old-Age and Survivors' Benefits Convention, 1967;
 - (g) for *survivors' benefit* in Articles 21, 23 (in conjunction with Article 26 or 27 or 28), 24, 25 and 29 (paragraph 1) of the Invalidity, Old-Age and Survivors' Benefits Convention, 1967;
 - (h) for *unemployment benefit* and *family benefit* in any future Convention laying down standards superior to those specified in subparagraphs (c) and (f) of Article 9 which the General Conference of the International Labour Organisation has, after its coming into force, recognised as applicable for the purpose of this clause by means of a Protocol adopted in the framework of a special maritime question included in its agenda.

Article 12

For the purpose of compliance with the provisions of subparagraphs (a), (b), (c), (e) (as regards medical care), (f), (g) or (h) (unemployment benefit) of Article 11, a Member may take account of protection effected by means of insurance which is not made compulsory for seafarers by its legislation when this insurance -

- (a) is supervised by the public authorities or administered, in accordance with prescribed standards, by joint operation of shipowners and seafarers;
- (b) covers a substantial proportion of seafarers whose earnings do not exceed those of a skilled employee; and
- (c) complies, in conjunction with other forms of protection, where appropriate, with the provisions of the Conventions referred to in the above-mentioned clauses of Article 11.

Part III. Shipowner's liability

Article 13

The shipowner shall be required to provide to seafarers whose condition requires medical care while they are on board or who are left behind by reason of their condition in the territory of a State other than the competent Member -

- (a) proper and sufficient medical care until their recovery or until their repatriation, whichever first occurs;
- (b) board and lodging until they are able to obtain suitable employment or are repatriated, whichever first occurs; and
- (c) repatriation.

Article 14

Seafarers who by reason of their condition are left behind in the territory of a State other than the competent Member shall continue to be entitled to their full wages (exclusive of bonuses) from the time when they are left behind until they receive an offer of suitable employment, or until they are repatriated, or until the expiry of a period of a length (which shall not be less than 12 weeks) prescribed by the national laws or regulations of that Member or by collective agreement, whichever event first occurs. The shipowner shall cease to

be liable for the payment of wages from the time such seafarers are entitled to cash benefits under the legislation of the competent Member.

Article 15

Seafarers who by reason of their condition are repatriated or are landed in the territory of the competent Member shall continue to be entitled to their full wages (exclusive of bonuses) from the time when they are repatriated or landed until their recovery, or until the expiry of a period of a length (which shall not be less than 12 weeks) prescribed by the national laws or regulations of that Member or by collective agreement, whichever event first occurs. Any period during which wages were paid by virtue of Article 14 shall be deducted from such period. The shipowner shall cease to be liable for the payment of wages from the time such seafarers are entitled to cash benefits under the legislation of the competent Member.

Part IV. Protection of foreign or migrant seafarers

Article 16

The following rules shall apply to seafarers who are or have been subject to the legislation of one or more Members, as well as, where applicable, to their dependants and their survivors, in respect of any branch of social security specified in Article 3 for which any such Member has legislation applicable to seafarers in force.

Article 17

With a view to avoiding conflicts of laws and the undesirable consequences that might ensue for those concerned either through lack of protection or as a result of undue plurality of contributions or other liabilities or of benefits, the legislation applicable in respect of seafarers shall be determined by the Members concerned in accordance with the following rules:

- (a) seafarers shall be subject to the legislation of one Member only;
- (b) in principle this legislation shall be
 - the legislation of the Member whose flag the ship is flying, or
 - the legislation of the Member in whose territory the seafarer is resident;
- (c) notwithstanding the rules set forth in the preceding subparagraphs, Members concerned may determine, by mutual agreement, other rules concerning the legislation applicable to seafarers, in the interest of the persons concerned.

Article 18

Seafarers who are subject to the legislation of a Member and are nationals of another Member, or are refugees or stateless persons resident in the territory of a Member, shall enjoy under that legislation equality of treatment with the nationals of the first Member, both as regards coverage and as regards the right to benefits. They shall enjoy equality of treatment without any condition of residence on the territory of the first Member if its nationals are protected without any such condition. This requirement shall also apply, where appropriate, as regards the right to benefit of seafarers' dependants and survivors irrespective of their nationality.

Article 19

Notwithstanding the provisions of Article 18, the award of non-contributory benefits may be made conditional on the beneficiary having resided in the territory of the competent Member or, in the case of survivors' benefit, on the deceased having resided there for a period which may not be set at more than -

- (a) six months immediately preceding the lodging of the claim, for unemployment benefit and maternity benefit;
- (b) five consecutive years immediately preceding the lodging of the claim, for invalidity benefit, or immediately preceding the death, for survivors' benefit;
- (c) ten years between the age of 18 and the pensionable age, of which it may be required that five years shall immediately precede the lodging of the claim, for old-age benefit.

Article 20

The laws and regulations of each Member relating to shipowners' liability provided for in Articles 13 to 15 shall ensure equality of treatment to seafarers irrespective of their place of residence.

Article 21

Each Member shall endeavour to participate with every other Member concerned in schemes for the maintenance of rights in course of acquisition, as regards each branch of social security specified in Article 3, for which each of these Members has legislation in force, for the benefit of persons who have been subject successively or alternately, in the capacity of seafarers, to the legislation of the said Members.

Article 22

The schemes for the maintenance of rights in course of acquisition referred to in Article 21 shall provide for the adding together, to the extent necessary, of periods of insurance, employment or residence, as the case may be, completed under the legislation of the Members concerned for the purposes of acquisition, maintenance or recovery of rights and, as the case may be, calculation of benefits.

Article 23

The schemes for the maintenance of rights in course of acquisition referred to in Article 21 shall determine the formula for awarding invalidity, old-age and survivors' benefits, as well as the apportionment, where appropriate, of the costs involved.

Article 24

Each Member shall guarantee the provision of invalidity, old-age and survivors' cash benefits, pensions in respect of employment injuries and death grants, to which a right is acquired under its legislation, to beneficiaries who are nationals of a Member or refugees or stateless persons, irrespective of their place of residence, subject to measures for this purpose being taken, where necessary, by agreement between the Members or with the States concerned.

Article 25

Notwithstanding the provisions of Article 24, in the case of non-contributory benefits the Members concerned shall determine by mutual agreement the conditions under which the provision of these benefits shall be guaranteed to beneficiaries resident outside the territory of the competent Member.

Article 26

A Member having accepted the obligations of the Equality of Treatment (Social Security) Convention, 1962, for one or more of the branches of social security referred to in Article 24, but not those of the Maintenance of Social Security Rights Convention, 1982, may, in respect of each branch for which it has accepted the obligations of the first-mentioned Convention, derogate from the provisions of Article 24 and apply in its place the provisions of Article 5 of that Convention.

Article 27

Members concerned shall endeavour to participate in schemes for the maintenance of rights acquired under their legislation as regards each of the following branches of social security for which each of these Members has legislation applicable to seafarers in force: medical care, sickness benefit, unemployment benefit, employment injury benefits other than pensions and death grants, family benefit and maternity benefit. These schemes shall guarantee such benefits to persons resident or temporarily resident in the territory of one of these Members other than the competent Member, under conditions and within limits to be determined by mutual agreement between the Members concerned.

Article 28

The provisions of this Part do not apply to social and medical assistance.

Article 29

Members may derogate from the provisions of Articles 16 to 25 and Article 27 by making special arrangements in the framework of bilateral or multilateral instruments concluded amongst two or more of them, on condition that these do not affect the rights and obligations of other Members and provide for the protection of foreign or migrant seafarers in matters of social security under provisions which, in the aggregate, are at least as favourable as those required under these Articles.

Part V. Legal and administrative safeguards

Article 30

Every person concerned shall have a right of appeal in case of refusal of the benefit or complaint as to its nature, level, amount or quality.

Article 31

Where a government department responsible to a legislature is entrusted with the administration of medical care, every person concerned shall have a right, in addition to the right of appeal provided for in Article 30, to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.

Article 32

Each Member shall make provision for securing the rapid and inexpensive settlement of disputes concerning the shipowner's liability provided for in Articles 13 to 15.

Article 33

Members shall accept general responsibility for the due provision of the benefits provided in compliance with this Convention and shall take all measures required for this purpose.

Article 34

Members shall accept general responsibility for the proper administration of the institutions and services concerned in the application of this Convention.

Article 35

Where the administration is not entrusted to an institution regulated by the public authorities or to a government department responsible to a legislature -

- (a) representatives of the seafarers protected shall participate in the management under conditions prescribed by national legislation;
- (b) national legislation shall also, where appropriate, provide for the participation of representatives of the shipowners;
- (c) national legislation may also provide for the participation of representatives of the public authorities.

Part VI. Final provisions**Article 36**

This Convention revises the Sickness Insurance (Sea) Convention, 1936, and the Social Security (Seafarers) Convention, 1946.

Article 37

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 38

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General of the International Labour Office.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 39

Each Member which ratifies this Convention undertakes to apply it to non-metropolitan territories for whose international relations it is responsible in accordance with the provisions of the Constitution of the International Labour Organisation.

Article 40

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 41

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General of the International Labour Office shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 42

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 by him in accordance with the provisions of the preceding Articles.

Article 43

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 44

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides -

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 40 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 45

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

2.7. Conventions and Recommendations concerning labour inspection of seafarers' working and living conditions

2.7.1. Content and practical application of standards

2.7.1.1. *The Labour Inspection (Seafarers) Convention, 1996 (No. 178)*

The Labour Inspection (Seafarers) Convention, 1996 (No. 178) provides that each Member for which it is in force shall maintain a system of inspection of seafarers' working and living conditions.⁶⁸⁶ The central coordinating authority shall coordinate inspections wholly or partly concerned with seafarers' working and living conditions, and shall establish principles to be observed.⁶⁸⁷ Under the Convention, the central coordinating authority shall in all cases be responsible for the inspection of seafarers' working and living conditions, although it may authorize public institutions or other organizations it recognizes as competent and independent to carry out inspections of seafarers' working and living conditions on its behalf.⁶⁸⁸

Each Member shall ensure that all ships registered in its territory are inspected at intervals not exceeding three years and, when practicable, annually, to verify that the seafarers' working and living conditions on board conform to national laws and regulations.⁶⁸⁹ Each Member shall appoint inspectors qualified for the performance of their duties and shall take the necessary steps to satisfy itself that inspectors are available in sufficient number to meet the requirements of this Convention.⁶⁹⁰

Inspectors shall have the status and conditions of service to ensure that they are independent of changes of government and of improper external influences.⁶⁹¹ They shall submit a report of each inspection to the central coordinating authority. One copy of the report in English or in the working language of the ship shall be

⁶⁸⁶ Convention No. 178, Article 2(1).

⁶⁸⁷ For the purposes of Convention No. 178, the term "central coordinating authority" means ministers, government departments or other public authorities having power to issue and supervise the implementation of regulations, orders or other instructions having the force of law in respect of inspection of seafarers' working and living conditions in relation to any ship registered in the territory of the Member. *See*, Convention No. 178, Article 1(7)(a).

⁶⁸⁸ Convention No. 178, Article 2(3).

⁶⁸⁹ Convention No. 178, Article 3(1).

⁶⁹⁰ Convention No. 178, Article 4.

⁶⁹¹ Convention No. 178, Article 5(1).

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 or sent to their representatives.⁶⁹²

The Convention also requires that the central coordinating authority publish an annual report on inspection activities, including a list of institutions and organizations authorized to carry out inspections on its behalf.⁶⁹³ This report shall be published within a reasonable time after the end of the year to which it relates and in any case within six months.⁶⁹⁴

Analysis of the comments of the Committee of Experts shows four major issues relating to the application of the Convention. The first concerns the requirement of Article 3(1) of the Convention that the annual inspections and unscheduled inspections of vessels registered in a ratifying Member include the verification that the seafarers' working and living conditions on board conform to national laws and regulations, and not only the inspection of ships' compliance with technical standards.⁶⁹⁵ The second area of concern relates to the requirement that, in the event of substantial changes in construction or accommodation arrangements, the ship shall be inspected within three months of such changes.⁶⁹⁶ The third area relates to the requirement of an annual publication of reports on inspection activities; the case where the reports are published regularly but not yet annually is not in compliance with the Convention.⁶⁹⁷ The fourth issue relates to the requirement that one copy of the inspection report must be either posted on the ship's notice board for the information of the seafarers or sent to their representatives; the case where four copies of the inspection report must be issued, one being transmitted to the master of the vessel; the second to the harbour master; the third to the head office of the merchant service; and the fourth to the shipping company concerned, is not in compliance with the Convention.⁶⁹⁸

2.7.1.2. The Labour Inspection (Seafarers) Recommendation, 1996 (No. 185)

Convention No. 178 is supplemented by the Labour Inspection (Seafarers) Recommendation, 1996 (No. 185), which provides detailed provisions with respect to cooperation and coordination between public institutions and other organizations concerned with seafarers' working and living conditions;⁶⁹⁹ organization of inspection;⁷⁰⁰ status, duties and powers of inspectors;⁷⁰¹ and the annual reports published by the central coordinating authority as well as inspection reports submitted by inspectors to the central coordinating authority.⁷⁰²

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⁶⁹² Convention No. 178, Article 9(1).

⁶⁹³ Convention No. 178, Article 8(2).

⁶⁹⁴ Convention No. 178, Article 8(2).

⁶⁹⁵ See, **Morocco** (CEACR, 2005/76th session: Direct request).

⁶⁹⁶ See, **United Kingdom (Isle of Man)** (CEACR, 2005/76th session: Direct request).

⁶⁹⁷ See, **Norway** (CEACR, 2002/73rd session: Direct request).

⁶⁹⁸ See, **Morocco** (CEACR, 2005/76th session: Direct request).

⁶⁹⁹ Recommendation No. 185, Chapter I.

⁷⁰⁰ Recommendation No. 185, Chapter II.

⁷⁰¹ Recommendation No. 185, Chapter III.

⁷⁰² Recommendation No. 185, Chapter IV.

2.7.2. Texts of standards

2.7.2.1. Labour Inspection (Seafarers) Convention, 1996 (No. 178)

Date of entry into force: April 22, 2000

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 Eighty-fourth Session on 8 October 1996, and

Noting the changes in the nature of the shipping industry and, as a consequence thereof, the changes in seafarers' working and living conditions since the Labour Inspection (Seamen) Recommendation, 1926, was adopted, and

Recalling the provisions of the Labour Inspection Convention and Recommendation, 1947, the Labour Inspection (Mining and Transport) Recommendation, 1947, and the Merchant Shipping (Minimum Standards) Convention, 1976, and

Recalling the entry into force of the United Nations Convention on the Law of the Sea, 1982, on 16 November 1994, and

Having decided upon the adoption of certain proposals with regard to the revision of the Labour Inspection (Seamen) Recommendation, 1926, which is the first item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention for flag State implementation only;

adopts, this twenty-second day of October of the year one thousand nine hundred and ninety-six, the following Convention, which may be cited as the Labour Inspection (Seafarers) Convention, 1996:

Part I. Scope and definitions

Article 1

1. Except as otherwise provided in this Article, this Convention applies to every seagoing ship, whether publicly or privately owned, which is registered in the territory of a Member for which the Convention is in force and is engaged in the transport of cargo or passengers for the purpose of trade or is employed for any other commercial purpose. For the purpose of this Convention, a ship that is on the register of two Members is deemed to be registered in the territory of the Member whose flag it flies.

2. National laws or regulations shall determine which ships are to be regarded as seagoing ships for the purpose of this Convention.

3. This Convention applies to seagoing tugs.

4. This Convention does not apply to vessels less than 500 gross tonnage and, when not engaged in navigation, vessels such as oil rigs and drilling platforms. The decision as to which vessels are covered by this paragraph shall be taken by the central coordinating authority in consultation with the most representative organizations of shipowners and seafarers.

5. To the extent the central coordinating authority deems it practicable, after consulting the representative organizations of fishing vessel owners and fishermen, the provisions of this Convention shall apply to commercial maritime fishing vessels.

6. In the event of any doubt as to whether or not any ships are to be regarded as engaged in commercial maritime operations or commercial maritime fishing for the purpose of this Convention, the question shall be determined by the central coordinating authority after consulting the organizations of shipowners, seafarers and fishermen concerned.

7. For the purpose of this Convention:

- (a) the term “central coordinating authority” means ministers, government departments or other public authorities having power to issue and supervise the implementation of regulations, orders or other instructions having the force of law in respect of inspection of seafarers’ working and living conditions in relation to any ship registered in the territory of the Member;
- (b) the term “inspector” means any civil servant or other public official with responsibility for inspecting any aspect of seafarers’ working and living conditions, as well as any other person holding proper credentials performing an inspection for an institution or organization authorized by the central coordinating authority in accordance with Article 2, paragraph 3;
- (c) the term “legal provisions” includes, in addition to laws and regulations, arbitration awards and collective agreements upon which the force of law is conferred;
- (d) the term “seafarers” means persons who are employed in any capacity on board a sea-going ship to which the Convention applies. In the event of any 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 central coordinating authority after consulting the organizations of shipowners and seafarers concerned;
- (e) the term seafarers’ working and living conditions means the conditions such as those relating to the standards of maintenance and cleanliness of shipboard living and working areas, minimum age, articles of agreement, food and catering, crew accommodation, recruitment, manning, qualifications, hours of work, medical examinations, prevention of occupational accidents, medical care, sickness and injury benefits, social welfare and related matters, repatriation, terms and conditions of employment which are subject to national laws and regulations, and freedom of association as defined in the Freedom of Association and Protection of the Right to Organise Convention, 1948, of the International Labour Organization.

Part II. Organization of inspection

Article 2

1. Each Member for which the Convention is in force shall maintain a system of inspection of seafarers’ working and living conditions.

2. The central coordinating authority shall coordinate inspections wholly or partly concerned with seafarers’ working and living conditions and shall establish principles to be observed.

3. The central coordinating authority shall in all cases be responsible for the inspection of seafarers’ working and living conditions. It may authorize public institutions or other organizations it recognizes as competent and independent to carry out inspections of seafarers’ working and living conditions on its behalf. It shall maintain and make publicly available a list of such institutions or organizations.

Article 3

1. Each Member shall ensure that all ships registered in its territory are inspected at intervals not exceeding three years and, when practicable, annually, to verify that the seafarers’ working and living conditions on board conform to national laws and regulations.

2. If a Member receives a complaint or obtains evidence that a ship registered in its territory does not conform to national laws and regulations in respect of seafarers' working and living conditions, the Member shall take measures to inspect the ship as soon as practicable.

3. In cases of substantial changes in construction or accommodation arrangements, the ship shall be inspected within three months of such changes.

Article 4

Each Member shall appoint inspectors qualified for the performance of their duties and shall take the necessary steps to satisfy itself that inspectors are available in sufficient number to meet the requirements of this Convention.

Article 5

1. Inspectors shall have the status and conditions of service to ensure that they are independent of changes of government and of improper external influences.

2. Inspectors provided with proper credentials shall be empowered:

- (a) to board a ship registered in the territory of the Member and to enter premises as necessary for inspection;
- (b) to carry out any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed;
- (c) to require that deficiencies are remedied; and
- (d) where they have grounds to believe that a deficiency constitutes a significant danger to seafarers' health and safety, to prohibit, subject to any right of appeal to a judicial or administrative authority, a ship from leaving port until necessary measures are taken, the ship not being unreasonably detained or delayed.

Article 6

1. When an inspection is conducted or when measures are taken under this Convention, all reasonable efforts shall be made to avoid a ship being unreasonably detained or delayed.

2. If a ship is unreasonably detained or delayed, the shipowner or operator of the ship shall be entitled to compensation for any loss or damage suffered. In any instance of alleged unreasonable detention or delay, the burden of proof shall lie with the shipowner or operator of the ship.

Part III. Penalties

Article 7

1. Adequate penalties for violations of the legal provisions enforceable by inspectors and for obstructing inspectors in the performance of their duties shall be provided for by national laws or regulations and shall be effectively enforced.

2. Inspectors shall have the discretion to give warnings and advice instead of instituting or recommending proceedings.

Part IV. Reports

Article 8

1. The central coordinating authority shall maintain records of inspections of seafarers' working and living conditions.

2. It shall publish an annual report on inspection activities, including a list of institutions and organizations authorized to carry out inspections on its behalf. This report shall be published within a reasonable time after the end of the year to which it relates and in any case within six months.

Article 9

1. Inspectors shall submit a report of each inspection to the central coordinating 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 or sent to their representatives.

2. In case of an inspection pursuant to a major incident, the report shall be submitted as soon as practicable but not later than one month following the conclusion of the inspection.

Part V. Final provisions

Article 10

This Convention supersedes the Labour Inspection (Seamen) Recommendation, 1926.

Article 11

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 12

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

Article 13

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

2. Each Member which has ratified this Convention and 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, will 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.

Article 14

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 communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

Article 15

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 by the Director-General in accordance with the provisions of the preceding Articles.

Article 16

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 17

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides -

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 18

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

2.7.2.2. Labour Inspection (Seafarers) Recommendation, 1996 (No. 185)

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 Eighty-fourth Session on 8 October 1996, and

Having decided upon the adoption of certain proposals with regard to the revision of the Labour Inspection (Seamen) Recommendation, 1926, which is the first item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Labour Inspection (Seafarers) Convention, 1996;

adopts, this twenty-second day of October of the year one thousand nine hundred and ninety-six, the following Recommendation, which may be cited as the Labour Inspection (Seafarers) Recommendation, 1996:

I. Cooperation and coordination

1. The central coordinating authority should make appropriate arrangements to promote effective cooperation between public institutions and other organizations concerned with seafarers' working and living conditions.

2. To ensure cooperation between inspectors, shipowners, seafarers and their respective organizations, and in order to maintain or improve seafarers' working and living conditions, the central coordinating 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 central coordinating authority after consulting with shipowners' and seafarers' organizations.

II. Organization of inspection

3. The central coordinating 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.

4. The number of inspectors should be sufficient to secure the efficient discharge of their duties and should be determined 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.

5. The system of inspection of seafarers' working and living conditions should permit inspectors:

- (a) to alert the central coordinating authority to any deficiency or abuse not specifically covered by existing legal provisions and submit proposals to it for the improvement of laws and regulations; and
- (b) to board ships and enter relevant premises freely and without previous notice at any hour of the day or night.

6. The central coordinating authority should:

- (a) establish simple procedures to enable it to receive information in confidence concerning possible infringements of legal provisions presented by seafarers directly or through representatives, and enable inspectors to investigate such matters promptly;
- (b) enable masters, crew members or representatives of the seafarers to call for an inspection when they consider it necessary; and
- (c) supply technical information and advice to shipowners and seafarers and organizations concerned as to the most effective means of complying with the legal provisions and improving seafarers' working and living conditions.

III. Duties and powers of inspectors

7. (1) Subject to any conditions for recruitment to the public service which may be prescribed by national laws or 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.

(2) The means for ascertaining such qualifications should be determined by the central coordinating authority.

8. Measures should be taken to provide inspectors with appropriate further training during their employment.

9. Each Member should take the necessary measures so that duly qualified technical experts and specialists may be called upon, as needed, to assist in the work of inspectors.

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.

11. All inspectors should be provided with conveniently situated premises, equipment and means of transport adequate for the efficient performance of their duties.

12. (1) Inspectors provided with proper credentials should be empowered:

- (a) 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 legal provisions in the presence of a witness that the person may have requested;
- (b) 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 check conformity with the legal provisions;
- (c) to enforce the posting of notices required by the legal provisions; and
- (d) to take or remove, for the purposes of analysis, samples of products, cargo, drinking-water, provisions and materials and substances used or handled.

(2) The shipowner or the shipowner's representative, and where appropriate the seafarer, should be notified of any sample being taken or removed in accordance with subparagraph (1)(d) or should be present at the time a sample is taken or removed. The quantity of such a sample should be properly recorded by the inspector.

13. When commencing a 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.

14. The central coordinating authority should be notified of any occupational injuries or diseases affecting seafarers in such cases and in such manner as may be prescribed by national laws or regulations.

15. Inspectors should:

- (a) be prohibited from having any direct or indirect interest in any operation which they are called upon to inspect;
- (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;
- (c) treat as confidential the source of any complaint alleging a danger or deficiency in relation to seafarers' working and living conditions or an infringement of legal provisions 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; and
- (d) have discretion, 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.

IV. Reports

16. The annual report published by the central coordinating authority in accordance with Article 8, paragraph 2, of the Convention 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 referred to in Article 2 of the Convention;

- (c) statistics of ships or other premises liable to inspection and of ships and other premises actually inspected;
- (d) statistics of seafarers subject to the laws and regulations referred to in subparagraph (a) of this paragraph;
- (e) statistics and information on infringements of legislation, penalties imposed and cases of detention of ships; and
- (f) statistics of occupational injuries and diseases affecting seafarers.

17. The reports referred to in Article 9 of the Convention should be drawn up in such manner and should deal with such subject matter as may be prescribed by the central coordinating authority.

2.8. Maritime Labour Convention, 2006

2.8.1. Content and practical application of standards⁷⁰³

2.8.1.1. Scope of application of the Maritime Labour Convention

The Maritime Labour Convention, 2006, applies to all “seafarers”,⁷⁰⁴ meaning any persons who are employed or engaged or work in any capacity on board a ship to which this Convention applies.⁷⁰⁵ Except as expressly provided otherwise, the Convention applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks.⁷⁰⁶ The Convention does not apply to warships or naval auxiliaries.⁷⁰⁷

Nevertheless, there is some flexibility regarding application of the Convention standards within the various areas of the Convention.⁷⁰⁸ Apart from that, some of the provisions relating to accommodation on board ship in Title 3 of the Convention apply only to ships of a certain type⁷⁰⁹ or size⁷¹⁰, and in certain cases their application may be excluded for smaller ships.⁷¹¹ Furthermore, Regulation 5.1.3 “Maritime labour certificate and declaration of maritime labour compliance” of Title 5 of the Convention applies to ships of 500 gross tonnage or over, engaged in international voyages;⁷¹² and 500 gross tonnage or over, flying the flag of a Mem-

⁷⁰³ As of March 1, 2007, the Convention has not entered into force, and no cases of its practical application have been considered by the Committee of Experts.

⁷⁰⁴ MLC, 2006, Article II, paragraph 1(f).

⁷⁰⁵ MLC, 2006, Article II, paragraph 2.

⁷⁰⁶ MLC, 2006, Article II, paragraph 4. For the purposes of the Convention, the term “ship” means a ship other than one which navigates exclusively in inland waters within, or closely adjacent to, sheltered waters or areas where port regulations apply. *See*, MLC, 2006, Article II, paragraph 1(i).

⁷⁰⁷ MLC, 2006, Article II, paragraph 4.

⁷⁰⁸ *See*, ILO: Proposed consolidated maritime labour Convention: Frequently asked questions. International Labour Conference, 94th (Maritime) Session, Geneva 7-23 February 2006, 4-5 (Geneva, 2006), available at: <http://www.ilo.org/public/english/dialogue/sector/papers/maritime/consol-faq.pdf> (last visited March 27, 2007).

⁷⁰⁹ For example, in accordance with Standard A3.1, paragraph 6(d), with respect to general requirements for accommodation, in passenger ships, and in special ships constructed in compliance with the IMO Code of Safety for Special Purpose Ships, 1983, and subsequent versions, 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.

⁷¹⁰ For example, in accordance with Standard A3.1, paragraph 9(h), in ships of less than 3,000 gross tonnage, other than passenger ships and special purpose ships, sleeping rooms, may be occupied by a maximum of two seafarers; the floor area of such sleeping rooms shall not be less than 7 square meters.

⁷¹¹ For example, in accordance with Standard A3.1, paragraph 10(b), mess rooms shall be located apart from the sleeping rooms and as close as practicable to the galley; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners’ and seafarers’ organizations concerned.

⁷¹² MLC, 2006, Regulation 5.1.3, paragraph 1(a).

ber and operating from a port, or between ports, in another country;⁷¹³ as well as to any other ship that flies the flag of a Member, at the request of the shipowner to the Member concerned.⁷¹⁴

2.8.1.2. Structure of the Maritime Labour Convention

The new Convention comprises three different but related parts: the Articles, the Regulations and the Code.⁷¹⁵ The Articles and Regulations set out the core rights and principles as well as the basic obligations of Members ratifying the Convention. The Articles and Regulations can only be changed by the Conference in the framework of article 19 of the Constitution of the International Labour Organisation (see Article XIV of the Convention).⁷¹⁶

The Code contains the details for the implementation of the Regulations. It comprises Part A (mandatory Standards) and Part B (non-mandatory Guidelines). The Code can be amended through the simplified procedure set out in Article XV of the Convention. Since the Code relates to detailed implementation, amendments to it must remain within the general scope of the Articles and Regulations.⁷¹⁷

The Regulations and the Code, which contains Standards and Guidelines, are organized under the five Titles. *Title 1* “Minimum requirements for seafarers” contains requirements with respect to minimum age, medical certificate, training and qualifications, as well as recruitment and placement. *Title 2* “Conditions of employment” deals with seafarers’ employment agreements, wages, hours of work and rest, entitlement to leave, repatriation, seafarer compensation for the ship’s loss or foundering, manning levels, career and skill development, and opportunities for seafarers’ employment. *Title 3* “Accommodation, recreational facilities, food and catering” deals with accommodation and recreational facilities, as well as food and catering. *Title 4* “Health protection, medical care, welfare and social security protection” contains provisions concerning medical care on board ship and ashore, shipowners’ liability, health and safety protection and accident prevention, access to shore-based welfare facilities, and social security. Finally, *Title 5* “Compliance and enforcement” establishes requirements with respect to Flag State responsibilities, notably the requirements concerning maritime labour certificate and declaration of maritime labour compliance, Port State responsibilities, and labour-supplying responsibilities.

Each Title contains groups of provisions relating to a particular right or principle (or enforcement measure in Title 5), with connected numbering. The first group in Title 1, for example, consists of Regulation 1.1, Standard A1.1 and Guideline B1.1, relating to minimum age.⁷¹⁸

⁷¹³ MLC, 2006, Regulation 5.1.3, paragraph 1(b).

⁷¹⁴ MLC, 2006, Regulation 5.1.3, paragraph 2.

⁷¹⁵ MLC, 2006, Explanatory Note to the Regulations and Code of the Maritime Labour Convention, paragraph 2.

⁷¹⁶ MLC, 2006, Explanatory Note, paragraph 3.

⁷¹⁷ MLC, 2006, Explanatory Note, paragraph 4.

⁷¹⁸ MLC, 2006, Explanatory Note, paragraph 6.

2.8.1.3. Areas for flexibility in implementation of the Maritime Labour Convention

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).⁷¹⁹ The second area of flexibility in implementation is provided by formulating the mandatory requirements of many provisions in Part A in a more general manner, 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 non-mandatory Part B of the Code. In this way, Member states which have ratified this Convention can ascertain the kind of action that might be expected of them under the corresponding general obligation in Part A, as well as action that would not necessarily be required. For example, Standard A4.1 requires all ships to provide prompt access to the necessary medicines for medical care on board ship (paragraph 1(b)) and to carry a medicine chest (paragraph 4(a)). The fulfilment in good faith of this latter obligation clearly means something more than simply having a medicine chest on board each ship. A more precise indication of what is involved is provided in corresponding Guideline B4.1.1 (paragraph 4) so as to ensure that the contents of the chest are properly stored, used and maintained.⁷²⁰

2.8.1.4. The meaning of “substantial equivalence” in the Maritime Labour Convention

Under Article VI, paragraph 3, of the Convention, a Member state which is not in a position to implement the rights and principles in the manner set out in Part A of the Code may, unless expressly provided otherwise in this Convention, implement Part A through provisions in its laws and regulations or other measures which are substantially equivalent to the provisions of Part A.⁷²¹ For the sole purpose of paragraph 3 of Article VI, any law, regulation, collective agreement or other implementing measure shall be considered to be substantially equivalent, in the context of this Convention, if the Member state satisfies itself that:

- (a) it is conclusive to the full achievement of the general object and purpose of the provision or provisions of Part A of the Code concerned; and
- (b) it gives effect to the provision or provisions of Part A of the Code concerned.⁷²²

This definition applies “for the sole purpose of paragraph 3” (i.e. only as far as the provisions of Part A of the Code are concerned) and only “in the context of this Convention”; it is therefore not intended to affect the meaning that might be

⁷¹⁹ MLC, 2006, Explanatory Note, paragraph 8.

⁷²⁰ MLC, 2006, Explanatory Note, paragraph 9.

⁷²¹ MLC, 2006, Article VI, paragraph 3.

⁷²² MLC, 2006, Article VI, paragraph 4.

given to the term “substantially equivalent” in other ILO Conventions (Conventions Nos. 147 and 185) that may remain or come into force for some Members.⁷²³

2.8.1.5. Contents of the Regulations and the Code

2.8.1.5.1. Minimum requirements for seafarers to work on a ship

2.8.1.5.1.1. Minimum age

Similarly to the Seafarers’ Hours of Work and the Manning of Ships Convention, 1996 (No. 180),⁷²⁴ Standard A.1.1 also prohibits the employment, engagement or work on board a ship of any person under the age of 16,⁷²⁵ as well as the night work of seafarers under the age of 18.⁷²⁶ In addition to that, similarly to the Minimum Age Convention, 1973 (No. 138),⁷²⁷ Standard A.1.1 further provides that the employment, engagement or work of seafarers under the age of 18 shall be prohibited where the work is likely to jeopardize their health and safety, leaving the determination of the types of such work to national laws or regulations or to the competent authority, after consultation with the shipowners’ and seafarers’ organizations concerned, in accordance with relevant international standards.⁷²⁸ Thus, as concerns the minimum age, the new Convention has not introduced any substantive changes into the existing standards.

2.8.1.5.1.2. Medical certificate

Under Standard A1.2, the competent authority shall require that, prior to beginning work on a ship, seafarers hold a valid medical certificate attesting that they are medically fit to perform the duties they are to carry out at sea.⁷²⁹ 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.⁷³⁰ Each medical certificate shall state in particular that: (a) the hearing and sight of the seafarer concerned, and the colour vision in the case of a seafarer to be employed in capacities where fitness for the work to be performed is liable to be affected by defective colour vision, are all satisfactory; and (b) the seafarer concerned is not suffering from any medical condition likely to be aggravated by service at sea or to render the seafarer unfit for such service or to endanger the health of other persons on board.⁷³¹ Unless a

⁷²³ ILO: *Adoption of an instrument to consolidate maritime labour standards*, Report I (1A), at 23.

⁷²⁴ Convention No. 180, Articles 6 and 12.

⁷²⁵ MLC, 2006, Standard A1.1, paragraph 1.

⁷²⁶ MLC, 2006, Standard A1.1, paragraph 2.

⁷²⁷ Convention No. 138, Article 3, paragraph 1.

⁷²⁸ MLC, 2006, Standard A1.1, paragraph 4.

⁷²⁹ MLC, 2006, Standard A1.2, paragraph 1.

⁷³⁰ MLC, 2006, Standard A1.2, paragraph 4.

⁷³¹ MLC, 2006, Standard A1.2, paragraph 6.

shorter period is required by reason of the specific duties to be performed by reason of the specific duties to be performed by the seafarer concerned or is required under STCW: (a) a medical certificate shall be valid for a for a maximum period of two years unless the seafarer is under the age of 18, in which case the maximum period of validity shall be one year; (b) a certification of colour vision shall be valid for a maximum period of six years.⁷³²

As compared to the Medical Examination (Seafarers) Convention, 1946 (No. 73), the new Convention is more restrictive as concerns employment without a certificate or after the expiration of its validity. First, while under Convention No. 73, in urgent cases the competent authority may allow a person to be employed for a single voyage without his having satisfied the requirements for obtaining the medical certificate,⁷³³ under the new Convention, in similar cases the competent authority may permit a seafarer to work without a valid medical certificate only until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that: (a) the period of such permission does not exceed three months; and (b) the seafarer concerned is in possession of an expired medical certificate of recent date.⁷³⁴ Second, if the period of validity of a certificate expires in the course of a voyage, under Convention No. 73, the certificate shall continue in force until the end of that voyage,⁷³⁵ whereas under the new Convention, the certificate shall continue in force until the next port of call, where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that the period shall not exceed three months.⁷³⁶

2.8.1.5.1.3. Training and qualifications

Under Regulation 1.3, seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties.⁷³⁷ Seafarers shall not be permitted to work on a ship unless they have successfully completed training for personal safety on board ship.⁷³⁸ Training and certification in accordance with the mandatory instruments adopted by the IMO shall be considered as meeting the above requirements.⁷³⁹

These provisions reflect the transfer of seafarers' training and certification responsibility from the ILO to the IMO, which was agreed upon at the PTMC in 2004.⁷⁴⁰ This transfer, however, does not include training of ships' cooks, a matter which remains with the ILO and is addressed in the new Convention under Regulation 3.2.

⁷³² MLC, 2006, Standard A1.2, paragraph 7.

⁷³³ Convention No. 73, Article 6, paragraph 1.

⁷³⁴ MLC, 2006, Standard A1.2, paragraph 8.

⁷³⁵ Convention No. 73, Article 5, paragraph 3.

⁷³⁶ MLC, 2006, Standard A1.2, paragraph 7.

⁷³⁷ MLC, 2006, Standard A1.3, paragraph 1.

⁷³⁸ MLC, 2006, Standard A1.3, paragraph 2.

⁷³⁹ MLC, 2006, Standard A1.3, paragraph 3.

⁷⁴⁰ ILO: *Adoption of an instrument to consolidate maritime labour standards*, Report I (1A), at 33.

2.8.1.5.1.4. Recruitment and placement

Under Standard A1.4, each Member that operates a public seafarer recruitment and placement service shall ensure that the service is operated in an orderly manner that protects and promotes seafarers' employment rights as provided in this Convention.⁷⁴¹ Where a Member has private seafarer recruitment and placement services operating in its territory, whose primary purpose is the recruitment and placement of seafarers, or which recruit and place a significant number of seafarers, they shall be operated only in conformity with a standardized system of licensing or certification or other form of regulation. This system shall be established, modified or changed only after consultation with the shipowners' and seafarers' organizations concerned.⁷⁴²

A Member adopting such a system shall, in its laws and regulations or other measures, at a minimum: (a) prohibit seafarer recruitment and placement services from using means, mechanisms or lists intended to prevent or deter seafarers from gaining employment for which they are qualified; (b) require that no fees or other charges for seafarer recruitment or placement or for providing employment to seafarers are borne directly or indirectly, in whole or in part, by the seafarer, other than the cost of the seafarer obtaining a national statutory medical certificate, the national seafarer's book and a passport or other similar personal travel documents, not including, however, the cost of visas, which shall be borne by the shipowner; and (c) ensure that seafarer recruitment and placement services operating in its territory: (i) maintain an up-to-date register of all seafarers recruited or placed through them, to be available for inspection by the competent authority; (ii) make sure that seafarers are informed of their rights and duties under their employment agreements prior to or in the process of engagement and that proper arrangements are made for seafarers to examine their employment agreements before and after they are signed and for them to receive a copy of the agreements; (iii) verify that seafarers recruited or placed by them are qualified and hold the documents necessary for the job concerned, and that the seafarers' employment agreements are in accordance with applicable laws and regulations and any collective bargaining agreement that forms part of the employment agreement; (iv) make sure, as far as practicable, that the shipowner has the means to protect seafarers from being stranded in a foreign port; (v) examine and respond to any complaint concerning their activities and advise the competent authority of any unresolved complaint; (vi) establish a system of protection, by way of insurance or an equivalent appropriate measure, to compensate seafarers for monetary loss that they may incur as a result of the failure of a recruitment and placement service or the relevant shipowner under the seafarers' employment agreement to meet its obligations to them.⁷⁴³

In addition to that, Standard A1.4 also requires the competent authority to closely supervise and control all seafarer recruitment and placement services oper-

⁷⁴¹ MLC, 2006, Standard A1.4, paragraph 1.

⁷⁴² MLC, 2006, Standard A1.4, paragraph 1.

⁷⁴³ MLC, 2006, Standard A1.4, paragraph 5.

ating in the territory of the Member concerned.⁷⁴⁴ Any licences or certificates or similar authorizations for the operation of private services in the territory are granted or renewed only after verification that the seafarer recruitment and placement service concerned meets the requirements of national laws and regulations.⁷⁴⁵

Unlike the Recruitment and Placement of Seafarers Convention, 1996 (No. 179), the new Convention imposes on ratifying Members a specific duty to require that shipowners of ships that fly its flag, who use seafarers recruitment and placement services based in countries or territories in which this Convention does not apply, ensure, as far as practicable, that those services meet the requirements of Standard A1.4.⁷⁴⁶

2.8.1.5.2. Conditions of employment

2.8.1.5.2.1. Seafarers' employment agreements

Under Standard A2.1, each Member shall adopt laws or regulations requiring that ships that fly its flag comply with the following requirements: (a) seafarers working on ships that fly its flag shall have a seafarers' employment agreement signed by both the seafarer and the shipowner or a representative of the shipowner (or, where they are not employees, evidence of contractual or similar arrangements) providing them with decent working and living conditions on board the ship as required by this Convention; (b) seafarers signing a seafarers' employment agreement shall be given an opportunity to examine and seek advice on the agreement before signing, as well as such other facilities as are necessary to ensure that they have freely entered into an agreement with a sufficient understanding of their rights and responsibilities; (c) the shipowner and seafarer concerned shall each have a signed original of the seafarers' employment agreement; (d) measures shall be taken to ensure that clear information as to the conditions of their employment can be easily obtained on board by seafarers, including the ship's master, and that such information, including a copy of the seafarers' employment agreement, is also accessible for review by officers of a competent authority, including those in ports to be visited; and (e) seafarers shall be given a document containing a record of their employment on board the ship.⁷⁴⁷

Furthermore, each Member shall adopt laws and regulations specifying the matters that are to be included in all seafarers' employment agreements governed by its national law. These agreements shall in all cases contain the following particulars: (a) the seafarer's full name, date of birth or age, and birthplace; (b) the shipowner's name and address; (c) the place where and date when the seafarers' employment agreement is entered into; (d) the capacity in which the seafarer is to be employed; (e) the amount of the seafarer's wages or, where applicable, the formula used for calculating them; (f) the amount of paid annual leave or, where applica-

⁷⁴⁴ MLC, 2006, Standard A1.4, paragraph 6.

⁷⁴⁵ MLC, 2006, Standard A1.4, paragraph 6.

⁷⁴⁶ MLC, 2006, Standard A1.4, paragraph 9.

⁷⁴⁷ MLC, 2006, Standard A2.1, paragraph 1.

ble, the formula used for calculating it; (g) the termination of the agreement and the conditions thereof, including: (i) if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the shipowner than for the seafarer; (ii) if the agreement has been made for a definite period, the date fixed for its expiry; and (iii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged; (h) the health and social security protection benefits to be provided to the seafarer by the shipowner; (i) the seafarer's entitlement to repatriation; (j) reference to the collective bargaining agreement, if applicable; and (k) any other particulars which national law may require.⁷⁴⁸

The new Convention has introduced six changes into the existing standards, as prescribed by the Seamen's Articles of Agreement Convention, 1926 (No. 22). First, unlike Convention No. 22, the new Convention contains an explicit requirement for the ratifying Members that all seafarers working on ships flying their flags have a seafarers' employment agreement.⁷⁴⁹ Second, the new Convention prescribes that information as to the conditions of employment, including a copy of the seafarers' employment agreement, is accessible for review by officers of a competent authority, including those in ports to be visited,⁷⁵⁰ whereas the former Convention did not establish any such requirement. Third, unlike the former Convention, the new Convention specifically requires that, where the language of the seafarers' employment agreement and any applicable collective bargaining agreement is not in English, a copy of a standard form of the agreement and the portions of the collective bargaining agreement that are subject to a port State inspection shall be available in English (except for ships engaged only in domestic voyages).⁷⁵¹ Fourth, the new Convention added to the list of particulars to be included into seafarers' employment agreements the health and social security protection benefits to be provided to the seafarer by the shipowner, the seafarer's entitlement to repatriation as well as reference to the collective bargaining agreement, if applicable.⁷⁵² Fifth, under the new Convention, the duration of the minimum period of notice for the early termination of a seafarers' employment agreement shall not be shorter than seven days,⁷⁵³ whereas under Convention No. 22 the period of notice shall not be less than twenty-four hours.⁷⁵⁴ Finally, while Convention No. 22 provides for the right of the seaman to obtain from the master a separate certificate as to the quality of his work, or a certificate indicating whether he has fully discharged his obligation under the agreement,⁷⁵⁵ no such documents are envisaged by the new Convention.

⁷⁴⁸ MLC, 2006, Standard A2.1, paragraph 4.

⁷⁴⁹ MLC, 2006, Standard A2.1, paragraph 1(d).

⁷⁵⁰ MLC, 2006, Standard A2.1, paragraph 1(e).

⁷⁵¹ MLC, 2006, Standard A2.1, paragraph 2.

⁷⁵² MLC, 2006, Standard A2.1, paragraphs 4(h), 4(i) and 4(j).

⁷⁵³ MLC, 2006, Standard A2.1, paragraph 5.

⁷⁵⁴ Convention No. 22, Article 9, paragraph 1.

⁷⁵⁵ Convention No. 22, Article 14, paragraph 2.

2.8.1.5.2.2. Wages

Under the Convention, each Member shall require that payments due to seafarers working on ships that fly its flag are made at no greater than monthly intervals and in accordance with any applicable collective agreement.⁷⁵⁶ Each Member shall also require that shipowners take measures to provide seafarers with a means of transmitting all or part of their earnings to their families or dependants or legal beneficiaries, including (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.⁷⁵⁷ In addition to this, the Guidelines contain recommendations with respect to the calculation and payment of wages,⁷⁵⁸ minimum wages,⁷⁵⁹ and minimum monthly basic pay of wage figure for able seafarers,⁷⁶⁰ - notably the recommendation that such pay should be no less than the amount periodically set by the Joint Maritime Commission or another body authorized by the Governing Body of the ILO.⁷⁶¹

Prior to the adoption of the new Convention the periodicity of payment of wages has been dealt with in the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187)⁷⁶², whereas the transfer of earnings to the families has been addressed in the Seamen's Welfare in Ports Recommendation.⁷⁶³ As a result, the inclusion of these two respective requirements into the mandatory Standard represents a significant change in the existing standards concerning seafarers' wages, because previously these measures have been merely recommended, but not required.

2.8.1.5.2.3. Hours of work and hours of rest

As concerns the hours of work and hours of rest, the new Convention closely follows the provisions of Convention No. 180, the text of which had been the subject of extensive debate and delicate compromise.⁷⁶⁴ Standard A2.3 prescribes the following limits on hours of work or rest: (a) maximum hours of work shall not exceed: (i) 14 hours in any 24-hour period; and (ii) 72 hours in any seven-day period; or (b) minimum hours of rest shall not be less than: (i) ten hours in any 24-hour period; and (ii) 77 hours in any seven-day period.⁷⁶⁵ Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in

⁷⁵⁶ MLC, 2006, Standard A2.2, paragraph 1.

⁷⁵⁷ MLC, 2006, Standard A2.2, paragraphs 3 and 4.

⁷⁵⁸ MLC, 2006, Guideline B2.2.2.

⁷⁵⁹ MLC, 2006, Guideline 2.2.3.

⁷⁶⁰ MLC, 2006, Guideline 2.2.4.

⁷⁶¹ MLC, 2006, Guideline 2.2.4, paragraph 1.

⁷⁶² Recommendation No. 187, section 6(d).

⁷⁶³ Recommendation No. 48, section 10(b).

⁷⁶⁴ ILO: *Adoption of an instrument to consolidate maritime labour standards*, Report I (1A), at 36.

⁷⁶⁵ MLC, 2006, Standard A2.3, paragraph 5.

length, and the interval between consecutive periods of rest shall not exceed 14 hours.⁷⁶⁶

2.8.1.5.2.4. Entitlement to leave

Under Standard A2.4, each Member shall adopt laws and regulations determining the minimum standards for annual leave for seafarers serving on ships that fly its flag, taking proper account of the special needs of seafarers with respect to such leave.⁷⁶⁷ Subject to any collective agreement or laws or regulations, providing for an appropriate method of calculation that takes account of the special needs of seafarers in this respect, the annual leave with pay entitlement shall be calculated on the basis of a minimum of 2.5 calendar days per month of employment. The manner in which the length of service is calculated shall be determined by the competent authority or through the appropriate machinery in each country. Justified absences from work shall not be considered as annual leave.⁷⁶⁸ Any agreement to forgo such minimum annual leave with pay, except in cases provided for by the competent authority, shall be prohibited.⁷⁶⁹ In addition to that, the Guidelines provide recommendations with respect to the calculation of entitlement to leave,⁷⁷⁰ taking of annual leave,⁷⁷¹ its division and accumulation,⁷⁷² as well as special measures with respect to young seafarers under the age of 18.⁷⁷³

Unlike the Seafarers' Annual Leave with Pay Convention, 1976 (No. 146), which provides that the leave shall in no case be less than 30 calendar days for one year of service,⁷⁷⁴ the new Convention takes the monthly equivalent of the annual 30 days as the basis and provides for calculation on the basis of a minimum of 2.5 calendar days per month of employment.⁷⁷⁵ This change has been made in order to meet the difficulties some governments were encountering with the 30 calendar days a year.⁷⁷⁶

2.8.1.5.2.5. Repatriation

According to Standard A2.5, each Member shall ensure that seafarers on ships flying its flag are entitled to repatriation in the following circumstances: (a) if the seafarers' employment agreement expires while they are abroad; (b) when the seafarers' employment agreement is terminated: (i) by the shipowner; or (ii) by the seafarer for justified reasons; and also (c) when the seafarers are no longer able to

⁷⁶⁶ MLC, 2006, Standard A2.3, paragraph 6.

⁷⁶⁷ MLC, 2006, Standard A2.4, paragraph 1.

⁷⁶⁸ MLC, 2006, Standard A2.4, paragraph 2.

⁷⁶⁹ MLC, 2006, Standard A2.4, paragraph 3.

⁷⁷⁰ MLC, 2006, Guideline B2.4.1.

⁷⁷¹ MLC, 2006, Guideline B2.4.2.

⁷⁷² MLC, 2006, Guideline B2.4.3.

⁷⁷³ MLC, 2006, Guideline B2.4.4.

⁷⁷⁴ Convention No. 146, Article 3, paragraph 3.

⁷⁷⁵ MLC, 2006, Standard A2.4, paragraph 2.

⁷⁷⁶ ILO: *Adoption of an instrument to consolidate maritime labour standards*, Report I (1A), at 37.

carry out their duties under their employment agreement or cannot be expected to carry them out in the specific circumstances.⁷⁷⁷

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 where the seafarer has been found to be in serious default of the seafarer's employment obligations.⁷⁷⁸

The new Convention has introduced three changes into the existing standards, as prescribed by the Repatriation of Seafarers Convention (Revised), 1987 (No. 166). First, unlike its predecessor, the new Convention specifically obligates each Member to require that ships that fly its flag provide some form of financial security to ensure that seafarers are duly repatriated in accordance with the Code.⁷⁷⁹ Second, while Convention No. 166 provides, among other things, for seafarers' entitlement to repatriation upon expiry of the period of notice given in accordance with the provisions of the articles of agreement or the seafarer's contract of employment, regardless of the reason for such termination,⁷⁸⁰ the new Convention provides for the entitlement to repatriation in a similar case only when the seafarers' employment agreement is terminated by the seafarer for justified reasons.⁷⁸¹ Third, in an effort to meet concerns that the level of prescriptive detail in Convention No. 166 was providing difficulties for governments, many of the details regarding repatriation have been placed in a non-mandatory Part B of the Code to provide guidance in implementation at a national level, namely the composition of the costs to be borne by the shipowner for repatriation.⁷⁸²

2.8.1.5.2.6. Seafarers compensation for the ship's loss or foundering

Under Standard A2.6, each Member shall make rules ensuring that, in every case of loss or foundering of any ship, the shipowner shall pay to each seafarer on board an indemnity against unemployment resulting from such loss or foundering.⁷⁸³ These rules shall be without prejudice to any other rights a seafarer may have under the national law of the Member concerned for losses or injuries arising from a ship's loss or foundering.⁷⁸⁴ As concerns the amount of the indemnity,

⁷⁷⁷ MLC, 2006, Standard A.2.5, paragraph 1.

⁷⁷⁸ MLC, 2006, Regulation 2.5, paragraph 5.

⁷⁷⁹ MLC, 2006, Regulation 2.5, paragraph 1.

⁷⁸⁰ Convention No. 166, Article 2, paragraph 1(b).

⁷⁸¹ MLC, 2006, Standard A2.5, paragraph 1(b)(ii).

⁷⁸² MLC, 2006, Guideline B2.5, paragraph 3. See, ILO: *Adoption of an instrument to consolidate maritime labour standards*, Report I (1A), at 37.

⁷⁸³ MLC, 2006, Standard A2.6, paragraph 1.

⁷⁸⁴ MLC, 2006, Standard A2.6, paragraph 2.

unlike the Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8), which contained a provision dealing with this matter,⁷⁸⁵ the respective provision in the new Convention is placed into the Guideline,⁷⁸⁶ meaning that it is no longer mandatory.

2.8.1.5.2.7. Manning levels

Under Standard A2.7, each Member shall require that all ships that fly its flag have a sufficient number of seafarers on board to ensure that ships are operated safely, efficiently and with due regard to security. Every ship shall be manned by a crew that is adequate, in terms of size and qualifications, to ensure the safety and security of the ship and its personnel, under all operating conditions, in accordance with the minimum safe manning document or an equivalent issued by the competent authority, and to comply with the standards of this Convention.⁷⁸⁷ When determining, approving or revising manning levels, the competent authority shall take into account the need to avoid or minimize excessive hours of work to ensure sufficient rest and to limit fatigue, as well as the principles in applicable international instruments, especially those of the IMO, on manning levels.⁷⁸⁸

As compared to Convention No. 180, the new Convention has introduced an additional requirement, according to which the competent authority, when determining manning levels, shall take into account all the requirements within Regulation 3.2 and Standard A3.2 concerning food and catering.⁷⁸⁹

2.8.1.5.2.8. Career and skill development and opportunities for seafarers' employment

Under Standard A.2.8, each Member shall have national policies that encourage career and skill development and employment opportunities for seafarers, in order to provide the maritime sector with a stable and competent workforce.⁷⁹⁰ The aim of these policies shall be to help seafarers strengthen their competencies, qualifications and employment opportunities.⁷⁹¹ Furthermore, each Member shall, after consulting the shipowners' and seafarers' organizations concerned, establish clear objectives for the vocational guidance, education and training of seafarers whose duties on board ship primarily relate to the safe operation and navigation of the ship, including ongoing training.⁷⁹²

As compared to the Continuity of Employment (Seafarers) Convention, 1976 (No. 145), the new Convention shifts the aim of the national policies from encouraging all concerned to provide continuous or regular employment for qualified

⁷⁸⁵ MLC, 2006, Convention No. 8, Article 2, paragraph 2.

⁷⁸⁶ MLC, 2006, Guideline B.2.6.1, paragraph 1.

⁷⁸⁷ MLC, 2006, Standard A2.7, paragraph 1.

⁷⁸⁸ MLC, 2006, Standard A2.7, paragraph 2.

⁷⁸⁹ MLC, 2006, Standard A2.7, paragraph 3.

⁷⁹⁰ MLC, 2006, Standard A.2.8, paragraph 1.

⁷⁹¹ MLC, 2006, Standard A.2.8, paragraph 2.

⁷⁹² MLC, 2006, Standard A.2.8, paragraph 3.

seafarers, required under the Convention No. 145,⁷⁹³ towards inclusion of seafarers in full employment policies at a broader national level by focusing on promotion of employment in the sector and on career development and ongoing training and skill development for seafarers.⁷⁹⁴ This shift takes into account the views of many governments that such a policy with respect to one sector of the workforce is no longer appropriate, although the need to attract people to work in the sector is acknowledged.⁷⁹⁵

2.8.1.5.3. Accommodation, recreational facilities, food and catering

2.8.1.5.3.1. Accommodation and recreational facilities

According to Standard A3.1, each Member shall adopt laws and regulations requiring that ships that fly its flag: (a) meet minimum standards to ensure that any accommodation for seafarers, working or living on board, or both, is safe, decent and in accordance with the relevant provisions of Standard A3.1; and (b) are inspected to ensure initial and ongoing compliance with those standards.⁷⁹⁶ The Standard contains specific provisions with respect to general requirements for accommodation;⁷⁹⁷ requirements for ventilation and heating;⁷⁹⁸ lighting;⁷⁹⁹ sleeping accommodation;⁸⁰⁰ mess rooms;⁸⁰¹ sanitary facilities;⁸⁰² hospital accommodation;⁸⁰³ laundry facilities;⁸⁰⁴ space on open deck;⁸⁰⁵ offices for use by deck and engine departments;⁸⁰⁶ devices against mosquito;⁸⁰⁷ and seafarers' recreational facilities, amenities and services.⁸⁰⁸ In addition to that, the Guideline provides recommendations with respect to design and construction;⁸⁰⁹ ventilation;⁸¹⁰ heating;⁸¹¹ lighting;⁸¹² sleeping rooms;⁸¹³ mess rooms;⁸¹⁴ sanitary accommodation;⁸¹⁵ hospital

⁷⁹³ Convention No. 145, Article 2, paragraph 1.

⁷⁹⁴ MLC, 2006, Standard A2.8, paragraphs 1 and 2.

⁷⁹⁵ ILO: *Adoption of an instrument to consolidate maritime labour standards*, Report I (1A), at 38.

⁷⁹⁶ MLC, 2006, Standard A3.1, paragraph 1.

⁷⁹⁷ MLC, 2006, Standard A3.1, paragraph 6.

⁷⁹⁸ MLC, 2006, Standard A3.1, paragraph 7.

⁷⁹⁹ MLC, 2006, Standard A3.1, paragraph 8.

⁸⁰⁰ MLC, 2006, Standard A3.1, paragraph 9.

⁸⁰¹ MLC, 2006, Standard A3.1, paragraph 10.

⁸⁰² MLC, 2006, Standard A3.1, paragraph 11.

⁸⁰³ MLC, 2006, Standard A3.1, paragraph 12.

⁸⁰⁴ MLC, 2006, Standard A3.1, paragraph 13.

⁸⁰⁵ MLC, 2006, Standard A3.1, paragraph 14.

⁸⁰⁶ MLC, 2006, Standard A3.1, paragraph 15.

⁸⁰⁷ MLC, 2006, Standard A3.1, paragraph 16.

⁸⁰⁸ MLC, 2006, Standard A3.1, paragraph 17.

⁸⁰⁹ MLC, 2006, Guideline B3.1.1.

⁸¹⁰ MLC, 2006, Guideline B3.1.2.

⁸¹¹ MLC, 2006, Guideline B3.1.3.

⁸¹² MLC, 2006, Guideline B3.1.4.

⁸¹³ MLC, 2006, Guideline B3.1.5.

⁸¹⁴ MLC, 2006, Guideline B3.1.6.

accommodation;⁸¹⁶ other facilities;⁸¹⁷ bedding, mess utensils and miscellaneous provisions;⁸¹⁸ recreational facilities, mail and ship visit arrangements,⁸¹⁹ as well as prevention of noise and vibration.⁸²⁰

The provisions of the new Convention dealing with on-board accommodation are primarily drawn from the Accommodation of Crews Convention (Revised), 1949 (No. 92), the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133, the related Crew Accommodation (Air Conditioning) Recommendation, 1970 (No. 140) and the Crew Accommodation (Noise Control) Recommendation, 1970 (No. 141), but have been updated to reflect the advice of the Shipowners and Seafarers representatives regarding contemporary standards and needs in the sector.⁸²¹ For example, while under Convention No. 133 the minimum headroom in all crew accommodation where full and free movement is necessary shall be not less than 198 centimetres,⁸²² under the new Convention it shall be not less than 203 centimetres.⁸²³ In addition, under Convention No. 133 the floor area per person of sleeping rooms intended for ratings shall be not less than 3.75 square meters in ships of 1,000 tons or over but less than 3,000 tons; 4.25 square meters in ships of 3,000 tons or over but less than 10,000 tons; and 4.75 square meters in ships of 10,000 tons or over;⁸²⁴ while under the new Convention the same areas shall be, respectively, 4.5 square meters, 5.5 square meters and 7 square meters.⁸²⁵ On the other hand, as concerns mess rooms, unlike Convention No. 92, the new Convention no longer requires separate mess room accommodation for master and officers, and petty officers and other seafarers.⁸²⁶

2.8.1.5.3.2. Food and catering

Standard A.3.2 obligates each Member to adopt laws and regulations or other measures to provide minimum standards for the quantity and quality of food and drinking water as well as for the catering standards that apply to meals provided to seafarers on ships that fly its flag, and to undertake educational activities to promote awareness and implementation of these standards.⁸²⁷ Each Member shall ensure that ships that fly its flag meet the following minimum standards: (a) food and drinking water supplies, having regard to the number of seafarers on board, their religious requirements and cultural practices as they pertain to food, and the duration and nature of the voyage, shall be suitable in respect of quantity, nutri-

⁸¹⁵ MLC, 2006, Guideline B3.1.7.

⁸¹⁶ MLC, 2006, Guideline B3.1.8.

⁸¹⁷ MLC, 2006, Guideline B3.1.9.

⁸¹⁸ MLC, 2006, Guideline B3.1.10.

⁸¹⁹ MLC, 2006, Guideline B3.1.11.

⁸²⁰ MLC, 2006, Guideline B3.1.12.

⁸²¹ ILO: *Adoption of an instrument to consolidate maritime labour standards*, Report I (1A), at 39.

⁸²² Convention No. 133, Article 10.

⁸²³ MLC, 2006, Standard A3.1, paragraph 6(a).

⁸²⁴ Convention No. 133, Article 5, paragraph 1.

⁸²⁵ MLC, 2006, Standard A.3.1, paragraph 9(f).

⁸²⁶ MLC, 2006, Standard A3.1, paragraph 10; Guideline B3.1.6, paragraph 1

⁸²⁷ MLC, 2006, Standard A3.2, paragraph 1.

tional value, quality and variety; (b) the organization and equipment of the catering department shall be such as to permit the provision to the seafarers of adequate, varied and nutritious meals prepared and served in hygienic conditions; and (c) catering staff shall be properly trained or instructed for their positions.⁸²⁸ Shipowners shall ensure that seafarers who are engaged as ships' cooks are trained, qualified and found competent for the position in accordance with requirements set out in the laws and regulations of the Member concerned.⁸²⁹ No seafarer under the age of 18 shall be employed or engaged or work as a ship's cook.⁸³⁰

The new Convention has introduced four changes into the existing standards, as prescribed by the Food and Catering (Ships' Crews) Convention, 1946 (No. 68), and the Certification of Ships' Cooks Convention, 1946 (No. 69). First, under Regulation 3.2, seafarers on board a ship shall be provided with food free of charge during the period of engagement,⁸³¹ whereas Convention No. 68 did not establish any such requirement. Second, as compared with Convention No. 68, the new Convention prescribes an additional requirement with respect to the minimum standards of food and drinking water supplies: they shall have regard to the religious requirements and cultural practices of seafarers as they pertain to food.⁸³² Third, unlike Convention No. 69, the new Convention allows the competent authority, in circumstances of exceptional necessity, to issue a dispensation permitting a non-fully qualified cook to serve in a specified ship for a specified limited period, until the next convenient port of call or for a period not exceeding one month.⁸³³ Finally, unlike Convention No. 69, the new Convention explicitly prohibits employment, engagement and work as a ship's cook for any seafarer under the age of 18.⁸³⁴

2.8.1.5.4. Health protection, medical care, welfare and social security protection

2.8.1.5.4.1. Medical care on board ship and ashore

Under Regulation 4.1, 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.⁸³⁵ Such protection and care shall, in principle, be provided at no cost to the seafarers.⁸³⁶

More specifically, under Standard A.4.1, each Member shall adopt laws and regulations establishing requirements for on-board hospital and medical care fa-

⁸²⁸ MLC, 2006, Standard A3.2, paragraph 2.

⁸²⁹ MLC, 2006, Standard A3.2, paragraph 3.

⁸³⁰ MLC, 2006, Standard A3.2, paragraph 8.

⁸³¹ MLC, 2006, Regulation 3.2, paragraph 2.

⁸³² MLC, 2006, Standard A3.2, paragraph 2(a).

⁸³³ MLC, 2006, Standard A3.2, paragraph 6.

⁸³⁴ MLC, 2006, Standard A3.2, paragraph 8.

⁸³⁵ MLC, 2006, Regulation 4.1, paragraph 1.

⁸³⁶ MLC, 2006, Regulation 4.1, paragraph 2.

cilities and equipment and training on ships that fly its flag.⁸³⁷ Such national laws and regulations shall as a minimum provide for the following requirements: (a) all ships shall carry a medicine chest, medical equipment and a medical guide, the specifics of which shall be prescribed and subject to regular inspection by the competent authority; the national requirements shall take into account the type of ship, the number of persons on board and the nature, destination and duration of voyages and relevant national and international recommended medical standards; (b) ships carrying 100 or more persons and ordinarily engaged on international voyages of more than three days' duration shall carry a qualified medical doctor who is responsible for providing medical care; national laws or regulations shall also specify which other ships shall be required to carry a medical doctor, taking into account, *inter alia*, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board; (c) ships which do not carry a medical doctor shall be required to have either at least one seafarer on board who is in charge of medical care and administering medicine as part of their regular duties or at least one seafarer on board competent to provide medical first aid; persons in charge of medical care on board who are not medical doctors shall have satisfactorily completed training in medical care that meets the requirements of the STCW; seafarers designated to provide medical first aid shall have satisfactorily completed training in medical first aid that meets the requirements of STCW; national laws or regulations shall specify the level of approved training required taking into account, *inter alia*, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board; and (d) the competent authority shall ensure by a prearranged system that medical advice by radio or satellite communication to ships at sea, including specialist advice, is available 24 hours a day; medical advice, including the onward transmission of medical messages by radio or satellite communication between a ship and those ashore giving the advice, shall be available free of charge to all ships irrespective of the flag that they fly.⁸³⁸

In addition to that, Guideline B4.1 contains detailed recommendations with respect to provision of medical care;⁸³⁹ medical report form;⁸⁴⁰ medical care ashore;⁸⁴¹ medical assistance to other ships and international cooperation;⁸⁴² as well as medical care for the dependants of seafarers.⁸⁴³

As compared to the Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164), which contained an obligation to provide medical care and health protection to seafarers free of charge, while they are serving on articles,⁸⁴⁴ the new Convention has made this obligation, in the words of the Preparatory Report, a "little more flexible" with the addition of the words "in principle".⁸⁴⁵ As a

⁸³⁷ MLC, 2006, Standard A4.1, paragraph 3.

⁸³⁸ MLC, 2006, Standard A4.1, paragraph 4.

⁸³⁹ MLC, 2006, Guideline B4.1.1.

⁸⁴⁰ MLC, 2006, Guideline B4.1.2.

⁸⁴¹ MLC, 2006, Guideline B4.1.3.

⁸⁴² MLC, 2006, Guideline B4.1.4.

⁸⁴³ MLC, 2006, Guideline B4.1.5.

⁸⁴⁴ Convention No. 164, Article 4(d).

⁸⁴⁵ ILO: *Adoption of an instrument to consolidate maritime labour standards*, Report I (1A), at 42.

result, unlike Convention No. 164, the new Convention does not preclude ratifying Members from providing to seafarers paid medical care and health protection.

2.8.1.5.4.2. Shipowners' liability

Under Standard A4.2, each Member shall adopt laws and regulations requiring that shipowners of ships that fly its flag are responsible for health protection and medical care of all seafarers working on board the ships in accordance with the following minimum standards: (a) shipowners shall be liable to bear the costs for seafarers working on their ships in respect of sickness and injury of the seafarers occurring between the date of commencing duty and the date upon which they are deemed duly repatriated, or arising from their employment between those dates; (b) shipowners shall provide financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard, as set out in national law, the seafarers' employment agreement or collective agreement; (c) shipowners shall be liable to defray the expense of medical care, including medical treatment and the supply of the necessary medicines and therapeutic appliances, and board and lodging away from home until the sick or injured seafarer has recovered, or until the sickness or incapacity has been declared of a permanent character; and (d) shipowners shall be liable to pay the cost of burial expenses in the case of death occurring on board or ashore during the period of engagement.⁸⁴⁶ 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.⁸⁴⁷

Where the sickness or injury results in incapacity for work the shipowner shall be liable: (a) to pay full wages as long as the sick or injured seafarers remain on board or until the seafarers have been repatriated in accordance with this Convention; and (b) to pay wages in whole or in part as prescribed by national laws or regulations or as provided for in collective agreements from the time when the seafarers are repatriated or landed until their recovery or, if earlier, until they are entitled to cash benefits under the legislation of the Member concerned.⁸⁴⁸ National laws or regulations may limit the liability of the shipowner to pay wages in whole or in part in respect of a seafarer no longer on board to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.⁸⁴⁹ National laws or regulations may exclude the shipowner from liability in respect of: (a) injury incurred otherwise than in the service of the ship; (b) injury or sickness due to the wilful misconduct of the sick, injured or deceased seafarer; and (c) sickness or infirmity intentionally concealed when the engagement is entered into.⁸⁵⁰ Furthermore, national laws or regulations may exempt the shipowner from liability to defray the expense of medical care, board and lodging

⁸⁴⁶ MLC, 2006, Standard A4.2, paragraph 1.

⁸⁴⁷ MLC, 2006, Standard A4.2, paragraph 2.

⁸⁴⁸ MLC, 2006, Standard A4.2, paragraph 3.

⁸⁴⁹ MLC, 2006, Standard A4.2, paragraph 4.

⁸⁵⁰ MLC, 2006, Standard A4.2, paragraph 5.

and burial expenses in so far as such liability is assumed by the public authorities.⁸⁵¹

As compared to the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55), the new Convention prescribes an additional obligation of shipowners – to provide financial security so as to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard, as set out in national law, the seafarers; employment agreement or collective agreement.⁸⁵²

2.8.1.5.4.3. Health and safety protection and accident prevention

According to the Convention, 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.⁸⁵³ Furthermore, each Member shall develop and promulgate national guidelines for the management of occupational safety and health on board ships that fly its flag, after consultation with representative shipowners' and seafarers' organizations and taking into account applicable codes, guidelines and standards recommended by international organizations, national administrations and maritime industry organizations.⁸⁵⁴ Each Member shall also adopt laws and regulations and other measures addressing the matters specified in the Code, taking into account relevant international instruments, and set standards for occupational safety and health protection and accident prevention on ships that fly its flag.⁸⁵⁵

The laws and regulations and other measures to be adopted in accordance with the above requirements, shall include the following subjects: (a) the adoption and effective implementation and promotion of occupational safety and health policies and programmes on ships that fly the Member's flag, including risk evaluation as well as training and instruction of seafarers; (b) reasonable precautions to prevent occupational accidents, injuries and diseases on board ship, including measures to reduce and prevent the risk of exposure to harmful levels of ambient factors and chemicals as well as the risk of injury or disease that may arise from the use of equipment and machinery on board ships; (c) on-board programmes for the prevention of occupational accidents, injuries and diseases and for continuous improvement in occupational safety and health protection, involving seafarers' representatives and all other persons concerned in their implementation, taking account of preventive measures, including engineering and design control, substitution of processes and procedures for collective and individual tasks, and the use of personal protective equipment; and (d) requirements for inspecting, reporting and correcting unsafe conditions and for investigating and reporting on-board occupational accidents.⁸⁵⁶

⁸⁵¹ MLC, 2006, Standard A4.2, paragraph 6.

⁸⁵² MLC, 2006, Standard A4.2, paragraph 1(b).

⁸⁵³ MLC, 2006, Regulation 4.3, paragraph 1.

⁸⁵⁴ MLC, 2006, Regulation 4.3, paragraph 2.

⁸⁵⁵ MLC, 2006, Regulation 4.3, paragraph 3.

⁸⁵⁶ MLC, 2006, Standard A4.3, paragraph 1.

In addition to that, the Guidelines contain detailed provisions with respect to provisions on occupational accidents, injuries and diseases;⁸⁵⁷ exposure to noise;⁸⁵⁸ exposure to vibration;⁸⁵⁹ obligations of shipowners;⁸⁶⁰ reporting and collection of statistics;⁸⁶¹ investigations;⁸⁶² national protection and prevention programmes;⁸⁶³ content of protection and prevention programmes;⁸⁶⁴ instruction in occupational safety and health protection and the prevention of occupational accidents;⁸⁶⁵ safety and health education of young seafarers;⁸⁶⁶ as well as international cooperation.⁸⁶⁷

As compared to the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134), the new Convention adds the requirements of risk evaluation as part of occupational safety and health policies and programmes on ships that fly the Member's flag.⁸⁶⁸ In addition to that, the list of matters to be covered by provisions concerning occupational safety and health, as established by Convention No. 134,⁸⁶⁹ in the new Convention has been placed in a non-mandatory part B of the Code. As concerns the new list itself, as compared to Convention No. 134, it has been modernized to include a wide range of human elements affecting occupational safety and health, such as physical and mental elements of fatigue,⁸⁷⁰ the effects of drug and alcohol dependency,⁸⁷¹ as well as HIV/AIDS protection and prevention.⁸⁷²

2.8.1.5.4.4. Access to shore-based welfare facilities

Under Regulation 4.4, each Member shall ensure that shore-based welfare facilities, where they exist, are easily accessible.⁸⁷³ Furthermore, each Member shall promote the development of welfare facilities in appropriate ports of the country and determine, after consultation with the shipowners' and seafarers' organizations concerned, which ports are to be regarded as appropriate.⁸⁷⁴ In addition to that, each Member shall encourage the establishment of welfare boards which shall regularly review welfare facilities and services to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, op-

⁸⁵⁷ MLC, 2006, Guideline B4.3.1.

⁸⁵⁸ MLC, 2006, Guideline B4.3.2.

⁸⁵⁹ MLC, 2006, Guideline B4.3.3.

⁸⁶⁰ MLC, 2006, Guideline B4.3.4.

⁸⁶¹ MLC, 2006, Guideline B4.3.5.

⁸⁶² MLC, 2006, Guideline B4.3.6.

⁸⁶³ MLC, 2006, Guideline B4.3.7.

⁸⁶⁴ MLC, 2006, Guideline B4.3.8.

⁸⁶⁵ MLC, 2006, Guideline B4.3.9.

⁸⁶⁶ MLC, 2006, Guideline B4.3.10.

⁸⁶⁷ MLC, 2006, Guideline B4.3.11.

⁸⁶⁸ MLC, 2006, Standard A4.3, paragraph 1(a).

⁸⁶⁹ Convention No. 134, Article 4, paragraph 3, items (a)-(i).

⁸⁷⁰ MLC, 2006, Guideline B4.3, paragraph 2(o).

⁸⁷¹ MLC, 2006, Guideline B4.3, paragraph 2(p).

⁸⁷² MLC, 2006, Guideline B4.3, paragraph 2(q).

⁸⁷³ MLC, 2006, Regulation 4.4, paragraph 1.

⁸⁷⁴ MLC, 2006, Standard A4.4, paragraph 2.

erational and other developments in the shipping industry.⁸⁷⁵ In addition to that, the Guidelines contain detailed provisions with respect to responsibilities of Members,⁸⁷⁶ welfare facilities and services in ports,⁸⁷⁷ welfare boards,⁸⁷⁸ financing of welfare facilities,⁸⁷⁹ dissemination of information and facilitation measures,⁸⁸⁰ and seafarers in a foreign port.⁸⁸¹

Unlike the Seafarers' Welfare Convention, 1987 (No. 163), which imposed on the ratifying Members the duty to ensure that adequate welfare facilities and services are provided for seafarers both in port and on board ship,⁸⁸² under the new Convention the Members shall merely ensure that shore-based welfare facilities, *where they exist*, are easily accessible.⁸⁸³ Furthermore, while under Convention No. 163 each Member has to ensure that welfare facilities and services are provided in appropriate ports of the country for all seafarers, irrespective of nationality, race, colour, sex, religion, political opinion or social origin and irrespective of the State in which the ship on which they are employed is registered,⁸⁸⁴ under the new Convention, each Member shall require the availability of welfare facilities to all seafarers, *where such facilities exist on its territory*.⁸⁸⁵ These changes reflect the concern expressed by some governments regarding the need to ensure that the wording refers to an obligation to promote the development of shore-based welfare facilities "without importing any financial obligation to provide or establish these facilities".⁸⁸⁶

2.8.1.5.4.5. Social security

Under Regulation 4.5, each Member undertakes to take steps, according to its national circumstances, individually and through international cooperation, to achieve progressively comprehensive social security protection for seafarers.⁸⁸⁷ Each Member shall ensure that seafarers who are subject to its social security legislation, and, to the extent provided for in its national law, their dependants, are entitled to benefit from social security protection no less favourable than that enjoyed by shoreworkers.⁸⁸⁸ The branches to be considered with a view to achieving progressively comprehensive social security protection are: medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit, complementing

⁸⁷⁵ MLC, 2006, Standard A4.4, paragraph 3.

⁸⁷⁶ MLC, 2006, Guideline B4.4.1.

⁸⁷⁷ MLC, 2006, Guideline B4.4.2.

⁸⁷⁸ MLC, 2006, Guideline B4.4.3.

⁸⁷⁹ MLC, 2006, Guideline B4.4.4.

⁸⁸⁰ MLC, 2006, Guideline B4.4.5.

⁸⁸¹ MLC, 2006, Guideline B4.4.6.

⁸⁸² Convention No. 163, Article 2, paragraph 1.

⁸⁸³ MLC, 2006, Regulation 4.4, paragraph 1.

⁸⁸⁴ Convention No. 163, Article 3, paragraph 1.

⁸⁸⁵ MLC, 2006, Standard A4.4, paragraph 1.

⁸⁸⁶ ILO: *Adoption of an instrument to consolidate maritime labour standards*, Report I (1A), at 45.

⁸⁸⁷ MLC, 2006, Regulation 4.5, paragraph 2.

⁸⁸⁸ MLC, 2006, Regulation 4.5, paragraph 3.

the protection provided for under Regulations 4.1, on medical care, and Regulation 4.2, on shipowners' liability, and under other titles of this Convention.⁸⁸⁹ At the time of ratification, the protection to be provided by each Member shall include at least three of these nine branches.⁸⁹⁰

Furthermore, each Member shall take steps according to its national circumstances to provide the complementary social security protection to all seafarers ordinarily resident in its territory. This responsibility could be satisfied, for example, through appropriate bilateral or multilateral agreements or contribution-based systems. The resulting protection shall be no less favourable than that enjoyed by shoreworkers resident in their territory.⁸⁹¹

Notwithstanding the above attribution of responsibilities, Members may determine, through bilateral and multilateral agreements and through provisions adopted in the framework of regional economic integration organizations, other rules concerning the social security legislation to which seafarers are subject.⁸⁹² Each Member's responsibilities with respect to seafarers on ships that fly its flag shall include those provided for by Regulations 4.1 and 4.2 and the related provisions of the Code, as well as those that are inherent in its general obligations under international law.⁸⁹³

Unlike the Social Security (Seafarers) Convention (Revised), 1987 (No. 165), which prescribed concrete standards of social security benefits,⁸⁹⁴ the new Convention does not establish any specific standards. It merely requires each Member to take steps, according to its national circumstances, individually and through international cooperation, to achieve progressively comprehensive social security protection for seafarers.⁸⁹⁵ This shall be viewed as a reflection of a "realistic approach to the promotion of social security protection, which would otherwise have created an obstacle to the wide-scale ratification of the Convention."⁸⁹⁶

⁸⁸⁹ MLC, 2006, Standard A4.5, paragraph 1.

⁸⁹⁰ MLC, 2006, Standard A4.5, paragraph 2.

⁸⁹¹ MLC, 2006, Standard A4.5, paragraph 3.

⁸⁹² MLC, 2006, Standard A4.5, paragraph 4.

⁸⁹³ MLC, 2006, Standard A4.5, paragraph 5.

⁸⁹⁴ Convention No. 165 prescribed two level of standards of social security benefits in respect of contingencies covered, conditions of award, level and duration: (i) minimum standards - by reference to the respective provisions of the Social Security (Minimum Standards) Convention, 1952 (No. 102); and (ii) superior standards - by reference to the respective provisions of the Maternity Protection Convention (Revised), 1952 (No. 103); the Employment Injury Benefits Convention, 1964 (No. 121); the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128); and the Medical Care and Sickness Benefits Convention, 1969 (No. 130).

⁸⁹⁵ MLC, 2006, Regulation 4.5, paragraph 2.

⁸⁹⁶ ILO: *Adoption of an instrument to consolidate maritime labour standards*, Report I (1A), at 42. It may be recalled that so far Convention No. 165 has received only three ratifications (Hungary, Philippines and Spain).

2.8.1.5.5. Compliance and enforcement

2.8.1.5.5.1. Flag State Responsibilities

Under the Convention, each Member is responsible for ensuring implementation of its obligations under this Convention on ships that fly its flag.⁸⁹⁷ Each Member shall establish an effective system for the inspection and certification of maritime labour conditions, 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.⁸⁹⁸ In establishing such system, a Member may, where appropriate, authorize public institutions or other organizations (including those of another Member, if the latter agrees) which it recognizes as competent and independent to carry out inspections or to issue certificates or to do both.⁸⁹⁹ In all cases, the Member shall remain fully responsible for the inspection and certification of the working and living conditions of the seafarers concerned on ships that fly its flag.⁹⁰⁰

Regulation 5.1.3 prescribes additional requirements with respect to ships of 500 gross tonnage or over, engaged in international voyages; ships of 500 gross tonnage or over, flying the flag of a Member and operating from a port or between ports in another country; and, at the request of the shipowner to the Member concerned, any other ship that flies the flag of the Member.⁹⁰¹ Under this Regulation, each Member shall require such ships which fly its flag to carry and maintain a maritime labour certificate certifying that the working and living conditions of seafarers on the ship, including measures for ongoing compliance to be included in the declaration of maritime labour compliance, have been inspected and meet the requirements of national laws or regulations or other measures implementing this Convention.⁹⁰² Each Member shall also require ships that fly its flag to carry and maintain a declaration of maritime labour compliance stating the national requirements implementing this Convention for the working and living conditions for seafarers and setting out the measures adopted by the shipowner to ensure compliance with the requirements on the ship or ships concerned.⁹⁰³

The maritime labour certificate and the declaration of maritime labour compliance shall conform to the model prescribed by the Code. A maritime labour certificate, complemented by a declaration of maritime labour compliance, shall constitute *prima facie* evidence that the ship has been duly inspected by the Member whose flag it flies and that the requirements of this Convention relating to working and living conditions of the seafarers have been met to the extent so certified.⁹⁰⁴

⁸⁹⁷ MLC, 2006, Regulation 5.1.1, paragraph 1.

⁸⁹⁸ MLC, 2006, Regulation 5.1.1, paragraph 2.

⁸⁹⁹ MLC, 2006, Regulation 5.1.1, paragraph 3.

⁹⁰⁰ MLC, 2006, Regulation 5.1.1, paragraph 3.

⁹⁰¹ MLC, 2006, Regulation 5.1.3, paragraphs 1 and 2.

⁹⁰² MLC, 2006, Regulation 5.1.3, paragraph 3.

⁹⁰³ MLC, 2006, Regulation 5.1.3, paragraph 4.

⁹⁰⁴ MLC, 2006, Regulation 5.1.1, paragraph 4. The term “prima facie evidence” is a legal term that has been defined as “evidence which is sufficient to establish a fact in the absence of any evidence to the contrary, but is not conclusive”. See, ILO: *Adoption of an instrument to consolidate maritime labour standards*, Report I (1A), at 54.

Furthermore, each Member shall require that ships that fly its flag have on-board procedures for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of this Convention (including seafarers' rights).⁹⁰⁵ Each Member shall also hold an official inquiry into any serious marine casualty, leading to injury or loss of life, that involves a ship that flies its flag.⁹⁰⁶ The final report of an inquiry shall normally be made public.⁹⁰⁷

As concerns Flag State responsibilities, the major innovation introduced by the new Convention into the existing standards, as prescribed by the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) and the Labour Inspection (Seafarers) Convention, 1996 (No. 178), is the requirement that ships carry and maintain maritime labour certificate and declaration of maritime labour compliance.⁹⁰⁸ In addition to that, unlike Conventions No. 147 and 178, the new Convention specifically requires that the interval between the Flag State inspections shall in no case exceed three years.⁹⁰⁹

2.8.1.5.5.2. Port State responsibilities

Regulation 5.2.1 provides that 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 of the Convention for the purpose of reviewing compliance with the requirements of this Convention (including seafarers' rights) relating to the working and living conditions of seafarers on the ship.⁹¹⁰ Each Member shall accept the maritime labour certificate and the declaration of maritime labour compliance as prima facie evidence of compliance with the requirements of this Convention (including seafarers' rights).⁹¹¹ Accordingly, the inspection in its ports shall, except in the circumstances specified in the Code, be limited to a review of the certificate and declaration.⁹¹²

Nevertheless, where an authorized officer, having come on board to carry out an inspection and requested, where applicable, the maritime labour certificate and the declaration of maritime labour compliance, finds that: (a) the required documents are not produced or maintained or are falsely maintained or that the documents produced do not contain the information required by this Convention or are otherwise invalid; or (b) there are clear grounds for believing that the working and living conditions on the ship do not conform to the requirements of this Convention; or (c) there are reasonable grounds to believe that the ship has changed flag for the purpose of avoiding compliance with this Convention; or (d) there is a complaint alleging that specific working and living conditions on the ship do not conform to the requirements of this Convention; a more detailed inspection may

⁹⁰⁵ MLC, 2006, Regulation 5.1.5, paragraph 1.

⁹⁰⁶ MLC, 2006, Regulation 5.1.6, paragraph 1.

⁹⁰⁷ MLC, 2006, Regulation 5.1.6, paragraph 2.

⁹⁰⁸ MLC, 2006, Regulation 5.1.3.

⁹⁰⁹ MLC, 2006, Regulation 5.1.4, paragraph 4.

⁹¹⁰ MLC, 2006, Regulation 5.2.1, paragraph 1.

⁹¹¹ MLC, 2006, Regulation 5.2.1, paragraph 2.

⁹¹² MLC, 2006, Regulation 5.2.1, paragraph 2.

be carried out to ascertain the working and living conditions on board the ship. Such inspection shall in any case be carried out where the working and living conditions believed or alleged to be defective could constitute a clear hazard to the safety, health or security of seafarers or where the authorized officer has grounds to believe that any deficiencies constitute a serious breach of the requirements of this Convention (including seafarers' rights).⁹¹³

Where, following a more detailed inspection by an authorized officer, the ship is found not to conform to the requirements of this Convention and: (a) the conditions on board are clearly hazardous to the safety, health or security of seafarers; or (b) the non-conformity constitutes a serious or repeated breach of the requirements of this Convention (including seafarers' rights); the authorized officer shall take steps to ensure that the ship shall not proceed to sea until any non-conformities that fall within the scope of subparagraph (a) or (b) of this paragraph have been rectified, or until the authorized officer has accepted a plan of action to rectify such non-conformities and is satisfied that the plan will be implemented in an expeditious manner. If the ship is prevented from sailing, the authorized officer shall forthwith notify the flag State accordingly and invite a representative of the flag State to be present, if possible, requesting the flag State to reply within a prescribed deadline. The authorized officer shall also inform forthwith the appropriate shipowners' and seafarers' organizations in the port State in which the inspection was carried out.⁹¹⁴

When implementing their Port State responsibilities, each Member shall make all possible efforts to avoid a ship being unduly detained or delayed. If a ship is found to be unduly detained or delayed, compensation shall be paid for any loss or damage suffered. The burden of proof in each case shall be on the complainant.⁹¹⁵

In addition to that, each Member shall ensure that seafarers on ships calling at a port in the Member's territory who allege a breach of the requirements of this Convention (including seafarers' rights) have the right to report such a complaint in order to facilitate a prompt and practical means of redress.⁹¹⁶

As concerns Port State responsibilities, the new Convention has introduced two changes into the existing standards, as prescribed by the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147). First, under the new Convention, as a general rule, the Port State inspections shall be limited to a review of the maritime labour certificate and the declaration of the maritime labour compliance.⁹¹⁷ Second, under the new Convention, ships may be detained by the Port State in the event of non-conformity to its requirements not only when the conditions on board are clearly hazardous to the safety, health or security of seafarers (as under Convention No. 147),⁹¹⁸ but also when this non-conformity constitutes a

⁹¹³ MLC, 2006, Standard A5.2.1, paragraph 1.

⁹¹⁴ MLC, 2006, Standard A5.2.1, paragraph 6.

⁹¹⁵ MLC, 2006, Standard A5.2.1, paragraph 8.

⁹¹⁶ MLC, 2006, Regulation A5.2.2.

⁹¹⁷ MLC, 2006, Regulation 5.2.1, paragraph 2.

⁹¹⁸ Convention No. 147, Article 4, paragraph 1.

serious or repeated breach of the requirements of the new Convention (including seafarers' rights).⁹¹⁹

2.8.1.5.5.3. Labour supplying responsibilities

Under Regulation 5.3, without prejudice to the principle of each Member's responsibility for the working and living conditions of seafarers on ships that fly its flag, the Member also has a responsibility to ensure the implementation of the requirements of this Convention regarding the recruitment and placement of seafarers as well as the social security protection of seafarers that are its nationals or are resident or are otherwise domiciled in its territory, to the extent that such responsibility is provided for in this Convention.⁹²⁰ Furthermore, under Standard A5.3, each Member shall enforce the requirements of this Convention applicable to the operation and practice of seafarer recruitment and placement services established on its territory through a system of inspection and monitoring and legal proceedings for breaches of licensing and other operational requirements provided for in Standard A1.4.⁹²¹

The concept of "labour supplying responsibilities" as well as the list of such responsibilities represent a major innovation of the Convention as compared to the existing maritime labour standards, which up to present were aimed either at the responsibilities of Flag States or those of Port States. This innovation shall be viewed as a reflection of the important role of labour supplying countries in the area of enforcement for matters such as recruitment and placement agencies and employment agreements and social security protection. Nevertheless, since most, if not all, countries may act as suppliers of seafarers, albeit on a small scale, in the sense that their citizens may serve on ships registered outside their territory, to avoid the misconception of a limited category of "labour supplying States", the new Convention simply refers to "labour-supplying responsibilities".⁹²²

Since the Maritime Labour Convention so far has not entered into force, the Committee of Experts has not been able to make any specific comments concerning its application by the ratifying members. Still, at its 77th session (2006), the Committee of Experts made general remarks concerning the new instrument. Welcoming the recent adoption of the new Convention, the Committee noted, in particular, the comprehensive scope of the Maritime Labour Convention from two important points of view: first, the Convention covers all aspects of the working and living conditions of seafarers, at present dealt with in several different instruments; and second, the obligation of Members that ratify the Convention is not only to implement the principles and rights set forth in the different areas covered in Titles 1 to 4 of the Convention, but also to take the necessary steps, set out in Title 5 of the Convention, to ensure compliance with the requirements of the Convention on ships and with respect to seafarers under their jurisdiction, with adequate documentation and certification of that compliance.

The Committee considered that the Maritime Labour Convention would assist its own action in reviewing the application of the Convention in countries which are effectively im-

⁹¹⁹ MLC, 2006, Standard A.5.2.1, paragraph 6.

⁹²⁰ MLC, 2006, Regulation 5.3, paragraph 1.

⁹²¹ MLC, 2006, Standard A5.3, paragraph 1.

⁹²² ILO: *Adoption of an instrument to consolidate maritime labour standards*, Report I (1A), at 60.

plementing the provisions relating to compliance. At the same time, the Committee would need to give special consideration as to how it will carry out its mandate with respect to reports on the application of this Convention having regard to the new approaches contained therein to facilitate the widespread ratification of such a comprehensive Convention. In particular, while its provisions seek to maintain the same level of protection as that provided in the Conventions which it consolidated, the Maritime Labour Convention gave ratifying Members considerable discretion as to the precise ways in which its requirements are to be implemented in their respective national law and practice. Where a ratifying Member decided, after due consideration as required by the Convention, to implement its basic obligations through provisions or measures whose details differ from those set forth in the Convention, the Committee would be called upon to assess whether or not the detailed provisions or other measures that the Member decides to adopt are sufficient to implement the basic obligations concerned. In the Committee's view, this would be a challenging task for the Committee, requiring reference to the object and purpose of the mandatory provisions of the Maritime Labour Convention, as well as to their scope having regard to the detailed guidance provided in the Convention.⁹²³

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⁹²³ Seafarers: introductory remarks (CEACR, 2006/77th session).

2.8.2 Text of standards

2.8.2.1 Maritime Labour Convention, 2006

Date of entry into force: not yet into force

The General Conference of the International Labour Organization,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GENERAL OBLIGATIONS

Article I

1. Each Member which ratifies this Convention undertakes to give complete effect to its provisions in the manner set out in Article VI in order to secure the right of all seafarers to decent employment.

2. Members shall cooperate with each other for the purpose of ensuring the effective implementation and enforcement of this Convention.

DEFINITIONS AND SCOPE OF APPLICATION

Article II

1. For the purpose of this Convention and unless provided otherwise in particular provisions, the term:

- (a) *competent authority* means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;
- (b) *declaration of maritime labour compliance* means the declaration referred to in Regulation 5.1.3;
- (c) *gross tonnage* means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention; for ships covered by the tonnage measurement interim scheme adopted by the International Maritime Organization, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969);
- (d) *maritime labour certificate* means the certificate referred to in Regulation 5.1.3;
- (e) *requirements of this Convention* refers to the requirements in these Articles and in the Regulations and Part A of the Code of this Convention;
- (f) *seafarer* means any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies;
- (g) *seafarers' employment agreement* includes both a contract of employment and articles of agreement;
- (h) *seafarer recruitment and placement service* means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners;
- (i) *ship* means a ship other than one which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;

(j) *shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organization or persons fulfil certain of the duties or responsibilities on behalf of the shipowner.

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

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

4. Except as expressly provided otherwise, this Convention applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks. This Convention does not apply to warships or naval auxiliaries.

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

6. Where the competent authority determines that it would not be reasonable or practicable at the present time to apply certain details of the Code referred to in Article VI, paragraph 1, to a ship or particular categories of ships flying the flag of the Member, the relevant provisions of the Code shall not apply to the extent that the subject matter is dealt with differently by national laws or regulations or collective bargaining agreements or other measures. Such a determination may only be made in consultation with the shipowners' and seafarers' organizations concerned and may only be made with respect to ships of less than 200 gross tonnage not engaged in international voyages.

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

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

FUNDAMENTAL RIGHTS AND PRINCIPLES

Article III

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

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

SEAFARERS' EMPLOYMENT AND SOCIAL RIGHTS

Article IV

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

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

3. Every seafarer has a right to decent working and living conditions on board ship.
4. Every seafarer has a right to health protection, medical care, welfare measures and other forms of social protection.
5. Each Member shall ensure, within the limits of its jurisdiction, that the seafarers' employment and social rights set out in the preceding paragraphs of this Article are fully implemented in accordance with the requirements of this Convention. Unless specified otherwise in the Convention, such implementation may be achieved through national laws or regulations, through applicable collective bargaining agreements or through other measures or in practice.

IMPLEMENTATION AND ENFORCEMENT RESPONSIBILITIES

Article V

1. Each Member shall implement and enforce laws or regulations or other measures that it has adopted to fulfil its commitments under this Convention with respect to ships and seafarers under its jurisdiction.
2. Each Member shall effectively exercise its jurisdiction and control over ships that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention, including regular inspections, reporting, monitoring and legal proceedings under the applicable laws.
3. Each Member shall ensure that ships that fly its flag carry a maritime labour certificate and a declaration of maritime labour compliance as required by this Convention.
4. A ship to which this Convention applies may, in accordance with international law, be inspected by a Member other than the flag State, when the ship is in one of its ports, to determine whether the ship is in compliance with the requirements of this Convention.
5. Each Member shall effectively exercise its jurisdiction and control over seafarer recruitment and placement services, if these are established in its territory.
6. Each Member shall prohibit violations of the requirements of this Convention and shall, in accordance with international law, establish sanctions or require the adoption of corrective measures under its laws which are adequate to discourage such violations.
7. Each Member shall implement its responsibilities under this Convention in such a way as to ensure that the ships that fly the flag of any State that has not ratified this Convention do not receive more favourable treatment than the ships that fly the flag of any State that has ratified it.

REGULATIONS AND PARTS A AND B OF THE CODE

Article VI

1. The Regulations and the provisions of Part A of the Code are mandatory. The provisions of Part B of the Code are not mandatory.
2. Each Member undertakes to respect the rights and principles set out in the Regulations and to implement each Regulation in the manner set out in the corresponding provisions of Part A of the Code. In addition, the Member shall give due consideration to implementing its responsibilities in the manner provided for in Part B of the Code.
3. A Member which is not in a position to implement the rights and principles in the manner set out in Part A of the Code may, unless expressly provided otherwise in this Convention, implement Part A through provisions in its laws and regulations or other measures which are substantially equivalent to the provisions of Part A.

4. For the sole purpose of paragraph 3 of this Article, any law, regulation, collective agreement or other implementing measure shall be considered to be substantially equivalent, in the context of this Convention, if the Member satisfies itself that:

- (a) it is conducive to the full achievement of the general object and purpose of the provision or provisions of Part A of the Code concerned; and
- (b) it gives effect to the provision or provisions of Part A of the Code concerned.

CONSULTATION WITH SHIPOWNERS' AND SEAFARERS' ORGANIZATIONS

Article VII

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

ENTRY INTO FORCE

Article VIII

1. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

2. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered by the Director-General.

3. This Convention shall come into force 12 months after the date on which there have been registered ratifications by at least 30 Members with a total share in the world gross tonnage of ships of 33 per cent.

4. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

DENUNCIATION

Article IX

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

2. Each Member which does not, within the year following the expiration of the period of ten years mentioned in paragraph 1 of this Article, exercise the right of denunciation provided for in this Article, shall be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each new period of ten years under the terms provided for in this Article.

EFFECT OF ENTRY INTO FORCE

Article X

This Convention revises the following Conventions:

Minimum Age (Sea) Convention, 1920 (No. 7)
 Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)
 Placing of Seamen Convention, 1920 (No. 9)
 Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)
 Seamen's Articles of Agreement Convention, 1926 (No. 22)
 Repatriation of Seamen Convention, 1926 (No. 23)
 Officers' Competency Certificates Convention, 1936 (No. 53)
 Holidays with Pay (Sea) Convention, 1936 (No. 54)
 Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)
 Sickness Insurance (Sea) Convention, 1936 (No. 56)
 Hours of Work and Manning (Sea) Convention, 1936 (No. 57)
 Minimum Age (Sea) Convention (Revised), 1936 (No. 58)
 Food and Catering (Ships' Crews) Convention, 1946 (No. 68)
 Certification of Ships' Cooks Convention, 1946 (No. 69)
 Social Security (Seafarers) Convention, 1946 (No. 70)
 Paid Vacations (Seafarers) Convention, 1946 (No. 72)
 Medical Examination (Seafarers) Convention, 1946 (No. 73)
 Certification of Able Seamen Convention, 1946 (No. 74)
 Accommodation of Crews Convention, 1946 (No. 75)
 Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76)
 Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91)
 Accommodation of Crews Convention (Revised), 1949 (No. 92)
 Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93)
 Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109)
 Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)
 Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)
 Continuity of Employment (Seafarers) Convention, 1976 (No. 145)
 Seafarers' Annual Leave with Pay Convention, 1976 (No. 146)
 Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)
 Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)
 Seafarers' Welfare Convention, 1987 (No. 163)
 Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)
 Social Security (Seafarers) Convention (Revised), 1987 (No. 165)
 Repatriation of Seafarers Convention (Revised), 1987 (No. 166)
 Labour Inspection (Seafarers) Convention, 1996 (No. 178)
 Recruitment and Placement of Seafarers Convention, 1996 (No. 179)
 Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180).

DEPOSITARY FUNCTIONS

Article XI

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

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

Article XII

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

SPECIAL TRIPARTITE COMMITTEE

Article XIII

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

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

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

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

AMENDMENT OF THIS CONVENTION

Article XIV

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

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

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

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

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

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

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

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

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

AMENDMENTS TO THE CODE

Article XV

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

2. An amendment to the Code may be proposed to the Director-General of the International Labour Office by the government of any Member of the Organization or by the group of Shipowner representatives or the group of Seafarer representatives who have been appointed to the Committee referred to in Article XIII. An amendment proposed by a government must have been proposed by, or be supported by, at least five governments of Members that have ratified the Convention or by the group of Shipowner or Seafarer representatives referred to in this paragraph.

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

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

- (a) at least half the governments of Members that have ratified this Convention are represented in the meeting at which the proposal is considered; and
- (b) a majority of at least two-thirds of the Committee members vote in favour of the amendment; and

(c) this majority comprises the votes in favour of at least half the government voting power, half the Shipowner voting power and half the Seafarer voting power of the Committee members registered at the meeting when the proposal is put to the vote.

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

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

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

8. An amendment deemed to have been accepted shall come into force six months after the end of the prescribed period for all the ratifying Members except those which had formally expressed their disagreement in accordance with paragraph 7 of this Article and have not withdrawn such disagreement in accordance with paragraph 11. However:

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

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

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

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

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

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

- (a) a Member that has accepted that amendment shall not be obliged to extend the benefit of the Convention in respect of the maritime labour certificates issued to ships flying the flag of another Member which:

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

AUTHORITATIVE LANGUAGES

Article XVI

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

EXPLANATORY NOTE TO THE REGULATIONS AND CODE OF THE MARITIME LABOUR CONVENTION

1. This explanatory note, which does not form part of the Maritime Labour Convention, is intended as a general guide to the Convention.

2. The Convention comprises three different but related parts: the Articles, the Regulations and the Code.

3. The Articles and Regulations set out the core rights and principles and the basic obligations of Members ratifying the Convention. The Articles and Regulations can only be changed by the Conference in the framework of article 19 of the Constitution of the International Labour Organisation (see Article XIV of the Convention).

4. The Code contains the details for the implementation of the Regulations. It comprises Part A (mandatory Standards) and Part B (non-mandatory Guidelines). The Code can be amended through the simplified procedure set out in Article XV of the Convention. Since the Code relates to detailed implementation, amendments to it must remain within the general scope of the Articles and Regulations.

5. The Regulations and the Code are organized into general areas under five Titles:

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

Title 2: Conditions of employment

Title 3: Accommodation, recreational facilities, food and catering

Title 4: Health protection, medical care, welfare and social security protection

Title 5: Compliance and enforcement

6. Each Title contains groups of provisions relating to a particular right or principle (or enforcement measure in Title 5), with connected numbering. The first group in Title 1, for example, consists of Regulation 1.1, Standard A1.1 and Guideline B1.1, relating to minimum age.

7. The Convention has three underlying purposes:

- (a) to lay down, in its Articles and Regulations, a firm set of rights and principles;
- (b) to allow, through the Code, a considerable degree of flexibility in the way Members implement those rights and principles; and
- (c) to ensure, through Title 5, that the rights and principles are properly complied with and enforced.

8. There are two main areas for flexibility in implementation: one is the possibility for a Member, where necessary (see Article VI, paragraph 3), to give effect to the detailed requirements of Part A of the Code through substantial equivalence (as defined in Article VI, paragraph 4).

9. The second area of flexibility in implementation is provided by formulating the mandatory requirements of many provisions in Part A in a more general way, thus leaving a wider scope for discretion as to the precise action to be provided for at the national level. In such cases, guidance on implementation is given in the non-mandatory Part B of the Code. In this way, Members which have ratified this Convention can ascertain the kind of action that might be expected of them under the corresponding general obligation in Part A, as well as action that would not necessarily be required. For example, Standard A4.1 requires all ships to provide prompt access to the necessary medicines for medical care on board ship (paragraph 1(b)) and to carry a medicine chest (paragraph 4(a)). The fulfilment in good faith of this latter obligation clearly means something more than simply having a medicine chest on board each ship. A more precise indication of what is involved is provided in the corresponding Guideline B4.1.1 (paragraph 4) so as to ensure that the contents of the chest are properly stored, used and maintained.

10. Members which have ratified this Convention are not bound by the guidance concerned and, as indicated in the provisions in Title 5 on port State control, inspections would deal only with the relevant requirements of this Convention (Articles, Regulations and the

Standards in Part A). However, Members are required under paragraph 2 of Article VI to give due consideration to implementing their responsibilities under Part A of the Code in the manner provided for in Part B. If, having duly considered the relevant Guidelines, a Member decides to provide for different arrangements which ensure the proper storage, use and maintenance of the contents of the medicine chest, to take the example given above, as required by the Standard in Part A, then that is acceptable. On the other hand, by following the guidance provided in Part B, the Member concerned, as well as the ILO bodies responsible for reviewing implementation of international labour Conventions, can be sure without further consideration that the arrangements the Member has provided for are adequate to implement the responsibilities under Part A to which the Guideline relates.

THE REGULATIONS AND THE CODE

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

Regulation 1.1 - Minimum age

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

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

Standard A1.1 - Minimum age

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

Guideline B1.1 - Minimum age

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

Regulation 1.2 - Medical certificate

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

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

Standard A1.2 - Medical certificate

1. The competent authority shall require that, prior to beginning work on a ship, seafarers hold a valid medical certificate attesting that they are medically fit to perform the duties they are to carry out at sea.
2. In order to ensure that medical certificates genuinely reflect seafarers' state of health, in light of the duties they are to perform, the competent authority shall, after consultation with the shipowners' and seafarers' organizations concerned, and giving due consideration

to applicable international guidelines referred to in Part B of this Code, prescribe the nature of the medical examination and certificate.

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

4. The medical certificate shall be issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate. Practitioners must enjoy full professional independence in exercising their medical judgement in undertaking medical examination procedures.

5. Seafarers that have been refused a certificate or have had a limitation imposed on their ability to work, in particular with respect to time, field of work or trading area, shall be given the opportunity to have a further examination by another independent medical practitioner or by an independent medical referee.

6. Each medical certificate shall state in particular that:

- (a) the hearing and sight of the seafarer concerned, and the colour vision in the case of a seafarer to be employed in capacities where fitness for the work to be performed is liable to be affected by defective colour vision, are all satisfactory; and
- (b) the seafarer concerned is not suffering from any medical condition likely to be aggravated by service at sea or to render the seafarer unfit for such service or to endanger the health of other persons on board.

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

- (a) a medical certificate shall be valid for a maximum period of two years unless the seafarer is under the age of 18, in which case the maximum period of validity shall be one year;
- (b) a certification of colour vision shall be valid for a maximum period of six years.

8. In urgent cases the competent authority may permit a seafarer to work without a valid medical certificate until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that:

- (a) the period of such permission does not exceed three months; and
- (b) the seafarer concerned is in possession of an expired medical certificate of recent date.

9. If the period of validity of a certificate expires in the course of a voyage, the certificate shall continue in force until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that the period shall not exceed three months.

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

Guideline B1.2 - Medical certificate

Guideline B1.2.1 - International guidelines

1. The competent authority, medical practitioners, examiners, shipowners, seafarers' representatives and all other persons concerned with the conduct of medical fitness examinations of seafarer candidates and serving seafarers should follow the ILO/WHO Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers, including any subsequent versions, and any other applicable international guidelines pub-

lished by the International Labour Organization, the International Maritime Organization or the World Health Organization.

Regulation 1.3 - Training and qualifications

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

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

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

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

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

Regulation 1.4 - Recruitment and placement

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

1. All seafarers shall have access to an efficient, adequate and accountable system for finding employment on board ship without charge to the seafarer.

2. Seafarer recruitment and placement services operating in a Member's territory shall conform to the standards set out in the Code.

3. Each Member shall require, in respect of seafarers who work on ships that fly its flag, that shipowners who use seafarer recruitment and placement services that are based in countries or territories in which this Convention does not apply, ensure that those services conform to the requirements set out in the Code.

Standard A1.4 - Recruitment and placement

1. Each Member that operates a public seafarer recruitment and placement service shall ensure that the service is operated in an orderly manner that protects and promotes seafarers' employment rights as provided in this Convention.

2. Where a Member has private seafarer recruitment and placement services operating in its territory whose primary purpose is the recruitment and placement of seafarers or which recruit and place a significant number of seafarers, they shall be operated only in conformity with a standardized system of licensing or certification or other form of regulation. This system shall be established, modified or changed only after consultation with the shipowners' and seafarers' organizations concerned. In the event of doubt as to whether this Convention applies to a private recruitment and placement service, the question shall be determined by the competent authority in each Member after consultation with the shipowners' and seafarers' organizations concerned. Undue proliferation of private seafarer recruitment and placement services shall not be encouraged.

3. The provisions of paragraph 2 of this Standard shall also apply - to the extent that they are determined by the competent authority, in consultation with the shipowners' and seafarers' organizations concerned, to be appropriate - in the context of recruitment and placement services operated by a seafarers' organization in the territory of the Member for

the supply of seafarers who are nationals of that Member to ships which fly its flag. The services covered by this paragraph are those fulfilling the following conditions:

- (a) the recruitment and placement service is operated pursuant to a collective bargaining agreement between that organization and a shipowner;
- (b) both the seafarers' organization and the shipowner are based in the territory of the Member;
- (c) The Member has national laws or regulations or a procedure to authorize or register the collective bargaining agreement permitting the operation of the recruitment and placement service; and
- (d) the recruitment and placement service is operated in an orderly manner and measures are in place to protect and promote seafarers' employment rights comparable to those provided in paragraph 5 of this Standard.

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

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

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

- (a) prohibit seafarer recruitment and placement services from using means, mechanisms or lists intended to prevent or deter seafarers from gaining employment for which they are qualified;
- (b) require that no fees or other charges for seafarer recruitment or placement or for providing employment to seafarers are borne directly or indirectly, in whole or in part, by the seafarer, other than the cost of the seafarer obtaining a national statutory medical certificate, the national seafarer's book and a passport or other similar personal travel documents, not including, however, the cost of visas, which shall be borne by the shipowner; and
- (c) ensure that seafarer recruitment and placement services operating in its territory:
 - (i) maintain an up-to-date register of all seafarers recruited or placed through them, to be available for inspection by the competent authority;
 - (ii) make sure that seafarers are informed of their rights and duties under their employment agreements prior to or in the process of engagement and that proper arrangements are made for seafarers to examine their employment agreements before and after they are signed and for them to receive a copy of the agreements;
 - (iii) verify that seafarers recruited or placed by them are qualified and hold the documents necessary for the job concerned, and that the seafarers' employment agreements are in accordance with applicable laws and regulations and any collective bargaining agreement that forms part of the employment agreement;
 - (iv) make sure, as far as practicable, that the shipowner has the means to protect seafarers from being stranded in a foreign port;
 - (v) examine and respond to any complaint concerning their activities and advise the competent authority of any unresolved complaint;
 - (vi) establish a system of protection, by way of insurance or an equivalent appropriate measure, to compensate seafarers for monetary loss that they may incur as a result of the failure of a recruitment and placement service or the relevant shipowner under the seafarers' employment agreement to meet its obligations to them.

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

7. The competent authority shall ensure that adequate machinery and procedures exist for the investigation, if necessary, of complaints concerning the activities of seafarer recruitment and placement services, involving, as appropriate, representatives of shipowners and seafarers.

8. Each Member which has ratified this Convention shall, in so far as practicable, advise its nationals on the possible problems of signing on a ship that flies the flag of a State which has not ratified the Convention, until it is satisfied that standards equivalent to those fixed by this Convention are being applied. Measures taken to this effect by the Member that has ratified this Convention shall not be in contradiction with the principle of free movement of workers stipulated by the treaties to which the two States concerned may be parties.

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

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

Guideline B1.4 - Recruitment and placement

Guideline B1.4.1 - Organizational and operational guidelines

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

- (a) taking the necessary measures to promote effective cooperation among seafarer recruitment and placement services, whether public or private;
- (b) the needs of the maritime industry at both the national and international levels, when developing training programmes for seafarers that form the part of the ship's crew that is responsible for the ship's safe navigation and pollution prevention operations, with the participation of shipowners, seafarers and the relevant training institutions;
- (c) making suitable arrangements for the cooperation of representative shipowners' and seafarers' organizations in the organization and operation of the public seafarer recruitment and placement services, where they exist;
- (d) determining, with due regard to the right to privacy and the need to protect confidentiality, the conditions under which seafarers' personal data may be processed by seafarer recruitment and placement services, including the collection, storage, combination and communication of such data to third parties;
- (e) maintaining an arrangement for the collection and analysis of all relevant information on the maritime labour market, including the current and prospective supply of seafarers that work as crew classified by age, sex, rank and qualifications, and the industry's requirements, the collection of data on age or sex being admissible only for statistical purposes or if used in the framework of a programme to prevent discrimination based on age or sex;
- (f) ensuring that the staff responsible for the supervision of public and private seafarer recruitment and placement services for ship's crew with responsibility for the ship's safe navigation and pollution prevention operations have had adequate training, including approved sea-service experience, and have relevant knowledge of the mari-

time industry, including the relevant maritime international instruments on training, certification and labour standards;

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

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

- (a) medical examinations, seafarers' identity documents and such other items as may be required for the seafarer to gain employment;
- (b) maintaining, with due regard to the right to privacy and the need to protect confidentiality, full and complete records of the seafarers covered by their recruitment and placement system, which should include but not be limited to:
 - (i) the seafarers' qualifications;
 - (ii) record of employment;
 - (iii) personal data relevant to employment; and
 - (iv) medical data relevant to employment;
- (c) maintaining up-to-date lists of the ships for which the seafarer recruitment and placement services provide seafarers and ensuring that there is a means by which the services can be contacted in an emergency at all hours;
- (d) procedures to ensure that seafarers are not subject to exploitation by the seafarer recruitment and placement services or their personnel with regard to the offer of engagement on particular ships or by particular companies;
- (e) procedures to prevent the opportunities for exploitation of seafarers arising from the issue of joining advances or any other financial transaction between the shipowner and the seafarers which are handled by the seafarer recruitment and placement services;
- (f) clearly publicizing costs, if any, which the seafarer will be expected to bear in the recruitment process;
- (g) ensuring that seafarers are advised of any particular conditions applicable to the job for which they are to be engaged and of the particular shipowner's policies relating to their employment;
- (h) procedures which are in accordance with the principles of natural justice for dealing with cases of incompetence or indiscipline consistent with national laws and practice and, where applicable, with collective agreements;
- (i) procedures to ensure, as far as practicable, that all mandatory certificates and documents submitted for employment are up to date and have not been fraudulently obtained and that employment references are verified;
- (j) procedures to ensure that requests for information or advice by families of seafarers while the seafarers are at sea are dealt with promptly and sympathetically and at no cost; and
- (k) verifying that labour conditions on ships where seafarers are placed are in conformity with applicable collective bargaining agreements concluded between a shipowner and a representative seafarers' organization and, as a matter of policy, supplying seafarers only to shipowners that offer terms and conditions of employment to seafarers which comply with applicable laws or regulations or collective agreements.

3. Consideration should be given to encouraging international cooperation between Members and relevant organizations, such as:

- (a) the systematic exchange of information on the maritime industry and labour market on a bilateral, regional and multilateral basis;
- (b) the exchange of information on maritime labour legislation;
- (c) the harmonization of policies, working methods and legislation governing recruitment and placement of seafarers;
- (d) the improvement of procedures and conditions for the international recruitment and placement of seafarers; and
- (e) workforce planning, taking account of the supply of and demand for seafarers and the requirements of the maritime industry.

TITLE 2. CONDITIONS OF EMPLOYMENT

Regulation 2.1 – Seafarers’ employment agreements

Purpose: To ensure that seafarers have a fair employment agreement

1. The terms and conditions for employment of a seafarer shall be set out or referred to in a clear written legally enforceable agreement and shall be consistent with the standards set out in the Code.

2. Seafarers’ employment agreements shall be agreed to by the seafarer under conditions which ensure that the seafarer has an opportunity to review and seek advice on the terms and conditions in the agreement and freely accepts them before signing.

3. To the extent compatible with the Member’s national law and practice, seafarers’ employment agreements shall be understood to incorporate any applicable collective bargaining agreements.

Standard A2.1 – Seafarers’ employment agreements

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

- (a) seafarers working on ships that fly its flag shall have a seafarers’ employment agreement signed by both the seafarer and the shipowner or a representative of the shipowner (or, where they are not employees, evidence of contractual or similar arrangements) providing them with decent working and living conditions on board the ship as required by this Convention;
- (b) seafarers signing a seafarers’ employment agreement shall be given an opportunity to examine and seek advice on the agreement before signing, as well as such other facilities as are necessary to ensure that they have freely entered into an agreement with a sufficient understanding of their rights and responsibilities;
- (c) the shipowner and seafarer concerned shall each have a signed original of the seafarers’ employment agreement;
- (d) measures shall be taken to ensure that clear information as to the conditions of their employment can be easily obtained on board by seafarers, including the ship’s master, and that such information, including a copy of the seafarers’ employment agreement, is also accessible for review by officers of a competent authority, including those in ports to be visited; and
- (e) seafarers shall be given a document containing a record of their employment on board the ship.

2. Where a collective bargaining agreement forms all or part of a seafarers’ employment agreement, a copy of that agreement shall be available on board. Where the language of the seafarers’ employment agreement and any applicable collective bargaining agreement is not in English, the following shall also be available in English (except for ships engaged only in domestic voyages):

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

3. The document referred to in paragraph 1(e) of this Standard shall not contain any statement as to the quality of the seafarers’ work or as to their wages. The form of the document, the particulars to be recorded and the manner in which such particulars are to be entered, shall be determined by national law.

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

- (a) the seafarer's full name, date of birth or age, and birthplace;
- (b) the shipowner's name and address;
- (c) the place where and date when the seafarers' employment agreement is entered into;
- (d) the capacity in which the seafarer is to be employed;
- (e) the amount of the seafarer's wages or, where applicable, the formula used for calculating them;
- (f) the amount of paid annual leave or, where applicable, the formula used for calculating it;
- (g) the termination of the agreement and the conditions thereof, including:
 - (i) if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the shipowner than for the seafarer;
 - (ii) if the agreement has been made for a definite period, the date fixed for its expiry; and
 - (iii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged;
- (h) the health and social security protection benefits to be provided to the seafarer by the shipowner;
- (i) the seafarer's entitlement to repatriation;
- (j) reference to the collective bargaining agreement, if applicable; and
- (k) any other particulars which national law may require.

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

6. A notice period shorter than the minimum may be given in circumstances which are recognized under national law or regulations or applicable collective bargaining agreements as justifying termination of the employment agreement at shorter notice or without notice. In determining those circumstances, each Member shall ensure that the need of the seafarer to terminate, without penalty, the employment agreement on shorter notice or without notice for compassionate or other urgent reasons is taken into account.

Guideline B2.1 – Seafarers' employment agreements

Guideline B2.1.1 - Record of employment

1. In determining the particulars to be recorded in the record of employment referred to in Standard A2.1, paragraph 1(e), each Member should ensure that this document contains sufficient information, with a translation in English, to facilitate the acquisition of further work or to satisfy the sea-service requirements for upgrading or promotion. A seafarers' discharge book may satisfy the requirements of paragraph 1(e) of that Standard.

Regulation 2.2 - Wages

Purpose: To ensure that seafarers are paid for their services

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

Standard A2.2 - Wages

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

2. Seafarers shall be given a monthly account of the payments due and the amounts paid, including wages, additional payments and the rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to.

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

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

- (a) a system for enabling seafarers, at the time of their entering employment or during it, to allot, if they so desire, a proportion of their wages for remittance at regular intervals to their families by bank transfers or similar means; and
- (b) a requirement that allotments should be remitted in due time and directly to the person or persons nominated by the seafarers.

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

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

Guideline B2.2 - Wages

Guideline B2.2.1 - Specific definitions

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

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

Guideline B2.2.2 - Calculation and payment

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

- (a) for the purpose of calculating wages, the normal hours of work at sea and in port should not exceed eight hours per day;
- (b) for the purpose of calculating overtime, the number of normal hours per week covered by the basic pay or wages should be prescribed by national laws or regulations, if not determined by collective agreements, but should not exceed 48 hours per week; collective agreements may provide for a different but not less favourable treatment;

- (c) the rate or rates of compensation for overtime, which should be not less than one and one-quarter times the basic pay or wages per hour, should be prescribed by national laws or regulations or by collective agreements, if applicable; and
- (d) records of all overtime worked should be maintained by the master, or a person assigned by the master, and endorsed by the seafarer at no greater than monthly intervals.

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

- (a) the seafarers' employment agreement should specify clearly, where appropriate, the number of hours of work expected of the seafarer in return for this remuneration, and any additional allowances which might be due in addition to the consolidated wage, and in which circumstances;
- (b) where hourly overtime is payable for hours worked in excess of those covered by the consolidated wage, the hourly rate should be not less than one and one-quarter times the basic rate corresponding to the normal hours of work as defined in paragraph 1 of this Guideline; the same principle should be applied to the overtime hours included in the consolidated wage;
- (c) remuneration for that portion of the fully or partially consolidated wage representing the normal hours of work as defined in paragraph 1(a) of this Guideline should be no less than the applicable minimum wage; and
- (d) for seafarers whose wages are partially consolidated, records of all overtime worked should be maintained and endorsed as provided for in paragraph 1(d) of this Guideline.

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

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

- (a) equal remuneration for work of equal value should apply to all seafarers employed on the same ship without discrimination based upon race, colour, sex, religion, political opinion, national extraction or social origin;
- (b) the seafarers' employment agreement specifying the applicable wages or wage rates should be carried on board the ship; information on the amount of wages or wage rates should be made available to each seafarer, either by providing at least one signed copy of the relevant information to the seafarer in a language which the seafarer understands, or by posting a copy of the agreement in a place accessible to seafarers or by some other appropriate means;
- (c) wages should be paid in legal tender; where appropriate, they may be paid by bank transfer, bank cheque, postal cheque or money order;
- (d) on termination of engagement all remuneration due should be paid without undue delay;
- (e) adequate penalties or other appropriate remedies should be imposed by the competent authority where shipowners unduly delay, or fail to make, payment of all remuneration due;
- (f) wages should be paid directly to seafarers' designated bank accounts unless they request otherwise in writing;
- (g) subject to subparagraph (h) of this paragraph, the shipowner should impose no limit on seafarers' freedom to dispose of their remuneration;
- (h) deduction from remuneration should be permitted only if:

- (i) there is an express provision in national laws or regulations or in an applicable collective agreement and the seafarer has been informed, in the manner deemed most appropriate by the competent authority, of the conditions for such deductions; and
- (ii) the deductions do not in total exceed the limit that may have been established by national laws or regulations or collective agreements or court decisions for making such deductions;
- (i) no deductions should be made from a seafarer's remuneration in respect of obtaining or retaining employment;
- (j) monetary fines against seafarers other than those authorized by national laws or regulations, collective agreements or other measures should be prohibited;
- (k) the competent authority should have the power to inspect stores and services provided on board ship to ensure that fair and reasonable prices are applied for the benefit of the seafarers concerned; and
- (l) to the extent that seafarers' claims for wages and other sums due in respect of their employment are not secured in accordance with the provisions of the International Convention on Maritime Liens and Mortgages, 1993, such claims should be protected in accordance with the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173).

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

Guideline B2.2.3 - Minimum wages

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

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

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

3. The competent authority should ensure:

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

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

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

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

Regulation 2.3 - Hours of work and hours of rest

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. If no collective agreement or arbitration award exists or if the competent authority determines that the provisions in the agreement or award in respect of paragraph 7 or 8 of this Standard are inadequate, the competent authority shall determine such provisions to ensure the seafarers concerned have sufficient rest.

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

- (a) the schedule of service at sea and service in port; and

- (b) the maximum hours of work or the minimum hours of rest required by national laws or regulations or applicable collective agreements.

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

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

13. Nothing in paragraphs 5 and 6 of this Standard shall prevent a Member from having national laws or regulations or a procedure for the competent authority to authorize or register collective agreements permitting exceptions to the limits set out. Such exceptions shall, as far as possible, follow the provisions of this Standard but may take account of more frequent or longer leave periods or the granting of compensatory leave for watchkeeping seafarers or seafarers working on board ships on short voyages.

14. Nothing in this Standard shall be deemed to impair the right of the master of a ship to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea. Accordingly, the master may suspend the schedule of hours of work or hours of rest and require a seafarer to perform any hours of work necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the master shall ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.

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

Guideline B2.3.1 - Young seafarers

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

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

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

- (a) they are impracticable for young seafarers in the deck, engine room and catering departments assigned to watchkeeping duties or working on a rostered shift-work system; or
- (b) the effective training of young seafarers in accordance with established programmes and schedules would be impaired.

3. Such exceptional situations should be recorded, with reasons, and signed by the master.

4. Paragraph 1 of this Guideline does not exempt young seafarers from the general obligation on all seafarers to work during any emergency as provided for in Standard A2.3, paragraph 14.

Regulation 2.4 - Entitlement to leave

Purpose: To ensure that seafarers have adequate leave

1. Each Member shall require that seafarers employed on ships that fly its flag are given paid annual leave under appropriate conditions, in accordance with the provisions in the Code.

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

Standard A2.4 - Entitlement to leave

1. Each Member shall adopt laws and regulations determining the minimum standards for annual leave for seafarers serving on ships that fly its flag, taking proper account of the special needs of seafarers with respect to such leave.

2. Subject to any collective agreement or laws or regulations providing for an appropriate method of calculation that takes account of the special needs of seafarers in this respect, the annual leave with pay entitlement shall be calculated on the basis of a minimum of 2.5 calendar days per month of employment. The manner in which the length of service is calculated shall be determined by the competent authority or through the appropriate machinery in each country. Justified absences from work shall not be considered as annual leave.

3. Any agreement to forgo the minimum annual leave with pay prescribed in this Standard, except in cases provided for by the competent authority, shall be prohibited.

Guideline B2.4 - Entitlement to leave**Guideline B2.4.1 - Calculation of entitlement**

1. Under conditions as determined by the competent authority or through the appropriate machinery in each country, service off-articles should be counted as part of the period of service.

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

3. The level of pay during annual leave should be at the seafarer's normal level of remuneration provided for by national laws or regulations or in the applicable seafarers' employment agreement. For seafarers employed for periods shorter than one year or in the event of termination of the employment relationship, entitlement to leave should be calculated on a pro-rata basis.

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

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

Guideline B2.4.2 - Taking of annual leave

1. The time at which annual leave is to be taken should, unless it is fixed by regulation, collective agreement, arbitration award or other means consistent with national practice, be

determined by the shipowner after consultation and, as far as possible, in agreement with the seafarers concerned or their representatives.

2. Seafarers should in principle have the right to take annual leave in the place with which they have a substantial connection, which would normally be the same as the place to which they are entitled to be repatriated. Seafarers should not be required without their consent to take annual leave due to them in another place except under the provisions of a seafarers' employment agreement or of national laws or regulations.

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

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

Guideline B2.4.3 - Division and accumulation

1. The division of the annual leave with pay into parts, or the accumulation of such annual leave due in respect of one year together with a subsequent period of leave, may be authorized by the competent authority or through the appropriate machinery in each country.

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

Guideline B2.4.4 - Young seafarers

1. Special measures should be considered with respect to young seafarers under the age of 18 who have served six months or any other shorter period of time under a collective agreement or seafarers' employment agreement without leave on a foreign-going ship which has not returned to their country of residence in that time, and will not return in the subsequent three months of the voyage. Such measures could consist of their repatriation at no expense to themselves to the place of original engagement in their country of residence for the purpose of taking any leave earned during the voyage.

Regulation 2.5 – Repatriation

Purpose: To ensure that seafarers are able to return home

1. Seafarers have a right to be repatriated at no cost to themselves in the circumstances and under the conditions specified in the Code.

2. Each Member shall require ships that fly its flag to provide financial security to ensure that seafarers are duly repatriated in accordance with the Code.

Standard A2.5 - Repatriation

1. Each Member shall ensure that seafarers on ships that fly its flag are entitled to repatriation in the following circumstances:

- (a) if the seafarers' employment agreement expires while they are abroad;
- (b) when the seafarers' employment agreement is terminated:
 - (i) by the shipowner; or
 - (ii) by the seafarer for justified reasons; and also
- (c) when the seafarers are no longer able to carry out their duties under their employment agreement or cannot be expected to carry them out in the specific circumstances.

2. Each Member shall ensure that there are appropriate provisions in its laws and regulations or other measures or in collective bargaining agreements, prescribing:

- (a) the circumstances in which seafarers are entitled to repatriation in accordance with paragraph 1(b) and (c) of this Standard;
- (b) the maximum duration of service periods on board following which a seafarer is entitled to repatriation - such periods to be less than 12 months; and
- (c) the precise entitlements to be accorded by shipowners for repatriation, including those relating to the destinations of repatriation, the mode of transport, the items of expense to be covered and other arrangements to be made by shipowners.

3. Each Member shall prohibit shipowners from requiring that seafarers make an advance payment towards the cost of repatriation at the beginning of their employment, and also from recovering the cost of repatriation from the seafarers' wages or other entitlements except where the seafarer has been found, in accordance with national laws or regulations or other measures or applicable collective bargaining agreements, to be in serious default of the seafarer's employment obligations.

4. National laws and regulations shall not prejudice any right of the shipowner to recover the cost of repatriation under third-party contractual arrangements.

5. If a shipowner fails to make arrangements for or to meet the cost of repatriation of seafarers who are entitled to be repatriated:

- (a) the competent authority of the Member whose flag the ship flies shall arrange for repatriation of the seafarers concerned; if it fails to do so, the State from which the seafarers are to be repatriated or the State of which they are a national may arrange for their repatriation and recover the cost from the Member whose flag the ship flies;
- (b) costs incurred in repatriating seafarers shall be recoverable from the shipowner by the Member whose flag the ship flies;
- (c) the expenses of repatriation shall in no case be a charge upon the seafarers, except as provided for in paragraph 3 of this Standard.

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

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

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

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

Guideline B2.5 – Repatriation

Guideline B2.5.1 – Entitlement

1. Seafarers should be entitled to repatriation:

- (a) in the case covered by Standard A2.5, paragraph 1(a), upon the expiry of the period of notice given in accordance with the provisions of the seafarers' employment agreement;
- (b) in the cases covered by Standard A2.5, paragraph 1(b) and (c):
 - (i) in the event of illness or injury or other medical condition which requires their repatriation when found medically fit to travel;
 - (ii) in the event of shipwreck;

- (iii) in the event of the shipowner not being able to continue to fulfil their legal or contractual obligations as an employer of the seafarers by reason of insolvency, sale of ship, change of ship's registration or any other similar reason;
- (iv) in the event of a ship being bound for a war zone, as defined by national laws or regulations or seafarers' employment agreements, to which the seafarer does not consent to go; and
- (v) in the event of termination or interruption of employment in accordance with an industrial award or collective agreement, or termination of employment for any other similar reason.

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

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

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

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

5. Shipowners should be required to continue to cover the costs of repatriation until the seafarers concerned are landed at a destination prescribed pursuant to this Code or are provided with suitable employment on board a ship proceeding to one of those destinations.

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

- (a) the place at which the seafarer agreed to enter into the engagement;
 - (b) the place stipulated by collective agreement;
 - (c) the seafarer's country of residence; or
 - (d) such other place as may be mutually agreed at the time of engagement.
7. Seafarers should have the right to choose from among the prescribed destinations the place to which they are to be repatriated.

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

Guideline B2.5.2 - Implementation by Members

1. Every possible practical assistance should be given to a seafarer stranded in a foreign port pending repatriation and in the event of delay in the repatriation of the seafarer, the

competent authority in the foreign port should ensure that the consular or local representative of the flag State and the seafarer's State of nationality or State of residence, as appropriate, is informed immediately.

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

3. If, after young seafarers under the age of 18 have served on a ship for at least four months during their first foreign-going voyage, it becomes apparent that they are unsuited to life at sea, they should be given the opportunity of being repatriated at no expense to themselves from the first suitable port of call in which there are consular services of the flag State, or the State of nationality or residence of the young seafarer. Notification of any such repatriation, with the reasons therefore, should be given to the authority which issued the papers enabling the young seafarers concerned to take up seagoing employment.

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

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

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

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

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

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

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

Guideline B2.6.1 - Calculation of indemnity against unemployment

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

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

Regulation 2.7 - Manning levels

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

1. Each Member shall require that all ships that fly its flag have a sufficient number of seafarers employed on board to ensure that ships are operated safely, efficiently and with due regard to security under all conditions, taking into account concerns about seafarer fatigue and the particular nature and conditions of the voyage.

Standard A2.7 - Manning levels

1. Each Member shall require that all ships that fly its flag have a sufficient number of seafarers on board to ensure that ships are operated safely, efficiently and with due regard to security. Every ship shall be manned by a crew that is adequate, in terms of size and qualifications, to ensure the safety and security of the ship and its personnel, under all operating conditions, in accordance with the minimum safe manning document or an equivalent issued by the competent authority, and to comply with the standards of this Convention.

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

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

Guideline B2.7 - Manning levels

Guideline B2.7.1 - Dispute settlement

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

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

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

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

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

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

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

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

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

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

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

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

Guideline B2.8.2 - Register of seafarers

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

TITLE 3. ACCOMMODATION, RECREATIONAL FACILITIES, FOOD AND CATERING

Regulation 3.1 - Accommodation and recreational facilities

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

1. Each Member shall ensure that ships that fly its flag provide and maintain decent accommodations and recreational facilities for seafarers working or living on board, or both, consistent with promoting the seafarers' health and well-being.

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

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

Standard A3.1 - Accommodation and recreational facilities

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

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

- (b) are inspected to ensure initial and ongoing compliance with those standards.

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

- (a) take into account Regulation 4.3 and the associated Code provisions on health and safety protection and accident prevention, in light of the specific needs of seafarers that both live and work on board ship, and

- (b) give due consideration to the guidance contained in Part B of this Code.

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

- (a) a ship is registered or re-registered; or

- (b) the seafarer accommodation on a ship has been substantially altered.

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

- (a) the size of rooms and other accommodation spaces;

- (b) heating and ventilation;

- (c) noise and vibration and other ambient factors;

- (d) sanitary facilities;

- (e) lighting; and

- (f) hospital accommodation.

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

6. With respect to general requirements for accommodation:

- (a) there shall be adequate headroom in all seafarer accommodation; the minimum permitted headroom in all seafarer accommodation where full and free movement is necessary shall be not less than 203 centimetres; the competent authority may permit some limited reduction in headroom in any space, or part of any space, in such accommodation where it is satisfied that such reduction:
 - (i) is reasonable; and
 - (ii) will not result in discomfort to the seafarers;
- (b) the accommodation shall be adequately insulated;
- (c) in ships other than passenger ships, as defined in Regulation 2(e) and (f) of the International Convention for the Safety of Life at Sea, 1974, as amended (the SOLAS Convention), sleeping rooms shall be situated above the load line amidships or aft, except that in exceptional cases, where the size, type or intended service of the ship renders any other location impracticable, sleeping rooms may be located in the fore part of the ship, but in no case forward of the collision bulkhead;
- (d) in passenger ships, and in special ships constructed in compliance with the IMO *Code of Safety for Special Purpose Ships*, 1983, and subsequent versions (hereinafter called special purpose ships), the competent authority may, on condition that satisfactory arrangements are made for lighting and ventilation, permit the location of sleeping rooms below the load line, but in no case shall they be located immediately beneath working alleyways;
- (e) there shall be no direct openings into sleeping rooms from cargo and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of a bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or other approved substance and be watertight and gas-tight;
- (f) the materials used to construct internal bulkheads, panelling and sheeting, floors and joinings shall be suitable for the purpose and conducive to ensuring a healthy environment;
- (g) proper lighting and sufficient drainage shall be provided; and
- (h) accommodation and recreational and catering facilities shall meet the requirements in Regulation 4.3, and the related provisions in the Code, on health and safety protection and accident prevention, with respect to preventing the risk of exposure to hazardous levels of noise and vibration and other ambient factors and chemicals on board ships, and to provide an acceptable occupational and on-board living environment for seafarers.

7. With respect to requirements for ventilation and heating:

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

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

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

- (a) in ships other than passenger ships, an individual sleeping room shall be provided for each seafarer; in the case of ships of less than 3,000 gross tonnage or special purpose ships, exemptions from this requirement may be granted by the competent authority after consultation with the shipowners' and seafarers' organizations concerned;
- (b) separate sleeping rooms shall be provided for men and for women;
- (c) sleeping rooms shall be of adequate size and properly equipped so as to ensure reasonable comfort and to facilitate tidiness;
- (d) a separate berth for each seafarer shall in all circumstances be provided;
- (e) the minimum inside dimensions of a berth shall be at least 198 centimetres by 80 centimetres;
- (f) in single berth seafarers' sleeping rooms the floor area shall not be less than:
 - (i) 4.5 square metres in ships of less than 3,000 gross tonnage;
 - (ii) 5.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;
 - (iii) 7 square metres in ships of 10,000 gross tonnage or over;
- (g) however, in order to provide single berth sleeping rooms on ships of less than 3,000 gross tonnage, passenger ships and special purpose ships, the competent authority may allow a reduced floor area;
- (h) in ships of less than 3,000 gross tonnage other than passenger ships and special purpose ships, sleeping rooms may be occupied by a maximum of two seafarers; the floor area of such sleeping rooms shall not be less than 7 square metres;
- (i) on passenger ships and special purpose ships the floor area of sleeping rooms for seafarers not performing the duties of ships' officers shall not be less than:
 - (i) 7.5 square metres in rooms accommodating two persons;
 - (ii) 11.5 square metres in rooms accommodating three persons;
 - (iii) 14.5 square metres in rooms accommodating four persons;
- (j) on special purpose ships sleeping rooms may accommodate more than four persons; the floor area of such sleeping rooms shall not be less than 3.6 square metres per person;
- (k) on ships other than passenger ships and special purpose ships, sleeping rooms for seafarers who perform the duties of ships' officers, where no private sitting room or day room is provided, the floor area per person shall not be less than:
 - (i) 7.5 square metres in ships of less than 3,000 gross tonnage;
 - (ii) 8.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;
 - (iii) 10 square metres in ships of 10,000 gross tonnage or over;
- (l) on passenger ships and special purpose ships the floor area for seafarers performing the duties of ships' officers where no private sitting room or day room is provided, the floor area per person for junior officers shall not be less than 7.5 square metres and for senior officers not less than 8.5 square metres; junior officers are understood to be at the operational level, and senior officers at the management level;
- (m) the master, the chief engineer and the chief navigating officer shall have, in addition to their sleeping rooms, an adjoining sitting room, day room or equivalent additional space; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations concerned;
- (n) for each occupant, the furniture shall include a clothes locker of ample space (minimum 475 litres) and a drawer or equivalent space of not less than 56 litres; if the drawer is incorporated in the clothes locker then the combined minimum volume of the clothes locker shall be 500 litres; it shall be fitted with a shelf and be able to be locked by the occupant so as to ensure privacy;

- (o) each sleeping room shall be provided with a table or desk, which may be of the fixed, drop-leaf or slide-out type, and with comfortable seating accommodation as necessary.

10. With respect to requirements for mess rooms:

- (a) mess rooms shall be located apart from the sleeping rooms and as close as practicable to the galley; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations concerned; and
- (b) mess rooms shall be of adequate size and comfort and properly furnished and equipped (including ongoing facilities for refreshment), taking account of the number of seafarers likely to use them at any one time; provision shall be made for separate or common mess room facilities as appropriate.

11. With respect to requirements for sanitary facilities:

- (a) all seafarers shall have convenient access on the ship to sanitary facilities meeting minimum standards of health and hygiene and reasonable standards of comfort, with separate sanitary facilities being provided for men and for women;
- (b) there shall be sanitary facilities within easy access of the navigating bridge and the machinery space or near the engine room control centre; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations concerned;
- (c) in all ships a minimum of one toilet, one wash basin and one tub or shower or both for every six persons or less who do not have personal facilities shall be provided at a convenient location;
- (d) with the exception of passenger ships, each sleeping room shall be provided with a washbasin having hot and cold running fresh water, except where such a washbasin is situated in the private bathroom provided;
- (e) in passenger ships normally engaged on voyages of not more than four hours' duration, consideration may be given by the competent authority to special arrangements or to a reduction in the number of facilities required; and
- (f) hot and cold running fresh water shall be available in all wash places.

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

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

14. All ships shall have a space or spaces on open deck to which the seafarers can have access when off duty, which are of adequate area having regard to the size of the ship and the number of seafarers on board.

15. All ships shall be provided with separate offices or a common ship's office for use by deck and engine departments; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations concerned.

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

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

18. The competent authority shall require frequent inspections to be carried out on board ships, by or under the authority of the master, to ensure that seafarer accommodation is clean, decently habitable and maintained in a good state of repair. The results of each such inspection shall be recorded and be available for review.

19. In the case of ships where there is need to take account, without discrimination, of the interests of seafarers having differing and distinctive religious and social practices, the competent authority may, after consultation with the shipowners' and seafarers' organizations concerned, permit fairly applied variations in respect of this Standard on condition that such variations do not result in overall facilities less favourable than those which would result from the application of this Standard.

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

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

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

Guideline B3.1 - Accommodation and recreational facilities

Guideline B3.1.1 - Design and construction

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

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

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

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

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

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

Guideline B3.1.2 – Ventilation

1. The system of ventilation for sleeping rooms and mess rooms should be controlled so as to maintain the air in a satisfactory condition and to ensure a sufficiency of air movement in all conditions of weather and climate.

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

- (a) maintain the air at a satisfactory temperature and relative humidity as compared to outside air conditions, ensure a sufficiency of air changes in all air-conditioned spaces, take account of the particular characteristics of operations at sea and not produce excessive noises or vibrations; and
- (b) facilitate easy cleaning and disinfection to prevent or control the spread of disease.

3. Power for the operation of the air conditioning and other aids to ventilation required by the preceding paragraphs of this Guideline should be available at all times when seafarers are living or working on board and conditions so require. However, this power need not be provided from an emergency source.

Guideline B3.1.3 – Heating

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

2. In all ships in which a heating system is required, the heating should be by means of hot water, warm air, electricity, steam or equivalent. However, within the accommodation area, steam should not be used as a medium for heat transmission. The heating system should be capable of maintaining the temperature in seafarer accommodation at a satisfactory level under normal conditions of weather and climate likely to be met within the trade in which the ship is engaged. The competent authority should prescribe the standard to be provided.

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

Guideline B3.1.4 – Lighting

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

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

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

Guideline B3.1.5 - Sleeping rooms

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

2. Where the size of the ship, the activity in which it is to be engaged and its layout make it reasonable and practicable, sleeping rooms should be planned and equipped with a private bathroom, including a toilet, so as to provide reasonable comfort for the occupants and to facilitate tidiness.

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

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

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

6. Space occupied by berths and lockers, chests of drawers and seats should be included in the measurement of the floor area. Small or irregularly shaped spaces which do not add effectively to the space available for free movement and cannot be used for installing furniture should be excluded.

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

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

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

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

11. Each berth should be fitted with a comfortable mattress with cushioning bottom or a combined cushioning mattress, including a spring bottom or a spring mattress. The mattress and cushioning material used should be made of approved material. Stuffing of material likely to harbour vermin should not be used.

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

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

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

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

Guideline B3.1.6 - Mess rooms

1. Mess room facilities may be either common or separate. The decision in this respect should be taken after consultation with seafarers' and shipowners' representatives and subject to the approval of the competent authority. Account should be taken of factors such as the size of the ship and the distinctive cultural, religious and social needs of the seafarers.

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

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

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

4. In all ships, mess rooms should be equipped with tables and appropriate seats, fixed or movable, sufficient to accommodate the greatest number of seafarers likely to use them at any one time.

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

- (a) a refrigerator, which should be conveniently situated and of sufficient capacity for the number of persons using the mess room or mess rooms;
- (b) facilities for hot beverages; and
- (c) cool water facilities.

6. Where available pantries are not accessible to mess rooms, adequate lockers for mess utensils and proper facilities for washing utensils should be provided.

7. The tops of tables and seats should be of damp-resistant material.

Guideline B3.1.7 - Sanitary accommodation

1. Washbasins and tub baths should be of adequate size and constructed of approved material with a smooth surface not liable to crack, flake or corrode.

2. All toilets should be of an approved pattern and provided with an ample flush of water or with some other suitable flushing means, such as air, which are available at all times and independently controllable.

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

- (a) floors should be of approved durable material, impervious to damp, and should be properly drained;
- (b) bulkheads should be of steel or other approved material and should be watertight up to at least 23 centimetres above the level of the deck;
- (c) the accommodation should be sufficiently lit, heated and ventilated;

- (d) toilets should be situated convenient to, but separate from, sleeping rooms and wash rooms, without direct access from the sleeping rooms or from a passage between sleeping rooms and toilets to which there is no other access; this requirement does not apply where a toilet is located in a compartment between two sleeping rooms having a total of not more than four seafarers; and
- (e) where there is more than one toilet in a compartment, they should be sufficiently screened to ensure privacy.

4. The laundry facilities provided for seafarers' use should include:

- (a) washing machines;
- (b) drying machines or adequately heated and ventilated drying rooms; and
- (c) irons and ironing boards or their equivalent.

Guideline B3.1.8 - Hospital accommodation

1. The hospital accommodation should be designed so as to facilitate consultation and the giving of medical first aid and to help prevent the spread of infectious diseases.

2. The arrangement of the entrance, berths, lighting, ventilation, heating and water supply should be designed to ensure the comfort and facilitate the treatment of the occupants.

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

4. Sanitary accommodation should be provided for the exclusive use of the occupants of the hospital accommodation, either as part of the accommodation or in close proximity thereto. Such sanitary accommodation should comprise a minimum of one toilet, one washbasin and one tub or shower.

Guideline B3.1.9 - Other facilities

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

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

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

1. Each Member should consider applying the following principles:

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

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

1. Recreational facilities and services should be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, operational and other developments in the shipping industry.

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

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

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

- (a) a smoking room;
- (b) television viewing and the reception of radio broadcasts;
- (c) showing of films, the stock of which should be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;
- (d) sports equipment including exercise equipment, table games and deck games;
- (e) where possible, facilities for swimming;
- (f) a library containing vocational and other books, the stock of which should be adequate for the duration of the voyage and changed at reasonable intervals;
- (g) facilities for recreational handicrafts;
- (h) electronic equipment such as a radio, television, video recorders, DVD/CD player, personal computer and software and cassette recorder/player;
- (i) where appropriate, the provision of bars on board for seafarers unless these are contrary to national, religious or social customs; and
- (j) reasonable access to ship-to-shore telephone communications, and email and Internet facilities, where available, with any charges for the use of these services being reasonable in amount.

5. Every effort should be given to ensuring that the forwarding of seafarers' mail is as reliable and expeditious as possible. Efforts should also be considered for avoiding seafarers being required to pay additional postage when mail has to be readdressed owing to circumstances beyond their control.

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

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

Guideline B3.1.12 - Prevention of noise and vibration

1. Accommodation and recreational and catering facilities should be located as far as practicable from the engines, steering gear rooms, deck winches, ventilation, heating and air-conditioning equipment and other noisy machinery and apparatus.

2. Acoustic insulation or other appropriate sound-absorbing materials should be used in the construction and finishing of bulkheads, deckheads and decks within the sound-producing spaces as well as self-closing noise-isolating doors for machinery spaces.

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

4. The limits for noise levels for working and living spaces should be in conformity with the ILO international guidelines on exposure levels, including those in the ILO code of practice entitled *Ambient factors in the workplace*, 2001, and, where applicable, the specific protection recommended by the International Maritime Organization, and with any subsequent amending and supplementary instruments for acceptable noise levels on board ships. A copy of the applicable instruments in English or the working language of the ship should be carried on board and should be accessible to seafarers.

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

Regulation 3.2 - Food and catering

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

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

Standard A3.2 - Food and catering

1. Each Member shall adopt laws and regulations or other measures to provide minimum standards for the quantity and quality of food and drinking water and for the catering standards that apply to meals provided to seafarers on ships that fly its flag, and shall undertake educational activities to promote awareness and implementation of the standards referred to in this paragraph.
2. Each Member shall ensure that ships that fly its flag meet the following minimum standards:
 - (a) food and drinking water supplies, having regard to the number of seafarers on board, their religious requirements and cultural practices as they pertain to food, and the duration and nature of the voyage, shall be suitable in respect of quantity, nutritional value, quality and variety;
 - (b) the organization and equipment of the catering department shall be such as to permit the provision to the seafarers of adequate, varied and nutritious meals prepared and served in hygienic conditions; and
 - (c) catering staff shall be properly trained or instructed for their positions.
3. Shipowners shall ensure that seafarers who are engaged as ships' cooks are trained, qualified and found competent for the position in accordance with requirements set out in the laws and regulations of the Member concerned.
4. The requirements under paragraph 3 of this Standard shall include a completion of a training course approved or recognized by the competent authority, which covers practical cookery, food and personal hygiene, food storage, stock control, and environmental protection and catering health and safety.
5. On ships operating with a prescribed manning of less than ten which, by virtue of the size of the crew or the trading pattern, may not be required by the competent authority to carry a fully qualified cook, anyone processing food in the galley shall be trained or instructed in areas including food and personal hygiene as well as handling and storage of food on board ship.
6. In circumstances of exceptional necessity, the competent authority may issue a dispensation permitting a non-fully qualified cook to serve in a specified ship for a specified limited period, until the next convenient port of call or for a period not exceeding one month, provided that the person to whom the dispensation is issued is trained or instructed in areas including food and personal hygiene as well as handling and storage of food on board ship.
7. In accordance with the ongoing compliance procedures under Title 5, the competent authority shall require that frequent documented inspections be carried out on board ships, by or under the authority of the master, with respect to:
 - (a) supplies of food and drinking water;

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

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

Guideline B3.2 - Food and catering

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

1. The competent authority should, in cooperation with other relevant agencies and organizations, collect up-to-date information on nutrition and on methods of purchasing, storing, preserving, cooking and serving food, with special reference to the requirements of catering on board a ship. This information should be made available, free of charge or at reasonable cost, to manufacturers of and traders in ships' food supplies and equipment, masters, stewards and cooks, and to shipowners' and seafarers' organizations concerned. Appropriate forms of publicity, such as manuals, brochures, posters, charts or advertisements in trade journals, should be used for this purpose.

2. The competent authority should issue recommendations to avoid wastage of food, facilitate the maintenance of a proper standard of hygiene, and ensure the maximum practicable convenience in working arrangements.

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

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

Guideline B3.2.2 - Ships' cooks

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

- (a) served at sea for a minimum period to be prescribed by the competent authority, which could be varied to take into account existing relevant qualifications or experience;
- (b) passed an examination prescribed by the competent authority or passed an equivalent examination at an approved training course for cooks.

2. The prescribed examination may be conducted and certificates granted either directly by the competent authority or, subject to its control, by an approved school for the training of cooks.

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

**TITLE 4. HEALTH PROTECTION, MEDICAL CARE,
WELFARE AND SOCIAL SECURITY PROTECTION*****Regulation 4.1 - Medical care on board ship and ashore***

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

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

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

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

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

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

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

- (a) ensure the application to seafarers of any general provisions on occupational health protection and medical care relevant to their duties, as well as of special provisions specific to work on board ship;
- (b) ensure that seafarers are given health protection and medical care as comparable as possible to that which is generally available to workers ashore, including prompt access to the necessary medicines, medical equipment and facilities for diagnosis and treatment and to medical information and expertise;
- (c) give seafarers the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable;
- (d) ensure that, to the extent consistent with the Member's national law and practice, medical care and health protection services while a seafarer is on board ship or landed in a foreign port are provided free of charge to seafarers; and
- (e) are not limited to treatment of sick or injured seafarers but include measures of a preventive character such as health promotion and health education programmes.

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

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

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

- (a) all ships shall carry a medicine chest, medical equipment and a medical guide, the specifics of which shall be prescribed and subject to regular inspection by the competent authority; the national requirements shall take into account the type of ship, the number of persons on board and the nature, destination and duration of voyages and relevant national and international recommended medical standards;

- (b) ships carrying 100 or more persons and ordinarily engaged on international voyages of more than three days' duration shall carry a qualified medical doctor who is responsible for providing medical care; national laws or regulations shall also specify which other ships shall be required to carry a medical doctor, taking into account, inter alia, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board;
- (c) ships which do not carry a medical doctor shall be required to have either at least one seafarer on board who is in charge of medical care and administering medicine as part of their regular duties or at least one seafarer on board competent to provide medical first aid; persons in charge of medical care on board who are not medical doctors shall have satisfactorily completed training in medical care that meets the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW); seafarers designated to provide medical first aid shall have satisfactorily completed training in medical first aid that meets the requirements of STCW; national laws or regulations shall specify the level of approved training required taking into account, inter alia, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board; and
- (d) the competent authority shall ensure by a prearranged system that medical advice by radio or satellite communication to ships at sea, including specialist advice, is available 24 hours a day; medical advice, including the onward transmission of medical messages by radio or satellite communication between a ship and those ashore giving the advice, shall be available free of charge to all ships irrespective of the flag that they fly.

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

Guideline B4.1.1 - Provision of medical care

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

- (a) ships which ordinarily are capable of reaching qualified medical care and medical facilities within eight hours should have at least one designated seafarer with the approved medical first-aid training required by STCW which will enable such persons to take immediate, effective action in case of accidents or illnesses likely to occur on board a ship and to make use of medical advice by radio or satellite communication; and
- (b) all other ships should have at least one designated seafarer with approved training in medical care required by STCW, including practical training and training in life-saving techniques such as intravenous therapy, which will enable the persons concerned to participate effectively in coordinated schemes for medical assistance to ships at sea, and to provide the sick or injured with a satisfactory standard of medical care during the period they are likely to remain on board.

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

3. Persons referred to in paragraph 1 of this Guideline and such other seafarers as may be required by the competent authority should undergo, at approximately five-year intervals, refresher courses to enable them to maintain and increase their knowledge and skills and to keep up-to-date with new developments.

4. The medicine chest and its contents, as well as the medical equipment and medical guide carried on board, should be properly maintained and inspected at regular intervals,

not exceeding 12 months, by responsible persons designated by the competent authority, who should ensure that the labelling, expiry dates and conditions of storage of all medicines and directions for their use are checked and all equipment functioning as required. In adopting or reviewing the ship's medical guide used nationally, and in determining the contents of the medicine chest and medical equipment, the competent authority should take into account international recommendations in this field, including the latest edition of the *International Medical Guide for Ships*, and other guides mentioned in paragraph 2 of this Guideline.

5. Where a cargo which is classified dangerous has not been included in the most recent edition of the *Medical First Aid Guide for Use in Accidents Involving Dangerous Goods*, the necessary information on the nature of the substances, the risks involved, the necessary personal protective devices, the relevant medical procedures and specific antidotes should be made available to the seafarers. Such specific antidotes and personal protective devices should be on board whenever dangerous goods are carried. This information should be integrated with the ship's policies and programmes on occupational safety and health described in Regulation 4.3 and related Code provisions.

6. All ships should carry a complete and up-to-date list of radio stations through which medical advice can be obtained; and, if equipped with a system of satellite communication, carry an up-to-date and complete list of coast earth stations through which medical advice can be obtained. Seafarers with responsibility for medical care or medical first aid on board should be instructed in the use of the ship's medical guide and the medical section of the most recent edition of the *International Code of Signals* so as to enable them to understand the type of information needed by the advising doctor as well as the advice received.

Guideline B4.1.2 - Medical report form

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

Guideline B4.1.3 - Medical care ashore

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

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

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

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

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

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

- (a) developing and coordinating search and rescue efforts and arranging prompt medical help and evacuation at sea for the seriously ill or injured on board a ship through such means as periodic ship position reporting systems, rescue coordination centres and emergency helicopter services, in conformity with the International Convention on

Maritime Search and Rescue, 1979, as amended, and the *International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual*;

- (b) making optimum use of all ships carrying a doctor and stationing ships at sea which can provide hospital and rescue facilities;
- (c) compiling and maintaining an international list of doctors and medical care facilities available worldwide to provide emergency medical care to seafarers;
- (d) landing seafarers ashore for emergency treatment;
- (e) repatriating seafarers hospitalized abroad as soon as practicable, in accordance with the medical advice of the doctors responsible for the case, which takes into account the seafarer's wishes and needs;
- (f) arranging personal assistance for seafarers during repatriation, in accordance with the medical advice of the doctors responsible for the case, which takes into account the seafarer's wishes and needs;
- (g) endeavouring to set up health centres for seafarers to:
 - (i) conduct research on the health status, medical treatment and preventive health care of seafarers; and
 - (ii) train medical and health service staff in maritime medicine;
- (h) collecting and evaluating statistics concerning occupational accidents, diseases and fatalities of seafarers and integrating and harmonizing the statistics with any existing national system of statistics on occupational accidents and diseases covering other categories of workers;
- (i) organizing international exchanges of technical information, training material and personnel, as well as international training courses, seminars and working groups;
- (j) providing all seafarers with special curative and preventive health and medical services in port, or making available to them general health, medical and rehabilitation services; and
- (k) arranging for the repatriation of the bodies or ashes of deceased seafarers, in accordance with the wishes of the next of kin and as soon as practicable.

2. International cooperation in the field of health protection and medical care for seafarers should be based on bilateral or multilateral agreements or consultations among Members.

Guideline B4.1.5 - Dependants of seafarers

1. Each Member should adopt measures to secure proper and sufficient medical care for the dependants of seafarers domiciled in its territory pending the development of a medical care service which would include within its scope workers generally and their dependants where such services do not exist and should inform the International Labour Office concerning the measures taken for this purpose.

Regulation 4.2 – Shipowners' liability

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

1. Each Member shall ensure that measures, in accordance with the Code, are in place on ships that fly its flag to provide seafarers employed on the ships with a right to material assistance and support from the shipowner with respect to the financial consequences of sickness, injury or death occurring while they are serving under a seafarers' employment agreement or arising from their employment under such agreement.

2. This Regulation does not affect any other legal remedies that a seafarer may seek.

Standard A4.2 – Shipowners' liability

1. Each Member shall adopt laws and regulations requiring that shipowners of ships that fly its flag are responsible for health protection and medical care of all seafarers working on board the ships in accordance with the following minimum standards:

- (a) shipowners shall be liable to bear the costs for seafarers working on their ships in respect of sickness and injury of the seafarers occurring between the date of commencing duty and the date upon which they are deemed duly repatriated, or arising from their employment between those dates;
- (b) shipowners shall provide financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard, as set out in national law, the seafarers' employment agreement or collective agreement;
- (c) shipowners shall be liable to defray the expense of medical care, including medical treatment and the supply of the necessary medicines and therapeutic appliances, and board and lodging away from home until the sick or injured seafarer has recovered, or until the sickness or incapacity has been declared of a permanent character; and
- (d) shipowners shall be liable to pay the cost of burial expenses in the case of death occurring on board or ashore during the period of engagement.

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

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

- (a) to pay full wages as long as the sick or injured seafarers remain on board or until the seafarers have been repatriated in accordance with this Convention; and
- (b) to pay wages in whole or in part as prescribed by national laws or regulations or as provided for in collective agreements from the time when the seafarers are repatriated or landed until their recovery or, if earlier, until they are entitled to cash benefits under the legislation of the Member concerned.

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

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

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

6. National laws or regulations may exempt the shipowner from liability to defray the expense of medical care and board and lodging and burial expenses in so far as such liability is assumed by the public authorities.

7. Shipowners or their representatives shall take measures for safeguarding property left on board by sick, injured or deceased seafarers and for returning it to them or to their next of kin.

Guideline B4.2 – Shipowners' liability

1. The payment of full wages required by Standard A4.2, paragraph 3(a), may be exclusive of bonuses.

2. National laws or regulations may provide that a shipowner shall cease to be liable to bear the costs of a sick or injured seafarer from the time at which that seafarer can claim

medical benefits under a scheme of compulsory sickness insurance, compulsory accident insurance or workers' compensation for accidents.

3. National laws or regulations may provide that burial expenses paid by the shipowner shall be reimbursed by an insurance institution in cases in which funeral benefit is payable in respect of the deceased seafarer under laws or regulations relating to social insurance or workers' compensation.

Regulation 4.3 - Health and safety protection and accident prevention

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

1. Each Member shall ensure that seafarers on ships that fly its flag are provided with occupational health protection and live, work and train on board ship in a safe and hygienic environment.

2. Each Member shall develop and promulgate national guidelines for the management of occupational safety and health on board ships that fly its flag, after consultation with representative shipowners' and seafarers' organizations and taking into account applicable codes, guidelines and standards recommended by international organizations, national administrations and maritime industry organizations.

3. Each Member shall adopt laws and regulations and other measures addressing the matters specified in the Code, taking into account relevant international instruments, and set standards for occupational safety and health protection and accident prevention on ships that fly its flag.

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

1. The laws and regulations and other measures to be adopted in accordance with Regulation 4.3, paragraph 3, shall include the following subjects:

- (a) the adoption and effective implementation and promotion of occupational safety and health policies and programmes on ships that fly the Member's flag, including risk evaluation as well as training and instruction of seafarers;
- (b) reasonable precautions to prevent occupational accidents, injuries and diseases on board ship, including measures to reduce and prevent the risk of exposure to harmful levels of ambient factors and chemicals as well as the risk of injury or disease that may arise from the use of equipment and machinery on board ships;
- (c) on-board programmes for the prevention of occupational accidents, injuries and diseases and for continuous improvement in occupational safety and health protection, involving seafarers' representatives and all other persons concerned in their implementation, taking account of preventive measures, including engineering and design control, substitution of processes and procedures for collective and individual tasks, and the use of personal protective equipment; and
- (d) requirements for inspecting, reporting and correcting unsafe conditions and for investigating and reporting on-board occupational accidents.

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

- (a) take account of relevant international instruments dealing with occupational safety and health protection in general and with specific risks, and address all matters relevant to the prevention of occupational accidents, injuries and diseases that may be applicable to the work of seafarers and particularly those which are specific to maritime employment;
- (b) clearly specify the obligation of shipowners, seafarers and others concerned to comply with the applicable standards and with the ship's occupational safety and health

policy and programme with special attention being paid to the safety and health of seafarers under the age of 18;

- (c) specify the duties of the master or a person designated by the master, or both, to take specific responsibility for the implementation of and compliance with the ship's occupational safety and health policy and programme; and
- (d) specify the authority of the ship's seafarers appointed or elected as safety representatives to participate in meetings of the ship's safety committee. Such a committee shall be established on board a ship on which there are five or more seafarers.

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

4. Compliance with the requirements of applicable international instruments on the acceptable levels of exposure to workplace hazards on board ships and on the development and implementation of ships' occupational safety and health policies and programmes shall be considered as meeting the requirements of this Convention.

5. The competent authority shall ensure that:

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

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

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

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

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

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

1. The provisions required under Standard A4.3 should take into account the ILO code of practice entitled *Accident prevention on board ship at sea and in port*, 1996, and subsequent versions and other related ILO and other international standards and guidelines and codes of practice regarding occupational safety and health protection, including any exposure levels that they may identify.

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

- (a) general and basic provisions;
- (b) structural features of the ship, including means of access and asbestos-related risks;
- (c) machinery;

- (d) the effects of the extremely low or high temperature of any surfaces with which seafarers may be in contact;
- (e) the effects of noise in the workplace and in shipboard accommodation;
- (f) the effects of vibration in the workplace and in shipboard accommodation;
- (g) the effects of ambient factors, other than those referred to in subparagraphs (e) and (f), in the workplace and in shipboard accommodation, including tobacco smoke;
- (h) special safety measures on and below deck;
- (i) loading and unloading equipment;
- (j) fire prevention and fire-fighting;
- (k) anchors, chains and lines;
- (l) dangerous cargo and ballast;
- (m) personal protective equipment for seafarers;
- (n) work in enclosed spaces;
- (o) physical and mental effects of fatigue;
- (p) the effects of drug and alcohol dependency;
- (q) HIV/AIDS protection and prevention; and
- (r) emergency and accident response.

3. The assessment of risks and reduction of exposure on the matters referred to in paragraph 2 of this Guideline should take account of the physical occupational health effects, including manual handling of loads, noise and vibration, the chemical and biological occupational health effects, the mental occupational health effects, the physical and mental health effects of fatigue, and occupational accidents. The necessary measures should take due account of the preventive principle according to which, among other things, combating risk at the source, adapting work to the individual, especially as regards the design of workplaces, and replacing the dangerous by the non-dangerous or the less dangerous, have precedence over personal protective equipment for seafarers.

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

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

Guideline B4.3.2 - Exposure to noise

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

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

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

Guideline B4.3.3 - Exposure to vibration

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

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

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

Guideline B4.3.4 - Obligations of shipowners

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

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

Guideline B4.3.5 - Reporting and collection of statistics

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

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

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

Guideline B4.3.6 - Investigations

1. The competent authority should undertake investigations into the causes and circumstances of all occupational accidents and occupational injuries and diseases resulting in loss

of life or serious personal injury, and such other cases as may be specified in national laws or regulations.

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

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

Guideline B4.3.7 - National protection and prevention programmes

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

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

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

Guideline B4.3.8 - Content of protection and prevention programmes

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

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

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

3. In formulating occupational safety and health protection and accident prevention programmes, each Member should have due regard to any code of practice concerning the safety and health of seafarers which may have been published by the International Labour Organization.

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

1. The curriculum for the training referred to in Standard A4.3, paragraph 1(a), should be reviewed periodically and brought up to date in the light of development in types and sizes of ships and in their equipment, as well as changes in manning practices, nationality, language and the organization of work on board ships.

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

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

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

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

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

2. Except where a young seafarer is recognized as fully qualified in a pertinent skill by the competent authority, the regulations should specify restrictions on young seafarers undertaking, without appropriate supervision and instruction, certain types of work presenting special risk of accident or of detrimental effect on their health or physical development, or requiring a particular degree of maturity, experience or skill. In determining the types of work to be restricted by the regulations, the competent authority might consider in particular work involving:

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

3. Practical measures should be taken by the competent authority or through the appropriate machinery to bring to the attention of young seafarers information concerning the prevention of accidents and the protection of their health on board ships. Such measures

could include adequate instruction in courses, official accident prevention publicity intended for young persons and professional instruction and supervision of young seafarers.

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

Guideline B4.3.11 - International cooperation

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

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

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

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

Regulation 4.4 - Access to shore-based welfare facilities

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

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

2. The responsibilities of each Member with respect to shore-based facilities, such as welfare, cultural, recreational and information facilities and services, are set out in the Code.

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

1. Each Member shall require, where welfare facilities exist on its territory, that they are available for the use of all seafarers, irrespective of nationality, race, colour, sex, religion, political opinion or social origin and irrespective of the flag State of the ship on which they are employed or engaged or work.

2. Each Member shall promote the development of welfare facilities in appropriate ports of the country and determine, after consultation with the shipowners' and seafarers' organizations concerned, which ports are to be regarded as appropriate.

3. Each Member shall encourage the establishment of welfare boards which shall regularly review welfare facilities and services to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, operational and other developments in the shipping industry.

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

Guideline B4.4.1 - Responsibilities of Members

1. Each Member should:
 - (a) take measures to ensure that adequate welfare facilities and services are provided for seafarers in designated ports of call and that adequate protection is provided to seafarers in the exercise of their profession; and
 - (b) take into account, in the implementation of these measures, the special needs of seafarers, especially when in foreign countries and when entering war zones, in respect of their safety, health and spare-time activities.
2. Arrangements for the supervision of welfare facilities and services should include participation by representative shipowners' and seafarers' organizations concerned.
3. Each Member should take measures designed to expedite the free circulation among ships, central supply agencies and welfare establishments of welfare materials such as films, books, newspapers and sports equipment for use by seafarers on board their ships and in welfare centres ashore.
4. Members should cooperate with one another in promoting the welfare of seafarers at sea and in port. Such cooperation should include the following:
 - (a) consultations among competent authorities aimed at the provision and improvement of seafarers' welfare facilities and services, both in port and on board ships;
 - (b) agreements on the pooling of resources and the joint provision of welfare facilities in major ports so as to avoid unnecessary duplication;
 - (c) organization of international sports competitions and encouragement of the participation of seafarers in sports activities; and
 - (d) organization of international seminars on the subject of welfare of seafarers at sea and in port.

Guideline B4.4.2 - Welfare facilities and services in ports

1. Each Member should provide or ensure the provision of such welfare facilities and services as may be required, in appropriate ports of the country.
2. Welfare facilities and services should be provided, in accordance with national conditions and practice, by one or more of the following:
 - (a) public authorities;
 - (b) shipowners' and seafarers' organizations concerned under collective agreements or other agreed arrangements; and
 - (c) voluntary organizations.
3. Necessary welfare and recreational facilities should be established or developed in ports. These should include:
 - (a) meeting and recreation rooms as required;
 - (b) facilities for sports and outdoor facilities, including competitions; (c) educational facilities; and
 - (c) where appropriate, facilities for religious observances and for personal counselling.
4. These facilities may be provided by making available to seafarers in accordance with their needs facilities designed for more general use.
5. Where large numbers of seafarers of different nationalities require facilities such as hotels, clubs and sports facilities in a particular port, the competent authorities or bodies of

the countries of origin of the seafarers and of the flag States, as well as the international associations concerned, should consult and cooperate with the competent authorities and bodies of the country in which the port is situated and with one another, with a view to the pooling of resources and to avoiding unnecessary duplication.

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

7. These accommodation facilities should be open to all seafarers, irrespective of nationality, race, colour, sex, religion, political opinion or social origin and irrespective of the flag State of the ship on which they are employed or engaged or work. Without in any way infringing this principle, it may be necessary in certain ports to provide several types of facilities, comparable in standard but adapted to the customs and needs of different groups of seafarers.

8. Measures should be taken to ensure that, as necessary, technically competent persons are employed full time in the operation of seafarers' welfare facilities and services, in addition to any voluntary workers.

Guideline B4.4.3 - Welfare boards

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

- (a) keeping under review the adequacy of existing welfare facilities and monitoring the need for the provision of additional facilities or the withdrawal of underutilized 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 shipowners' and seafarers' organizations, the competent authorities and, where appropriate, voluntary organizations and social bodies.

3. As appropriate, consuls of maritime States and local representatives of foreign welfare organizations should, in accordance with national laws and regulations, be associated with the work of port, regional and national welfare boards.

Guideline B4.4.4 - Financing of welfare facilities

1. In accordance with national conditions and practice, financial support for port welfare facilities should be made available through one or more of the following:

- (a) grants from public funds;
- (b) levies or other special dues from shipping sources;
- (c) voluntary contributions from shipowners, seafarers, or their organizations; and
- (d) voluntary contributions from other sources.

2. Where welfare taxes, levies and special dues are imposed, they should be used only for the purposes for which they are raised.

Guideline B4.4.5 - Dissemination of information and facilitation measures

1. Information should be disseminated among seafarers concerning facilities open to the general public in ports of call, particularly transport, welfare, entertainment and educational facilities and places of worship, as well as facilities provided specifically for seafarers.

2. Adequate means of transport at moderate prices should be available at any reasonable time in order to enable seafarers to reach urban areas from convenient locations in the port.

3. All suitable measures should be taken by the competent authorities to make known to shipowners and to seafarers entering port any special laws and customs, the contravention of which may jeopardize their freedom.

4. Port areas and access roads should be provided by the competent authorities with adequate lighting and signposting and regular patrols for the protection of seafarers.

Guideline B4.4.6 - Seafarers in a foreign port

1. For the protection of seafarers in foreign ports, measures should be taken to facilitate:

- (a) access to consuls of their State of nationality or State of residence; and
- (b) effective cooperation between consuls and the local or national authorities.

2. Seafarers who are detained in a foreign port should be dealt with promptly under due process of law and with appropriate consular protection.

3. Whenever a seafarer is detained for any reason in the territory of a Member, the competent authority should, if the seafarer so requests, immediately inform the flag State and the State of nationality of the seafarer. The competent authority should promptly inform the seafarer of the right to make such a request. The State of nationality of the seafarer should promptly notify the seafarer's next of kin. The competent authority should allow consular officers of these States immediate access to the seafarer and regular visits thereafter so long as the seafarer is detained.

4. Each Member should take measures, whenever necessary, to ensure the safety of seafarers from aggression and other unlawful acts while ships are in their territorial waters and especially in approaches to ports.

5. Every effort should be made by those responsible in port and on board a ship to facilitate shore leave for seafarers as soon as possible after a ship's arrival in port.

Regulation 4.5 - Social security

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

1. Each Member shall ensure that all seafarers and, to the extent provided for in its national law, their dependants have access to social security protection in accordance with the Code without prejudice however to any more favourable conditions referred to in paragraph 8 of article 19 of the Constitution.

2. Each Member undertakes to take steps, according to its national circumstances, individually and through international cooperation, to achieve progressively comprehensive social security protection for seafarers.

3. Each Member shall ensure that seafarers who are subject to its social security legislation, and, to the extent provided for in its national law, their dependants, are entitled to benefit from social security protection no less favourable than that enjoyed by shoreworkers.

Standard A4.5 - Social security

1. The branches to be considered with a view to achieving progressively comprehensive social security protection under Regulation 4.5 are: medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit, complementing the protection provided for under Regulations 4.1, on medical care, and 4.2, on 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 Regulation 4.5, paragraph 1, shall include at least three of the nine branches listed in paragraph 1 of this Standard.

3. Each Member shall take steps according to its national circumstances to provide the complementary social security protection referred to in paragraph 1 of this Standard to all seafarers ordinarily resident in its territory. This responsibility could be satisfied, for example, through appropriate bilateral or multilateral agreements or contribution-based systems. The resulting protection shall be no less favourable than that enjoyed by shoreworkers resident in their territory.

4. Notwithstanding the attribution of responsibilities in paragraph 3 of this Standard, Members may determine, through bilateral and multilateral agreements and through provisions adopted in the framework of regional economic integration organizations, other rules concerning the social security legislation to which seafarers are subject.

5. Each Member's responsibilities with respect to seafarers on ships that fly its flag shall include those provided for by Regulations 4.1 and 4.2 and the related provisions of the Code, as well as those that are inherent in its general obligations under international law.

6. Each Member shall give consideration to the various ways in which comparable benefits will, in accordance with national law and practice, be provided to seafarers in the absence of adequate coverage in the branches referred to in paragraph 1 of this Standard.

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

8. To the extent consistent with their national law and practice, Members shall cooperate, through bilateral or multilateral agreements or other arrangements, to ensure the maintenance of social security rights, provided through contributory or non-contributory schemes, which have been acquired, or are in the course of acquisition, by all seafarers regardless of residence.

9. Each Member shall establish fair and effective procedures for the settlement of disputes.

10. Each Member shall at the time of ratification specify the branches for which protection is provided in accordance with paragraph 2 of this Standard. It shall subsequently notify the Director-General of the International Labour Office when it provides social security protection in respect of one or more other branches stated in paragraph 1 of this Standard. The Director-General shall maintain a register of this information and shall make it available to all interested parties.

11. The reports to the International Labour Office pursuant to article 22 of the Constitution, shall also include information regarding steps taken in accordance with Regulation 4.5, paragraph 2, to extend protection to other branches.

Guideline B4.5 - Social security

1. The protection to be provided at the time of ratification in accordance with Standard A4.5, paragraph 2, should at least include the branches of medical care, sickness benefit and employment injury benefit.

2. In the circumstances referred to in Standard A4.5, paragraph 6, comparable benefits may be provided through insurance, bilateral and multilateral agreements or other effective means, taking into consideration the provisions of relevant collective bargaining agreements. Where such measures are adopted, seafarers covered by such measures should be advised of the means by which the various branches of social security protection will be provided.

3. Where seafarers are subject to more than one national legislation covering social security, the Members concerned should cooperate in order to determine by mutual agreement

which legislation is to apply, taking into account such factors as the type and level of protection under the respective legislations which is more favourable to the seafarer concerned as well as the seafarer's preference.

4. The procedures to be established under Standard A4.5, paragraph 9, should be designed to cover all disputes relevant to the claims of the seafarers concerned, irrespective of the manner in which the coverage is provided.

5. Each Member which has national seafarers, non-national seafarers or both serving on ships that fly its flag should provide the social security protection in the Convention as applicable, and should periodically review the branches of social security protection in Standard A4.5, paragraph 1, with a view to identifying any additional branches appropriate for the seafarers concerned.

6. The seafarers' employment agreement should identify the means by which the various branches of social security protection will be provided to the seafarer by the shipowner as well as any other relevant information at the disposal of the shipowner, such as statutory deductions from the seafarers' wages and shipowners' contributions which may be made in accordance with the requirements of identified authorized bodies pursuant to relevant national social security schemes.

7. The Member whose flag the ship flies should, in effectively exercising its jurisdiction over social matters, satisfy itself that the shipowners' responsibilities concerning social security protection are met, including making the required contributions to social security schemes.

TITLE 5. COMPLIANCE AND ENFORCEMENT

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

2. Paragraphs 3 and 4 of Article VI, which permit the implementation of Part A of the Code through substantially equivalent provisions, do not apply to Part A of the Code in this Title.

3. In accordance with paragraph 2 of Article VI, each Member shall implement its responsibilities under the Regulations in the manner set out in the corresponding Standards of Part A of the Code, giving due consideration to the corresponding Guidelines in Part B of the Code.

4. The provisions of this Title shall be implemented bearing in mind that seafarers and shipowners, like all other persons, are equal before the law and are entitled to the equal protection of the law and shall not be subject to discrimination in their access to courts, tribunals or other dispute resolution mechanisms. The provisions of this Title do not determine legal jurisdiction or a legal venue.

Regulation 5.1 - Flag State responsibilities

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

Regulation 5.1.1 - General principles

1. Each Member is responsible for ensuring implementation of its obligations under this Convention on ships that fly its flag.

2. Each Member shall establish an effective system for the inspection and certification of maritime labour conditions, in accordance with Regulations 5.1.3 and 5.1.4 ensuring that the working and living conditions for seafarers on ships that fly its flag meet, and continue to meet, the standards in this Convention.

3. In establishing an effective system for the inspection and certification of maritime labour conditions, a Member may, where appropriate, authorize public institutions or other organizations (including those of another Member, if the latter agrees) which it recognizes as competent and independent to carry out inspections or to issue certificates or to do both. In all cases, the Member shall remain fully responsible for the inspection and certification of the working and living conditions of the seafarers concerned on ships that fly its flag.

4. A maritime labour certificate, complemented by a declaration of maritime labour compliance, shall constitute prima facie evidence that the ship has been duly inspected by the Member whose flag it flies and that the requirements of this Convention relating to working and living conditions of the seafarers have been met to the extent so certified.

5. Information about the system referred to in paragraph 2 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member's reports to the International Labour Office pursuant to article 22 of the Constitution.

Standard A5.1.1 - General principles

1. Each Member shall establish clear objectives and standards covering the administration of its inspection and certification systems, as well as adequate overall procedures for its assessment of the extent to which those objectives and standards are being attained.

2. Each Member shall require all ships that fly its flag to have a copy of this Convention available on board.

Guideline B5.1.1 - General principles

1. The competent authority should make appropriate arrangements to promote effective cooperation between public institutions and other organizations, referred to in Regulations 5.1.1 and 5.1.2, concerned with seafarers' shipboard working and living conditions.

2. In order to better ensure cooperation between inspectors and shipowners, seafarers and their respective organizations, and to maintain or improve seafarers' working and living conditions, the competent authority should consult the representatives of such organizations at regular intervals as to the best means of attaining these ends. The manner of such consultation should be determined by the competent authority after consulting with shipowners' and seafarers' organizations.

Regulation 5.1.2 - Authorization of recognized organizations

1. The public institutions or other organizations referred to in paragraph 3 of Regulation 5.1.1 ("recognized organizations") shall have been recognized by the competent authority as meeting the requirements in the Code regarding competency and independence. The inspection or certification functions which the recognized organizations may be authorized to carry out shall come within the scope of the activities that are expressly mentioned in the Code as being carried out by the competent authority or a recognized organization.

2. The reports referred to in paragraph 5 of Regulation 5.1.1 shall contain information regarding any recognized organization, the extent of authorizations given and the arrangements made by the Member to ensure that the authorized activities are carried out completely and effectively.

Standard A5.1.2 - Authorization of recognized organizations

1. For the purpose of recognition in accordance with paragraph 1 of Regulation 5.1.2, the competent authority shall review the competency and independence of the organization concerned and determine whether the organization has demonstrated, to the extent necessary for carrying out the activities covered by the authorization conferred on it, that the organization:

- (a) has the necessary expertise in the relevant aspects of this Convention and an appropriate knowledge of ship operations, including the minimum requirements for seafarers to work on a ship, conditions of employment, accommodation, recreational facilities, food and catering, accident prevention, health protection, medical care, welfare and social security protection;
- (b) has the ability to maintain and update the expertise of its personnel;
- (c) has the necessary knowledge of the requirements of this Convention as well as of applicable national laws and regulations and relevant international instruments; and
- (d) is of the appropriate size, structure, experience and capability commensurate with the type and degree of authorization.

2. Any authorizations granted with respect to inspections shall, as a minimum, empower the recognized organization to require the rectification of deficiencies that it identifies in seafarers' working and living conditions and to carry out inspections in this regard at the request of a port State.

3. Each Member shall establish:

- (a) a system to ensure the adequacy of work performed by recognized organizations, which includes information on all applicable national laws and regulations and relevant international instruments; and
- (b) procedures for communication with and oversight of such organizations.

4. Each Member shall provide the International Labour Office with a current list of any recognized organizations authorized to act on its behalf and it shall keep this list up to date.

The list shall specify the functions that the recognized organizations have been authorized to carry out. The Office shall make the list publicly available.

Guideline B5.1.2 - Authorization of recognized organizations

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

2. In evaluating the capability of an organization, the competent authority should determine whether the organization:

- (a) has adequate technical, managerial and support staff;
- (b) has sufficient qualified professional staff to provide the required service, representing an adequate geographical coverage;
- (c) has proven ability to provide a timely service of satisfactory quality; and
- (d) is independent and accountable in its operations.

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

- (a) scope of application;
- (b) purpose;
- (c) general conditions;
- (d) the execution of functions under authorization;
- (e) legal basis of the functions under authorization;
- (f) reporting to the competent authority;
- (g) specification of the authorization from the competent authority to the recognized organization; and
- (h) the competent authority's supervision of activities delegated to the recognized organization.

4. Each Member should require the recognized organizations to develop a system for qualification of staff employed by them as inspectors to ensure the timely updating of their knowledge and expertise.

5. Each Member should require the recognized organizations to maintain records of the services performed by them such that they are able to demonstrate achievement of the required standards in the items covered by the services.

6. In establishing the oversight procedures referred to in Standard A5.1.2, paragraph 3(b), each Member should take into account the *Guidelines for the Authorization of Organizations Acting on Behalf of the Administration*, adopted in the framework of the International Maritime Organization.

Regulation 5.1.3 - Maritime labour certificate and declaration of maritime labour compliance

1. This Regulation applies to ships of:

- (a) 500 gross tonnage or over, engaged in international voyages; and
- (b) 500 gross tonnage or over, flying the flag of a Member and operating from a port, or between ports, in another country.

For the purpose of this Regulation, international voyage means a voyage from a country to a port outside such a country.

2. This Regulation also applies to any ship that flies the flag of a Member and is not covered by paragraph 1 of this Regulation, at the request of the shipowner to the Member concerned.

3. Each Member shall require ships that fly its flag to carry and maintain a maritime labour certificate certifying that the working and living conditions of seafarers on the ship, including measures for ongoing compliance to be included in the declaration of maritime labour compliance referred to in paragraph 4 of this Regulation, have been inspected and meet the requirements of national laws or regulations or other measures implementing this Convention.

4. Each Member shall require ships that fly its flag to carry and maintain a declaration of maritime labour compliance stating the national requirements implementing this Convention for the working and living conditions for seafarers and setting out the measures adopted by the shipowner to ensure compliance with the requirements on the ship or ships concerned.

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

6. Where the competent authority of the Member or a recognized organization duly authorized for this purpose has ascertained through inspection that a ship that flies the Member's flag meets or continues to meet the standards of this Convention, it shall issue or renew a maritime labour certificate to that effect and maintain a publicly available record of that certificate.

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

Standard A5.1.3 - Maritime labour certificate and declaration of maritime labour compliance

1. The maritime labour certificate shall be issued to a ship by the competent authority, or by a recognized organization duly authorized for this purpose, for a period which shall not exceed five years. A list of matters that must be inspected and found to meet national laws and regulations or other measures implementing the requirements of this Convention regarding the working and living conditions of seafarers on ships before a maritime labour certificate can be issued is found in Appendix A5-I.

2. The validity of the maritime labour certificate shall be subject to an intermediate inspection by the competent authority, or by a recognized organization duly authorized for this purpose, to ensure continuing compliance with the national requirements implementing this Convention. If only one intermediate inspection is carried out and the period of validity of the certificate is five years, it shall take place between the second and third anniversary dates of the certificate. Anniversary date means the day and month of each year which will correspond to the date of expiry of the maritime labour certificate. The scope and depth of the intermediate inspection shall be equal to an inspection for renewal of the certificate. The certificate shall be endorsed following satisfactory intermediate inspection.

3. Notwithstanding paragraph 1 of this Standard, when the renewal inspection has been completed within three months before the expiry of the existing maritime labour certificate, the new maritime labour certificate shall be valid from the date of completion of the renewal inspection for a period not exceeding five years from the date of expiry of the existing certificate.

4. When the renewal inspection is completed more than three months before the expiry date of the existing maritime labour certificate, the new maritime labour certificate shall be valid for a period not exceeding five years starting from the date of completion of the renewal inspection.

5. A maritime labour certificate may be issued on an interim basis:

- (a) to new ships on delivery;
- (b) when a ship changes flag; or

- (c) when a shipowner assumes responsibility for the operation of a ship which is new to that shipowner.

6. An interim maritime labour certificate may be issued for a period not exceeding six months by the competent authority or a recognized organization duly authorized for this purpose.

7. An interim maritime labour certificate may only be issued following verification that:

- (a) the ship has been inspected, as far as reasonable and practicable, for the matters listed in Appendix A5-I, taking into account verification of items under subparagraphs (b), (c) and (d) of this paragraph;
- (b) the shipowner has demonstrated to the competent authority or recognized organization that the ship has adequate procedures to comply with this Convention;
- (c) the master is familiar with the requirements of this Convention and the responsibilities for implementation; and
- (d) relevant information has been submitted to the competent authority or recognized organization to produce a declaration of maritime labour compliance.

8. A full inspection in accordance with paragraph 1 of this Standard shall be carried out prior to expiry of the interim certificate to enable issue of the full-term maritime labour certificate. No further interim certificate may be issued following the initial six months referred to in paragraph 6 of this Standard. A declaration of maritime labour compliance need not be issued for the period of validity of the interim certificate.

9. The maritime labour certificate, the interim maritime labour certificate and the declaration of maritime labour compliance shall be drawn up in the form corresponding to the models given in Appendix A5-II.

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

- (a) Part I shall be drawn up by the competent authority which shall:
 - (i) identify the list of matters to be inspected in accordance with paragraph 1 of this Standard; (ii) identify the national requirements embodying the relevant provisions of this Convention by providing a reference to the relevant national legal provisions as well as, to the extent necessary, concise information on the main content of the national requirements; (iii) refer to ship-type specific requirements under national legislation; (iv) record any substantially equivalent provisions adopted pursuant to paragraph 3 of Article VI; and (v) clearly indicate any exemption granted by the competent authority as provided in Title 3; and
- (b) Part II shall be drawn up by the shipowner and shall identify the measures adopted to ensure ongoing compliance with the national requirements between inspections and the measures proposed to ensure that there is continuous improvement.

The competent authority or recognized organization duly authorized for this purpose shall certify Part II and shall issue the declaration of maritime labour compliance.

11. The results of all subsequent inspections or other verifications carried out with respect to the ship concerned and any significant deficiencies found during any such verification shall be recorded, together with the date when the deficiencies were found to have been remedied. This record, accompanied by an English-language translation where it is not in English, shall, in accordance with national laws or regulations, be inscribed upon or appended to the declaration of maritime labour compliance or made available in some other way to seafarers, flag State inspectors, authorized officers in port States and shipowners' and seafarers' representatives.

12. A current valid maritime labour certificate and declaration of maritime labour compliance, accompanied by an English-language translation where it is not in English, shall be carried on the ship and a copy shall be posted in a conspicuous place on board where it is available to the seafarers. A copy shall be made available in accordance with national laws

and regulations, upon request, to seafarers, flag State inspectors, authorized officers in port States, and shipowners' and seafarers' representatives.

13. The requirement for an English-language translation in paragraphs 11 and 12 of this Standard does not apply in the case of a ship not engaged in an international voyage.

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

- (a) if the relevant inspections are not completed within the periods specified under paragraph 2 of this Standard;
- (b) if the certificate is not endorsed in accordance with paragraph 2 of this Standard;
- (c) when a ship changes flag;
- (d) when a shipowner ceases to assume the responsibility for the operation of a ship; and
- (e) when substantial changes have been made to the structure or equipment covered in Title 3.

15. In the case referred to in paragraph 14(c), (d) or (e) of this Standard, a new certificate shall only be issued when the competent authority or recognized organization issuing the new certificate is fully satisfied that the ship is in compliance with the requirements of this Standard.

16. A maritime labour certificate shall be withdrawn by the competent authority or the recognized organization duly authorized for this purpose by the flag State, if there is evidence that the ship concerned does not comply with the requirements of this Convention and any required corrective action has not been taken.

17. When considering whether a maritime labour certificate should be withdrawn in accordance with paragraph 16 of this Standard, the competent authority or the recognized organization shall take into account the seriousness or the frequency of the deficiencies.

Guideline B5.1.3 - Maritime labour certificate and declaration of maritime labour compliance

1. The statement of national requirements in Part I of the declaration of maritime labour compliance should include or be accompanied by references to the legislative provisions relating to seafarers' working and living conditions in each of the matters listed in Appendix A5-I. Where national legislation precisely follows the requirements stated in this Convention, a reference may be all that is necessary. Where a provision of the Convention is implemented through substantial equivalence as provided under Article VI, paragraph 3, this provision should be identified and a concise explanation should be provided. Where an exemption is granted by the competent authority as provided in Title 3, the particular provision or provisions concerned should be clearly indicated.

2. The measures referred to in Part II of the declaration of maritime labour compliance, drawn up by the shipowner, should, in particular, indicate the occasions on which ongoing compliance with particular national requirements will be verified, the persons responsible for verification, the records to be taken, as well as the procedures to be followed where non-compliance is noted. Part II may take a number of forms. It could make reference to other more comprehensive documentation covering policies and procedures relating to other aspects of the maritime sector, for example documents required by the *International Safety Management (ISM) Code* or the information required by Regulation 5 of the SOLAS Convention, Chapter XI-1 relating to the ship's Continuous Synopsis Record.

3. The measures to ensure ongoing compliance should include general international requirements for the shipowner and master to keep themselves informed of the latest advances in technology and scientific findings concerning workplace design, taking into account the inherent dangers of seafarers' work, and to inform the seafarers' representatives accordingly, thereby guaranteeing a better level of protection of the seafarers' working and living conditions on board.

4. The declaration of maritime labour compliance should, above all, be drafted in clear terms designed to help all persons concerned, such as flag State inspectors, authorized officers in port States and seafarers, to check that the requirements are being properly implemented.

5. An example of the kind of information that might be contained in a declaration of maritime labour compliance is given in Appendix B5-I.

6. When a ship changes flag as referred to in Standard A5.1.3, paragraph 14(c), and where both States concerned have ratified this Convention, the Member whose flag the ship was formerly entitled to fly should, as soon as possible, transmit to the competent authority of the other Member copies of the maritime labour certificate and the declaration of maritime labour compliance carried by the ship before the change of flag and, if applicable, copies of the relevant inspection reports if the competent authority so requests within three months after the change of flag has taken place.

Regulation 5.1.4 - Inspection and enforcement

1. Each Member shall verify, through an effective and coordinated system of regular inspections, monitoring and other control measures, that ships that fly its flag comply with the requirements of this Convention as implemented in national laws and regulations.

2. Detailed requirements regarding the inspection and enforcement system referred to in paragraph 1 of this Regulation are set out in Part A of the Code.

Standard A5.1.4 - Inspection and enforcement

1. Each Member shall maintain a system of inspection of the conditions for seafarers on ships that fly its flag which shall include verification that the measures relating to working and living conditions as set out in the declaration of maritime labour compliance, where applicable, are being followed, and that the requirements of this Convention are met.

2. The competent authority shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under paragraph 1 of this Standard. Where recognized organizations have been authorized to carry out inspections, the Member shall require that personnel carrying out the inspection are qualified to undertake these duties and shall provide them with the necessary legal authority to perform their duties.

3. Adequate provision shall be made to ensure that the inspectors have the training, competence, terms of reference, powers, status and independence necessary or desirable so as to enable them to carry out the verification and ensure the compliance referred to in paragraph 1 of this Standard.

4. Inspections shall take place at the intervals required by Standard A5.1.3, where applicable. The interval shall in no case exceed three years.

5. If a Member receives a complaint which it does not consider manifestly unfounded or obtains evidence that a ship that flies its flag does not conform to the requirements of this Convention or that there are serious deficiencies in the implementation of the measures set out in the declaration of maritime labour compliance, the Member shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found.

6. Adequate rules shall be provided and effectively enforced by each Member in order to guarantee that inspectors have the status and conditions of service to ensure that they are independent of changes of government and of improper external influences.

7. Inspectors, issued with clear guidelines as to the tasks to be performed and provided with proper credentials, shall be empowered:

- (a) to board a ship that flies the Member's flag;
- (b) to carry out any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the standards are being strictly observed; and

- (c) to require that any deficiency is remedied and, where they have grounds to believe that deficiencies constitute a serious breach of the requirements of this Convention (including seafarers' rights), or represent a significant danger to seafarers' safety, health or security, to prohibit a ship from leaving port until necessary actions are taken.

8. Any action taken pursuant to paragraph 7(c) of this Standard shall be subject to any right of appeal to a judicial or administrative authority.

9. Inspectors shall have the discretion to give advice instead of instituting or recommending proceedings when there is no clear breach of the requirements of this Convention that endangers the safety, health or security of the seafarers concerned and where there is no prior history of similar breaches.

10. Inspectors shall treat as confidential the source of any grievance or complaint alleging a danger or deficiency in relation to seafarers' working and living conditions or a violation of laws and regulations and give no intimation to the shipowner, the shipowner's representative or the operator of the ship that an inspection was made as a consequence of such a grievance or complaint.

11. Inspectors shall not be entrusted with duties which might, because of their number or nature, interfere with effective inspection or prejudice in any way their authority or impartiality in their relations with shipowners, seafarers or other interested parties. In particular, inspectors shall:

- (a) be prohibited from having any direct or indirect interest in any operation which they are called upon to inspect; and
- (b) subject to appropriate sanctions or disciplinary measures, not reveal, even after leaving service, any commercial secrets or confidential working processes or information of a personal nature which may come to their knowledge in the course of their duties.

12. Inspectors shall submit a report of each inspection to the competent authority. One copy of the report in English or in the working language of the ship shall be furnished to the master of the ship and another copy shall be posted on the ship's notice board for the information of the seafarers and, upon request, sent to their representatives.

13. The competent authority of each Member shall maintain records of inspections of the conditions for seafarers on ships that fly its flag. It shall publish an annual report on inspection activities within a reasonable time, not exceeding six months, after the end of the year.

14. In the case of an investigation pursuant to a major incident, the report shall be submitted to the competent authority as soon as practicable, but not later than one month following the conclusion of the investigation.

15. When an inspection is conducted or when measures are taken under this Standard, all reasonable efforts shall be made to avoid a ship being unreasonably detained or delayed.

16. Compensation shall be payable in accordance with national laws and regulations for any loss or damage suffered as a result of the wrongful exercise of the inspectors' powers. The burden of proof in each case shall be on the complainant.

17. Adequate penalties and other corrective measures for breaches of the requirements of this Convention (including seafarers' rights) and for obstructing inspectors in the performance of their duties shall be provided for and effectively enforced by each Member.

Guideline B5.1.4 - Inspection and enforcement

1. The competent authority and any other service or authority wholly or partly concerned with the inspection of seafarers' working and living conditions should have the resources necessary to fulfil their functions. In particular:

- (a) each Member should take the necessary measures so that duly qualified technical experts and specialists may be called upon, as needed, to assist in the work of inspectors; and
- (b) inspectors should be provided with conveniently situated premises, equipment and means of transport adequate for the efficient performance of their duties.

2. The competent authority should develop a compliance and enforcement policy to ensure consistency and otherwise guide inspection and enforcement activities related to this Convention. Copies of this policy should be provided to all inspectors and relevant law-enforcement officials and should be made available to the public and shipowners and seafarers.

3. The competent authority should establish simple procedures to enable it to receive information in confidence concerning possible breaches of the requirements of this Convention (including seafarers' rights) presented by seafarers directly or by representatives of the seafarers, and permit inspectors to investigate such matters promptly, including:

- (a) enabling masters, seafarers or representatives of the seafarers to request an inspection when they consider it necessary; and
- (b) supplying technical information and advice to shipowners and seafarers and organizations concerned as to the most effective means of complying with the requirements of this Convention and of bringing about a continual improvement in seafarers' on-board conditions.

4. Inspectors should be fully trained and sufficient in numbers to secure the efficient discharge of their duties with due regard to:

- (a) the importance of the duties which the inspectors have to perform, in particular the number, nature and size of ships subject to inspection and the number and complexity of the legal provisions to be enforced;
- (b) the resources placed at the disposal of the inspectors; and
- (c) the practical conditions under which inspections must be carried out in order to be effective.

5. Subject to any conditions for recruitment to the public service which may be prescribed by national laws and regulations, inspectors should have qualifications and adequate training to perform their duties and where possible should have a maritime education or experience as a seafarer. They should have adequate knowledge of seafarers' working and living conditions and of the English language.

6. Measures should be taken to provide inspectors with appropriate further training during their employment.

7. All inspectors should have a clear understanding of the circumstances in which an inspection should be carried out, the scope of the inspection to be carried out in the various circumstances referred to and the general method of inspection.

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

- (a) to board ships freely and without previous notice; however, when commencing the ship inspection, inspectors should provide notification of their presence to the master or person in charge and, where appropriate, to the seafarers or their representatives;
- (b) to question the master, seafarer or any other person, including the shipowner or the shipowner's representative, on any matter concerning the application of the requirements under laws and regulations, in the presence of any witness that the person may have requested;
- (c) to require the production of any books, log books, registers, certificates or other documents or information directly related to matters subject to inspection, in order to verify compliance with the national laws and regulations implementing this Convention;

- (d) to enforce the posting of notices required under the national laws and regulations implementing this Convention;
- (e) to take or remove, for the purpose of analysis, samples of products, cargo, drinking water, provisions, materials and substances used or handled;
- (f) following an inspection, to bring immediately to the attention of the shipowner, the operator of the ship or the master, deficiencies which may affect the health and safety of those on board ship;
- (g) to alert the competent authority and, if applicable, the recognized organization to any deficiency or abuse not specifically covered by existing laws or regulations and submit proposals to them for the improvement of the laws or regulations; and
- (h) to notify the competent authority of any occupational injuries or diseases affecting seafarers in such cases and in such manner as may be prescribed by laws and regulations.

9. When a sample referred to in paragraph 8(e) of this Guideline is being taken or removed, the shipowner or the shipowner's representative, and where appropriate a seafarer, should be notified or should be present at the time the sample is taken or removed. The quantity of such a sample should be properly recorded by the inspector.

10. The annual report published by the competent authority of each Member, in respect of ships that fly its flag, should contain:

- (a) a list of laws and regulations in force relevant to seafarers' working and living conditions and any amendments which have come into effect during the year;
- (b) details of the organization of the system of inspection;
- (c) statistics of ships or other premises subject to inspection and of ships and other premises actually inspected;
- (d) statistics on all seafarers subject to its national laws and regulations;
- (e) statistics and information on violations of legislation, penalties imposed and cases of detention of ships; and
- (f) statistics on reported occupational injuries and diseases affecting seafarers.

Regulation 5.1.5 - On-board complaint procedures

1. Each Member shall require that ships that fly its flag have on-board procedures for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of this Convention (including seafarers' rights).

2. Each Member shall prohibit and penalize any kind of victimization of a seafarer for filing a complaint.

3. The provisions in this Regulation and related sections of the Code are without prejudice to a seafarer's right to seek redress through whatever legal means the seafarer considers appropriate.

Standard A5.1.5 - On-board complaint procedures

1. Without prejudice to any wider scope that may be given in national laws or regulations or collective agreements, the on-board procedures may be used by seafarers to lodge complaints relating to any matter that is alleged to constitute a breach of the requirements of this Convention (including seafarers' rights).

2. Each Member shall ensure that, in its laws or regulations, appropriate on board complaint procedures are in place to meet the requirements of Regulation 5.1.5. Such procedures shall seek to resolve complaints at the lowest level possible. However, in all cases, seafarers shall have a right to complain directly to the master and, where they consider it necessary, to appropriate external authorities.

3. The on-board complaint procedures shall include the right of the seafarer to be accompanied or represented during the complaints procedure, as well as safeguards against

the possibility of victimization of seafarers for filing complaints. The term “victimization” covers any adverse action taken by any person with respect to a seafarer for lodging a complaint which is not manifestly vexatious or maliciously made.

4. In addition to a copy of their seafarers’ employment agreement, all seafarers shall be provided with a copy of the on-board complaint procedures applicable on the ship. This shall include contact information for the competent authority in the flag State and, where different, in the seafarers’ country of residence, and the name of a person or persons on board the ship who can, on a confidential basis, provide seafarers with impartial advice on their complaint and otherwise assist them in following the complaint procedures available to them on board the ship.

Guideline B5.1.5 - On-board complaint procedures

1. Subject to any relevant provisions of an applicable collective agreement, the competent authority should, in close consultation with shipowners’ and seafarers’ organizations, develop a model for fair, expeditious and well-documented on-board complaint-handling procedures for all ships that fly the Member’s flag. In developing these procedures the following matters should be considered:

- (a) many complaints may relate specifically to those individuals to whom the complaint is to be made or even to the master of the ship. In all cases seafarers should also be able to complain directly to the master and to make a complaint externally; and
- (b) in order to help avoid problems of victimization of seafarers making complaints about matters under this Convention, the procedures should encourage the nomination of a person on board who can advise seafarers on the procedures available to them and, if requested by the complainant seafarer, also attend any meetings or hearings into the subject matter of the complaint.

2. At a minimum the procedures discussed during the consultative process referred to in paragraph 1 of this Guideline should include the following:

- (a) complaints should be addressed to the head of the department of the seafarer lodging the complaint or to the seafarer’s superior officer;
- (b) the head of department or superior officer should then attempt to resolve the matter within prescribed time limits appropriate to the seriousness of the issues involved;
- (c) if the head of department or superior officer cannot resolve the complaint to the satisfaction of the seafarer, the latter may refer it to the master, who should handle the matter personally;
- (d) seafarers should at all times have the right to be accompanied and to be represented by another seafarer of their choice on board the ship concerned;
- (e) all complaints and the decisions on them should be recorded and a copy provided to the seafarer concerned;
- (f) if a complaint cannot be resolved on board, the matter should be referred ashore to the shipowner, who should be given an appropriate time limit for resolving the matter, where appropriate, in consultation with the seafarers concerned or any person they may appoint as their representative; and
- (g) in all cases seafarers should have a right to file their complaints directly with the master and the shipowner and competent authorities.

Regulation 5.1.6 - Marine casualties

1. Each Member shall hold an official inquiry into any serious marine casualty, leading to injury or loss of life, that involves a ship that flies its flag. The final report of an inquiry shall normally be made public.

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

Standard A5.1.6 - Marine casualties

(No provisions)

Guideline B5.1.6 - Marine casualties

(No provisions)

Regulation 5.2 - Port State responsibilities

Purpose: To enable each Member to implement its responsibilities under this Convention regarding international cooperation in the implementation and enforcement of the Convention standards on foreign ships

Regulation 5.2.1 - Inspections in port

1. Every foreign ship calling, in the normal course of its business or for operational reasons, in the port of a Member may be the subject of inspection in accordance with paragraph 4 of Article V for the purpose of reviewing compliance with the requirements of this Convention (including seafarers' rights) relating to the working and living conditions of seafarers on the ship.

2. Each Member shall accept the maritime labour certificate and the declaration of maritime labour compliance required under Regulation 5.1.3 as prima facie evidence of compliance with the requirements of this Convention (including seafarers' rights). Accordingly, the inspection in its ports shall, except in the circumstances specified in the Code, be limited to a review of the certificate and declaration.

3. Inspections in a port shall be carried out by authorized officers in accordance with the provisions of the Code and other applicable international arrangements governing port State control inspections in the Member. Any such inspection shall be limited to verifying that the matter inspected is in conformity with the relevant requirements set out in the Articles and Regulations of this Convention and in Part A only of the Code.

4. Inspections that may be carried out in accordance with this Regulation shall be based on an effective port State inspection and monitoring system to help ensure that the working and living conditions for seafarers on ships entering a port of the Member concerned meet the requirements of this Convention (including seafarers' rights).

5. Information about the system referred to in paragraph 4 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member's reports pursuant to article 22 of the Constitution.

Standard A5.2.1 - Inspections in port

1. Where an authorized officer, having come on board to carry out an inspection and requested, where applicable, the maritime labour certificate and the declaration of maritime labour compliance, finds that:

- (a) the required documents are not produced or maintained or are falsely maintained or that the documents produced do not contain the information required by this Convention or are otherwise invalid; or
- (b) there are clear grounds for believing that the working and living conditions on the ship do not conform to the requirements of this Convention; or
- (c) there are reasonable grounds to believe that the ship has changed flag for the purpose of avoiding compliance with this Convention; or
- (d) there is a complaint alleging that specific working and living conditions on the ship do not conform to the requirements of this Convention;

a more detailed inspection may be carried out to ascertain the working and living conditions on board the ship. Such inspection shall in any case be carried out where the working and

living conditions believed or alleged to be defective could constitute a clear hazard to the safety, health or security of seafarers or where the authorized officer has grounds to believe that any deficiencies constitute a serious breach of the requirements of this Convention (including seafarers' rights).

2. Where a more detailed inspection is carried out on a foreign ship in the port of a Member by authorized officers in the circumstances set out in subparagraph (a), (b) or (c) of paragraph 1 of this Standard, it shall in principle cover the matters listed in Appendix A5-III.

3. In the case of a complaint under paragraph 1(d) of this Standard, the inspection shall generally be limited to matters within the scope of the complaint, although a complaint, or its investigation, may provide clear grounds for a detailed inspection in accordance with paragraph 1(b) of this Standard. For the purpose of paragraph 1(d) of this Standard, complaint means information submitted by a seafarer, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest in safety or health hazards to seafarers on board.

4. Where, following a more detailed inspection, the working and living conditions on the ship are found not to conform to the requirements of this Convention, the authorized officer shall forthwith bring the deficiencies to the attention of the master of the ship, with required deadlines for their rectification. In the event that such deficiencies are considered by the authorized officer to be significant, or if they relate to a complaint made in accordance with paragraph 3 of this Standard, the authorized officer shall bring the deficiencies to the attention of the appropriate seafarers' and shipowners' organizations in the Member in which the inspection is carried out, and may:

- (a) notify a representative of the flag State;
- (b) provide the competent authorities of the next port of call with the relevant information.

5. The Member in which the inspection is carried out shall have the right to transmit a copy of the officer's report, which must be accompanied by any reply received from the competent authorities of the flag State within the prescribed deadline, to the Director-General of the International Labour Office with a view to such action as may be considered appropriate and expedient in order to ensure that a record is kept of such information and that it is brought to the attention of parties which might be interested in availing themselves of relevant recourse procedures.

6. Where, following a more detailed inspection by an authorized officer, the ship is found not to conform to the requirements of this Convention and:

- (a) the conditions on board are clearly hazardous to the safety, health or security of seafarers; or
- (b) the non-conformity constitutes a serious or repeated breach of the requirements of this Convention (including seafarers' rights);

the authorized officer shall take steps to ensure that the ship shall not proceed to sea until any non-conformities that fall within the scope of subparagraph (a) or (b) of this paragraph have been rectified, or until the authorized officer has accepted a plan of action to rectify such non-conformities and is satisfied that the plan will be implemented in an expeditious manner. If the ship is prevented from sailing, the authorized officer shall forthwith notify the flag State accordingly and invite a representative of the flag State to be present, if possible, requesting the flag State to reply within a prescribed deadline. The authorized officer shall also inform forthwith the appropriate shipowners' and seafarers' organizations in the port State in which the inspection was carried out.

7. Each Member shall ensure that its authorized officers are given guidance, of the kind indicated in Part B of the Code, as to the kinds of circumstances justifying detention of a ship under paragraph 6 of this Standard.

8. When implementing their responsibilities under this Standard, each Member shall make all possible efforts to avoid a ship being unduly detained or delayed. If a ship is found to be unduly detained or delayed, compensation shall be paid for any loss or damage suffered. The burden of proof in each case shall be on the complainant.

Guideline B5.2.1 - Inspections in port

1. The competent authority should develop an inspection policy for authorized officers carrying out inspections under Regulation 5.2.1. The objective of the policy should be to ensure consistency and to otherwise guide inspection and enforcement activities related to the requirements of this Convention (including seafarers' rights). Copies of this policy should be provided to all authorized officers and should be available to the public and shipowners and seafarers.

2. When developing a policy relating to the circumstances warranting a detention of the ship under Standard A5.2.1, paragraph 6, of the competent authority should consider that, with respect to the breaches referred to in Standard A5.2.1, paragraph 6(b), the seriousness could be due to the nature of the deficiency concerned. This would be particularly relevant in the case of the violation of fundamental rights and principles or seafarers' employment and social rights under Articles III and IV. For example, the employment of a person who is under age should be considered as a serious breach even if there is only one such person on board. In other cases, the number of different defects found during a particular inspection should be taken into account: for example, several instances of defects relating to accommodation or food and catering which do not threaten safety or health might be needed before they should be considered as constituting a serious breach.

3. Members should cooperate with each other to the maximum extent possible in the adoption of internationally agreed guidelines on inspection policies, especially those relating to the circumstances warranting the detention of a ship.

Regulation 5.2.2 - Onshore seafarer complaint-handling procedures

1. Each Member shall ensure that seafarers on ships calling at a port in the Member's territory who allege a breach of the requirements of this Convention (including seafarers' rights) have the right to report such a complaint in order to facilitate a prompt and practical means of redress.

Standard A5.2.2 - Onshore seafarer complaint-handling procedures

1. A complaint by a seafarer alleging a breach of the requirements of this Convention (including seafarers' rights) may be reported to an authorized officer in the port at which the seafarer's ship has called. In such cases, the authorized officer shall undertake an initial investigation.

2. Where appropriate, given the nature of the complaint, the initial investigation shall include consideration of whether the on-board complaint procedures provided under Regulation 5.1.5 have been explored. The authorized officer may also conduct a more detailed inspection in accordance with Standard A5.2.1.

3. The authorized officer shall, where appropriate, seek to promote a resolution of the complaint at the ship-board level.

4. In the event that the investigation or the inspection provided under this Standard reveals a non-conformity that falls within the scope of paragraph 6 of Standard A5.2.1, the provisions of that paragraph shall be applied.

5. Where the provisions of paragraph 4 of this Standard do not apply, and the complaint has not been resolved at the ship-board level, the authorized officer shall forthwith notify the flag State, seeking, within a prescribed deadline, advice and a corrective plan of action.

6. Where the complaint has not been resolved following action taken in accordance with paragraph 5 of this Standard, the port State shall transmit a copy of the authorized officer's report to the Director-General. The report must be accompanied by any reply received within the prescribed deadline from the competent authority of the flag State. The appropriate shipowners' and seafarers' organizations in the port State shall be similarly informed. In addition, statistics and information regarding complaints that have been resolved shall be regularly submitted by the port State to the Director-General. Both such submissions are provided in order that, on the basis of such action as may be considered appropriate and expedient, a record is kept of such information and is brought to the attention of parties, including shipowners' and seafarers' organizations, which might be interested in availing themselves of relevant recourse procedures.

7. Appropriate steps shall be taken to safeguard the confidentiality of complaints made by seafarers.

Guideline B5.2.2 - Onshore seafarer complaint-handling procedures

1. Where a complaint referred to in Standard A5.2.2 is dealt with by an authorized officer, the officer should first check whether the complaint is of a general nature which concerns all seafarers on the ship, or a category of them, or whether it relates only to the individual case of the seafarer concerned.

2. If the complaint is of a general nature, consideration should be given to undertaking a more detailed inspection in accordance with Standard A5.2.1.

3. If the complaint relates to an individual case, an examination of the results of any on-board complaint procedures for the resolution of the complaint concerned should be undertaken. If such procedures have not been explored, the authorized officer should suggest that the complainant take advantage of any such procedures available. There should be good reasons for considering a complaint before any on-board complaint procedures have been explored. These would include the inadequacy of, or undue delay in, the internal procedures or the complainant's fear of reprisal for lodging a complaint.

4. In any investigation of a complaint, the authorized officer should give the master, the shipowner and any other person involved in the complaint a proper opportunity to make known their views.

5. In the event that the flag State demonstrates, in response to the notification by the port State in accordance with paragraph 5 of Standard A5.2.2, that it will handle the matter, and that it has in place effective procedures for this purpose and has submitted an acceptable plan of action, the authorized officer may refrain from any further involvement with the complaint.

Regulation 5.3 - Labour-supplying responsibilities

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

1. Without prejudice to the principle of each Member's responsibility for the working and living conditions of seafarers on ships that fly its flag, the Member also has a responsibility to ensure the implementation of the requirements of this Convention regarding the recruitment and placement of seafarers as well as the social security protection of seafarers that are its nationals or are resident or are otherwise domiciled in its territory, to the extent that such responsibility is provided for in this Convention.

2. Detailed requirements for the implementation of paragraph 1 of this Regulation are found in the Code.

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

4. Information about the system referred to in paragraph 3 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member's reports pursuant to article 22 of the Constitution.

Standard A5.3 - Labour-supplying responsibilities

1. Each Member shall enforce the requirements of this Convention applicable to the operation and practice of seafarer recruitment and placement services established on its territory through a system of inspection and monitoring and legal proceedings for breaches of licensing and other operational requirements provided for in Standard A1.4.

Guideline B5.3 - Labour-supplying responsibilities

1. Private seafarer recruitment and placement services established in the Member's territory and securing the services of a seafarer for a shipowner, wherever located, should be required to assume obligations to ensure the proper fulfilment by shipowners of the terms of their employment agreements concluded with seafarers.

APPENDIX A5-I

The working and living conditions of seafarers that must be inspected and approved by the flag State before certifying a ship in accordance with Standard A5.1.3, paragraph 1:

Minimum age

Medical certification

Qualifications of seafarers

Seafarers' employment agreements

Use of any licensed or certified or regulated private recruitment and placement service

Hours of work or rest

Manning levels for the ship

Accommodation

On-board recreational facilities

Food and catering

Health and safety and accident prevention

On-board medical care

On-board complaint procedures

Payment of wages

APPENDIX A5-II**Maritime Labour Certificate**

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

Issued under the provisions of Article V and Title 5 of the
Maritime Labour Convention, 2006
(referred to below as “the Convention”)
under the authority of the Government of:

.....
(full designation of the State whose flag the ship is entitled to fly)

by

(full designation and address of the competent authority or recognized organization duly
authorized under the provisions of the Convention)

Particulars of the ship

Name of ship

Distinctive number or letters

Port of registry

Date of registry

Gross tonnage¹

IMO number

Type of ship

Name and address of the shipowner²

This is to certify:

1. That this ship has been inspected and verified to be in compliance with the requirements of the Convention, and the provisions of the attached Declaration of Maritime Labour Compliance.

2. That the seafarers’ working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country’s national requirements implementing the Convention. These national requirements are summarized in the Declaration of Maritime Labour Compliance, Part I.

This Certificate is valid until subject to inspections in accordance with Standards A5.1.3 and A5.1.4 of the Convention.

This Certificate is valid only when the Declaration of Maritime Labour Compliance issued at on is attached.

¹ For ships covered by the tonnage measurement interim scheme adopted by the IMO, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969). See Article II(1)(c) of the Convention.

² *Shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.

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

Issued at on

Signature of the duly authorized official issuing the Certificate

(Seal or stamp of issuing authority, as appropriate)

Endorsements for mandatory intermediate inspection and, if required, any additional inspection

This is to certify that the ship was inspected in accordance with Standards A5.1.3 and A5.1.4 of the Convention and that the seafarers' working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country's national requirements implementing the Convention.

Intermediate inspection:

(to be completed between the second
and third anniversary
dates)

Signed

(Signature of authorized official)

Place

Date

(Seal or stamp of the authority,
as appropriate)

Additional endorsements (if required)

This is to certify that the ship was the subject of an additional inspection for the purpose of verifying that the ship continued to be in compliance with the national requirements implementing the Convention, as required by Standard A3.1, paragraph 3, of the Convention (re-registration or substantial alteration of accommodation) or for other reasons.

Additional inspection:

(if required)

Signed

(Signature of authorized official)

Place

Date

(Seal or stamp of the authority,
as appropriate)

Additional inspection:

(if required)

Signed

nature of authorized official)

Place

Date

(Seal or stamp of the authority,
as appropriate)

Additional inspection:

(if required)

Signed

(Signature of authorized official)

Place

Date

(Seal or stamp of the authority,
as appropriate)

Maritime Labour Convention, 2006

Declaration of Maritime Labour Compliance – Part I

(Note: This Declaration must be attached to the ship's Maritime Labour Certificate)

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

With respect to the provisions of the Maritime Labour Convention, 2006, the following referenced ship:

Name of ship	IMO Number	Gross tonnage

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

The undersigned declares, on behalf of the abovementioned competent authority, that:

- (a) the provisions of the Maritime Labour Convention are fully embodied in the national requirements referred to below;
- (b) these national requirements are contained in the national provisions referenced below; explanations concerning the content of those provisions are provided where necessary;
- (c) the details of any substantial equivalencies under Article VI, paragraphs 3 and 4, are provided <under the corresponding national requirement listed below> <in the section provided for this purpose below> *(strike out the statement which is not applicable)*;
- (d) any exemptions granted by the competent authority in accordance with Title 3 are clearly indicated in the section provided for this purpose below; and
- (e) any ship-type specific requirements under national legislation are also referenced under the requirements concerned.

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

Name:
Title:
Signature:
Place:
Date:

(Seal or stamp of the authority,
as appropriate)

Substantial equivalencies

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

The following substantial equivalencies, as provided under Article VI, paragraphs 3 and 4, of the Convention, except where stated above, are noted *(insert description if applicable)*:

.....
.....

No equivalency has been granted.

Name:
Title:
Signature:
Place:
Date:
(Seal or stamp of the authority,
as appropriate)

Exemptions

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

The following exemptions granted by the competent authority as provided in Title 3 of the Convention are noted:

.....
.....

No exemption has been granted.

Name:
Title:
Signature:
Place:
Date:
(Seal or stamp of the authority, as appropriate)

Declaration of Maritime Labour Compliance – Part II

*Measures adopted to ensure ongoing compliance
between inspections*

The following measures have been drawn up by the shipowner, named in the Maritime Labour Certificate to which this Declaration is attached, to ensure ongoing compliance between inspections:

(State below the measures drawn up to ensure compliance with each of the items in Part I)

1. Minimum age (Regulation 1.1) ☐
.....
2. Medical certification (Regulation 1.2) ☐
.....
3. Qualifications of seafarers (Regulation 1.3) ☐
.....
4. Seafarers' employment agreements (Regulation 2.1) ☐
.....
5. Use of any licensed or certified or regulated private recruitment
and placement service (Regulation 1.4) ☐
.....
6. Hours of work or rest (Regulation 2.3) ☐
.....
7. Manning levels for the ship (Regulation 2.7) ☐
.....
8. Accommodation (Regulation 3.1) ☐
.....
9. On-board recreational facilities (Regulation 3.1) ☐
.....
10. Food and catering (Regulation 3.2) ☐
.....
11. Health and safety and accident prevention (Regulation 4.3) ☐
.....
12. On-board medical care (Regulation 4.1) ☐
.....
13. On-board complaint procedures (Regulation 5.1.5) ☐
.....
14. Payment of wages (Regulation 2.2) ☐
.....

I hereby certify that the above measures have been drawn up to ensure ongoing compliance, between inspections, with the requirements listed in Part I.

Name of shipowner:¹

Company address:

Name of the authorized signatory:

Title:

Signature of the authorized signatory:

Date:

(Stamp or seal of the shipowner¹)

The above measures have been reviewed by (*insert name of competent authority or duly recognized organization*) and, following inspection of the ship, have been determined as meeting the purposes set out under Standard A5.1.3, paragraph 10(b), regarding measures to ensure initial and ongoing compliance with the requirements set out in Part I of this Declaration.

Name:

Title:

Address:

Signature:

Place:

Date:

(Seal or stamp of the authority, as appropriate)

¹ *Shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.

Interim Maritime Labour Certificate

Issued under the provisions of Article V and Title 5 of the
Maritime Labour Convention, 2006
(referred to below as “the Convention”)
under the authority of the Government of:

.....
(full designation of the State whose flag the ship is entitled to fly)

by

(full designation and address of the competent authority or recognized
organization duly authorized under the provisions of the Convention)

Particulars of the ship

Name of ship

Distinctive number or letters

Port of registry

Date of registry

Gross tonnage¹

IMO number

Type of ship

Name and address of the shipowner ²

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

- (a) this ship has been inspected, as far as reasonable and practicable, for the matters listed in Appendix A5-I to the Convention, taking into account verification of items under (b), (c) and (d) below;
- (b) the shipowner has demonstrated to the competent authority or recognized organization that the ship has adequate procedures to comply with the Convention;
- (c) the master is familiar with the requirements of the Convention and the responsibilities for implementation; and
- (d) relevant information has been submitted to the competent authority or recognized organization to produce a Declaration of Maritime Labour Compliance.

This Certificate is valid until subject to inspections in accordance with Standards A5.1.3 and A5.1.4.

¹ For ships covered by the tonnage measurement interim scheme adopted by the IMO, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969). See Article II(1)(c) of the Convention.

² *Shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.

Completion date of the inspection referred to under (a) above was

Issued at on

Signature of the duly authorized official
issuing the interim certificate

(Seal or stamp of issuing authority, as appropriate)

APPENDIX A5-III

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

Minimum age

Medical certification

Qualifications of seafarers

Seafarers' employment agreements

Use of any licensed or certified or regulated private recruitment
and placement service

Hours of work or rest

Manning levels for the ship

Accommodation

On-board recreational facilities

Food and catering

Health and safety and accident prevention

On-board medical care

On-board complaint procedures

Payment of wages

APPENDIX B5-I – EXAMPLE OF A NATIONAL DECLARATION

See Guideline B5.1.3, paragraph 5

Maritime Labour Convention, 2006**Declaration of Maritime Labour Compliance – Part I**

(Note: This Declaration must be attached to the ship's Maritime Labour Certificate)

Issued under the authority of: **The Ministry of Maritime Transport of XXXXXX**

With respect to the provisions of the Maritime Labour Convention, 2006, the following Referenced ship:

Name of ship	IMO Number	Gross tonnage
M.S. EXAMPLE	12345	1,000

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

The undersigned declares, on behalf of the abovementioned competent authority, that:

- (a) the provisions of the Maritime Labour Convention are fully embodied in the national requirements referred to below;
- (b) these national requirements are contained in the national provisions referenced below; explanations concerning the content of those provisions are provided where necessary;
- (c) the details of any substantial equivalencies under Article VI, paragraphs 3 and 4, are provided <under the corresponding national requirement listed below> <in the section provided for this purpose below> (strike out the statement which is not applicable);
- (d) any exemptions granted by the competent authority in accordance with Title 3 are clearly indicated in the section provided for this purpose below; and
- (e) any ship-type specific requirements under national legislation are also referenced under the requirements concerned.

1. Minimum age (Regulation 1.1)

Shipping Law, No. 123 of 1905, as amended ("Law"), Chapter X; Shipping Regulations ("Regulations"), 2006, Rules 1111-1222.

Minimum ages are those referred to in the Convention.

"Night" means 9 p.m. to 6 a.m. unless the Ministry of Maritime Transport ("Ministry") approves a different period.

Examples of hazardous work restricted to 18-year-olds or over are listed in Schedule A hereto. In the case of cargo ships, no one under 18 may work in the areas marked on the ship's plan (to be attached to this Declaration) as "hazardous area".

2. Medical certification (Regulation 1.2)

Law, Chapter XI; Regulations, Rules 1223-1233.

Medical certificates shall conform to the STCW requirements, where applicable; in other cases, the STCW requirements are applied with any necessary adjustments.

Qualified opticians on list approved by Ministry may issue certificates concerning eyesight.

Medical examinations follow the ILO/WHO Guidelines referred to in Guideline B1.2.1

.....
.....

Declaration of Maritime Labour Compliance – Part II

Measures adopted to ensure ongoing compliance between inspections

The following measures have been drawn up by the shipowner, named in the Maritime Labour Certificate to which this Declaration is attached, to ensure ongoing compliance between inspections:

(State below the measures drawn up to ensure compliance with each of the items in Part I)

1. Minimum age (Regulation 1.1) ☒

Date of birth of each seafarer is noted against his/her name on the crew list.

The list is checked at the beginning of each voyage by the master or officer acting on his or her behalf ("competent officer"), who records the date of such verification.

Each seafarer under 18 receives, at the time of engagement, a note prohibiting him/her from performing night work or the work specifically listed as hazardous (see Part I, section 1, above) and any other hazardous work, and requiring him/her to consult the competent officer in case of doubt. A copy of the note, with the seafarer's signature under "received and read", and the date of signature, is kept by the competent officer.

2. Medical certification (Regulation 1.2) ☒

The medical certificates are kept in strict confidence by the competent officer, together with a list, prepared under the competent officer's responsibility and stating for each seafarer on board: the functions of the seafarer, the date of the current medical certificate(s) and the health status noted on the certificate concerned.

In any case of possible doubt as to whether the seafarer is medically fit for a particular function or functions, the competent officer consults the seafarer's doctor or another qualified practitioner and records a summary of the practitioner's conclusions, as well as the practitioner's name and telephone number and the date of the consultation.

.....

Part II:
The International Maritime Organization (IMO)
Instruments and the Human Element

by
Dr. Iliana Christodoulou-Varotsi

Author's note: The IMO texts which are incorporated partly or in their entirety below have been reproduced from IMO documents (Conference or Committees' documents) or national statutes. For the complete picture of the existing IMO instruments as amended, the reader may refer to relevant national statutes and to IMO sales publications.

1. General overview

1.1. The IMO: its aims and purposes

The concept of the human element in the shipping sphere is traditionally associated with the International Labour Organization (ILO); however, the International Maritime Organization (IMO) has demonstrated an increasing interest, especially in recent years, in seafarers.

The IMO constitutes a London-based specialized agency of the United Nations¹ which elaborates international regulations on shipping. It was established under a convention adopted in Geneva in 1948 and as an intergovernmental organization, it comprises at the present stage 167 Member States and 3 Associated Members².

The IMO's function is directed towards developing and maintaining 'a comprehensive regulatory framework for shipping and its remit today includes safety, environmental concerns, legal matters, technical cooperation, maritime security and the efficiency of shipping'³.

The structure of the IMO consists of an Assembly formed with the Member States, which is the governing body of the IMO, a Council, a Maritime Safety Committee (MSC), a Legal Committee, a Technical Cooperation Committee, a Facilitation Committee and a Secretariat⁴. The Secretary-General at the present stage is Mr. Efthimios Mitropoulos.

The IMO is involved in maritime standard-setting functions (Conventions, Recommendations, Codes, etc.), consultation activities and maritime cooperation⁵; it undoubtedly represents the universal approach to the regulatory framework of shipping, reflecting the need for uniformity in the rules and practice applied to the shipping industry.

The IMO has been proactive but also reactive: while it offers a unique insight into technical and legal maritime expertise it has at times had to take action only in the aftermath of maritime disasters. The challenge it faces nowadays is to improve the pace and quality of the implementation of its legislation, and to dissuade regional legislative measures which are likely to affect the universal regime of shipping.

¹ Specialized agencies have legal and financial independence. See Philippe Boisson, *Safety at Sea*, Bureau Veritas, 1999, 60.

² See http://www.imo.org/About/mainframe.asp?topic_id=3 (last visit 10 January 2007).

³ *Id.*

⁴ See <http://www/imo/org> (See About the IMO and then Structure) (last visit 10 January 2007).

⁵ See Boisson, *supra* note 1, 66 *seq.*

1.2. The human aspects of safety at sea

According to the IMO, “the human element is a complex multi-dimensional issue that affects maritime safety, security and marine environmental protection involving the entire spectrum of human activities performed by ships’ crews, shore based management, regulatory bodies and others”⁶. Consequently, the IMO’s instruments as regards the human element may be understood from the perspective of the close relationship between the technical aspects of maritime safety, which is the field of specialization of the IMO, and the human dimension of the safety at sea process⁷.

Three major areas of interest have notably drew IMO’s attention:

The first one deals with the competence of crews and their capacity to provide qualitative maritime work. The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) 1978 was the first internationally-agreed Convention to address the issue of minimum standards of competence for seafarers. This instrument was subject to extensive revision in 1995, followed by amendments adopted in 1997, 1998 and 2006. The amendments in question are already in force apart from the one adopted in 2006 which will come into force in 2008. The STCW Code which supports the provisions contained in the Convention is also noteworthy. Part A of the Code is mandatory, while Part B contains recommended guidelines.

The STCW Convention, adopted by the IMO in 1978, has been a milestone in the evolution of international maritime law. It would not be an exaggeration to say that along with the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL), the International Convention for Safety of Life at Sea, 1974 (SOLAS) and the consolidated maritime labour Convention of the ILO, the STCW Convention is part of the hard core of international maritime legislation⁸.

Since its adoption in 1978 and its extensive reform in 1995, the STCW Convention has been subject to a number of amendments which have contributed to its rationalization and which have inevitably rendered the instrument highly technical and longwinded⁹. By December 2000, the STCW Convention represented 97.53 percent of world shipping tonnage¹⁰.

⁶ See http://www.imo.org/HumanElement/mainframe.asp?topic_id=62 (last visit 10 January 2007).

⁷ See *inter alia* A. Winbow, *The Human Element – The Work of the IMO on the Human Element*, The Copenhagen Quality Shipping Conference, Session III (IMO). Available at: http://www.imo.org/includes/blastData.asp?doc_id=2882/a%20winbow2.doc (last visit 10 January 2007).

⁸ See, however, skepticism about the effectiveness of the STCW Convention reported in G. Hans Sperling, *The New Convention on Standards of Training, Certification and Watchkeeping: What, if Anything, Does it Mean?*, 22 Tul. Mar. L. J. 595-617 (1998), 605 *seq.*

⁹ The IMO provides an extensive range of sources destined to shed light on the plethora of issues stemming from the STCW package. See IMO Library Information Services. Available at: <http://www.imo.org> (last visit 4 March 2007). Of interest also are the publications of the Seafarers International Research Centre: <http://www.sirc.cf.ac.uk> (last visit 10 January 2007)

¹⁰ See http://www.imo.org/Conventions/contents.asp?doc_id=651&topic_id=257 (last visit 10 January 2007).

The second area of interest of the IMO with regard to the human element is the International Safety Management (ISM) Code 1993. The latter was rendered mandatory through the International Convention for the Safety of Life at Sea (SOLAS) 1974; it endeavors to develop a safety culture at an interactive and proactive level between the shore and the sea.

Last but not least, mention should be made of the International Ship and Port Facility Security (ISPS) Code 2002 which does not specifically address the human element, since it constitutes an anti-terrorist instrument, but which does not fail to raise the human aspects of the question; this is the case especially with regard to the free movement of seafarers in the port area. We have chosen to present selected extracts from the Code.

2. The STCW Convention and related instruments

2.1. Content and practical application

2.1.1. The 1978 STCW Convention

The initial instrument, i.e. the 1978 Convention, prescribed for the first time minimum standards on training, certification and watchkeeping for seafarers in response to the need to have uniform rules at the international level in this field. The 1978 Convention sought to remedy the problem of divergent rules governing the matter at the international level. In actual fact, the original instrument prescribed minimum knowledge requirements for the issue of certificates “to the satisfaction of the Administration”, rather than precise standards of competence¹¹.

The 1978 text, whose technical provisions are structured over six Chapters articulated in an Annex, included provisions evolving around certification and port State control; manning levels were not addressed.

Chapter I encompasses general provisions including definitions of terms used in the instrument; Chapter II provides for requirements to be observed in the Master-deck department, covering, to name but a few, navigational watch, navigational duties and responsibilities, etc.; minimum requirements are prescribed with regard to the certification of masters and chief mates, officers in charge of a navigational watch, etc.; Chapter III provides for requirements to be observed in the Engine department; it provides for minimum requirements with regard to the certification of chief engineer officers and second engineer officers; Chapter IV contains provisions relating to the Radio department, including minimum provisions on the certification of radio officers; Chapter V prescribes special requirements for tankers (oil tankers, chemical tankers and liquefied tankers); strict requirements, including appropriate shore-based-fire-fighting courses, are provided for the officers and ratings with specific duties on board tankers; Chapter VI addresses issues of proficiency in survival craft.

The Convention was supplemented by twenty-three Resolutions, providing for details not included in the Convention; IMO Resolutions are not mandatory.

The 1978 Convention was subject to two amendments in 1991 and 1994; the first amendment addressed issues stemming from the implementation of the Glob-

¹¹ See G. P. Pamborides, *International Shipping Law-Legislation and Enforcement*, Kluwer Law International/Ant. N. Sakkoulas, Athens, 1999, 167.

Global Maritime Distress and Safety System (GMDSS) and the other replaced Chapter V on special training for crews on tankers¹².

2.1.2. The 1995 revision

The revision by the 1995 amendments, which came into force in 1997, aimed to remedy implementation problems and other issues identified by practice in the course of time since the adoption of the initial instrument. From the point of view of the methodology, it is worth mentioning that the technical annex was divided into Chapters and regulations. In addition to this, a Code was elaborated (STCW Code), Part A of which is mandatory and Part B recommendatory, aiming to elaborate on the principles set down in the Convention.

The revised Chapter I, which is comprised of general provisions, innovates in the sense that for the first time it lays down the obligations of the States which are parties to the Convention to provide detailed information on the administrative measures adopted with a view to conforming to the requirements in question¹³.

Chapter I addresses Port State Control (PSC), providing for intervention in the event of deficiencies liable to endanger human life, property or the environment¹⁴. Such deficiencies consist, for example, of irregular certificates; it also refers, *inter alia*, to the case where the ship is manoeuvred in an unsafe manner. Chapter I also tackles the problem of fatigue prevention of watchkeeping personnel; furthermore, it provides for the use of simulators for training and assessment purposes. Parties are obliged to provide for a quality standards system aiming at the continuous monitoring of training, certification and other procedures¹⁵. Fitness standards and levels of professional competence are also prescribed in the same Chapter¹⁶.

Chapters II, III and IV on Master and deck department, Engine department and Radiocommunication and radio personnel were also subject to revision. Chapter V was subject to the introduction of special requirements concerning the training and qualifications of personnel on board ro-ro passenger ships; these special requirements were introduced in the light of the tragic marine disaster of the ferry Estonia in September 1994. Chapter VI, which incorporates the previous Chapter VI, notably deals with medical first aid and survival functions; Chapter VII tackles alternative certification, which enables crews to obtain training and certification in various departments of seafaring rather than being confined to one branch (such as deck or engine room) for their entire career¹⁷; Chapter VIII deals with fatigue prevention measures with regard to watchkeeping personnel.

¹² See http://www.imo.org/Conventions/contents.asp?doc_id=651&topic_id=257 (last visit 10 January 2007).

¹³ Regulation I/7.

¹⁴ Regulation I/4.

¹⁵ Regulation I/8.

¹⁶ Regulation I/11.

¹⁷ See *supra* note 2.

2.1.3. The STCW Code

The STCW Code supplements the regulations contained in the Chapters with more detailed prescriptions. As already mentioned, Part A of the Code is mandatory, while Part B is of a recommendatory nature.

2.1.4. Subsequent amendments

The 1995 revision was followed by the 1997 amendments, which came into force in 1999, the 1998 amendments, which came into force in 2003, and the 2006 amendments, which will come into force in 2008. It should be noted that the procedure of amendment of the STCW Annex is simplified and accelerated according to the tacit acceptance procedure¹⁸.

2.1.5. The “White List”

The first so-called White List of States deemed to be giving “full and complete effect” to the revised STCW Convention, was published by the IMO in the year 2000¹⁹. The ranking of ships upon satisfaction of STCW requirements has an impact on the priority of submission to Port State Control.

2.1.6. Documents issued on the basis of the STCW Convention

To a great extent, the STCW Convention 1995 is operational on the basis of a number of documents. Certificates concerned are issued by competent Administrations and additional documentary evidence is issued by private operators such as the shipowner or the master of the vessel. According to the Convention, “a certificate means a valid document, by whatever name it may be known, issued by or under the authority of the Administration or recognized by the Administration, authorizing the holder to serve as stated in this document or as authorized by national regulations”²⁰. Certificates for masters, officers or ratings are issued to those candidates who, to the satisfaction of the Administration, meet the requirements for service, age, medical fitness, training, qualification and examinations in accordance with the appropriate provisions of the Annex to the Convention²¹.

Documents referred to in the Convention notably include certificates of competence²², endorsements of recognition²³, certificates of proficiency²⁴, special certifi-

¹⁸ On the tacit acceptance procedure (which is also referred to as the tacit amendment procedure), see *inter alia* http://www.imo.org/Conventions/mainframe.asp?topic_id=148#tacit (last visit 10 January 2007). Also see Lei Shi, *Successful Use of the Tacit Acceptance Procedure to Effectuate Progress in International Maritime Law*, 11 USF Mar. L. J. 299-332 (1998-99).

¹⁹ See <http://www.imo.org> (last visit 10 January 2007).

²⁰ Article II(c) of the Convention.

²¹ Article VI(1) of the Convention.

²² On certificates and endorsements, see Regulation I/2 of the Annex to the Convention.

cates²⁵ and any other official document attesting that a requirement of the Convention has been satisfied. A certificate of competence is a document issued to masters, officers, radio operators and ratings forming part of a watch, who comply with the standards of competence relevant to their particular functions and level of responsibility on board²⁶. An endorsement is a document issued to masters and officers, attesting that the national certificate has been issued in accordance with all STCW requirements²⁷. Endorsement of recognition is issued by an Administration as an official recognition of the validity of a certificate issued by another Administration²⁸. This procedure is rendered necessary as an important number of merchant fleets are manned by seafarers certificated by other administrations. In addition to the above, documentary evidence which stems from the shipowner or the master of the vessel is used to attest, for example, that the seafarer has participated in a safety drill or has completed a certain type of training.

A major problem relating to the STCW Convention is the effectiveness of authenticity controls²⁹ for the wide range of documents involved and, consequently, the extended use of fraudulent practices associated with certificates of competence and endorsements. There is no need to stress the obvious danger of seeing the regime established by the STCW Convention 1995 placed in jeopardy when fraudulent practices take place. At least two types of fraudulent practices may be identified: firstly, with regard to the certification process as such and secondly, to the certificate itself. For example, in the first category, training centers, approved by the maritime Administration, would issue certificates for short STCW 1995 courses without meeting minimum standards of training and assessment. In the second category, one would see forgery of certificates and other documents.

According to a study conducted under the auspices of the IMO³⁰, evidence of fraudulent practices was found within the research project which was extended to 54 maritime Administrations, 48 employers, 1,105 seafarers and 10 third parties, in respect of all certificates issued in accordance with Chapters I, II, III, IV, V and VI of the STCW Convention 1995, as well as with other documents required by the Convention, such as seagoing service testimonials³¹. Moreover, the greatest

²³ *Id.*

²⁴ Certificates of proficiency and special certificates are issued to the seafarer to certify that he or she has met the required standard of competence in a specific duty. *See* STCW-95: A Guide for Seafarers, International Transport Workers' Federation (ITF) 2002, 18. Available at <http://www.itfglobal.org/filed/seealsodocs/EN6/970/STCW2nd.pdf> (last visit 10 January 2007).

²⁵ *Id.*

²⁶ *Id.*, 15.

²⁷ *Id.*, 16.

²⁸ *See* Regulation I/2 and Regulation I/10 of the Annex to the Convention.

²⁹ With regard to certification verification, the IMO provides for a list of points of contact at a national level which provide direct access to registers of certificates and endorsements where their validity can be checked on line. *See* <http://www.imo.org> (See Human Element) (last visit 10 January 2007).

³⁰ *A Study on Fraudulent Practices Associated with Certificates of Competence and Endorsements* carried out by the Seafarers International Research Centre (SIRC) in 2001. Main report, IMO, London, 2001 (IMO-483/01). The abridged report is available on the internet at <http://www.imo.org/> (last visit 10 January 2007).

³¹ *Id.* Executive Summary, 2.

prevalence of fraudulent practice was found in Southern and Southeastern Asia and to a lesser degree in Eastern Europe, the Middle East, Central America and the Mediterranean³².

Among the myriad of issues stemming from the interpretation and application of the STCW Convention, we have chosen to briefly present the legal implications in terms of liability of the said Convention on private operators. An extensive bibliography is provided to the reader on other specific issues related to the STCW Convention.

2.1.7. Litigation (prevention and practice)

As concerns its practical application, the STCW Convention 1995, which is to a large extent a public maritime law instrument, does not fail to raise a number of issues with regard to litigation in which private persons are likely to be involved. Such issues notably concern unseaworthiness, negligence and limitation of liability³³. The legal impact in question takes place in the context of new responsibilities introduced by the Convention for private operators, including shipping companies. The latter are obliged to ensure that the seafarers employed by them meet international standards of competence and that certain aspects of seafarers' activity on board remain within the framework prescribed by the Convention (e.g. minimum resting periods). It should be remembered, however, that private persons are not the only ones to be assigned with responsibilities under the Convention: national Administrations, training centers and seafarers are also bound by these obligations.

Moreover, given the purpose of the Convention, which is to "promote safety of life and property at sea and the protection of the environment"³⁴, the STCW provisions seem to be intended to prevent injury to all classes of potential maritime claimants in case of personal injury, material damage or environmental damage; consequently, a defendant seeking to demonstrate that the Convention was not intended against the specific prejudice suffered will have a difficult burden to shoulder³⁵.

Significantly, Regulation I/14³⁶ provides for the responsibilities of shipping companies with regard to the enforcement of the Convention: "Each Administration shall, in accordance with Section A-I/14 [of the STCW Code], hold companies responsible for the assignment of seafarers for service in their ships in accordance with the requirements of the Convention, and shall require every company to ensure that:

³² *Id.*

³³ See Leslie Tomasello Weitz, *The Nautical Fault Debate (The Hamburg Rules, the US COGSA 95, the STCW 95 and the ISM Code)* 22 Tul. Mar. L. J. 581, (1998), Pamborides, *supra* note 11, 171, R. White, *The Human Factor in Unseaworthiness Claims*, 2 L.M.C.L.Q., 221-239 (1995) and Sperling, *supra* note 8.

³⁴ See the Preamble of the Convention.

³⁵ See Sperling, *supra* note 8, 613 *seq.*

³⁶ See Chapter I of the Annex.

1. each seafarer assigned to any of its ships holds an appropriate certificate in accordance with the provisions of the Convention and as established by the Administration;
2. its ships are manned in compliance with the applicable safe manning requirements of the Administration;
3. documentation and data relevant to all seafarers employed on its ships are maintained and readily accessible, and include, without being limited to, documentation and data on their experience, training, medical fitness and competency in assigned duties;
4. seafarers, on being assigned to any of its ships, are familiarized with their specific duties and with all ship arrangements, installations, equipments, procedures and ships characteristics that are relevant to their routine or emergency duties; and
5. the ship's complement can effectively co-ordinate their activities in an emergency situation and in performing functions vital to safety or to the prevention or mitigation of pollution”.

In addition to the above, Section A-I/14 of the STCW Code, which is mandatory, places a responsibility on companies and on masters and crew members for ensuring that policies and procedures³⁷ aiming at the familiarization of newly employed seafarers on board the ship, prior to their assignment to duty, are given full and complete effect; in this context, each crew member should make “a knowledgeable and informed contribution to the safe operation of the ship”³⁸.

Part A of the STCW Code also provides for minimum resting periods for personnel participating in watchkeeping³⁹:

- “1. All persons who are assigned duty as officer in charge of a watch or as a rating forming part of a watch shall be provided a minimum of 10 hours of rest in any 24-hour period;
2. The hours of rest may be divided into no more than two periods, one of which shall be at least 6 hours in length;
3. The requirements for rest periods laid down in paras 1 and 2 need not be maintained in the case of an emergency or drill or in other overriding operational conditions;
4. Notwithstanding the provisions of paras 1 and 2, the minimum period of ten hours may be reduced to not less than 6 consecutive hours provided that any such reduction shall not extend beyond two days and not less than 70 hours of rest are provided each seven-day period;

³⁷ According to this Section, policies and procedures in question include “1. Allocation of a reasonable period of time during which each newly employed seafarer will have an opportunity to become acquainted with: 1.1 The specific equipment the seafarer will be using or operating, and, 1.2 Ship-specific watchkeeping, safety, environmental protection and emergency procedures and arrangements the seafarer needs to know to perform the assigned duties properly, and, 2. Designation of a knowledgeable crew member who will be responsible for ensuring that an opportunity is provided to each newly employed seafarer to receive essential information in a language the seafarer understands”.

³⁸ See Section A-I/14 para. 1.

³⁹ See Section A-VIII/1.

5. Administrations shall require that watch schedules be posted where they are easily accessible.”

In this context, there is an obvious impact on seaworthiness. The latter may also regard matters which involve the human element, since the incompetence of the crew is likely to render a vessel unseaworthy.

According to Schoenbaum, with regard to U.S. law for example, the duty of seaworthiness is absolute and independent of negligence, but the mere fact that there is an accident is not enough for a finding of unseaworthiness⁴⁰. The test for an unseaworthy condition is whether the vessel, equipment, or appurtenances were reasonably fit for their intended use and the duty is reasonableness, “not perfection”; nevertheless, the violation of a statute or regulation concerning safety will justify a finding of unseaworthiness *per se*⁴¹. A ship is seaworthy not only if it is properly supplied and equipped, but also if it is properly crewed⁴². Moreover, under the Hague Rules, the non-delegatable character of the duty to exercise due diligence to make the ship seaworthy before and at the beginning of the voyage⁴³ was explored by English courts⁴⁴.

Where an owner fails to exercise due diligence to ensure that a ship’s crewmembers have proper certificates or other documentation required by the STCW Convention, the ship will be unseaworthy⁴⁵. If the vessel is considered to be unseaworthy, the shipowner will have to prove, on the basis, for example, of The Hague/Visby Rules⁴⁶, that he exercised due diligence in providing a competent crew. The new STCW Convention introduces a framework of reference for the assessment of levels of competence of seafarers seeking employment on board ships⁴⁷; if the shipowner concerned fails to take advantage of this system, thus failing to exercise due diligence in employing and supervising a competent crew, the claimants will have “a much easier task in proving their case and information will

⁴⁰ Thomas J. Schoenbaum, *Admiralty and Maritime Law*, Thomson/West, 2004, 289.

⁴¹ *Id.* 287.

⁴² See R. Colinvaux, *Carver’s Carriage By Sea*, Stevens and Sons, London, 1982, 350-360, W. Tetley, *Marine Cargo Claims*, Y. Blais, Montreal, 1988, 1130, 1138, Hugh M. Kindred and Mary R. Brooks, *Multimodal Transport Rules*, Kluwer Law International, The Hague, 1996, 68.

⁴³ According to Article 3(1) of the Hague Rules, the carrier shall be bound before and at the beginning of the voyage to exercise due diligence to: (a) make the ship seaworthy, (b) properly man, equip and supply the ship and (c) make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried, fit and safe for their reception, carriage and preservation.

⁴⁴ See *inter alia* The Riverstone Meat Company Pty v. Lancashire Shipping Company Limited (The Muncaster Castle) [1961] 1 Lloyd’s Rep. 57; [1961] AC 807, HL.

⁴⁵ See Sperling, *supra* note 8, 616.

⁴⁶ Sea carriage is widely governed by the Hague, Hague-Visby or Hamburg Rules. The Hague Rules were agreed on in Brussels in 1924 but have since been revised and replaced. In 1968, amendments were made by the Visby Rules and in 1978 a completely new regime was decided, known as the Hamburg Rules. Most of the major trading nations have moved to the Hague-Visby Rules. Articles 3(1) and 4(1) of the Hague Rules require the carrier to exercise “due diligence” to provide a seaworthy ship. See *inter alia* Kindred and Brooks, *supra* note 42, 68

⁴⁷ Pamborides, *supra* note 11, 173.

be readily available to them which will allow them to assess the competence of the seafarer in question, or the whole crew for that matter⁴⁸.

The STCW Convention also suggests a revisited reading of the Convention relating to the Limitation of Liability of Owners of Sea-Going Ships (Brussels 1957), subject to the Protocol of 1979 and the Convention on Limitation of Liability for Maritime Claims (London 1976), subject to the Protocol of 1996. Nearly all maritime States have ratified either the 1957 or 1976 Convention.

The Brussels Convention grants a vessel owner the right to limit liability unless the occurrence giving rise to claim resulted from the actual fault or privity of the owner⁴⁹. The burden of proof lies on the shipowner⁵⁰. The STCW Convention is likely to have an impact on the interpretation of actual fault and contributes to the breaking of the limitation of liability, under the pressure of prudence that the Convention requires from the shipping company notably with regard to the initial selection of a competent crew and the subsequent supervision of the frame of compliance, including for example resting periods⁵¹.

The London Convention provides “a substantial departure from this standard and greatly increases the prospects of limitation”⁵² by prescribing that a person shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result⁵³. In the regime in question there is an assumption of lack of knowledge on the part of the shipowner unless the victim proves otherwise⁵⁴. This standard creates a very high threshold to successfully break limitation⁵⁵ and the impact of the STCW Convention remains uncertain.

The impact of the STCW Convention on litigation should also be assessed with reference to the impact of the ISM Code, which is generally deemed more drastic.

Due to the length of the STCW Convention as amended from 1978 up to the present stage, it will be necessary for practical reasons to confine this compilation to the 1995 version, which is the point of reference of the current regime. However, the attention of the reader should be focused on the amendments that this instrument has been subject to since 1995, which when taken together provide a complete picture of the issue.

⁴⁸ *Id.* Also see, Sperling, *supra* note 8, 617.

⁴⁹ Article 1(1) of the Brussels Convention 1957.

⁵⁰ See Gotthard Mark Gauci, *Limitation of Liability: Some Reflections on an Out-of-Date Privilege*, *Annuaire de Droit Maritime et Océanique*, Tome XXIII, 55 (2005).

⁵¹ See Pamborides, *supra* 11, 174.

⁵² See Katie Smith Matson, *Comparison of Shipowners' Limitation of Liability Schemes*, Lloyd's Maritime Training Programme, http://lanepoweel.com/pdf/pubs/matsonk_002.pdf, 6 (last visit 27 March 2007).

⁵³ Article 4 of the London Convention 1976.

⁵⁴ See P. Griggs and R. Williams, *Limitation of Liability for Maritime Claims*, 4th ed., LLP, 2005.

⁵⁵ See Matson, *supra* note 52, 7 and Christopher Hill, *Maritime Law*, 6th ed., LLP, 2003. Also see The Bowbelle [1990] 1 Lloyd's Rep 532.

2.2. Texts

2.2.1. International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978

THE PARTIES TO THIS CONVENTION,

DESIRING to promote safety of life and property at sea and the protection of the marine environment by establishing in common agreement international standards of training, certification and watchkeeping for seafarers,

CONSIDERING that this end may best be achieved by the conclusion of an International Convention on Standards of Training, Certification and Watchkeeping for Seafarers,

HAVE AGREED as follows:

Article I

General obligations under the Convention

(1) The Parties undertake to give effect to the provisions of the Convention and the annex thereto, which shall constitute an integral part of the Convention. Every reference to the Convention constitutes at the same time a reference to the annex.

(2) The Parties undertake to promulgate all laws, decrees, orders and regulations and to take all other steps which may be necessary to give the Convention full and complete effect, so as to ensure that, from the point of view of safety of life and property at sea and the protection of the marine environment, seafarers on board ships are qualified and fit for their duties.

Article II

Definitions

For the purpose of the Convention, unless expressly provided otherwise:

- (a) Party means a State for which the Convention has entered into force;
- (b) Administration means the Government of the Party whose flag the ship is entitled to fly;
- (c) Certificate means a valid document, by whatever name it may be known, issued by or under the authority of the Administration or recognized by the Administration authorizing the holder to serve as stated in this document or as authorized by national regulations;
- (d) Certificated means properly holding a certificate;
- (e) Organization means the Inter-Governmental Maritime Consultative Organization (IMCO);*
- (f) Secretary-General means the Secretary-General of the Organization;
- (g) Seagoing ship means a ship other than those which navigate exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;
- (h) Fishing vessel means a vessel used for catching fish, whales, seals, walrus or other living resources of the sea;
- (i) Radio Regulations means the Radio Regulations annexed to, or regarded as being annexed to, the most recent International Telecommunication Convention which may be in force at any time.

* The name of the Organization was changed to "International Maritime Organization (IMO)" by virtue of amendments to the Organization's Convention which entered into force on 22 May 1982.

Article III

Application

The Convention shall apply to seafarers serving on board seagoing ships entitled to fly the flag of a Party except to those serving on board:

- (a) warships, naval auxiliaries or other ships owned or operated by a State and engaged only on governmental non-commercial service; however, each Party shall ensure, by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships owned or operated by it, that the persons serving on board such ships meet the requirements of the Convention so far as is reasonable and practicable;
- (b) fishing vessels;
- (c) pleasure yachts not engaged in trade; or
- (d) wooden ships of primitive build.

Article IV

Communication of information

- (1) The Parties shall communicate as soon as practicable to the Secretary-General:
 - (a) the text of laws, decrees, orders, regulations and instruments promulgated on the various matters within the scope of the Convention;
 - (b) full details, where appropriate, of contents and duration of study courses, together with their national examination and other requirements for each certificate issued in compliance with the Convention;
 - (c) a sufficient number of specimen certificates issued in compliance with the Convention.
- (2) The Secretary-General shall notify all Parties of the receipt of any communication under paragraph (1)(a) and, *inter alia*, for the purposes of articles IX and X, shall, on request, provide them with any information communicated to him under paragraphs (1)(b) and (c).

Article V

Other treaties and interpretation

(1) All prior treaties, conventions and arrangements relating to standards of training, certification and watchkeeping for seafarers in force between the Parties shall continue to have full and complete effect during the terms thereof as regards:

- (a) seafarers to whom this Convention does not apply;
- (b) seafarers to whom this Convention applies, in respect of matters for which it has not expressly provided.

(2) To the extent, however, that such treaties, conventions or arrangements conflict with the provisions of the Convention, the Parties shall review their commitments under such treaties, conventions and arrangements with a view to ensuring that there is no conflict between these commitments and their obligations under the Convention.

(3) All matters which are not expressly provided for in the Convention remain subject to the legislation of Parties.

(4) Nothing in the Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to resolution 2750 C(XXV) of the General Assembly of the United Nations, nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

Article VI

Certificates

(1) Certificates for masters, officers or ratings shall be issued to those candidate who, to the satisfaction of the Administration, meet the requirements for service, age, medical

fitness, training, qualification and examinations in accordance with the appropriate provisions of the annex to the Convention.

(2) Certificates for masters and officers issued in compliance with this article shall be endorsed by the issuing Administration in the form as prescribed in regulation I/2 of the annex. If the language used is not English, the endorsement shall include a translation into that language.

Article VII **Transitional provisions**

(1) A certificate of competency or of service in a capacity for which the Convention requires a certificate and which before entry into force of the Convention for a Party is issued in accordance with the laws of that Party or the Radio Regulations shall be recognized as valid for service after entry into force of the Convention for that Party.

(2) After the entry into force of the Convention for a Party, its Administration may continue to issue certificates of competency in accordance with its previous practices for a period not exceeding five years. Such certificates shall be recognized as valid for the purpose of the Convention. During this transitional period such certificates shall be issued only to seafarers who had commenced their sea service before entry into force of the Convention for that Party within the specific ship department to which those certificates relate. The Administration shall ensure that all other candidates for certification shall be examined and certificated in accordance with the Convention.

(3) A Party may, within two years after entry into force of the Convention for that Party, issue a certificate of service to seafarers who hold neither an appropriate certificate under the Convention nor a certificate of competency issued under its laws before entry into force of the Convention for that Party but who have:

- (a) served in the capacity for which they seek a certificate of service for not less than three years at sea within the last seven years preceding entry into force of the Convention for that Party;
- (b) produced evidence that they have performed that service satisfactorily;
- (c) satisfied the Administration as to medical fitness, including eyesight and hearing, taking into account their age at the time of application.

For the purpose of the Convention, a certificate of service issued under this paragraph shall be regarded as the equivalent of a certificate issued under the Convention.

Article VIII **Dispensation**

(1) In circumstances of exceptional necessity, Administrations, if in their opinion this does not cause danger to persons, property or the environment, may issue a dispensation permitting a specified seafarer to serve in a specified ship for a specified period not exceeding six months in a capacity, other than that of the radio officer or radiotelephone operator, except as provided by the relevant Radio Regulations, for which he does not hold the appropriate certificate, provided that the person to whom the dispensation is issued shall be adequately qualified to fill the vacant post in a safe manner, to the satisfaction of the Administration. However, dispensations shall not be granted to a master or chief engineer officer except in circumstances of *force majeure* and then only for the shortest possible period.

(2) Any dispensation granted for a post shall be granted only to a person properly certificated to fill the post immediately below. Where certification of the post below is not required by the Convention, a dispensation may be issued to a person whose qualification and experience are, in the opinion of the Administration, of a clear equivalence to the requirements for the post to be filled, provided that, if such a person holds no appropriate certificate, he shall be required to pass a test accepted by the Administration as demonstrating

that such a dispensation may safely be issued. In addition, Administrations shall ensure that the post in question is filled by the holder of an appropriate certificate as soon as possible.

(3) Parties shall, as soon as possible after 1 January of each year, send a report to the Secretary-General giving information of the total number of dispensations in respect of each capacity for which a certificate is required that have been issued during the year to seagoing ships, together with information as to the numbers of those ships above and below 1,600 gross register tons respectively.

Article IX Equivalents

(1) The Convention shall not prevent an Administration from retaining or adopting other educational and training arrangements, including those involving seagoing service and shipboard organization especially adapted to technical developments and to special types of ships and trades, provided that the level of seagoing service, knowledge and efficiency as regards navigational and technical handling of ship and cargo ensures a degree of safety at sea and has a preventive effect as regards pollution at least equivalent to the requirements of the Convention.

(2) Details of such arrangements shall be reported as early as practicable to the Secretary-General who shall circulate such particulars to all Parties.

Article X Control

(1) Ships, except those excluded by article III, are subject, while in the ports of a Party, to control by officers duly authorized by that Party to verify that all seafarers serving on board who are required to be certificated by the Convention are so certificated or hold an appropriate dispensation. Such certificates shall be accepted unless there are clear grounds for believing that a certificate has been fraudulently obtained or that the holder of a certificate is not the person to whom that certificate was originally issued.

(2) In the event that any deficiencies are found under paragraph (1) or under the procedures specified in regulation I/4, "Control procedures", the officer carrying out the control shall forthwith inform, in writing, the master of the ship and the Consul or, in his absence, the nearest diplomatic representative or the maritime authority of the State whose flag the ship is entitled to fly, so that appropriate action may be taken. Such notification shall specify the details of the deficiencies found and the grounds on which the Party determines that these deficiencies pose a danger to persons, property or the environment.

(3) In exercising the control under paragraph (1), if, taking into account the size and type of the ship and the length and nature of the voyage, the deficiencies referred to in paragraph (3) of regulation I/4 are not corrected and it is determined that this fact poses a danger to persons, property or the environment, the Party carrying out the control shall take steps to ensure that the ship will not sail unless and until these requirements are met to the extent that the danger has been removed. The facts concerning the action taken shall be reported promptly to the Secretary-General.

(4) When exercising control under this article, all possible efforts shall be made to avoid a ship being unduly detained or delayed. If a ship is so detained or delayed it shall be entitled to compensation for any loss or damage resulting therefrom.

(5) This article shall be applied as may be necessary to ensure that no more favourable treatment is given to ships entitled to fly the flag of a non-Party than is given to ships entitled to fly the flag of a Party.

Article XI
Promotion of technical co-operation.

(1) Parties to the Convention shall promote, in consultation with, and with the assistance of, the Organization, support for those Parties which request technical assistance for:

- (a) training of administrative and technical personnel;
- (b) establishment of institutions for the training of seafarers;
- (c) supply of equipment and facilities for training institutions;
- (d) development of adequate training programmes, including practical training on seagoing ships; and
- (e) facilitation of other measures and arrangements to enhance the qualifications of seafarers;

preferably on a national, sub-regional or regional basis, to further the aims and purposes of the Convention, taking into account the special needs of developing countries in this regard.

(2) On its part, the Organization shall pursue the aforesaid efforts, as appropriate, in consultation or association with other international organizations, particularly the International Labour Organisation.

Article XII
Amendments

(1) The Convention may be amended by either of the following procedures:

- (a) amendments after consideration within the Organization:
 - (i) any amendment proposed by a Party shall be submitted to the Secretary-General, who shall then circulate it to all Members of the Organization, all Parties and the Director-General of the International Labour Office at least six months prior to its consideration;
 - (ii) any amendment so proposed and circulated shall be referred to the Maritime Safety Committee of the Organization for consideration;
 - (iii) Parties, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Maritime Safety Committee for consideration and adoption of amendments;
 - (iv) amendments shall be adopted by a two-thirds majority of the Parties present and voting in the Maritime Safety Committee expanded as provided for in sub-paragraph (a)(iii) (hereinafter referred to as the "expanded Maritime Safety Committee") on condition that at least one third of the Parties shall be present at the time of voting;
 - (v) amendments so adopted shall be communicated by the Secretary-General to all Parties for acceptance;
 - (vi) an amendment to an article shall be deemed to have been accepted on the date on which it is accepted by two thirds of the Parties;
 - (vii) an amendment to the annex shall be deemed to have been accepted:
 - 1 at the end of two years from the date on which it is communicated to the Parties for acceptance; or
 - 2 at the end of a different period, which shall be not less than one year, if so determined at the time of its adoption by a two-thirds majority of the Parties present and voting in the expanded Maritime Safety Committee;

however, the amendments shall be deemed not to have been accepted if, within the specified period, either more than one third of Parties or Parties the combined merchant fleets of which constitute not less than 50% of the gross tonnage of the world's merchant shipping of ships of 100 gross register tons or more notify the Secretary-General that they object to the amendment;

- (viii) an amendment to an article shall enter into force with respect to those Parties which have accepted it six months after the date on which it is deemed to have been accepted, and with respect to each Party which accepts it after that date, six months after the date of that Party's acceptance;
- (ix) an amendment to the annex shall enter into force with respect to all Parties, except those which have objected to the amendment under sub-paragraph (a)(vii) and which have not withdrawn such objections, six months after the date on which it is deemed to have been accepted. Before the date determined for entry into force, any Party may give notice to the Secretary-General that it exempts itself from giving effect to that amendment for a period not longer than one year from the date of its entry into force, or for such longer period as may be determined by a two-thirds majority of the Parties present and voting in the expanded Maritime Safety Committee at the time of the adoption of the amendment; or
- (b) amendment by a conference:
 - (i) upon the request of a Party concurred in by at least one third of the Parties, the Organization shall convene, in association or consultation with the Director-General of the international Labour Office, a conference of Parties to consider amendments to the Convention;
 - (ii) every amendment adopted by such a conference by a two-thirds majority of the Parties present and voting shall be communicated by the Secretary-General to all Parties for acceptance;
 - (iii) unless the conference decides otherwise, the amendment shall be deemed to have been accepted and shall enter into force in accordance with the procedures specified in sub-paragraphs (a)(vi) and (a)(viii) or sub-paragraphs (a)(vii) and (a)(ix) respectively, provided that references in these sub-paragraphs to the expanded Maritime Safety Committee shall be taken to mean references to the conference.
- (2) Any declaration of acceptance of, or objection to, an amendment or any notice given under paragraph (1)(a)(ix) shall be submitted in writing to the Secretary-General, who shall inform all Parties of any such submission and the date of its receipt.
- (3) The Secretary-General shall inform all Parties of any amendments which enter into force, together with the date on which each such amendment enters into force.

Article XIII

Signature, ratification, acceptance, approval and accession

- (1) The Convention shall remain open for signature at the Headquarters of the Organization from 1 December 1978 until 30 November 1979 and shall thereafter remain open for accession. Any State may become a Party by:
 - (a) signature without reservation as to ratification, acceptance or approval; or
 - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
 - (c) accession.
- (2) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.
- (3) The Secretary-General shall inform all States that have signed the Convention or acceded to it and the Director-General of the International Labour Office of any signature or of the deposit of any instrument of ratification, acceptance, approval or accession and the date of its deposit.

Article XIV

Entry into force

(1) The Convention shall enter into force 12 months after the date on which not less than 25 States, the combined merchant fleets of which constitute not less than 50% of the gross tonnage of the world's merchant shipping of ships of 100 gross register tons or more, have either signed it without reservation as to ratification, acceptance or approval or deposited the requisite instruments of ratification, acceptance, approval or accession in accordance with article XIII.

(2) The Secretary-General shall inform all States that have signed the Convention or acceded to it of the date on which it enters into force.

(3) Any instrument of ratification, acceptance, approval or accession deposited during the 12 months referred to in paragraph (1) shall take effect on the coming into force of the Convention or three months after the deposit of such instrument, whichever is the later date.

(4) Any instrument of ratification, acceptance, approval or accession deposited after the date on which the Convention enters into force shall take effect three months after the date of deposit.

(5) After the date on which an amendment is deemed to have been accepted under article XII, any instrument of ratification, acceptance, approval or accession deposited shall apply to the Convention as amended.

Article XV

Denunciation

(1) The Convention may be denounced by any Party at any time after five years from the date on which the Convention entered into force for that Party.

(2) Denunciation shall be effected by notification in writing to the Secretary-General who shall inform all other Parties and the Director-General of the International Labour Office of any such notification received and of the date of its receipt as well as the date on which such denunciation takes effect.

(3) A denunciation shall take effect 12 months after receipt of the notification of denunciation by the Secretary-General or after any longer period which may be indicated in the notification.

Article XVI

Deposit and registration

(1) The Convention shall be deposited with the Secretary-General who shall transmit certified true copies thereof to all States that have signed the Convention or acceded to it.

(2) As soon as the Convention enters into force, the Secretary-General shall transmit the text, to the Secretary-General of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

Article XVII

Languages

The Convention is established in a single copy in the Chinese, English, French, Russian and Spanish languages, each text being equally authentic. Official translations in the Arabic and German languages shall be prepared and deposited with the signed original.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed the Convention.*

DONE AT LONDON this seventh day of July, one thousand nine hundred and seventy-eight.

* Signatures omitted.

2.2.2. Attachment 1 to the Final Act of the Conference

Resolution 1

Adoption of amendments to the annex to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978

THE CONFERENCE,

RECALLING article XII(l)(b) of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (hereinafter referred to as "the Convention"), concerning the procedure for amending the Convention by a Conference of Parties,

HAVING CONSIDERED amendments to the annex to the Convention proposed and circulated to the Members of the Organization and to all Parties to the Convention, to replace the existing text of the annex to the Convention.

1. ADOPTS, in accordance with article XII(l)(b)(ii) of the Convention, amendments to the annex to the Convention, the text of which is set out in the annex to the present resolution;

2. DETERMINES, in accordance with article XII(l)(a)(vii) 2 of the Convention, that the amendments annexed hereto shall be deemed to have been accepted on 1 August 1966, unless, prior to that date, more than one third of Parties to the Convention or Parties, the combined merchant fleets of which constitute not less than 50% of the gross tonnage of the world's merchant shipping of ships of 100 gross register tons or more, have notified the Secretary-General that they object to the amendments;

3. INVITES Parties to note that, in accordance with article XII(l)(a)(ix) of the Convention, the amendments annexed hereto shall enter into force on 1 February 1997 upon being deemed to have been accepted in accordance with paragraph 2 above.

2.2.3. Annex

Amendments to the annex to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978

CHAPTER I General provisions

Regulation I/1

Definitions and clarifications

- 1 For the purpose of the Convention, unless expressly provided otherwise:
 - .1 *Regulations* means regulations contained in the annex to the Convention;
 - .2 *Approved* means approved by the Party in accordance with these regulations;
 - .3 *Master* means the person having command of a ship;
 - .4 *Officer* means a member of the crew, other than the master, designated as such by national law or regulations or, in the absence of such designation, by collective agreement or custom;
 - .5 *Deck officer* means an officer qualified in accordance with the provisions of chapter II of the Convention;
 - .6 *Chief mate* means the officer next in rank to the master and upon whom the command of the ship will fall in the event of the incapacity of the master;
 - .7 *Engineer officer* means an officer qualified in accordance with the provisions of chapter III of the Convention;
 - .8 *Chief engineer officer* means the senior engineer officer responsible for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the ship;

- .9 *Second engineer officer* means the engineer officer next in rank to the chief engineer officer and upon whom the responsibility for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the ship will fall in the event of the incapacity of the chief engineer officer;
 - .10 *Assistant engineer officer* means a person under training to become an engineer officer and designated as such by national law or regulations;
 - .11 *Radio operator* means a person holding an appropriate certificate issued or recognized by the Administration under the provisions of the Radio Regulations;
 - .12 *Rating* means a member of the ship's crew other than the master or an officer;
 - .13 *Near-coastal voyages* means voyages in the vicinity of a Party as defined by that Party;
 - .14 *Propulsion power* means the total maximum continuous rated output power in kilowatts of all the ship's main propulsion machinery which appears on the ship's certificate of registry or other official document;
 - .15 *Radio duties* include, as appropriate, watchkeeping and technical maintenance and repairs conducted in accordance with the Radio Regulations, the International Convention for the Safety of Life at Sea and, at the discretion of each Administration, the relevant recommendations of the Organization;
 - .16 *Oil tanker* means a ship constructed and used for the carriage of petroleum and petroleum products in bulk;
 - .17 *Chemical tanker* means a ship constructed or adapted and used for the carriage in bulk of any liquid product listed in chapter 17 of the International Bulk Chemical Code;
 - .18 *Liquefied gas tanker* means a ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in chapter 19 of the International Gas Carrier Code;
 - .19 *Ro-ro passenger ship* means a passenger ship with ro-ro cargo spaces or special category spaces as defined in the International Convention for the Safety of Life at Sea, 1974, as amended;
 - .20 *Month* means a calendar month or 30 days made up of periods of less than one month;
 - .21 *STCW Code* means the Seafarers' Training, Certification and Watch-keeping (STCW) Code as adopted by the 1995 Conference resolution 2, as it may be amended;
 - .22 *Function* means a group of tasks, duties and responsibilities, as specified in the STCW Code, necessary for ship operation, safety of life at sea or protection of the marine environment;
 - .23 *Company* means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the shipowner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by these regulations;
 - .24 *Appropriate certificate* means a certificate issued and endorsed in accordance with the provisions of this annex and entitling the lawful holder thereof to serve in the capacity and perform the functions involved at the level of responsibility specified therein on a ship of the type, tonnage, power and means of propulsion concerned while engaged on the particular voyage concerned;
 - .25 *Seagoing service* means service on board a ship relevant to the issue of a certificate or other qualification.
- 2 These regulations are supplemented by the mandatory provisions contained in part A of the STCW Code and:

- .1 any reference to a requirement in a regulation also constitutes a reference to the corresponding section of part A of the STCW Code;
 - .2 in applying these regulations, the related guidance and explanatory material contained in part B of the STCW Code should be taken into account to the greatest degree possible in order to achieve a more uniform implementation of the Convention provisions on a global basis;
 - .3 amendments to part A of the STCW Code shall be adopted, brought into force and take effect in accordance with the provisions of article XII of the Convention concerning the amendment procedure applicable to the annex; and
 - .4 part B of the STCW Code shall be amended by the Maritime Safety Committee in accordance with its rules of procedure.
- 3 The references made in article VI of the Convention to "the Administration" and "the issuing Administration" shall not be construed as preventing any Party from issuing and endorsing certificates under the provisions of these regulations.

Regulation I/2

Certificates and endorsements

- 1 Certificates shall be in the official language or languages of the issuing country. If the language used is not English, the text shall include a translation into that language.
- 2 In respect of radio operators, Parties may:
 - .1 include the additional knowledge required by the relevant regulations in the examination for the issue of a certificate complying with the Radio Regulations; or
 - .2 issue a separate certificate indicating that the holder has the additional knowledge required by the relevant regulations.
- 3 The endorsement required by article VI of the Convention to attest the issue of a certificate shall only be issued if all the requirements of the Convention have been complied with.
- 4 At the discretion of a Party, endorsements may be incorporated in the format of the certificates being issued as provided for in section A-I/2 of the STCW Code. If so incorporated, the form used shall be that set forth in section A-I/2, paragraph 1. If issued otherwise, the form of endorsements used shall be that set forth in paragraph 2 of that section.
- 5 An Administration which recognizes a certificate under regulation I/10 shall endorse such certificate to attest its recognition. The endorsement shall only be issued if all requirements of the Convention have been complied with. The form of the endorsement used shall be that set forth in paragraph 3 of section A-I/2 of the STCW Code.
- 6 The endorsements referred to in paragraphs 3, 4 and 5:
 - .1 may be issued as separate documents;
 - .2 shall each be assigned a unique number, except that endorsements attesting the issue of a certificate may be assigned the same number as the certificate concerned, provided that number is unique; and
 - .3 shall expire as soon as the certificate endorsed expires or is withdrawn, suspended or cancelled by the Party which issued it and, in any case, not more than five years after their date of issue.
- 7 The capacity in which the holder of a certificate is authorized to serve shall be identified in the form of endorsement in terms identical to those used in the applicable safe manning requirements of the Administration.
- 8 Administrations may use a format different from the format given in section A-I/2 of the STCW Code, provided that, as a minimum, the required information is provided in Roman characters and Arabic figures, taking into account the variations permitted under section A-I/2.

- 9 Subject to the provisions of regulation I/10, paragraph 5, any certificate required by the Convention must be kept available in its original form on board the ship on which the holder is serving.

Regulation I/3

Principles governing near-coastal voyages

- 1 Any Party defining near-coastal voyages for the purpose of the Convention shall not impose training, experience or certification requirements on the seafarers serving on board the ships entitled to fly the flag of another Party and engaged on such voyages in a manner resulting in more stringent requirements for such seafarers than for seafarers serving on board ships entitled to fly its own flag. In no case shall any such Party impose requirements in respect of seafarers serving on board ships entitled to fly the flag of another Party in excess of those of the Convention in respect of ships not engaged on near-coastal voyages.
- 2 With respect to ships entitled to fly the flag of a Party regularly engaged on near-coastal voyages off the coast of another Party, the Party whose flag the ship is entitled to fly shall prescribe training, experience and certification requirements for seafarers serving on such ships at least equal to those of the Party off whose coast the ship is engaged, provided that they do not exceed the requirements of the Convention in respect of ships not engaged on near-coastal voyages. Seafarers serving on a ship which extends its voyage beyond what is defined as a near-coastal voyage by a Party and enters waters not covered by that definition shall fulfil the appropriate competency requirements of the Convention.
- 3 A Party may afford a ship which is entitled to fly its flag the benefits of the near-coastal voyage provisions of the Convention when it is regularly engaged off the coast of a non-Party on near-coastal voyages as defined by the Party.
- 4 Parties defining near-coastal voyages, in accordance with the requirements of this regulation, shall communicate to the Secretary-General, in conformity with the requirements of regulation I/7, the details of the provisions adopted.
- 5 Nothing in this regulation shall, in any way, limit the jurisdiction of any State, whether or not a Party to the Convention.

Regulation I/4

Control procedures

- 1 Control exercised by a duly authorized control officer under article X shall be limited to the following:
 - .1 verification in accordance with article X(1) that all seafarers serving on board who are required to be certificated in accordance with the Convention hold an appropriate certificate or a valid dispensation, or provide documentary proof that an application for an endorsement has been submitted to the Administration in accordance with regulation I/10, paragraph 5;
 - .2 verification that the numbers and certificates of the seafarers serving on board are in conformity with the applicable safe manning requirements of the Administration; and
 - .3 assessment, in accordance with section A-I/4 of the STCW Code, of the ability of the seafarers of the ship to maintain watchkeeping standards as required by the Convention if there are clear grounds for believing that such standards are not being maintained because any of the following have occurred:
 - .3.1 the ship has been involved in a collision, grounding or stranding, or
 - .3.2 there has been a discharge of substances from the ship when under way, at anchor or at berth which is illegal under any international convention, or

- .3.3 the ship has been manoeuvred in an erratic or unsafe manner whereby routing measures adopted by the Organization or safe navigation practices and procedures have not been followed, or
 - .3.4 the ship is otherwise being operated in such a manner as to pose a danger to persons, property or the environment.
- 2 Deficiencies which may be deemed to pose a danger to persons, property or the environment include the following:
- .1 failure of seafarers to hold a certificate, to have an appropriate certificate, to have a valid dispensation or to provide documentary proof that an application for an endorsement has been submitted to the Administration in accordance with regulation I/10, paragraph 5;
 - .2 failure to comply with the applicable safe manning requirements of the Administration;
 - .3 failure of navigational or engineering watch arrangements to conform to the requirements specified for the ship by the Administration;
 - .4 absence in a watch of a person qualified to operate equipment essential to safe navigation, safety radiocommunications or the prevention of marine pollution; and
 - .5 inability to provide for the first watch at the commencement of a voyage and for subsequent relieving watches persons who are sufficiently rested and otherwise fit for duty.
- 3 Failure to correct any of the deficiencies referred to in paragraph 2, in so far as it has been determined by the Party carrying out the control that they pose a danger to persons, property or the environment, shall be the only grounds under article X on which a Party may detain a ship.

Regulation I/5

National provisions

- 1 Each Party shall establish processes and procedures for the impartial investigation of any reported incompetency, act or omission, that may pose a direct threat to safety of life or property at sea or to the marine environment, by the holders of certificates or endorsements issued by that Party in connection with their performance of duties related to their certificates and for the withdrawal, suspension and cancellation of such certificates for such cause and for the prevention of fraud.
- 2 Each Party shall prescribe penalties or disciplinary measures for cases in which the provisions of its national legislation giving effect to the Convention are not complied with in respect of ships entitled to fly its flag or of seafarers duly certificated by that Party.
- 3 In particular, such penalties or disciplinary measures shall be prescribed and enforced in cases in which:
 - .1 a company or a master has engaged a person not holding a certificate as required by the Convention;
 - .2 a master has allowed any function or service in any capacity required by these regulations to be performed by a person holding an appropriate certificate, to be performed by a person not holding the required certificate, a valid dispensation or having the documentary proof required by regulation I/10, paragraph 5; or
 - .3 a person has obtained by fraud or forged documents an engagement to perform any function or serve in any capacity required by these regulations to be performed or filled by a person holding a certificate or dispensation.
- 4 A Party, within whose jurisdiction there is located any company which, or any person who, is believed on clear grounds to have been responsible for, or to have knowledge of, any apparent non-compliance with the Convention specified in paragraph 3, shall extend all co-operation possible to any Party which advises it of its intention to initiate proceedings under its jurisdiction.

Regulation I/6

Training and assessment

Each Party shall ensure that:

- .1 the training and assessment of seafarers, as required under the Convention, are administered, supervised and monitored in accordance with the provisions of section A-I/6 of the STCW Code; and
- .2 those responsible for the training and assessment of competence of seafarers, as required under the Convention, are appropriately qualified in accordance with the provisions of section A-I/6 of the STCW Code for the type and level of training or assessment involved.

Regulation I/7

Communication of information

- 1 In addition to the information required to be communicated by article IV, each Party shall provide to the Secretary-General within the time periods prescribed and in the format specified in section A-I/7 of the STCW Code, such other information as may be required by the Code on other steps taken by the Party to give the Convention full and complete effect.
- 2 When complete information as prescribed in article IV and section A-I/7 of the STCW Code has been received and such information confirms that full and complete effect is given to the provisions of the Convention, the Secretary-General shall submit a report to this effect to the Maritime Safety Committee.
- 3 Following subsequent confirmation by the Maritime Safety Committee, in accordance with procedures adopted by the Committee, that the information which has been provided demonstrates that full and complete effect is given to the provisions of the Convention:
 - .1 the Maritime Safety Committee shall identify the Parties so concerned; and
 - .2 other Parties shall be entitled, subject to the provisions of regulations I/4 and I/10, to accept, in principle, that certificates issued by or on behalf of the Parties identified in paragraph 3.1 are in compliance with the Convention.

Regulation I/8

Quality standards

- 1 Each Party shall ensure that:
 - .1 in accordance with the provisions of section A-I/8 of the STCW Code, all training, assessment of competence, certification, endorsement and revalidation activities carried out by non-governmental agencies or entities under its authority are continuously monitored through a quality standards system to ensure achievement of defined objectives, including those concerning the qualifications and experience of instructors and assessors; and
 - .2 where governmental agencies or entities perform such activities, there shall be a quality standards system.
- 2 Each Party shall also ensure that an evaluation is periodically undertaken in accordance with the provisions of section A-I/8 of the STCW Code by qualified persons who are not themselves involved in the activities concerned.
- 3 Information relating to the evaluation required by paragraph 2 shall be communicated to the Secretary-General.

Regulation I/9

Medical standards - Issue and registration of certificates

- 1 Each Party shall establish standards of medical fitness for seafarers, particularly regarding eyesight and hearing.
- 2 Each Party shall ensure that certificates are issued only to candidates who comply with the requirements of this regulation.

- 3 Candidates for certification shall provide satisfactory proof:
 - .1 of their identity;
 - .2 that their age is not less than that prescribed in the regulation relevant to the certificate applied for;
 - .3 that they meet the standards of medical fitness, particularly regarding eyesight and hearing, established by the Party, and hold a valid document attesting to their medical fitness, issued by a duly qualified medical practitioner recognized by the Party;
 - .4 of having completed the seagoing service and any related compulsory training required by these regulations for the certificate applied for; and
 - .5 that they meet the standards of competence prescribed by these regulations for the capacities, functions and levels that are to be identified in the endorsement to the certificate.
4. Each Party undertakes to:
 - .1 maintain a register or registers of all certificates and endorsements for masters and officers and, as appropriate, ratings, which are issued, have expired or have been re-validated, suspended, cancelled or reported lost or destroyed and of dispensations issued; and
 - .2 make available information on the status of such certificates, endorsements and dispensations to other Parties and companies which request verification of the authenticity and validity of certificates produced to them by seafarers seeking recognition of their certificates under regulation I/10 or employment on board ship.

Regulation I/10

Recognition of certificates

- 1 Each Administration shall ensure that the provisions of this regulation are complied with, in order to recognize, by endorsement in accordance with regulation I/2, paragraph 5, a certificate issued by or under the authority of another Party to a master, officer or radio operator and that:
 - .1 the Administration has confirmed, through all necessary measures, which may include inspection of facilities and procedures, that the requirements concerning standards of competence, the issue and endorsement of certificates and record keeping are fully complied with; and
 - .2 an undertaking is agreed with the Party concerned that prompt notification will be given of any significant change in the arrangements for training and certification provided in compliance with the Convention.
- 2 Measures shall be established to ensure that seafarers who present, for recognition, certificates issued under the provisions of regulations II/2, III/2 or III/3, or issued under VII/1 at the management level, as defined in the STCW Code, have an appropriate knowledge of the maritime legislation of the Administration relevant to the functions they are permitted to perform.
- 3 Information provided and measures agreed upon under this regulation shall be communicated to the Secretary-General in conformity with the requirements of regulation I/7.
- 4 Certificates issued by or under the authority of a non-Party shall not be recognized.
- 5 Notwithstanding the requirement of regulation I/2, paragraph 5, an Administration may, if circumstances require, allow a seafarer to serve in a capacity, other than radio officer or radio operator, except as provided by the Radio Regulations, for a period not exceeding three months on board a ship entitled to fly its flag, while holding an appropriate and valid certificate issued and endorsed as required by another Party for use on board that Party's ships but which has not yet been endorsed so as to render it appropriate for service on board ships entitled to fly the flag of the Administration. Documentary proof shall be readily available that application for an endorsement has been submitted to the Administration.

- 6 Certificates and endorsements issued by an Administration under the provisions of this regulation in recognition of, or attesting the recognition of, a certificate issued by another Party, shall not be used as the basis for further recognition by another Administration.

Regulation I/11

Revalidation of certificates

- 1 Every master, officer and radio operator holding a certificate issued or recognized under any chapter of the Convention other than chapter VI, who is serving at sea or intends to return to sea after a period ashore, shall, in order to continue to qualify for seagoing service, be required at intervals not exceeding five years to:
 - .1 meet the standards of medical fitness prescribed by regulation I/9; and
 - .2 establish continued professional competence in accordance with section A-I/11 of the STCW Code.
- 2 Every master, officer and radio operator shall, for continuing seagoing service on board ships for which special training requirements have been internationally agreed upon, successfully complete approved relevant training.
- 3 Each Party shall compare the standards of competence which it required of candidates for certificates issued before 1 February 2002 with those specified for the appropriate certificate in part A of the STCW Code, and shall determine the need for requiring the holders of such certificates to undergo appropriate refresher and updating training or assessment.
- 4 The Party shall, in consultation with those concerned, formulate or promote the formulation of a structure of refresher and updating courses as provided for in section A-I/11 of the STCW Code.
- 5 For the purpose of updating the knowledge of masters, officers and radio operators, each Administration shall ensure that the texts of recent changes in national and international regulations concerning the safety of life at sea and the protection of the marine environment are made available to ships entitled to fly its flag.

Regulation I/12

Use of simulators

- 1 The performance standards and other provisions set forth in section A-I/12 and such other requirements as are prescribed in part A of the STCW Code for any certificate concerned shall be complied with in respect of:
 - .1 all mandatory simulator-based training;
 - .2 any assessment of competency required by part A of the STCW Code which is carried out by means of a simulator; and
 - .3 any demonstration, by means of a simulator, of continued proficiency required by part A of the STCW Code.
- 2 Simulators installed or brought into use prior to 1 February 2002 may be exempted from full compliance with the performance standards referred to in paragraph 1, at the discretion of the Party concerned.

Regulation I/13

Conduct of trials

- 1 These regulations shall not prevent an Administration from authorizing ships entitled to fly its flag to participate in trials.
- 2 For the purposes of this regulation, the term trial means an experiment or series of experiments, conducted over a limited period, which may involve the use of automated or integrated systems in order to evaluate alternative methods of performing specific duties or satisfying particular arrangements prescribed by the Convention, which would provide at least the same degree of safety and pollution prevention as provided by these regulations.

- 3 The Administration authorizing ships to participate in trials shall be satisfied that such trials are conducted in a manner that provides at least the same degree of safety and pollution prevention as provided by these regulations. Such trials shall be conducted in accordance with guidelines adopted by the Organization.*
- 4 Details of such trials shall be reported to the Organization as early as practicable but not less than six months before the date on which the trials are scheduled to commence. The Organization shall circulate such particulars to all Parties.
- 5 The results of trials authorized under paragraph 1, and any recommendations the Administration may have regarding those results, shall be reported to the Organization, which shall circulate such results and recommendations to all Parties.
- 6 Any Party having any objection to particular trials authorized in accordance with this regulation should communicate such objection to the Organization as early as practicable. The Organization shall circulate details of the objection to all Parties.
- 7 An Administration which has authorized a trial shall respect objections received from other Parties relating to such trial by directing ships entitled to fly its flag not to engage in a trial while navigating in the waters of a coastal State which has communicated its objection to the Organization.
- 8 An Administration which concludes, on the basis of a trial, that a particular system will provide at least the same degree of safety and pollution prevention as provided by these regulations may authorize ships entitled to fly its flag to continue to operate with such a system indefinitely, subject to the following requirements:
 - .1 the Administration shall, after results of the trial have been submitted in accordance with paragraph 5, provide details of any such authorization, including identification of the specific ships which may be subject to the authorization, to the Organization, which will circulate this information to all Parties;
 - .2 any operations authorized under this paragraph shall be conducted in accordance with any guidelines developed by the Organization, to the same extent as they apply during a trial;
 - .3 such operations shall respect any objections received from other Parties in accordance with paragraph 7, to the extent such objections have not been withdrawn; and
 - .4 an operation authorized under this paragraph shall only be permitted pending a determination by the Maritime Safety Committee as to whether an amendment to the Convention would be appropriate, and, if so, whether the operation should be suspended or permitted to continue before the amendment enters into force.
- 9 At the request of any Party, the Maritime Safety Committee shall establish a date for the consideration of the trial results and for the appropriate determinations.

Regulation I/14

Responsibilities of companies

- 1 Each Administration shall, in accordance with the provisions of section A-I/14, hold companies responsible for the assignment of seafarers for service in their ships in accordance with the provisions of the present Convention, and shall require every such company to ensure that:
 - .1 each seafarer assigned to any of its ships holds an appropriate certificate in accordance with the provisions of the Convention and as established by the Administration;
 - .2 its ships are manned in compliance with the applicable safe manning requirements of the Administration;

* Refer to the Provisional Guidelines on the conduct of trials in which the officer of the navigational watch acts as the sole look-out in periods of darkness (MSC/Circ. 566).

- .3 documentation and data relevant to all seafarers employed on its ships are maintained and readily accessible, and include, without being limited to, documentation and data on their experience, training, medical fitness and competency in assigned duties;
- .4 seafarers, on being assigned to any of its ships, are familiarized with their specific duties and with all ship arrangements, installations, equipment, procedures and ship characteristics that are relevant to their routine or emergency duties; and
- .5 the ship's complement can effectively co-ordinate their activities in an emergency situation and in performing functions vital to safety or to the prevention or mitigation of pollution.

Regulation I/15

Transitional provisions

- 1 Until 1 February 2002, a Party may continue to issue, recognize and endorse certificates in accordance with the provisions of the Convention which applied immediately prior to 1 February 1997 in respect of those seafarers who commenced approved seagoing service, an approved education and training programme or an approved training course before 1 August 1998.
- 2 Until 1 February 2002, a Party may continue to renew and revalidate certificates and endorsements in accordance with the provisions of the Convention which applied immediately prior to 1 February 1997.
- 3 Where a Party, pursuant to regulation I/11, reissues or extends the validity of certificates originally issued by that Party under the provisions of the Convention which applied immediately prior to 1 February 1997, the Party may, at its discretion, replace tonnage limitations appearing on the original certificates as follows:
 - .1 "200 gross registered tons" may be replaced by "500 gross tonnage"; and
 - .2 "1,600 gross registered tons" may be replaced by "3,000 gross tonnage".

CHAPTER II

Master and deck department

Regulation II/1

Mandatory minimum requirements for certification of officers in charge of a navigational watch on ships of 500 gross tonnage or more

- 1 Every officer in charge of a navigational watch serving on a seagoing ship of 500 gross tonnage or more shall hold an appropriate certificate.
- 2 Every candidate for certification shall:
 - .1 be not less than 18 years of age;
 - .2 have approved seagoing service of not less than one year as part of an approved training programme which includes on-board training which meets the requirements of section A-II/1 of the STCW Code and is documented in an approved training record book, or otherwise have approved seagoing service of not less than three years;
 - .3 have performed, during the required seagoing service, bridge watch-keeping duties under the supervision of the master or a qualified officer for a period of not less than six months;
 - .4 meet the applicable requirements of the regulations in chapter IV, as appropriate, for performing designated radio duties in accordance with the Radio Regulations; and
 - .5 have completed approved education and training and meet the standard of competence specified in section A-II/1 of the STCW Code.

Regulation II/2

Mandatory minimum requirements for certification of masters and chief mates on ships of 500 gross tonnage or more

Master and chief mate on ships of 3,000 gross tonnage or more

- 1 Every master and chief mate on a seagoing ship of 3,000 gross tonnage or more shall hold an appropriate certificate.
- 2 Every candidate for certification shall:
 - .1 meet the requirements for certification as an officer in charge of a navigational watch on ships of 500 gross tonnage or more and have approved seagoing service in that capacity:
 - .1.1 for certification as chief mate, not less than 12 months, and
 - .1.2 for certification as master, not less than 36 months; however, this period may be reduced to not less than 24 months if not less than 12 months of such seagoing service has been served as chief mate; and
 - .2 have completed approved education and training and meet the standard of competence specified in section A-II/2 of the STCW Code for masters and chief mates on ships of 3,000 gross tonnage or more.

Master and chief mate on ships of between 500 and 3,000 gross tonnage

- 3 Every master and chief mate on a seagoing ship of between 500 and 3,000 gross tonnage shall hold an appropriate certificate.
- 4 Every candidate for certification shall:
 - .1 for certification as chief mate, meet the requirements of an officer in charge of a navigational watch on ships of 500 gross tonnage or more;
 - .2 for certification as master, meet the requirements of an officer in charge of a navigational watch on ships of 500 gross tonnage or more and have approved seagoing service of not less than 36 months in that capacity; however, this period may be reduced to not less than 24 months if not less than 12 months of such seagoing service has been served as chief mate; and
 - .3 have completed approved training and meet the standard of competence specified in section A-II/2 of the STCW Code for masters and chief mates on ships of between 500 and 3,000 gross tonnage.

Regulation II/3

Mandatory minimum requirements for certification of officers in charge of a navigational watch and of masters on ships of less than 500 gross tonnage

Ships not engaged on near-coastal voyages

- 1 Every officer in charge of a navigational watch serving on a seagoing ship of less than 500 gross tonnage not engaged on near-coastal voyages shall hold an appropriate certificate for ships of 500 gross tonnage or more.
- 2 Every master serving on a seagoing ship of less than 500 gross tonnage not engaged on near-coastal voyages shall hold an appropriate certificate for service as master on ships of between 500 and 3,000 gross tonnage.

Ships engaged on near-coastal voyages

Officer in charge of a navigational watch

- 3 Every officer in charge of a navigational watch on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall hold an appropriate certificate.
- 4 Every candidate for certification as officer in charge of a navigational watch on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall:
 - .1 be not less than 18 years of age;
 - .2 have completed:
 - .2.1 special training, including an adequate period of appropriate seagoing service as required by the Administration, or

- .2.2 approved seagoing service in the deck department of not less than three years;
- .3 meet the applicable requirements of the regulations in chapter IV, as appropriate, for performing designated radio duties in accordance with the Radio Regulations; and
- .4 have completed approved education and training and meet the standard of competence specified in section A-II/3 of the STCW Code for officers in charge of a navigational watch on ships of less than 500 gross tonnage engaged on near-coastal voyages.

Master

- 5 Every master serving on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall hold an appropriate certificate.
- 6 Every candidate for certification as master on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall:
 - .1 be not less than 20 years of age;
 - .2 have approved seagoing service of not less than 12 months as officer in charge of a navigational watch; and
 - .3 have completed approved education and training and meet the standard of competence specified in section A-II/3 of the STCW Code for masters on ships of less than 500 gross tonnage engaged on near-coastal voyages.

Exemptions

- 7 The Administration, if it considers that a ship's size and the conditions of its voyage are such as to render the application of the full requirements of this regulation and section A-II/3 of the STCW Code unreasonable or impracticable, may to that extent exempt the master and the officer in charge of a navigational watch on such a ship or class of ships from some of the requirements, bearing in mind the safety of all ships which may be operating in the same waters.

Regulation II/4

Mandatory minimum requirements for certification of ratings forming part of a navigational watch*

- 1 Every rating forming part of a navigational watch on a seagoing ship of 500 gross tonnage or more, other than ratings under training and ratings whose duties while on watch are of an unskilled nature, shall be duly certificated to perform such duties.
- 2 Every candidate for certification shall:
 - .1 be not less than 16 years of age;
 - .2 have completed:
 - .2.1 approved seagoing service including not less than six months training and experience, or
 - .2.2 special training, either pre-sea or on board ship, including an approved period of seagoing service which shall not be less than two months; and
 - .3 meet the standard of competence specified in section A-II/4 of the STCW Code.
- 3 The seagoing service, training and experience required by sub-paragraphs 2.2.1 and 2.2.2 shall be associated with navigational watchkeeping functions and involve the performance of duties carried out under the direct supervision of the master, the officer in charge of the navigational watch or a qualified rating.
- 4 Seafarers may be considered by the Party to have met the requirements of this regulation if they have served in a relevant capacity in the deck department for a period of not less than one year within the last five years preceding the entry into force of the Convention for that Party.

* These requirements are not those for certification of Able Seamen as contained in the ILO Certification of Able Seamen Convention, 1946, or any subsequent convention.

CHAPTER III

Engine department

Regulation III/1

Mandatory minimum requirements for certification of officers in charge of an engineering watch in a manned engine-room or designated duty engineers in a periodically unmanned engine-room

- 1 Every officer in charge of an engineering watch in a manned engine-room or designated duty engineer officer in a periodically unmanned engine-room on a seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more shall hold an appropriate certificate.
- 2 Every candidate for certification shall:
 - .1 be not less than 18 years of age;
 - .2 have completed not less than six months seagoing service in the engine department in accordance with section A-III/1 of the STCW Code; and
 - .3 have completed approved education and training of at least 30 months which includes on-board training documented in an approved training record book and meet the standards of competence specified in section A-III/1 of the STCW Code.

Regulation III/2

Mandatory minimum requirements for certification of chief engineer officers and second engineer officers on ships powered by main propulsion machinery of 3,000 kW propulsion power or more

- 1 Every chief engineer officer and second engineer officer on a seagoing ship powered by main propulsion machinery of 3,000 kW propulsion power or more shall hold an appropriate certificate.
- 2 Every candidate for certification shall:
 - .1 meet the requirements for certification as an officer in charge of an engineering watch and:
 - .1.1 for certification as second engineer officer, shall have not less than 12 months' approved seagoing service as assistant engineer officer or engineer officer, and
 - .1.2 for certification as chief engineer officer, shall have not less than 36 months' approved seagoing service of which not less than 12 months shall have been served as an engineer officer in a position of responsibility while qualified to serve as second engineer officer; and
 - .2 have completed approved education and training and meet the standard of competence specified in section A-III/2 of the STCW Code.

Regulation III/3

Mandatory minimum requirements for certification of chief engineer officers and second engineer officers on ships powered by main propulsion machinery of between 750 kW and 3,000 kW propulsion power

- 1 Every chief engineer officer and second engineer officer on a seagoing ship powered by main propulsion machinery of between 750 and 3,000 kW propulsion power shall hold an appropriate certificate.
- 2 Every candidate for certification shall:
 - .1 meet the requirements for certification as an officer in charge of an engineering watch and:
 - .1.1 for certification as second engineer officer, shall have not less than 12 months' approved seagoing service as assistant engineer officer or engineer officer, and

- .1.2 for certification as chief engineer officer, shall have not less than 24 months' approved seagoing service of which not less than 12 months shall be served while qualified to serve as second engineer officer; and
- .2 have completed approved education and training and meet the standard of competence specified in section A-III/3 of the STCW Code.
- 3 Every engineer officer who is qualified to serve as second engineer officer on ships powered by main propulsion machinery of 3,000 kW propulsion power or more, may serve as chief engineer officer on ships powered by main propulsion machinery of less than 3,000 kW propulsion power, provided that not less than 12 months' approved seagoing service shall have been served as an engineer officer in a position of responsibility and the certificate is so endorsed.

Regulation III/4

Mandatory minimum requirements for certification of ratings forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine-room

- 1 Every rating forming part of an engine-room watch or designated to perform duties in a periodically unmanned engine-room on a seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more, other than ratings under training and ratings whose duties are of an unskilled nature, shall be duly certificated to perform such duties.
- 2 Every candidate for certification shall:
 - .1 be not less than 16 years of age;
 - .2 have completed:
 - .2.1 approved seagoing service including not less than six months training and experience, or
 - .2.2 special training, either pre-sea or on board ship, including an approved period of seagoing service which shall not be less than two months; and
 - .3 meet the standard of competence specified in section A-III/4 of the STCW Code.
- 3 The seagoing service, training and experience required by sub-paragraphs 2.2.1 and 2.2.2 shall be associated with engine-room watchkeeping functions and involve the performance of duties carried out under the direct supervision of a qualified engineer officer or a qualified rating.
- 4 Seafarers may be considered by the Party to have met the requirements of this regulation if they have served in a relevant capacity in the engine department for a period of not less than one year within the last five years preceding the entry into force of the Convention for that Party.

CHAPTER IV

Radiocommunication and radio personnel

Explanatory note

Mandatory provisions relating to radio watchkeeping are set forth in the Radio Regulations and in the International Convention for the Safety of Life at Sea, 1974, as amended. Provisions for radio maintenance are set forth in the International Convention for the Safety of Life at Sea, 1974, as amended, and the guidelines adopted by the Organization.*

Regulation IV/1

Application

- 1 Except as provided in paragraph 3, the provisions of this chapter apply to radio personnel on ships operating in the global maritime distress and safety system (GMDSS) as

* Refer to the Radio Maintenance Guidelines for the Global Maritime Distress and Safety System (GMDSS) Related to Sea Areas A3 and A4 adopted by the Organization by resolution A.702(17).

prescribed by the International Convention for the Safety of Life at Sea, 1974, as amended.

- 2 Until 1 February 1999, radio personnel on ships complying with the provisions of the International Convention for the Safety of Life at Sea, 1974, in force immediately prior to 1 February 1992 shall comply with the provisions of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, in force prior to 1 December 1992.
- 3 Radio personnel on ships not required to comply with the provisions of the GMDSS in chapter IV of the SOLAS Convention are not required to meet the provisions of this chapter. Radio personnel on these ships are, nevertheless, required to comply with the Radio Regulations. The Administration shall ensure that the appropriate certificates as prescribed by the Radio Regulations are issued to or recognized in respect of such radio personnel.

Regulation IV/2

Mandatory minimum requirements for certification of GMDSS radio personnel

- 1 Every person in charge of or performing radio duties on a ship required to participate in the GMDSS shall hold an appropriate certificate related to the GMDSS, issued or recognized by the Administration under the provisions of the Radio Regulations.
- 2 In addition, every candidate for certification under this regulation for service on a ship which is required by the International Convention for the Safety of Life at Sea, 1974, as amended, to have a radio installation shall:
 - .1 be not less than 18 years of age; and
 - .2 have completed approved education and training and meet the standard of competence specified in section A-IV/2 of the STCW Code.

CHAPTER V

Special training requirements for personnel on certain types of ships

Regulation V/1

Mandatory minimum requirements for the training and qualification of masters, officers and ratings on tankers

- 1 Officers and ratings assigned specific duties and responsibilities related to cargo or cargo equipment on tankers shall have completed an approved shore-based fire-fighting course in addition to the training required by regulation VI/1 and shall have completed:
 - .1 at least three months of approved seagoing service on tankers in order to acquire adequate knowledge of safe operational practices; or
 - .2 an approved tanker familiarization course covering at least the syllabus given for that course in section A-V/1 of the STCW Code, so however that, the Administration may accept a period of supervised seagoing service shorter than that prescribed by sub-paragraph .1, provided:
 - .3 the period so accepted is not less than one month;
 - .4 the tanker is of less than 3,000 gross tonnage;
 - .5 the duration of each voyage on which the tanker is engaged during the period does not exceed 72 hours; and
 - .6 the operational characteristics of the tanker and the number of voyages and loading and discharging operations completed during the period, allow the same level of knowledge and experience to be acquired.
- 2 Masters, chief engineer officers, chief mates, second engineer officers and any person with immediate responsibility for loading, discharging and care in transit or handling of cargo shall, in addition to meeting the requirements of sub-paragraphs 1.1 or 1.2, have:
 - .1 experience appropriate to their duties on the type of tanker on which they serve; and

- .2 completed an approved specialized training programme which at least covers the subjects set out in section A-V/1 of the STCW Code that are appropriate to their duties on the oil tanker, chemical tanker or liquefied gas tanker on which they serve.
- 3 Within two years after the entry into force of the Convention for a Party, seafarers may be considered to have met the requirements of sub-paragraph 2.2 if they have served in a relevant capacity on board the type of tanker concerned for a period of not less than one year within the preceding five years.
- 4 Administrations shall ensure that an appropriate certificate is issued to masters and officers, who are qualified in accordance with paragraphs 1 or 2 as appropriate, or that an existing certificate is duly endorsed. Every rating who is so qualified shall be duly certificated.

Regulation V/2

Mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on ro-ro passenger ships

- 1 This regulation applies to masters, officers, ratings and other personnel serving on board ro-ro passenger ships engaged on international voyages. Administrations shall determine the applicability of these requirements to personnel serving on ro-ro passenger ships engaged on domestic voyages.
- 2 Prior to being assigned shipboard duties on board ro-ro passenger ships, seafarers shall have completed the training required by paragraphs 4 to 8 below in accordance with their capacity, duties and responsibilities.
- 3 Seafarers who are required to be trained in accordance with paragraphs 4, 7 and 8 below shall, at intervals not exceeding five years, undertake appropriate refresher training.
- 4 Masters, officers and other personnel designated on muster lists to assist passengers in emergency situations on board ro-ro passenger ships shall have completed training in crowd management as specified in section A-V/2, paragraph 1 of the STCW Code.
- 5 Masters, officers and other personnel assigned specific duties and responsibilities on board ro-ro passenger ships shall have completed the familiarization training specified in section A-V/2, paragraph 2 of the STCW Code.
- 6 Personnel providing direct service to passengers in passenger spaces on board ro-ro passenger ships shall have completed the safety training specified in section A-V/2, paragraph 3 of the STCW Code.
- 7 Masters, chief mates, chief engineer officers, second engineer officers and every person assigned immediate responsibility for embarking and disembarking passengers, loading, discharging or securing cargo, or closing hull openings on board ro-ro passenger ships shall have completed approved training in passenger safety, cargo safety and hull integrity as specified in section A-V/2, paragraph 4 of the STCW Code.
- 8 Masters, chief mates, chief engineer officers, second engineer officers and any person having responsibility for the safety of passengers in emergency situations on board ro-ro passenger ships shall have completed approved training in crisis management and human behaviour as specified in section A-V/2, paragraph 5 of the STCW Code.
- 9 Administrations shall ensure that documentary evidence of the training which has been completed is issued to every person found qualified under the provisions of this regulation.

CHAPTER VI

Emergency, occupational safety, medical care and survival functions

Regulation VI/1

Mandatory minimum requirements for familiarization, basic safety training and instruction for all seafarers

Seafarers shall receive familiarization and basic safety training or instruction in accordance with section A-VI/1 of the STCW Code and shall meet the appropriate standard of competence specified therein.

Regulation VI/2

Mandatory minimum requirements for the issue of certificates of proficiency in survival craft, rescue boats and fast rescue boats

- 1 Every candidate for a certificate of proficiency in survival craft and rescue boats other than fast rescue boats shall:
 - .1 be not less than 18 years of age;
 - .2 have approved seagoing service of not less than 12 months or have attended an approved training course and have approved seagoing service of not less than six months; and
 - .3 meet the standard of competence for certificates of proficiency in survival craft and rescue boats set out in section A-VI/2, paragraphs 1 to 4 of the STCW Code.
- 2 Every candidate for a certificate of proficiency in fast rescue boats shall:
 - .1 be the holder of a certificate of proficiency in survival craft and rescue boats other than fast rescue boats;
 - .2 have attended an approved training course; and
 - .3 meet the standard of competence for certificates of proficiency in fast rescue boats set out in section A-VI/2, paragraphs 5 to 8 of the STCW Code.

Regulation VI/3

Mandatory minimum requirements for training in advanced fire fighting

- 1 Seafarers designated to control fire-fighting operations shall have successfully completed advanced training in techniques for fighting fire with particular emphasis on organization, tactics and command in accordance with the provisions of section A-VI/3 of the STCW Code and shall meet the standard of competence specified therein.
- 2 Where training in advanced fire fighting is not included in the qualifications for the certificate to be issued, a special certificate or documentary evidence, as appropriate, shall be issued indicating that the holder has attended a course of training in advanced fire fighting.

Regulation VI/4

Mandatory minimum requirements relating to medical first aid and medical care

1. Seafarers designated to provide medical first aid on board ship shall meet the standard of competence in medical first aid specified in section A-VI/4, paragraphs 1 to 3 of the STCW Code.
- 2 Seafarers designated to take charge of medical care on board ship shall meet the standard of competence in medical care on board ships specified in section A-VI/4, paragraphs 4 to 6 of the STCW Code.
- 3 Where training in medical first aid or medical care is not included in the qualifications for the certificate to be issued, a special certificate or documentary evidence, as appropriate, shall be issued indicating that the holder has attended a course of training in medical first aid or in medical care.

CHAPTER VII

Alternative certification

Regulation VII/1

Issue of alternative certificates

- 1 Notwithstanding the requirements for certification laid down in chapters II and III of this annex, Parties may elect to issue or authorize the issue of certificates other than those mentioned in the regulations of those chapters, provided that:

- .1 the associated functions and levels of responsibility to be stated on the certificates and in the endorsements are selected from and identical to those appearing in sections A-II/1, A-II/2, A-II/3, A-II/4, A-III/1, A-III/2, A-III/3, A-III/4 and A-IV/2 of the STCW Code;
 - .2 the candidates have completed approved education and training and meet the requirements for standards of competence, prescribed in the relevant sections of the STCW Code and as set forth in section A-VII/1 of this Code, for the functions and levels that are to be stated on the certificates and in the endorsements;
 - .3 the candidates have completed approved seagoing service appropriate to the performance of the functions and levels that are to be stated on the certificate. The minimum duration of seagoing service shall be equivalent to the duration of seagoing service prescribed in chapters II and III of this annex. However, the minimum duration of seagoing service shall be not less than as prescribed in section A-VII/2 of the STCW Code;
 - .4 the candidates for certification who are to perform the function of navigation at the operational level shall meet the applicable requirements of the regulations in chapter IV, as appropriate, for performing designated radio duties in accordance with the Radio Regulations; and
 - .5 the certificates are issued in accordance with the requirements of regulation I/9 and the provisions set forth in chapter VII of the STCW Code.
- 2 No certificate shall be issued under this chapter unless the Party has communicated information to the Organization in accordance with article IV and regulation I/7.

Regulation VII/2

Certification of seafarers

- 1 Every seafarer who performs any function or group of functions specified in tables A-II/1, A-II/2, A-II/3 or A-II/4 of chapter II or in tables A-III/1, A-III/2, A-III/4 of chapter III or A-IV/2 of chapter IV of the STCW Code shall hold an appropriate certificate.

Regulation VII/3

Principles governing the issue of alternative certificates

- 1 Any Party which elects to issue or authorize the issue of alternative certificates shall ensure that the following principles are observed:
- .1 no alternative certification system shall be implemented unless it ensures a degree of safety at sea and has a preventive effect as regards pollution at least equivalent to that provided by the other chapters; and
 - .2 any arrangement for alternative certification issued under this chapter shall provide for the interchangeability of certificates with those issued under the other chapters.
- 2 The principle of interchangeability in paragraph 1 shall ensure that:
- .1 seafarers certificated under the arrangements of chapters II and/or III and those certificated under chapter VII are able to serve on ships which have either traditional or other forms of shipboard organization; and
 - .2 seafarers are not trained for specific shipboard arrangements in such a way as would impair their ability to take their skills elsewhere.
- 3 In issuing any certificate under the provisions of this chapter the following principles shall be taken into account:
- .1 the issue of alternative certificates shall not be used in itself;
 - .1 to reduce the number of crew on board,
 - .2 to lower the integrity of the profession or "de-skill" seafarers, or
 - .3 to justify the assignment of the combined duties of the engine and deck watchkeeping officers to a single certificate holder during any particular watch; and

- .2 the person in command shall be designated as the master; and the legal position and authority of the master and others shall not be adversely affected by the implementation of any arrangement for alternative certification.
- 4 The principles contained in paragraphs 1 and 2 of this regulation shall ensure that the competency of both deck and engineer officers is maintained.

CHAPTER VIII

Watchkeeping

Regulation VIII/1

Fitness for duty

Each Administration shall, for the purpose of preventing fatigue:

- .1 establish and enforce rest periods for watchkeeping personnel; and
- .2 require that watch systems are so arranged that the efficiency of all watchkeeping personnel is not impaired by fatigue and that duties are so organized that the first watch at the commencement of a voyage and subsequent relieving watches are sufficiently rested and otherwise fit for duty.

Regulation VIII/2

Watchkeeping arrangements and principles to be observed

- 1 Administrations shall direct the attention of companies, masters, chief engineer officers and all watchkeeping personnel to the requirements, principles and guidance set out in the STCW Code which shall be observed to ensure that a safe continuous watch or watches appropriate to the prevailing circumstances and conditions are maintained in all seagoing ships at all times.
- 2 Administrations shall require the master of every ship to ensure that watchkeeping arrangements are adequate for maintaining a safe watch or watches, taking into account the prevailing circumstances and conditions and that, under the master's general direction:
 - .1 officers in charge of the navigational watch are responsible for navigating the ship safely during their periods of duty, when they shall be physically present on the navigating bridge or in a directly associated location such as the chartroom or bridge control room at all times;
 - .2 radio operators are responsible for maintaining a continuous radio watch on appropriate frequencies during that periods of duty;
 - .3 officers in charge of an engineering watch, as defined in the STCW Code and under the direction of the chief engineer officer, shall be immediately available and on call to attend the machinery spaces and, when required, shall be physically present in the machinery space during their periods of responsibility; and
 - .4 an appropriate and effective watch or watches are maintained for the purpose of safety at all times, while the ship is at anchor or moored and, if the ship is carrying hazardous cargo, the organization of such watch or watches takes full account of the nature, quantity, packing and stowage of the hazardous cargo and of any special conditions prevailing on board, afloat or ashore.

2.2.4. Attachment 3 to the Final Act of the Conference

Resolution 3

Transitional provisions

THE CONFERENCE,

HAVING ADOPTED the 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978,

HAVING AGREED that the amendments will include regulation I/15 on Transitional provisions, which allows for an interval of 5 years before Parties will be required to issue, recognize and endorse certificates in accordance with the amendments adopted by the Conference,

RECOGNIZING that, in order for full compliance to be achieved by 1 February 2002, it is necessary for Parties to begin promptly taking appropriate measures to implement the revised Convention in their national training, certification and administration systems,

BEING CONCERNED that difficulties which may arise in connection with implementing the requirements of the revised STCW Convention could undermine the objective of introducing the highest practicable standards of competence at the earliest possible time,

1. URGES each Party to keep the Maritime Safety Committee of the International Maritime Organization informed of progress being made in respect of the transitional provisions of regulation I/15 under its national system to implement the requirements of the amendments to the STCW Convention, adopted by the Conference, as well as any difficulties encountered in this regard;
2. INVITES the Maritime Safety Committee, in order to promote the introduction of the highest practicable standards of competence as soon as possible, to monitor progress toward implementation of the revised STCW Convention by all Parties, with the aim of encouraging an orderly transition and anticipating complications which could otherwise undermine full and effective implementation.

2.2.5. Resolution 4

Training of radio operators for the global maritime distress and safety system (GMDSS)

THE CONFERENCE,

HAVING ADOPTED the 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, with a view to strengthening the implementation of the Convention and thereby improving the competence of seafarers,

HAVING ALSO ADOPTED requirements for all officers in charge of a navigational watch to be trained and certificated, as appropriate, for performing designated radio duties,

RECOGNIZING the importance of efficient radio watchkeeping and radio maintenance for the safety of life and property at sea and the protection of the marine environment,

BEARING IN MIND the requirements of the global maritime distress and safety system (GMDSS) prescribed by the Radio Regulations and the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended in 1988,

NOTING that, in accordance with regulation IV/1 of the 1974 SOLAS Convention, as amended in 1988, every ship to which chapter IV of the SOLAS Convention applies will, after 1 February 1999, comply with all applicable requirements of that chapter and the GMDSS will be fully implemented,

NOTING ALSO that regulation IV/16 of the 1974 SOLAS Convention, as amended, requires that every ship shall carry personnel qualified for distress and safety radio-communication purposes to the satisfaction of the Administration,

NOTING FURTHER that resolution A.769 (18) adopted by the Assembly of the International Maritime Organization recommends Governments, before issuing a GMDSS certificate to a holder of a non-GMDSS certificate, to require the candidate to pass at least a limited examination in accordance with procedures and arrangements set out in that resolution, being aware, however, that the provisions of that resolution expire on 1 February 1997,

APPRECIATING that the GMDSS will also provide the only means for conducting distress and safety communications for most other ships to which the 1974 SOLAS Convention, as amended, does not apply,

APPRECIATING ALSO the need for persons on board such ships to also be trained and certificated in accordance with the Radio Regulations and with the 1978 STCW Convention, as amended,

RECOGNIZING that this necessitates the training and certification of a considerable number of existing masters, deck officers and radiocommunication personnel to undertake GMDSS radio operator functions prior to 1 February 1999,

BEING OF THE OPINION that, if such training and certification is delayed, there may be a shortage of GMDSS radio operators world-wide when the GMDSS is fully implemented,

STRONGLY URGES Governments to:

- .1 take steps to ensure that a sufficient number of persons taking responsibility for distress and safety communications on their ships are trained and certificated as GMDSS radio operators prior to 1 February 1999, without reducing the quality of the training;
- .2 bring this matter to the attention of their shipowners and seafarers and of all others who may need to use, or whose vessels may need to use, GMDSS services.

2.2.6. Resolution 5

Training in crisis management and human behaviour for personnel serving on board ro-ro passenger ships

THE CONFERENCE,

HAVING ADOPTED the 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, and the International Seafarers' Training, Certification and Watchkeeping (STCW) Code,

CONSIDERING regulation V/2.8 of the STCW Convention, as amended, which requires masters, chief mates, chief engineer officers, second engineer officers and any person having responsibility for the safety of passengers in emergency situations to be trained in crisis management and human behaviour,

CONSIDERING ALSO that the STCW Code, *inter alia*, requires that such training shall be to the satisfaction of the Administration based on standards developed by the International Maritime Organization,

NOTING that the Maritime Safety Committee of the Organization, at its sixty-fifth session, agreed that crisis management and human behaviour training is essential for key personnel on ro-ro passenger ships and should include the following elements:

human behaviour and responses,
optimizing the use of resources,
development of emergency plans,
leadership skills,
stress handling, and
communication,

Also NOTING the opinion of the Maritime Safety Committee that the details of such crisis management and human behaviour training have to be further developed to include the knowledge, understanding and proficiency to be achieved, the method for demonstrating competence and the criteria for evaluating competence before they are included in part A of the STCW Code,

INVITES the International Maritime Organization to develop, as a matter of urgency, detailed provisions on the training of personnel on ro-ro passenger ships in crisis management and human behaviour, for possible inclusion in the STCW Code.

2.2.7. Resolution 6

Training of personnel on passenger ships

THE CONFERENCE,

HAVING ADOPTED the 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, including regulation V/2 on mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on ro-ro passenger ships,

ANTICIPATING that such special training provisions will significantly increase the safety of passengers on ro-ro passenger ships during emergency situations,

RECOGNIZING the important contribution of ship's personnel towards the safe evacuation of passengers in emergency situations,

APPRECIATING that personnel designated to assist passengers in emergency situations on passenger ships may have to assist fellow crew members who are not specially trained and that this could affect the behaviour of passengers in such situations,

BEING AWARE that some passenger ship personnel are not required to be trained to the same standard as personnel on ro-ro passenger ships,

1. INVITES the International Maritime Organization to consider developing appropriate provisions covering the training of masters, officers, ratings and other personnel serving on passenger ships for inclusion in the 1978 STCW Convention, as amended;
2. INVITES Parties to the 1978 STCW Convention to consider applying voluntarily to personnel serving on passenger ships, the relevant training provisions of regulation V/2.

2.2.8. Resolution 7

Monitoring the implications of alternative certification

THE CONFERENCE,

HAVING ADOPTED the 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978,

RECOGNIZING that chapter VII of the revised annex to the STCW Convention provides for alternative certification systems and that such systems may be implemented in different ways by Parties to the Convention,

RECOGNIZING FURTHER that experience with such systems is, at present, limited and that they may significantly affect the distribution of work and responsibility among crew members,

DESIRING to ensure that the implementation of such systems will not, as a consequence, prejudice the safety of life at sea, the safety of the ship, its operation, or the protection of the marine environment,

INVITES the Maritime Safety Committee of the International Maritime Organization to keep under review the implementation of chapter VII of the revised annex to the STCW Convention and the relevant sections of the STCW Code with the aim of:

- .1 identifying the alternative certification systems being implemented under chapter VII;

- .2 determining whether revisions are needed to the STCW Code to ensure that the requirements for implementation of such systems are adequate and effective; and
- .3 developing further the principles contained in regulation VII/3 and clarifying their application.

2.2.9. Resolution 8

Promotion of technical knowledge, skills and professionalism of seafarers

THE CONFERENCE,

HAVING ADOPTED the 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, with a view to strengthening the implementation of the Convention and thereby improving the competence of seafarers,

APPRECIATING that the overall effectiveness of selection, training and certification processes can only be evaluated through the skills, abilities and competence exhibited by seafarers during the course of their service on board ship,

RECOMMENDS that Administrations should make arrangements to ensure that companies:

- .1 establish criteria and processes for the selection of personnel exhibiting the highest practicable standards of technical knowledge, skills and professionalism;
- .2 monitor the standards exhibited by ship's personnel in the performance of their duties;
- .3 encourage all officers to participate actively in the training of junior personnel;
- .4 monitor carefully and frequently review the progress made by junior personnel in their acquisition of knowledge and skills during their service on board ship;
- .5 provide refresher and updating training at suitable intervals as may be required; and
- .6 take all appropriate measures to encourage pride of service and professionalism on the part of the personnel they employ.

2.2.10. Resolution 9

Development of international standards of medical fitness for seafarers

THE CONFERENCE,

HAVING ADOPTED the 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCWS) 1978,

NOTING the lack of agreed international standards of medical fitness for seafarers,

RECOGNIZING the importance of the overall medical fitness of master and ships' crews to the safety of life and property at sea and the protection of the marine environment,

TAKING COGNIZANCE OF the International Labour Organization's conventions concerning the medical examination of seafarers,

NOTING FURTHER that the International Labour Organization and the World Health Organization are undertaking research into existing medical examination requirements for seafarers on a global basis,

INVITES the Organization, in co-operation with the International Labour Organization and the World Health Organization, to develop international standards of medical fitness for seafarers.

2.2.11. Resolution 10

Training of maritime pilots, vessel traffic service personnel and maritime personnel employed on mobile offshore units

THE CONFERENCE,

HAVING ADOPTED the 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978,

BEARING IN MIND the contribution made to safety of life and property at sea and to the protection of the marine environment by maritime pilots, vessel traffic service personnel and maritime personnel employed on board mobile offshore units,

NOTING that time constraints have prevented full consideration to be given to the possibility of including provisions on the training and certification of such personnel in the amendments to the 1978 STCW Convention adopted by the Conference,

INVITES the International Maritime Organization to consider developing provisions covering the training and certification of maritime pilots, vessel traffic service personnel and maritime personnel employed on mobile offshore units for inclusion in the 1978 STCW Convention or in such other instrument or instruments as may be appropriate.

2.2.12. Resolution 11

Promotion of technical co-operation

THE CONFERENCE,

HAVING ADOPTED the 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978,

RECOGNIZING the importance of adequate education, training and appropriate experience for all seafarers,

NOTING the provisions of the 1995 amendments to the 1978 STCW Convention which aim at enhancing the mandatory minimum requirements for the training and qualifications of all seafarers,

RECOGNIZING FURTHER that, in some cases, there may be limited facilities for obtaining the required experience and providing specialized training programmes, particularly in developing countries,

BELIEVING that the promotion of technical co-operation at an inter-governmental level will assist those States not yet having adequate expertise or facilities for providing such training and experience to implement the revised STCW Convention requirements,

1. STRONGLY URGES Parties to provide, or arrange to provide, in co-operation with the International Maritime Organization, assistance to those States which have difficulty in meeting the improved requirements of the STCW Convention and which request such assistance;
2. INVITES the International Maritime Organization to extend endeavours to provide States with the assistance they require and to make adequate provision for that purpose within its technical co-operation programme.

2.2.13. Resolution 12

Contribution of the World Maritime University (WMU) in the achievement of enhanced standards of maritime training

THE CONFERENCE,

HAVING ADOPTED the 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978,

HAVING ALSO ADOPTED resolution 11 on Promotion of technical co-operation,

BEING AWARE that many countries, in particular developing countries, may have difficulty in achieving the levels of training and assessment required by the amended convention,

RECOGNIZING the significance of the contribution of the WMU graduates, particularly in developing countries, to the implementation of the amended STCW Convention and improved standards of training, as well as to the implementation of standards incorporated in various maritime safety and pollution prevention-related conventions of the International Maritime Organization in general,

BEING ALSO AWARE that there is a continuing need for personnel in the international maritime field to have an adequate level of education and training in order to achieve the objectives of the Organization for safer shipping and cleaner oceans in a uniform and effective manner worldwide,

NOTING that this continuing need can be met by the WMU assuming a leading role for the transfer of maritime education and knowledge through its activities and the networking of advanced maritime training establishments,

1. URGES the Organization to continue to:

.1 utilize the resources and expertise of the WMU to transfer maritime education and knowledge wherever needed, particularly in developing countries; and

.2 encourage and support the WMU to assume a leading role for the promotion and implementation of a network of advanced maritime training establishments;

2. RECOMMENDS STRONGLY that Governments continue to support and utilize the resources of the WMU to meet their needs for highly trained maritime lecturers and administrators;

3. REQUESTS the Secretary-General of the Organization to bring this resolution to the attention of the Assembly of the Organization inviting it to consider adopting a similar resolution.

2.2.14. Resolution 13

Revision of model courses published by the International Maritime Organization

THE CONFERENCE,

HAVING ADOPTED the 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978,

RECOGNIZING the significant contribution made through the publication by the International Maritime Organization of model courses, which have provided core curricula based on the minimum requirements of the STCW Convention provisions adopted in 1978,

APPRECIATING that the model courses have thereby assisted many training institutions to improve the quality of the training they provide and have been used to improve procedures for assessing competency,

DESIRING to achieve greater uniformity in the application of the training and assessment provisions of the STCW Convention, as amended,

INVITES:

.1 the Organization to take steps to revise and update those model courses which provide guidance on the implementation of the training and assessment provisions of the STCW Convention, as amended; and

.2 Governments to provide funding for, and otherwise assist in, the revision and updating of such model courses.

2.2.15. Resolution 14

Promotion of the participation of women in the maritime industry

THE CONFERENCE,

HAVING ADOPTED the 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978,

NOTING the International Maritime Organization's Medium-Term Plan for the Integration of Women in the Maritime Sector and expressing support for the Organization's aims of promoting the training of women in the maritime sector,

DESIRING to achieve equal access for men and women to maritime training and to employment on board ship,

INVITES Governments:

- .1 to give special consideration to securing equal access by men and women in all sectors of the maritime industry;
- .2 to highlight the role of women in the seafaring profession and to promote their greater participation in maritime training and at all levels in the maritime industry.

2.2.16. Attachment 2 to the Final Act of the Conference

Resolution 2

Adoption of the Seafarers' Training, Certification and Watchkeeping Code

THE CONFERENCE,

HAVING ADOPTED resolution 1 on Adoption of the 1995 amendments to the annex to the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers (STCW), 1978,

RECOGNIZING the importance of establishing detailed mandatory standards of competence and other mandatory provisions necessary to ensure that all seafarers shall be properly educated and trained, adequately experienced, skilled and competent to perform their duties in a manner which provides for the safety of life and property at sea and the protection of the marine environment,

ALSO RECOGNIZING the need to allow for the timely amendment of such mandatory standards and provisions in order to effectively respond to changes in technology, operations, practices and procedures used on board ships,

RECALLING that a large percentage of maritime casualties and pollution incidents are caused by human error,

APPRECIATING that one effective means of reducing the risks associated with human error in the operation of seagoing ships is to ensure that the highest practicable standards of training, certification and competence are maintained in respect of the seafarers who are employed on such ships,

DESIRING to achieve and maintain the highest practicable standards for the safety of life and property at sea and in port and for the protection of the environment,

HAVING CONSIDERED the Seafarers' Training, Certification and Watchkeeping (STCW) Code, comprised of part A - Mandatory standards regarding provisions of the annex to the 1978 STCW Convention, as amended, and part B - Recommended guidance regarding provisions of the 1978 STCW Convention, as amended, proposed and circulated to all Members of the Organization and all Parties to the Convention,

NOTING that regulation I/1, paragraph 2, of the amended annex to the 1978 STCW Convention provides that part A of the STCW Code supplements the regulations annexed

to the Convention and that any reference to a requirement in a regulation also constitutes a reference to the corresponding section of part A of the STCW Code,

1. ADOPTS:

- .1 the Seafarers' Training, Certification and Watchkeeping (STCW) Code, part A - Mandatory standards regarding provisions of the annex to the 1978 STCW Convention, as amended, set out in annex 1 to the present resolution;
- .2 the Seafarers' Training, Certification and Watchkeeping (STCW) Code, part B - Recommended guidance regarding provisions of the 1978 STCW Convention, as amended, and its annex, set out in annex 2 to the present resolution;

2. RESOLVES:

- .1 that the provisions of part A of the STCW Code shall enter into force for each Party to the 1978 STCW Convention, as amended, on the same date and in the same manner as the amendments to that Convention adopted by the Conference;
- .2 to recommend that the guidance contained in part B of the STCW Code should be taken into account by all Parties to the 1978 STCW Convention, as amended; as from the date of entry into force of the amendments to that Convention adopted by the Conference;

3. INVITES the International Maritime Organization:

- .1 to keep the provisions of parts A and B of the STCW Code under review and consult, as may be appropriate, with the International Labour Organization, the International Telecommunication Union and the World Health Organization and to bring the need for any future amendment thereto to the attention of the Maritime Safety Committee for consideration and adoption as may be appropriate;
- .2 to communicate this resolution and any future amendment thereto that may be adopted, to the attention of all Parties to the STCW Convention.

2.2.17. Annex 1

Seafarers' Training, Certification and Watchkeeping (STCW) Code

2.2.17.1. Part A

Mandatory standards regarding provisions of the annex to the STCW Convention

Introduction

- 1 This part of the STCW Code contains mandatory provisions to which specific reference is made in the annex to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended, hereinafter referred to as the STCW Convention. These provisions give in detail the minimum standards required to be maintained by Parties in order to give in detail and complete effect to the Convention.
- 2 Also contained in this part are standards of competence required to be demonstrated by candidates for the issue and revalidation of certificates of competency under the provisions of the STCW Convention. To clarify the linkage between the alternative certification provisions of chapter VII and the certification provisions of chapters II, III and IV, the abilities specified in the standards of competence are grouped as appropriate under the following seven functions:
 - .1 Navigation
 - .2 Cargo handling and stowage
 - .3 Controlling the operation of the ship and care for persons on board
 - .4 Marine engineering
 - .5 Electrical, electronic and control engineering
 - .6 Maintenance and repair
 - .7 Radiocommunications

at the following levels of responsibility:

- .1 Management level
- .2 Operational level
- .3 Support level

Functions and levels of responsibility are identified by subtitle in the tables of standards of competence given in chapters II, III, and IV of this part. The scope of the function at the level of responsibility stated in a subtitle is defined by the abilities listed under it in column 1 of the table. The meaning of "function" and "level of responsibility" is defined in general terms in section A-I/1 below.

- 3 The numbering of the sections of this part corresponds with the numbering of the regulations contained in the annex to the STCW Convention. The text of the sections may be divided into numbered parts and paragraphs, but such numbering is unique to that text alone.

Chapter I

Standards regarding general provisions

Section A-I/1

Definitions and clarifications

- 1 The definitions and clarifications contained in article II and regulation I/I apply equally to the terms used in parts A and B of this Code. In addition, the following supplementary definitions apply only to this Code:

- .1 *Standard of competence* means the level of proficiency to be achieved for the proper performance of functions on board ship in accordance with the internationally agreed cri-

agreed criteria as set forth herein and incorporating prescribed standards or levels of knowledge, understanding and demonstrated skill;

- .2 *Management level* means the level of responsibility associated with:
 - .2.1 serving as master, chief mate, chief engineer officer or second engineer officer on board a seagoing ship, and
 - .2.2 ensuring that all functions within the designated area of responsibility are properly performed;
- .3 *Operational level* means the level of responsibility associated with:
 - .3.1 serving as officer in charge of a navigational or engineering watch or as designated duty engineer for periodically unmanned machinery spaces or as radio operator on board a seagoing ship, and
 - .3.2 maintaining direct control over the performance of all functions within the designated area of responsibility in accordance with proper procedures and under the direction of an individual serving in the management level for that area of responsibility;
- .4 *Support level* means the level of responsibility associated with performing assigned tasks, duties or responsibilities on board a seagoing ship under the direction of an individual serving in the operational or management level;
- .5 *Evaluation criteria* are the entries appearing in column 4 of the "Specification of Minimum Standard of Competence" tables in part A and provide the means for an assessor to judge whether or not a candidate can perform the related tasks, duties and responsibilities; and
- .6 *Independent evaluation* means an evaluation by suitably qualified persons, independent of, or external to, the unit or activity being evaluated, to verify that the administrative and operational procedures at all levels are managed, organized, undertaken and monitored internally in order to ensure their fitness for purpose and achievement of stated objectives.

Section A-I/2

Certificates and endorsements

- 1 Where, as provided in regulation I/2, paragraph 4, the endorsement required by article VI of the Convention is incorporated in the wording of the certificate itself, the certificate shall be issued in the format shown hereunder, provided that the words "or until the date of expiry of any extension of the validity of this certificate as may be shown overleaf" appearing on the front of the form and the provisions for recording extension of the validity appearing on the back of the form shall be omitted where the certificate is required to be replaced upon its expiry. Guidance on completion of the form is contained in section B-I/2 of this Code.

(Official Seal)

(COUNTRY)

CERTIFICATE ISSUED UNDER THE PROVISIONS OF THE INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS. 1978, AS AMENDED IN 1995

The Government of certifies that has been found duly qualified in accordance with the provisions of regulation of the above Convention, as amended, and has been found competent to perform the following functions, at the levels specified, subject to any limitations indicated until or until the date of expiry of any extension of the validity of this certificate as may be shown overleaf:

FUNCTION	LEVEL	LIMITATIONS APPLYING (IF ANY)

The lawful holder of this certificate may serve in the following capacity or capacities specified in the applicable safe manning requirements of the Administration:

CAPACITY	LIMITATIONS APPLYING (IF ANY)

Certificate No. issued on
(Official Seal)
Signature of duly authorized official
Name of duly authorized official

The original of this certificate must be kept available in accordance with regulation I/2. paragraph 9 of the Convention while serving on a ship.
Date of birth of the holder of the certificate
Signature of the holder of the certificate
Photograph of the holder of the certificate

The validity of this certificate is hereby extended until

(Official seal)
Signature of duly authorized official

Date of revalidation.....
Name of duly authorized official

The validity of this certificate is hereby extended until

(Official seal)
Signature of duly authorized official

Date of revalidation.....
Name of duly authorized official

2 Except as provided in paragraph 1, the form used to attest the issue of a certificate shall be as shown hereunder, provided that the words "or until the date of expiry of any extension of the validity of this endorsement as may be shown overleaf" appearing on the front of the form and the provisions for recording extension of the validity appearing on the back of the form shall be omitted where the endorsement is required to be replaced upon its expiry. Guidance on completion of the form is contained in section B-I/2 of this Code.

(Official Seal)

(COUNTRY)
ENDORSEMENT ATTESTING THE ISSUE OF A CERTIFICATE
UNDER THE PROVISIONS OF THE INTERNATIONAL CONVENTION
ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING
FOR SEAFARERS. 1978. AS AMENDED IN 1995

The Government of certifies that certificate No has been issued to who has been found duly qualified in accordance with the provisions of regulation of the above Convention, as amended, and has been found competent to perform the following functions, at the levels specified, subject to any limitations indicated until or until the date of expiry of any extension of the validity of this endorsement as may be shown overleaf:

FUNCTION	LEVEL	LIMITATIONS APPLYING (IF ANY)

The lawful holder of this endorsement may serve in the following capacity or capacities specified in the applicable safe manning requirements of the Administration:

CAPACITY	LIMITATIONS APPLYING (IF ANY)

Endorsement No. issued on

(Official Seal)

Signature of duly authorized official

.....
Name of duly authorized official

The original of this endorsement must be kept available in accordance with regulation I/2, paragraph 9 of the Convention while serving on a ship.

Date of birth of the holder of the certificate

Signature of the holder of the certificate

Photograph of the holder of the certificate

The validity of this endorsement is hereby extended until	
(Official seal)	Signature of duly authorized official
Date of revalidation.....	
Name of duly authorized official	

The validity of this endorsement is hereby extended until	
(Official seal)	Signature of duly authorized official
Date of revalidation.....	
Name of duly authorized official	

3 The form used to attest the recognition of a certificate shall be as shown hereunder, except that the words "or until the date of expiry of any extension of the validity of this endorsement as may be shown overleaf" appearing on the front of the form and the provisions for recording extension of the validity appearing on the back of the form shall be omitted where the endorsement is required to be replaced upon its expiry. Guidance on completion of the form is contained in section B-I/2 of this Code.

(Official Seal)

(COUNTRY)
ENDORSEMENT ATTESTING THE RECOGNITION OF A CERTIFICATE UNDER THE PROVISIONS OF THE INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS, 1978, AS AMENDED IN 1995

The Government of certifies that Certificate No issued to by or on behalf of the Government of is duly recognized in accordance with the provisions of regulation I/10 of the above Convention, as amended, and the lawful holder is authorized to perform the following functions at the levels specified, subject to any limitations indicated until or until the date of expiry of any extension of the validity of this endorsement as may be shown overleaf:

FUNCTION	LEVEL	LIMITATIONS APPLYING (IF ANY)

The lawful holder of this endorsement may serve in the following capacity or capacities specified in the applicable safe manning requirements of the Administration:

CAPACITY	LIMITATIONS APPLYING (IF ANY)

Endorsement No. issued on

(Official Seal)

Signature of duly authorized official

.....

Name of duly authorized official

The original of this endorsement must be kept available in accordance with regulation I/2, paragraph 9 of the Convention while serving on a ship.

Date of birth of the holder of the certificate

Signature of the holder of the certificate

Photograph of the holder of the certificate

The validity of this endorsement is hereby extended until

(Official seal)

Signature of duly authorized official

Date of revalidation.....

Name of duly authorized official

The validity of this endorsement is hereby extended until

(Official seal)

Signature of duly authorized official

Date of revalidation.....

Name of duly authorized official

4 In using formats which may be different from those set forth in this section, pursuant to regulation I/2, paragraph 8, Parties shall ensure that in all cases:

- .1 all information relating to the identity and personal description of the holder, including name, date of birth, photograph and signature, along with the date on which the document was issued, shall be displayed on the same side of the documents; and
- .2 all information relating to the capacity or capacities in which the holder is entitled to serve, in accordance with the applicable safe manning requirements of the Administration, as well as any limitations, shall be prominently displayed and easily identified.

Section A-I/3

Principles governing near-coastal voyages

(No provisions)

Section A-I/4

Control procedures

- 1 The assessment procedure provided for in regulation I/4, paragraph 1.3, resulting from any of the occurrences mentioned therein shall take the form of a verification that members of the crew who are required to be competent do in net possess the necessary skills related to the occurrence.
- 2 It shall be borne in mind when making this assessment that on-board procedures are relevant to the International Safety Management (ISM) Code and that the provisions of this Convention are confined to the competence to safely execute those procedures.
- 3 Control procedures under this Convention shall be confined to the standards of competence of the individual seafarers on board and their skills related to watchkeeping as defined in part A of this Code. On-board assessment of competency shall commence with verification of the certificates of the seafarers.
- 4 Notwithstanding verification of the certificate, the assessment under regulation I/4, paragraph 1.3 can require the seafarer to demonstrate the related competency at the place of duty. Such demonstration may include verification that operational requirements in respect of watchkeeping standards have been met and that there is a proper response to emergency situations within the seafarer's level of competence.
- 5 In the assessment, only the methods for demonstrating competence together with the criteria for its evaluation and the scope of the standards given in part A of this Code shall be used.

Section A-I/5

National provisions

The provisions of regulation I/5 shall not be interpreted as preventing the allocation of tasks for training under supervision or in cases of *force majeure*.

Section A-I/6

Training and assessment

- 1 Each Party shall ensure that all training and assessment of seafarers for certification under the Convention is:
 - .1 structured in accordance with written programmes, including such methods and media of delivery, procedures, and course material as are necessary to achieve the prescribed standard of competence; and
 - .2 conducted, monitored, evaluated and supported by persons qualified in accordance with paragraphs 4, 5 and 6.
- 2 Persons conducting in-service training or assessment on board ship shall only do so when such training or assessment will not adversely affect the normal operation of the ship and they can dedicate their time and attention to training or assessment.

Qualifications of instructors, supervisors and assessors*

- 3 Each Party shall ensure that instructors, supervisors and assessors are appropriately qualified for the particular types and levels of training or assessment of competence of seafarers either on board or ashore, as required under the Convention, in accordance with the provisions of this section.

In-service training

- 4 Any person conducting in-service training of a seafarer, either on board or ashore, which is intended to be used in qualifying for certification under the Convention, shall:

* The following IMO Model Courses may be of assistance in the preparation of courses:

- .1 IMO Model Course 6.09 - *Training Course for Instructors*
- .2 IMO Model Course 3.12 - *Examination and Certification of Seafarers*

- .1 have an appreciation of the training programme and an understanding of the specific training objectives for the particular type of training being conducted;
 - .2 be qualified in the task for which training is being conducted; and
 - .3 if conducting training using a simulator:
 - .3.1 have received appropriate guidance in instructional techniques involving the use of simulators, and
 - .3.2 have gained practical operational experience on the particular type of simulator being used.
- 5 Any person responsible for the supervision of in-service training of a seafarer intended to be used in qualifying for certification under the Convention shall have a full understanding of the training programme and the specific objectives for each type of training being conducted.

Assessment of competence

- 6 Any person conducting in-service assessment of competence of a seafarer, either on board or ashore, which is intended to be used in qualifying for certification under the Convention, shall:
- .1 have an appropriate level of knowledge and understanding of the competence to be assessed;
 - .2 be qualified in the task for which the assessment is being made;
 - .3 have received appropriate guidance in assessment methods and practice;
 - .4 have gained practical assessment experience; and
 - .5 if conducting assessment involving the use of simulators, have gained practical assessment experience on the particular type of simulator under the supervision and to the satisfaction of an experienced assessor.

Training and assessment within an institution

- 7 Each Party which recognizes a course of training, a training institution, or a qualification granted by a training institution, as part of its requirements for the issue of a certificate required under the Convention, shall ensure that the qualifications and experience of instructors and assessors are covered in the application of the quality standard provisions of section A-I/8. Such qualification, experience and application of quality standards shall incorporate appropriate training in instructional techniques, and training and assessment methods and practice, and comply with all applicable requirements of paragraphs 4 to 6.

Section A-I/7

Communication of information

- 1 The information required by regulation I/7, paragraph 1 shall be communicated to the Secretary-General in the formats prescribed in paragraph 2 hereunder.
- 2 By 1 August 1998, or within one calendar year of entry into force of regulation I/7, whichever is later for the Party concerned, each Party shall report on the steps it has taken to give the Convention full and complete effect, which report shall include the following:
 - .1 the name, postal address and telephone and facsimile numbers and organization chart of the ministry, department or governmental agency responsible for administering the Convention;
 - .2 a concise explanation of the legal and administrative measures provided and taken to ensure compliance, particularly with regulations I/6 and I/9;
 - .3 a clear statement of the education, training, examination, competency
 - .4 a concise summary of the courses, training programmes, examinations and assessments provided for each certificate issued pursuant to the Convention;
 - .5 a concise outline of the procedures followed to authorize, accredit or approve training and examinations, medical fitness and competency assessments required by the Con-

- vention, the conditions attaching thereto, and a list of the authorizations, accreditations and approvals granted;
- .6 a concise summary of the procedures followed in granting any dispensation under article VIII of the Convention; and
 - .7 the results of the comparison carried out pursuant to regulation I/11 and a concise outline of the refresher and upgrading training mandated.
- 3 Each Party shall, within six months of:
 - .1 retaining or adopting any equivalent education or training arrangements pursuant to article IX, provide a full description of such arrangements;
 - .2 recognizing certificates issued by another Party, provide a report summarizing the measures taken to ensure compliance with regulation I/10; and
 - .3 authorizing the employment of seafarers holding alternative certificates issued under regulation VII/1 on ships entitled to fly its flag, provide the Secretary-General with a specimen copy of the type of safe manning documents issued to such ships.
 - 4 Each Party shall report the results of each evaluation carried out pursuant to regulation I/8, paragraph 2 within six months of its completion, which report shall describe the terms of reference of the evaluators, their qualifications and experience, the date and scope of the evaluation, the deficiencies found and the corrective measures recommended and carried out.
 - 5 The Secretary-General shall maintain a list of competent persons approved by the Maritime Safety Committee, including competent persons made available or recommended by the Parties, who may be called upon to assist in the preparation of the report required by regulation I/7, paragraph 2. These persons shall ordinarily be available during relevant sessions of the Maritime Safety Committee or its subsidiary bodies, but need not conduct their work solely during such sessions.
 - 6 In relation to regulation I/7, paragraph 2, the competent persons shall be knowledgeable of the requirements of the Convention and at least one of them shall have knowledge of the system of training and certification of the Party concerned.
 - 7 Any meeting of the competent persons shall:
 - .1 be held at the discretion of the Secretary-General;
 - .2 be comprised of an odd number of members, ordinarily not to exceed 5 persons;
 - .3 appoint its own chairman; and
 - .4 provide the Secretary-General with the agreed opinion of its members, or if no agreement is reached, with both the majority and minority views.
 - 8 The competent persons shall, on a confidential basis, express their views in writing on:
 - .1 a comparison of the facts reported in the information communicated to the Secretary-General by the Party with all relevant requirements of the Convention;
 - .2 the report of any relevant evaluation submitted under regulation I/8, paragraph 3; and
 - .3 any additional information provided by the Party.
 - 9 In preparing the report to the Maritime Safety Committee required by regulation I/7, paragraph 2, the Secretary-General shall:
 - .1 solicit and take into account the views expressed by competent persons selected from the list established pursuant to paragraph 5;
 - .2 seek clarification when necessary from the Party of any matter related to the information provided under regulation I/7, paragraph 1; and
 - .3 identify any area in which the Party may have requested assistance to implement the Convention.
 - 10 The Party concerned shall be informed of the arrangements for the meetings of competent persons, and its representatives shall be entitled to be present to clarify any matter related to the information provided pursuant to regulation I/7, paragraph 1.
 - 11 If the Secretary-General is not in a position to submit the report called for by paragraph 2 of regulation I/7, the Party concerned may request the Maritime Safety Committee to

take the action contemplated by paragraph 3 of regulation I/7, taking into account the information submitted pursuant to this section and the views expressed in accordance with paragraphs 7 and 8.

Section A-I/8

Quality standards

National objectives and quality standards

- 1 Each Party shall ensure that the education and training objectives and related standards of competence to be achieved are clearly defined and identify the levels of knowledge, understanding and skills appropriate to the examinations and assessments required under the Convention. The objectives and related quality standards may be specified separately for different courses and training programmes and shall cover the administration of the certification system.
- 2 The field of application of the quality standards shall cover the administration of the certification system, all training courses and programmes, examinations and experience required of instructors and assessors, having regard to the policies, systems, controls and internal quality assurance reviews established to ensure achievement of the defined objectives.
- 3 Each Party shall ensure that an independent evaluation of the knowledge, understanding, skills and competence acquisition and assessment activities, and of the administration of the certification system, is conducted at intervals of not more than five years in order to verify that:
 - .1 all internal management control and monitoring measures and follow-up actions comply with planned arrangements and documented procedures and are effective in ensuring achievement of the defined objectives;
 - .2 the results of each independent evaluation are documented and brought to the attention of those responsible for the area evaluated; and
 - .3 timely action is taken to correct deficiencies.
- 4 The report of the independent evaluation required by paragraph 3 of regulation I/8 shall include the terms of reference for the evaluation and the qualifications and experience of the evaluators.

Section A-I/9

Medical standards - Issue and registration of certificates

(No provisions)

Section A-I/10

Recognition of certificates

- 1 The provisions of regulation I/10, paragraph 4 regarding the non-recognition of certificates issued by a non-Party shall not be construed as preventing a Party, when issuing its own certificate, from accepting seagoing service, education and training acquired under the authority of a non-Party, provided the Party complies with regulation I/9 in issuing each such certificate and ensures that the requirements of the Convention relating to seagoing service, education, training and competence are complied with.
- 2 Where an Administration which has recognized a certificate withdraws its endorsement of recognition for disciplinary reasons, the Administration shall inform the Party that issued the certificate of the circumstances.

Section A-I/11

Revalidation of certificates

Professional competence

- 1 Continued professional competence as required under regulation I/11 shall be established by:
 - .1 approved seagoing service, performing functions appropriate to the certificate held, for a period of at least one year in total during the preceding five years; or

- .2 having performed functions considered to be equivalent to the seagoing service required in paragraph 1.1; or
- .3 one of the following:
 - .3.1 passing an approved test, or
 - .3.2 successfully completing an approved course or courses, or
 - .3.3 having completed approved seagoing service, performing functions appropriate to the certificate held, for a period of not less than three months in a supernumerary capacity, or in a lower officer rank than that for which the certificate held is valid immediately prior to taking up the rank for which it is valid.
- 2 The refresher and updating courses required by regulation I/11 shall be approved and include changes in relevant national and international regulations concerning the safety of life at sea and the protection of the marine environment and take account of any updating of the standard of competence concerned.

Section A-I/12

Standards governing the use of simulators

PART 1 - PERFORMANCE STANDARDS

General performance standards for simulators used in training

- 1 Each Party shall ensure that any simulator used for mandatory simulator-based training shall:
 - .1 be suitable for the selected objectives and training tasks;
 - .2 be capable of simulating the operating capabilities of shipboard equipment concerned, to a level of physical realism appropriate to training objectives, and include the capabilities, limitations and possible errors of such equipment;
 - .3 have sufficient behavioural realism to allow a trainee to acquire the skills appropriate to the training objectives;
 - .4 provide a controlled operating environment, capable of producing a variety of conditions, which may include emergency, hazardous or unusual situations relevant to the training objectives;
 - .5 provide an interface through which a trainee can interact with the equipment, the simulated environment and, as appropriate, the instructor, and
 - .6 permit an instructor to control, monitor and record exercises for the effective debriefing of trainees.

General performance standards for simulators used in assessment of competence

- 2 Each Party shall ensure that any simulator used for the assessment of competence required under the Convention or for any demonstration of continued proficiency so required shall:
 - .1 be capable of satisfying the specified assessment objectives;
 - .2 be capable of simulating the operational capabilities of the shipboard equipment concerned to a level of physical realism appropriate to the assessment objectives, and include the capabilities, limitations and possible errors of such equipment;
 - .3 have sufficient behavioural realism to allow a candidate to exhibit the skills appropriate to the assessment objectives;
 - .4 provide an interface through which a candidate can interact with the equipment and simulated environment;
 - .5 provide a controlled operating environment, capable of producing a variety of conditions, which may include emergency, hazardous or unusual situations relevant to assessment objectives; and
 - .6 permit an assessor to control, monitor and record exercises for the effective assessment of the performance of candidates.

Additional performance standards

- 3 In addition to meeting the basic requirements set out in paragraphs 1 and 2, simulation equipment to which this section applies shall meet the performance standards given hereunder in accordance with their specific type.

Radar simulation

- 4 Radar simulation equipment shall be capable of simulating the operational capabilities of navigational radar equipment which meets all applicable performance standards adopted by the Organization* and incorporate facilities to:
- .1 operate in the stabilized relative motion mode and sea and ground stabilized true motion modes
 - .2 model weather, tidal streams, current, shadow sectors, spurious echoes and other propagation effects, and generate coastlines, navigational buoys and search and rescue transponders; and
 - .3 create a real-time operating environment incorporating at least two own-ship stations with ability to change own ship's course and speed, and include parameters for at least 20 target ships and appropriate communication facilities.

Automatic Radar Plotting Aid (ARPA) simulation

- 5 ARPA simulation equipment shall be capable of simulating the operational capabilities of ARPAs which meet all applicable performance standards adopted by the Organization**, and shall incorporate the facilities for:
- .1 manual and automatic target acquisition;
 - .2 past track information;
 - .3 use of exclusion areas;
 - .4 vector/graphic time-scale and data display; and
 - .5 trial manoeuvres.

PART 2 - OTHER PROVISIONS**Simulator training objectives**

- 6 Each Party shall ensure that the aims and objectives of simulator-based training are defined within an overall training programme and that specific training objectives and tasks are selected so as to relate as closely as possible to shipboard tasks and practices.

Training procedures

- 7 In conducting mandatory simulator-based training, instructors shall ensure that:
- .1 trainees are adequately briefed beforehand on the exercise objectives and tasks and are given sufficient planning time before the exercise starts;
 - .2 trainees have adequate familiarization time on the simulator and with its equipment before any training or assessment exercise commences;
 - .3 guidance given and exercise stimuli are appropriate to the selected exercise objectives and tasks and to the level of trainee experience;
 - .4 exercises are effectively monitored, supported as appropriate by audio and visual observation of trainee activity and pre- and post-exercise evaluation reports;
 - .5 trainees are effectively debriefed to ensure that training objectives have been met and that operational skills demonstrated are of an acceptable standard;
 - .6 the use of peer assessment during debriefing is encouraged; and

* See resolutions A.222(VII) — Performance Standards for Navigational Radar Equipment, A.278(VIII) — Supplement to the Recommendation on Performance Standards for Navigational Radar Equipment, and resolution A.477(XII) — Performance Standards for Radar Equipment.

** See resolution A.422(XI) - Performance Standards for Automatic Radar Plotting Aids and resolution A.823(19) - Performance Standards for Automatic Radar Plotting Aids (ARPAs).

- .7 simulator exercises are designed and tested so as to ensure their suitability for the specified training objectives.

Assessment procedures

- 8 Where simulators are used to assess the ability of candidates to demonstrate levels of competency, assessors shall ensure that:
 - .1 performance criteria are identified clearly and explicitly and are valid and available to the candidates;
 - .2 assessment criteria are established clearly and are explicit to ensure reliability and uniformity of assessment and to optimise objective measurement and evaluation, so that subjective judgements are kept to the minimum;
 - .3 candidates are briefed clearly on the tasks and/or skills to be assessed and on the tasks and performance criteria by which their competency will be determined;
 - .4 assessment of performance takes into account normal operating procedures and any behavioural interaction with other candidates on the simulator or simulator staff;
 - .5 scoring or grading methods to assess performance are used with caution until they have been validated; and
 - .6 the prime criterion is that a candidate demonstrates the ability to carry out a task safely and effectively to the satisfaction of the assessor.

Qualifications of instructors and assessors*

- 9 Each Party shall ensure that instructors and assessors are appropriately qualified and experienced for the particular types and levels of training and corresponding assessment of competence as specified in regulation I/6 and section A-I/6.

Section A-I/13

Conduct of trials

(No provisions)

Section A-I/14

Responsibilities of companies

- 1 Companies,** masters and crew members each have responsibility for ensuring that the obligations set out in this section are given full and complete effect and that such other measures as may be necessary are taken to ensure that each crew member can make a knowledgeable and informed contribution to the safe operation of the ship.
- 2 The company shall provide written instructions to the master of each ship to which the Convention applies, setting forth the policies and the procedures to be followed to ensure that all seafarers who are newly employed on board the ship are given a reasonable opportunity to become familiar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of their duties, before being assigned to those duties. Such policies and procedures shall include:
 - .1 allocation of a reasonable period of time during which each newly employed seafarer will have an opportunity to become acquainted with:
 - .1.1 the specific equipment the seafarer will be using or operating, and
 - .1.2 ship-specific watchkeeping, safety, environmental protection and emergency procedures and arrangements the seafarer needs to know to perform the assigned duties properly; and

* IMO Model Course 6.09 - Training Course for Instructors, and IMO Model Course 3.12 - Examination and Certification of Seafarers may be of assistance in the preparation of courses.

** IMO Model Course 5.04 - Human Resources Management and IMO Model Course 6.03 - Aspects of Ship Administration for Company Office Staff may be of assistance in the preparation of courses.

- .2 designation of a knowledgeable crew member who will be responsible for ensuring that an opportunity is provided to each newly employed seafarer to receive essential information in a language the seafarer understands.

Section A-I/15

Transitional provisions
(No provisions)

Chapter II

Standards regarding the master and deck department

Section A-II/1

Mandatory minimum requirements for certification of officers in charge of a navigational watch on ships of 500 gross tonnage or more

Standard of competence

- 1 Every candidate for certification shall:
 - .1 be required to demonstrate the competence to undertake, at operational level, the tasks, duties and responsibilities listed in column 1 of table A-II/1;
 - .2 at least hold an appropriate certificate for performing VHP radio-communications in accordance with the requirements of the Radio Regulations; and
 - .3 if designated to have primary responsibility for radiocommunications during distress incidents, hold an appropriate certificate issued or recognized under the provisions of the Radio Regulations.
- 2 The minimum knowledge, understanding and proficiency required for certification is listed in column 2 of table A-II/1.
- 3 The level of knowledge of the subjects listed in column 2 of table A-II/1 shall be sufficient for officers of the watch to carry out their watchkeeping duties.*
- 4 Training and experience to achieve the necessary level of theoretical knowledge, understanding and proficiency shall be based on section A-VIII/2, part 3-1 - Principles to be observed in keeping a navigational watch,# and shall also take into account the relevant requirements of this part and the guidance given in part B of this Code.
- 5 Every candidate for certification shall be required to provide evidence of having achieved the required standard of competence in accordance with the methods for demonstrating competence and the criteria for evaluating competence tabulated in columns 3 and 4 of table A-II/1.

On-board training

- 6 Every candidate for certification as officer in charge of a navigational watch of ships of 500 gross tonnage or more whose seagoing service, in accordance with paragraph 2.2 of regulation II/1, forms part of a training programme approved as meeting the requirements of this section shall follow an approved programme of on board training which:
 - .1 ensures that during the required period of seagoing service the candidate receives systematic practical training and experience in the tasks, duties and responsibilities of an officer in charge of a navigational watch, taking into account the guidance given in section B-II/1 of this Code;
 - .2 is closely supervised and monitored by qualified officers aboard the ships in which the approved seagoing service is performed; and
 - .3 is adequately documented in a training record book or similar document.**

* IMO Model Course 7.03 — Officer in Charge of a Navigational Watch may be of assistance in the preparation of courses.

** IMO Model Course 7.03 - Officer in Charge of a Navigational Watch and a similar document produced by the International Shipping Federation may be of assistance in the preparation of training record books.

Near-coastal voyages

7 The following subjects may be omitted from those listed in column 2 of table A-II/1 for issue of restricted certificates for service on near-coastal voyages, bearing in mind the safety of all ships which may be operating in the same waters:

- .1 celestial navigation; and
- .2 those electronic systems of position fixing and navigation that do not cover the waters for which the certificate is to be valid.

Table A-II/1

Specification of minimum standard of competence for officers in charge of a navigational watch on ships of 500 gross tonnage or more

Function: Navigation at the operational level

Column 1	Column 2	Column 3	Column 4
Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Plan and conduct a passage and determine position	<i>Celestial navigation</i> Ability to use celestial bodies to determine the ship's position <i>Terrestrial and coastal navigation</i> Ability to determine the ship's position by use of: .1 landmarks .2 aids to navigation, including lighthouses, beacons and buoys .3 dead reckoning, taking into account winds, tides, currents and estimated speed	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 approved laboratory equipment training using: chart catalogues, charts, navigational publications, radio navigational warnings, sextant, azimuth mirror, electronic navigation equipment, echo-sounding equipment, compass	The information obtained from navigational charts and publications is relevant, interpreted correctly and properly applied. All potential navigational hazards are accurately identified The primary method of fixing the ship's position is the most appropriate to the prevailing circumstances and conditions The position is determined within the limits of acceptable instrument/system errors The reliability of the information obtained from the primary method of position fixing is checked at appropriate intervals Calculations and measurements of navigational information are accurate

Function: Navigation at the operational level (continued)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Plan and conduct a passage and determine position (<i>continued</i>)	Thorough knowledge of and ability to use navigational charts and publications, such as sailing directions, tide tables, notices to mariners, radio navigational warnings and ships' routeing information <i>NOTE:</i> ECDIS systems are considered to be included under the term "charts" <i>Electronic systems of position fixing and navigation</i> Ability to determine the ship's position by use of electronic navigational aids <i>Echo-sounders</i> Ability to operate the equipment and apply the information correctly <i>Compass - magnetic and gyro</i> Knowledge of the principles of magnetic and gyro-compasses Ability to determine errors of the magnetic and gyro-compasses, using celestial and terrestrial means, and to allow for such errors		The charts selected are the largest scale suitable for the area of navigation and charts and publications are corrected in accordance with the latest information available Performance checks and tests to navigation systems comply with manufacturer's recommendations and good navigational practice Errors in magnetic and gyro-compasses are determined and correctly applied to courses and bearings

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Plan and conduct a passage and determine position (<i>continued</i>)	<i>Steering control systems</i> Knowledge of steering control systems, operational procedures and change-over from manual to automatic control and vice versa. Adjustment of controls for optimum performance Meteorology Ability to use and interpret information obtained from shipborne meteorological instruments Knowledge of the characteristics of the various weather systems, reporting procedures and recording systems Ability to apply the meteorological information available		The selection of the mode of steering is the most suitable for the prevailing weather, sea and traffic conditions and intended manoeuvres Measurements and observations of weather conditions are accurate and appropriate to the passage Meteorological information is correctly interpreted and applied

Function: Navigation at the operational level (continued)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Maintain a safe navigational watch	Watchkeeping Thorough knowledge of the content, application and intent of the International Regulations for Preventing Collisions at Sea Thorough knowledge of the Principles to be observed in keeping a navigational watch Thorough knowledge of effective bridge teamwork procedures The use of routeing in accordance with the General Provisions on Ships' Routeing	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience; .2 approved training ship experience .3 approved simulator training, where appropriate .4 approved laboratory equipment training	The conduct, hand-over and relief of the watch conforms with accepted principles and procedures A proper look-out is maintained at all times and in such a way as to conform to accepted principles and procedures Lights, shapes and sound signals conform with the requirements contained in the International Regulations for Preventing Collisions at Sea and are correctly recognized The frequency and extent of monitoring of traffic, the ship and the environment conform with accepted principles and procedures A proper record is maintained of the movements and activities relating to the navigation of the ship Responsibility for the safety of navigation is clearly defined at all times, including periods when the master is on the bridge and while under pilotage

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Use of radar and ARPA to maintain safety of navigation <i>Note:</i> Training and assessment in the use of ARPA is not required for those who serve exclusively on ships not fitted with ARPA. This limitation shall be reflected in the endorsement issued to the seafarer concerned.	Radar navigation Knowledge of the fundamentals of radar and automatic radar plotting aids (ARPA) Ability to operate and to interpret and analyse information obtained from radar, including the following: Performance, including: .1 factors affecting performance and accuracy .2 setting up and maintaining displays .3 detection of misrepresentation of information, false echoes, sea return, etc., raccons and SARTs Use, including: .1 range and bearing; course and speed of other ships; time and distance of closest approach of crossing, meeting overtaking ships .2 identification of critical echoes; detecting course and speed changes of other ships; effect of changes in own ship's course or speed or both	Assessment of evidence obtained from approved radar simulator and ARPA simulator training plus in-service experience	Information obtained from radar and ARPA is correctly interpreted and analysed, taking into account the limitations of the equipment and prevailing circumstances and conditions Action taken to avoid a close encounter or collision with other vessels is in accordance with the International Regulations for Preventing Collisions at Sea Decisions to amend course and/or speed are both timely and in accordance with accepted navigation practice Adjustments made to the ship's course and speed maintain safety of navigation Communication is clear, concise and acknowledged at all times in a seamanlike manner Manoeuvring signals are made at the appropriate time and are in accordance with the International Regulations for Preventing Collisions at Sea

Function: Navigation at the operational level (continued)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Use of radar and ARPA to maintain safety of navigation (continued) <i>Note:</i> Training and assessment in the use of ARPA is not required for those who serve exclusively on ships not fitted with ARPA. This limitation shall be reflected in the endorsement issued to the seafarer concerned.	.3 application of the International Regulations for Preventing Collisions at Sea .4 plotting techniques and relative and true motion concepts .5 parallel indexing Principal types of ARPA, their display characteristics, performance standards and the dangers of over-reliance on ARPA Ability to operate and to interpret and analyse information obtained from ARPA, including: .1 system performance and accuracy, tracking capabilities and limitations, and processing delays .2 use of operational warnings and system tests .3 methods of target acquisition and their limitations .4 true and relative vectors, graphic representation of target information and danger areas .5 deriving and analysing information, critical echoes, exclusion areas and trial manoeuvres		

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Respond to emergencies	Emergency procedures Precautions for the protection and safety of passengers in emergency situations Initial action to be taken following a collision or a grounding; initial damage assessment and control Appreciation of the procedures to be followed for rescuing persons from the sea, assisting a ship in distress, responding to emergencies which arise in port	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 practical training	The type and scale of the emergency is promptly identified Initial actions and, if appropriate, manoeuvring of the ship are in accordance with contingency plans and are appropriate to the urgency of the situation and nature of the emergency
Respond to a distress signal at sea	<i>Search and rescue</i> Knowledge of the contents of the IMO Merchant Ship Search and Rescue Manual (MERSAR)	Examination and assessment of evidence obtained from practical instruction or approved simulator training, where appropriate	The distress or emergency signal is immediately recognized Contingency plans and instructions in standing orders are implemented and complied with

Function: Navigation at the operational level (continued)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Use the Standard Marine Navigational Vocabulary as replaced by the IMO Standard Marine Communication Phrases and use English in written and oral form	English language Adequate knowledge of the English language to enable the officer to use charts and other nautical publications, to understand meteorological information and messages concerning ship's safety and operation, to communicate with other ships and coast stations and to perform the officer's duties also with a multi-lingual crew, including the ability to use and understand the Standard Marine Navigational Vocabulary as replaced by the IMO Standard Marine Communication Phrases	Examination and assessment of evidence obtained from practical instruction	English language navigational publications and messages relevant to the safety of the ship are correctly interpreted or drafted Communications are clear and understood
Transmit and receive information by visual signaling	<i>Visual signalling</i> Ability to transmit and receive signals by Morse light Ability to use the International Code of Signals	Assessment of evidence obtained from practical instruction	Communications within the operator's area of responsibility are consistently successful

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Manoeuvre the ship	<i>Ship manoeuvring and handling Knowledge of:</i> .1 the effects of deadweight, draught, trim, speed and under-keel clearance on turning circles and stopping distances .2 the effects of wind and current on ship handling .3 manoeuvres and procedures for the rescue of person overboard .4 squat, shallow-water and similar effects .5 proper procedures for anchoring and mooring	<i>Examination and assessment of evidence obtained from one or more of the following:</i> .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 approved training on a manned scale ship model where appropriate	Safe operating limits of ship propulsion, steering and power systems are not exceeded in normal manoeuvres Adjustments made to the ship's course and speed maintain safety of navigation

Function: Cargo handling and stowage at the operational level

Monitor the loading, stowage, securing and unloading of cargoes and their care during the voyage	<i>Cargo handling, stowage and securing</i> Knowledge of the effect of cargo including heavy lifts on the seaworthiness and stability of the ship Knowledge of safe handling, stowage and securing of cargoes including dangerous, hazardous and harmful cargoes and their effect on the safety of life and of the ship	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate	Cargo operations are carried out in accordance with the cargo plan or other documents and established safety rules / regulations, equipment operating instructions and shipboard stowage limitations The handling of dangerous, hazardous and harmful cargoes complies with international regulations and recognized standards and codes of safe practice

Function: Controlling the operation of the ship and care for persons on board at the operational level

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Ensure compliance with pollution-prevention requirements	<i>Prevention of pollution of the marine environment and anti-pollution procedures</i> Knowledge of the precautions to be taken to prevent pollution of the' marine environment Anti-pollution procedures and all associated equipment	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience	Procedures for monitoring ship-board operations and ensuring compliance with MARPOL requirements are fully observed
Maintain seaworthiness of the ship	<i>Ship stability</i> Working knowledge and application of stability, trim and stress tables, diagrams and stress-calculating equipment Understanding of fundamental actions to be taken in the event of partial loss of intact buoyancy Understanding of the fundamentals of watertight integrity <i>Ship construction</i> General knowledge of the principal structural members of a ship and the proper names for the various parts	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 approved laboratory equipment training	The stability conditions comply with the IMO intact stability criteria under all conditions of loading Actions to ensure and maintain the watertight integrity of the ship are in accordance with accepted practice

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Prevent, control and fight fires on board	<i>Fire prevention and fire-fighting appliances</i> Knowledge of fire prevention Ability to organize fire drills Knowledge of classes and chemistry of fire Knowledge of fire-fighting systems Knowledge of action to be taken in the event of fire, including fires involving oil systems	Assessment of evidence obtained from approved fire-fighting training and experience as set out in section A-VI/3	The type and scale of the problem is promptly identified and initial actions conform with the emergency procedure and contingency plans for the ship Evacuation, emergency shutdown, and isolation procedures are appropriate to the nature of the emergency and are implemented promptly The order of priority, and the levels and time-scales of making reports and informing personnel on board, are relevant to the nature of the emergency and reflect the urgency of the problem
Operate life-saving appliances	<i>Life-saving</i> Ability to organize abandon ship drills and knowledge of the operation of survival craft and rescue boats, their launching appliances and arrangements, and their equipment, including radio life-saving appliances, satellite EPIRBs, SARTs, immersion suits and thermal protective aids. Knowledge of survival at sea techniques	Assessment of evidence obtained from approved training and experience as set out in section A-VI/2, paragraphs 1 to 4	Actions in responding to abandon ship and survival situations are appropriate to the prevailing circumstances and conditions and comply with accepted safety practices and standards

Function: Controlling the operation of the ship and care for persons on board at the operational level (continued)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Apply medical first aid on board ship	<i>Medical aid</i> Practical application of medical guides and advice by radio, including the ability to take effective action based on such knowledge in the case of accidents or illnesses that are likely to occur on board ship	Assessment of evidence obtained from approved training as set out in section A-VI/4, paragraphs 1 to 3	The identification of probable cause, nature and extent of injuries or conditions is prompt and treatment minimizes immediate threat to life
Monitor compliance with legislative requirements	Basic working knowledge of the relevant IMO conventions concerning safety of life at sea and protection of the marine environment	Assessment of evidence obtained from examination or approved training	Legislative requirements relating to safety of life at sea and protection of the marine environment are correctly identified

Section A-II/2

Mandatory minimum requirements for certification of masters and chief mates on ships of 500 gross tonnage or more

Standard of competence

- 1 Every candidate for certification as master or chief mate of ships of 500 gross tonnage or more shall be required to demonstrate the competence to undertake, at the management level, the tasks, duties and responsibilities listed in column 1 of table A-II/2.
- 2 The minimum knowledge, understanding and proficiency required for certification is listed in column 2 of table A-II/2. This incorporates, expands and extends in depth the subjects listed in column 2 of table A-II/1 for officers in charge of a navigational watch.
- 3 Bearing in mind that the master has ultimate responsibility for the safety of the ship, its passengers, crew and cargo, and for the protection of the marine environment against pollution by the ship and that a chief mate shall be in a position to assume that responsibility at any time, assessment in these subjects shall be designed to test their ability to assimilate all available information that affects the safety of the ship, its passengers, crew or cargo, or the protection of the marine environment.
- 4 The level of knowledge of the subjects listed in column 2 of table A-II/2 shall be sufficient to enable the candidate to serve in the capacity of master or chief mate.*
- 5 The level of theoretical knowledge, understanding and proficiency required under the different sections in column 2 of table A-II/2 may be varied according to whether the

* IMO Model Course 7.01 - Master and Chief Mate may be of assistance in the preparation of courses.

certificate is to be valid for ships of 3,000 gross tonnage or more or for ships of between 500 gross tonnage and 3,000 gross tonnage.

- 6 Training and experience to achieve the necessary level of theoretical knowledge, understanding and proficiency shall take into account the relevant requirements of this part and the guidance given in part B of this Code.
- 7 Every candidate for certification shall be required to provide evidence of having achieved the required standard of competence in accordance with the methods for demonstrating competence and criteria for evaluating competence tabulated in columns 3 and 4 of table A-II/2.

Near-coastal voyages

- 8 An Administration may issue a certificate restricted to service on ships engaged exclusively on near-coastal voyages and, for the issue of such a certificate, may exclude such subjects as are not applicable to the waters or ships concerned, bearing in mind the effect on the safety of all ships which may be operating in the same waters.

Table A-II/2

Specification of minimum standard of competence for masters and chief mates on ships of 500 gross tonnage or more

Function: Navigation at the management level

Column 1	Column 2	Column 3	Column 4
Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Plan a voyage and conduct navigation	Voyage planning and navigation for all conditions by acceptable methods of plotting ocean tracks, taking into account, e.g.: .1 restricted waters .2 meteorological conditions .3 ice .4 restricted visibility .5 traffic separation schemes .6 areas of extensive tidal effects Routeing in accordance with the General Principles on Ships' Routeing Reporting in accordance with the Guidelines and Criteria for Ship Reporting Systems	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved simulator training, where appropriate .3 approved laboratory equipment training using: chart catalogues, charts, nautical publications and ship particulars	The equipment, charts and nautical publications required for the voyage are enumerated and appropriate to the safe conduct of the voyage. The reasons for the planned route are supported by facts and statistical data obtained from relevant sources and publications. Positions, courses, distances and time calculations are correct within accepted accuracy standards for navigational equipment. All potential navigational hazards are accurately identified.

Function: Navigation at the management: level (continued)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Determine position and the accuracy of resultant position fix by any means	<i>Position determination in all conditions:</i> .1 by celestial observations .2 by terrestrial observations, including the ability to use appropriate charts, notices to mariners and other publications to assess the accuracy of the resulting position fix .3 using modern electronic navigational aids, with specific knowledge of their operating principles, limitations, sources of error, detection of misrepresentation of information and methods of correction to obtain accurate position fixing	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved simulator training, where appropriate .3 approved laboratory equipment training using: .1 charts, nautical almanac, plotting sheets, chronometer, sextant and a calculator .2 charts, navigational publications and instruments (azimuth mirror, sextant, log, sounding equipment, compass) and manufacturers' manuals .3 radar, Decca, Loran, satellite navigation systems and appropriate navigational charts and publications	The primary method chosen for fixing the ship's position is the most appropriate to the prevailing circumstances and conditions The fix obtained by celestial observations is within accepted accuracy levels The fix obtained by terrestrial observations is within accepted accuracy levels The accuracy of the resulting fix is properly assessed The fix obtained by the use of electronic navigational aids is within the accuracy standards of the systems in use. The possible errors affecting the accuracy of the resulting position are stated and methods of minimizing the effects of system errors on the resulting position are properly applied

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Determine and allow for compass errors	Ability to determine and allow for errors of the magnetic and gyro-compasses Knowledge of the principles of magnetic and gyro-compasses An understanding of systems under the control of the master gyro and a knowledge of the operation and care of the main types of gyro-compass	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved simulator training, where appropriate .3 approved laboratory equipment training using: celestial observations, terrestrial bearings and comparison between magnetic and gyro-compasses	The method and frequency of checks for errors of magnetic and gyrocompasses ensures accuracy of information.

Function: Navigation at the management level (continued)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Co-ordinate search and rescue operations	A thorough knowledge of and ability to apply the procedures contained in the IMO <i>Merchant Ship Search and Rescue Manual</i> (MERSAR)	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved simulator training, where appropriate .3 approved laboratory equipment training using: relevant publications, charts, meteorological data, particulars of ships involved, radiocommunication equipment and other available facilities and one or more of the following: .1 approved SAR training course .2 approved simulator training, where appropriate .3 approved laboratory equipment training	The plan for co-ordinating search and rescue operations is in accordance with international guidelines and standards Radiocommunications are established and correct communication procedures are followed at all stages of the search and rescue operations
Establish watch-keeping arrangements and procedures	Thorough knowledge of content, application and intent of the International Regulations for Preventing Collisions at Sea Thorough knowledge of the content, application and intent of the Principles to be observed in keeping a navigational watch. Effective bridge teamwork procedures	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved simulator training, where appropriate	Watchkeeping arrangements and procedures are established and maintained in compliance with international regulations and guidelines so as to ensure the safety of navigation, protection of the marine environment and safety of the ship and persons on board.

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Maintain safe navigation through the use of radar and ARPA and modern navigation systems to assist command decision-making <i>Note:</i> Training and assessment in the use of ARPA is not required for those who serve exclusively on ships not fitted with ARPA. This limitation shall be reflected in the endorsement issued to the seafarer concerned.	An appreciation of system errors and thorough understanding of the operational aspects of modern navigational systems, including radar and ARPA Blind pilotage techniques Evaluation of navigational information derived from a variety of sources, including radar and ARPA, in order to make and implement command decisions for collision avoidance and for directing the safe navigation of the ship The inter-relationship and optimum use of all navigational data available for conducting navigation	Assessment of evidence obtained from approved radar simulator and ARPA simulator training	Information obtained from radar and ARPA is correctly interpreted and analysed, taking into account the limitations of the equipment and prevailing circumstances and conditions Action taken to avoid a close encounter or collision with another vessel is in accordance with the International Regulations for Preventing Collisions at Sea

Function: Navigation at the management level (continued)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Forecast weather and oceanographic conditions	Ability to understand and interpret a synoptic chart and to forecast area weather, taking into account local weather conditions and information received by weather fax Knowledge of the characteristics of various weather systems, including tropical revolving storms and avoidance of storm centres and the dangerous quadrants Knowledge of ocean current systems Ability to calculate tidal conditions Use all appropriate navigational publications on tides and currents	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved laboratory equipment training	The likely weather conditions predicted for a determined period are based on all available information Actions taken to maintain safety of navigation minimize any risk to safety of the ship Reasons for intended action are backed by statistical data and observations of the actual weather conditions
Respond to navigational emergencies	Precautions when beaching a ship Action to be taken if grounding is imminent, and after grounding Refloating a grounded ship with and without assistance Action to be taken if collision is imminent and following a collision or impairment of the watertight integrity of the hull by any cause Assessment of damage control Emergency steering Emergency towing arrangements and towing procedures	Examination and assessment of evidence obtained from practical instruction, in-service experience and practical drills in emergency procedures	The type and scale of any problem is promptly identified and decisions and actions minimize the effects of any malfunction of the ship's systems Communications are effective and comply with established procedures Decisions and actions maximize safety of persons on board

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Manoeuvre and handle a ship in all conditions	Manoeuvring and handling a ship in all conditions, including: .1 manoeuvres when approaching pilot stations and embarking or disembarking pilots, with due regard to weather, tide, headreach and stopping distances .2 handling ship in rivers, estuaries and restricted waters, having regard to the effects of current, wind and restricted water on helm response .3 application of constant rate of turn techniques .4 manoeuvring in shallow water, including the reduction in under-keel clearance caused by squat, rolling and pitching .5 interaction between passing ships and between own ship and nearby banks (canal effect) .6 berthing and unbetthing under various conditions of wind, tide and current with and without tugs .7 ship and tug interaction .8 use of propulsion and manoeuvring systems	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved simulator training, where appropriate .3 approved manned scale ship model, where appropriate	All decisions concerning berthing and anchoring are based on a proper assessment of the ship's manoeuvring and engine characteristics and the forces to be expected while berthed alongside or lying at anchor While under way, a full assessment is made of possible effects of shallow and restricted waters, ice, banks, tidal conditions, passing ships and own ship's bow and stern wave so that the ship can be safely manoeuvred under various conditions of loading and weather

Function: Navigation at the management level (continued)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Manoeuvre and handle a ship in all conditions <i>(continued)</i>	.9 choice of anchorage; anchoring with one or two anchors in limited anchorages and factors involved in determining the length of anchor cable to be used .10 dragging anchor; clearing fouled anchors .11 dry-docking, both with and without damage .12 management and handling of ships in heavy weather, including assisting a ship or aircraft in distress; towing operations; means of keeping an unmanageable ship out of trough of the sea, lessening drift and use of oil .13 precautions in manoeuvring to launch rescue boats or survival craft in bad weather .14 methods of taking on board survivors from rescue boats and survival craft .15 ability to determine the manoeuvring and propulsion of common types of ships with special reference to stopping distances and turning circles at various draughts and speeds		

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Manoeuvre and handle a ship in all - conditions <i>(continued)</i>	.16 importance of navigating at reduced speed to avoid damage caused by own ship's bow wave and stem wave .17 practical measures to be taken when navigating in or near ice or in conditions of ice accumulation on board .18 use of, and manoeuvring in and near, traffic separation schemes and in vessel traffic service (VTS) areas		
Operate remote controls of propulsion plant and engineering systems and services	Operating principles of marine power plants Ships' auxiliary machinery General knowledge of marine engineering terms	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved simulator training, where appropriate	Plant, auxiliary machinery and equipment is operated in accordance with technical specifications and within safe operating limits at all times

Function: Cargo handling and stowage at the management level

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Plan and ensure safe loading, stowage, securing, care during the voyage and unloading of cargoes	Knowledge of and ability to apply relevant international regulations, codes and standards concerning the safe handling, stowage, securing and transport of cargoes Knowledge of the effect on trim and stability of cargoes and cargo operations Use of stability and trim diagrams and stress-calculating equipment, including automatic data-based (AOB) equipment, and knowledge of loading cargoes and ballasting in order to keep hull stress within acceptable limits Stowage and securing of cargoes on board ships, including cargo-handling gear and securing and lashing equipment Loading and unloading operations, with special regard to the transport of cargoes identified in the Code of Safe Practice for Cargo Stowage and Securing General knowledge of tankers and tanker operations	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved simulator training, where appropriate using: stability, trim and stress tables, diagrams and stress-calculating equipment.	The frequency and extent of cargo condition monitoring is appropriate to its nature and prevailing conditions Unacceptable or unforeseen variations in the condition or specification of the cargo is promptly recognized and remedial action is immediately taken and designed to safeguard the safety of the ship and those on board Cargo operations are planned and executed in accordance with established procedures and legislative requirements Stowage and securing of cargoes ensures that stability and stress conditions remain within safe limits at all times during the voyage

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Carriage of dangerous cargoes	International regulations, standards, codes and recommendations on the carriage of dangerous cargoes, including the International Maritime Dangerous Goods (IMDG) Code and the Code of Safe Practice for Solid Bulk Cargoes (BC Code) Carriage of dangerous, hazardous and harmful cargoes; precautions during loading and unloading and care during the voyage	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved simulator training where appropriate .3 approved specialist training	Planned distribution of cargo is based on reliable information and is in accordance with established guidelines and legislative requirements Information on dangers, hazards and special requirements is recorded in a format suitable for easy reference in the event of an incident

Function: Controlling the operation of the ship and care for persons on board at the management level

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Control trim, stability and stress	Understanding of fundamental principles of ship construction and the theories and factors affecting trim and stability and measures necessary to preserve trim and stability Knowledge of the effect on trim and stability of a ship in the event of damage to and consequent flooding of a compartment and countermeasures to be taken Knowledge of IMO recommendations concerning ship stability	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate	Stability and stress conditions are maintained within safe limits at all times
Monitor and control compliance with legislative requirements and measures to insure safety of life at sea and the protection of the marine environment	Knowledge of international maritime law embodied in international agreements and conventions Regard shall be paid especially to the following subjects: .1 certificates and other documents required to be carried on board ships by international conventions, how they may be obtained and their period of validity .2 responsibilities under the relevant requirements of the International Convention on Load Lines	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator, training, where appropriate	Procedures for monitoring operations and maintenance comply with legislative requirements Potential non-compliance is promptly and fully identified Planned renewal and extension of certificates ensures continued validity of surveyed items and equipment

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Monitor and control compliance with legislative requirements and measures to ensure safety of life at sea and the protection of the marine environment (continued)	.3 responsibilities under the relevant requirements of the International Convention for the Safety of Life at Sea .4 responsibilities under the international Convention for the Prevention of Pollution from Ships .5 maritime declarations of health and the requirements of the International Health Regulations .6 responsibilities under international instruments affecting the safety of the ship, passengers, crew and cargo .7 methods and aids to prevent pollution of the marine environment by ships .8 national legislation for implementing international agreements and conventions		

Function: Controlling the operation of the ship and care for persons on board at the management level (*continued*)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Maintain safety and security of the ship's crew and passengers and the operational condition of life-saving, fire-fighting and other safety systems	A thorough knowledge of life-saving appliance regulations (International Convention for the Safety of Life at Sea) Organization of fire and abandon ship drills Maintenance of operational condition of life-saving, fire-fighting and other safety systems Actions to be taken to protect and safeguard all persons on board in emergencies Actions to limit damage and save the ship following a fire, explosion, collision or grounding	Examination and assessment of evidence obtained from practical instruction and approved in-service training and experience	Procedures for monitoring fire-detection and safety systems ensure that all alarms are detected promptly and acted upon in accordance with established emergency procedures
Develop emergency and damage control plans and handle emergency situations	Preparation of contingency plans for response to emergencies Ship construction, including damage control Methods and aids for fire prevention, detection and extinction Functions and use of life-saving appliances	Examination and assessment of evidence obtained from approved in-service training and experience	Emergency procedures are in accordance with the established plans for emergency situations

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Organize and manage the crew	A knowledge of personnel management, organization and training on board ship A knowledge of related international maritime conventions and recommendations, and national legislation	Examination and assessment of evidence obtained from approved in-service training and experience	The crew are allocated duties and informed of expected standards of work and behaviour in a manner appropriate to the individuals concerned Training objectives and activities are based on an assessment of current competence and capabilities and operational requirements
Organize and manage the provision of medical care on board	A thorough knowledge* of the use and contents of the following publications: .1 International Medical Guide for Ships or equivalent national publications .2 Medical section of the International Code of Signals .3 Medical First Aid Guide for Use in Accidents Involving Dangerous Goods	Examination and assessment of evidence obtained from approved training	Action taken and procedures followed correctly apply and make full use of advice available

Section A-II/3

Mandatory minimum requirements for certification of officers in charge of a navigational watch and of masters on ships of less than 500 gross tonnage, engaged on near-coastal voyages

OFFICER IN CHARGE OF A NAVIGATIONAL WATCH

Standard of competence

- 1 Every candidate for certification shall:
 - .1 be required to demonstrate the competence to undertake, at operational level, the tasks, duties and responsibilities listed in column 1 of table A-II/3;

* The section on First Aid and Medical Care in the IMO/ILO *Document for Guidance* may be of assistance in the preparation of courses.

- .2 at least hold an appropriate certificate for performing VHP radio-communications in accordance with the requirements of the Radio Regulations; and
 - .3 if designated to have primary responsibility for radiocommunications during distress incidents, hold an appropriate certificate issued or recognized under the provisions of the Radio Regulations.
- 2 The minimum knowledge, understanding and proficiency required for certification is listed in column 2 of table A-II/3.
 - 3 The level of knowledge of the subjects listed in column 2 of table A-II/3 shall be sufficient to enable the candidate to serve in the capacity of officer in charge of a navigational watch.
 - 4 Training and experience to achieve unnecessary level of theoretical knowledge, understanding and proficiency shall be based on section A-VII/2, part 3-1 - Principles to be observed in keeping a navigational watch, and shall also take into account the relevant requirements of this part and the guidance given in part B of this Code.
 - 5 Every candidate for certification shall be required to provide evidence of having achieved the required standard of competence in accordance with the methods for demonstrating competence and the criteria for evaluating competence tabulated in columns 3 and 4 of table A-II/3.

Special training

- 6 Every candidate for certification as officer in charge of a navigational watch on ships of less than 500 gross tonnage, engaged on near-coastal voyages, who, in accordance with paragraph 4.2.1 of regulation II/3, is required to have completed special training, shall follow an approved programme of on-board training which:
 - .1 ensures that during the required period of seagoing service the candidate receives systematic practical training and experience in the tasks, duties and responsibilities of an officer in charge of a navigational watch, taking into account the guidance given in section B-II/1 of this Code;
 - .2 is closely supervised and monitored by qualified officers on board the ships in which the approved seagoing service is performed; and
 - .3 is adequately documented in a training record book or similar document.*

MASTER

- 7 Every candidate for certification as master on ships of less than 500 gross tonnage, engaged on near-coastal voyages, shall meet the requirements for an officer in charge of a navigational watch set out below and, in addition, shall be required to provide evidence of knowledge and ability to carry out all the duties of such a master.

* IMO Model Course 7.03 - *Officer in Charge of a Navigational Watch* and a similar document produced by the International Shipping Federation may be of assistance in the preparation of training record books.

Table A-II/3

Specification of minimum standard of competence for officers in charge of a navigational watch and for masters on ships of less than 500 gross tonnage engaged on near-coastal voyages

Function: Navigation at the operational level

Column 1	Column 2	Column 3	Column 4
Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Plan and conduct a coastal passage and determine position	<i>Navigation</i> Ability to determine the ship's position by the use of: .1 landmarks .2 aids to navigation, including lighthouses, beacons and buoys .3 dead reckoning, taking into account winds, tides, currents and estimated speed	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 approved laboratory equipment training using: chart catalogues, charts, navigational publications, radio navigational warnings, sextant, azimuth mirror, electronic navigation equipment, echo-sounding equipment, compass	Information obtained from navigational charts and publications is relevant, interpreted correctly and properly applied The primary method of fixing the ship's position is the most appropriate to the prevailing circumstances and conditions The position is determined within the limits of acceptable instrument/system errors The reliability of the information obtained from the primary method of position fixing is checked at appropriate intervals Calculations and measurements of navigational information are accurate

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Plan and conduct a coastal passage and determine position (<i>continued</i>)	Thorough knowledge of and ability to use navigational charts and publications, such as sailing directions, tide tables, notices to mariners, radio navigational warnings and ships' routing information Reporting in accordance with the Guidelines and Criteria for Ship Reporting Systems <i>Note:</i> This item only required for certification as master <i>Navigational aids and equipment</i> Ability to operate safely and determine the ship's position by use of all navigational aids and equipment commonly fitted on board the ships concerned <i>Compasses</i> Knowledge of the errors and corrections of magnetic compasses Ability to determine errors of the compass using terrestrial means, and to allow for such errors	Assessment of evidence obtained from approved radar navigation and ARPA simulator training	Charts and publications selected are the largest scale on board suitable for the area of navigation and charts are corrected in accordance with the latest information available Performance checks and tests of navigation systems comply with manufacturer's recommendations, good navigational practice and IMO resolutions on performance standards for navigational equipment Interpretation and analysis of information obtained from radar is in accordance with accepted navigational practice and takes account of the limits and accuracy levels of radar. Errors in magnetic compasses are determined and applied correctly to courses and bearings

Function: Navigation at the operational level (continued)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Plan and conduct a coastal passage and determine position (<i>continued</i>)	<i>Automatic pilot</i> Knowledge of automatic pilot systems and procedures; change-over from manual to automatic control and vice versa; adjustment of controls for optimum performance <i>Meteorology</i> Ability to use and interpret information obtained from shipborne meteorological instruments Knowledge of the characteristics of the various weather systems, reporting procedures and recording systems Ability to apply the meteorological information available		Selection of the mode of steering is the most suitable for prevailing weather, sea and traffic conditions and intended manoeuvres Measurements and observations of weather conditions are accurate and appropriate to the passage Meteorological information is evaluated and applied to maintain the safe passage of the vessel

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Maintain a safe navigational watch	<i>Watchkeeping</i> Thorough knowledge of content, application and intent of the International Regulations for Preventing Collisions at Sea Knowledge of content of the Principles to be observed in keeping a navigational watch Use of routeing in accordance with the General Provisions on Ships' Routeing	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 approved laboratory equipment training	The conduct, hand-over and relief of the watch conforms with accepted principles and procedures A proper look-out is maintained at all times and in conformity with accepted principles and procedures Lights, shapes and sound signals conform with the requirements contained in the International Regulations for Preventing Collisions at Sea and are correctly recognized The frequency and extent of monitoring of traffic, the ship and the environment conforms with accepted principles and procedures Action to avoid close encounters and collision with other vessels is in accordance with the International Regulations for Preventing Collisions at Sea. Decisions to adjust course and/or speed are both timely and in accordance with accepted navigation procedures A proper record is maintained of movements and activities relating to the navigation of the ship Responsibility for safe navigation is clearly defined at all times, including periods when the master is on the bridge and when under pilotage

Function: Navigation at the operational level (*continued*)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Respond to emergencies	Emergency procedures, including: .1 precautions for the protection and safety of passengers in emergency situations .2 initial assessment of damage and damage control .3 action to be taken following a collision .4 action to be taken following a grounding In addition, the following material should be included for certification as master: .1 emergency steering .2 arrangements for towing and for being taken in tow .3 rescuing persons from the sea .4 assisting a vessel in distress .5 appreciation of the action to be taken when emergencies arise in port	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 practical instruction	The type and scale of the emergency is promptly identified Initial actions and, if appropriate, manoeuvring are in accordance with contingency plans and are appropriate to the urgency of the situation and the nature of the emergency
Respond to a distress signal at sea	<i>Search and rescue</i> Knowledge of the contents of the IMO <i>Merchant Ship Search and Rescue Manual</i> (MER-SAR)	Examination and assessment of evidence obtained from practical instruction or approved simulator training, where appropriate	The distress or emergency signal is immediately recognized Contingency plans and instructions in standing orders are implemented and complied with

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Manoeuvre the ship and operate small ship power plants	<i>Ship manoeuvring and handling</i> Knowledge of factors affecting safe manoeuvring and handling The operation of small ship power plants and auxiliaries Proper procedures for anchoring and mooring	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate	Safe operating limits of ship propulsion, steering and power systems are not exceeded in normal manoeuvres Adjustments made to the ship's course and speed maintain safety of navigation Plant, auxiliary machinery and equipment is operated in accordance with technical specifications and within safe operating limits at all times

Function: Cargo handling and stowage at the operational level

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Monitor the loading, stowage, securing and unloading of cargoes and (their care during the voyage	<i>Cargo handling, stowage and securing</i> Knowledge of safe handling, stowage and securing of cargoes including dangerous, hazardous and harmful cargoes and their effect on the safety of life and of the ship Use of the International Maritime Dangerous Goods (IMDG) Code	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate	Cargo operations are carried out in accordance with the cargo plan or other documents and established safety rules/regulations, equipment operating instructions and shipboard stowage limitations The handling of dangerous, hazardous and harmful cargoes complies with international regulations and recognized standards and codes of safe practice

Function: Controlling the operation of the ship and care for persons on board at the operational level

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Ensure compliance with pollution-prevention requirements	<i>Prevention of pollution of the marine environment and anti-pollution procedures</i> Knowledge of the precautions to be taken to prevent pollution of the marine environment and anti-pollution procedures Anti-pollution procedures and all associated equipment	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience	Procedures for monitoring ship-board operations and ensuring compliance with MARPOL requirements are fully observed
Maintain seaworthiness of the ship	<i>Ship stability</i> Working knowledge and application of stability, trim and stress tables, diagrams and stress-calculating equipment Understanding of fundamental actions to be taken in the event of partial loss of intact buoyancy Understanding of the fundamentals of watertight integrity <i>Ship construction</i> General knowledge of the principal structural members of a ship and the proper names for the various parts	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 approved laboratory equipment training	Stability conditions comply with the IMO intact stability criteria under all conditions of loading Actions to ensure and maintain the watertight integrity of the ship are in accordance with accepted practice

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Prevent, control and fight fires on board	<i>Fire prevention and fire-fighting appliances</i> Knowledge of fire prevention Ability to organize fire drills Knowledge of classes and chemistry of fire Knowledge of fire-fighting systems Understanding of action to be taken in the event of fire, including fires involving oil systems	Assessment of evidence obtained from approved fire-fighting training and experience as set out in section A-VI/3	The type and scale of the problem is promptly identified and initial actions conform with the emergency procedures and contingency plans for the ship Evacuation, emergency shutdown and isolation procedures are appropriate to the nature of the emergency and are implemented promptly. The order of priority, and the levels and time-scales of making reports and informing personnel on board, are relevant to the nature of the emergency and reflect the urgency of the problem
Operate life-saving appliances	<i>Life-saving</i> Ability to organize abandon ship drills and knowledge of the operation of survival craft and rescue boats, their launching appliances and arrangements, and their equipment, including radio life-saving appliances, satellite EPIRBs, SARTs, immersion suits and thermal protective aids. <i>Knowledge of survival at sea techniques</i>	Assessment of evidence obtained from approved training and experience as set out in section A-VI/2, paragraphs 1 to 4	Actions in responding to abandon ship and survival situations are appropriate to the prevailing circumstances and conditions and comply with accepted safety practices and standards

Function: Controlling the operation of the ship and care for persons on board at the operational level (continued)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Apply medical first aid on board ship	<i>Medical aid</i> Practical application of medical guides and advice by radio, including the ability to take effective action based on such knowledge in the case of accidents or illnesses that are likely to occur on board ship	Assessment of evidence obtained from approved training as set out in section A-VI/4, paragraphs 1 to 3	The identification of probable cause, nature and extent of injuries or conditions is prompt and treatment minimizes immediate threat to life
Monitor compliance with legislative requirements	<i>Basic working knowledge of the relevant IMO conventions concerning safety of life at sea and protection of the marine environment</i>	Assessment of evidence obtained from examination or approved training	Legislative requirements relating to safety of life at sea and protection of the marine environment are correctly identified

Section A-II/4

Mandatory minimum requirements for certification of ratings forming part of a navigational watch

Standard of competence

- 1 Every rating forming part of a navigational watch on a seagoing ship of 500 gross tonnage or more shall be required to demonstrate the competence to perform the navigation function at the support level, as specified in column 1 of table A-II/4.
- 2 The minimum knowledge, understanding and proficiency required of ratings forming part of a navigational watch on a seagoing ship of 500 gross tonnage or more is listed in column 2 of table A-II/4.
- 3 Every candidate for certification shall be required to provide evidence of having achieved the required standard of competence in accordance with the methods for demonstrating competence and the criteria for evaluating competence specified in columns 3 and 4 of table A-II/4. The reference to "practical test" in column 3 may include approved shore-based training in which the students undergo practical testing.
- 4 Where there are no tables of competence for the support level in respect to certain functions, it remains the responsibility of the Administration to determine the appropriate training, assessment and certification requirements to be applied to personnel designated to perform those functions at the support level.

Table A-II/4**Specification of minimum standard of competence for ratings forming part of a navigational watch****Function: Navigation at the support level**

Column 1	Column 2	Column 3	Column 4
Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Steer the ship and comply with helm orders also in the English language	Use of magnetic and gyro-compasses Helm orders Change-over from automatic pilot to hand steering and vice versa	Assessment of evidence obtained from: .1 practical test, or .2 approved in-service experience or approved training ship experience	A steady course is steered within acceptable limits having regard to the area of navigation and prevailing sea state. Alterations of course are smooth and controlled Communications are clear and concise at all times and orders are acknowledged in a seamanlike manner
Keep a proper look-out by sight and hearing	Responsibilities of a look-out, including reporting the approximate bearing of a sound signal, light or other object in degrees or points	Assessment of evidence obtained from: .1 practical test, or .2 approved in-service experience or approved training ship experience	Sound signals, lights and other objects are promptly detected and their appropriate bearing in degrees or points is reported to the officer of the watch

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Contribute to monitoring and controlling a safe watch	Shipboard terms and definitions Use of appropriate internal communication and alarm systems Ability to understand orders and to communicate with the officer of the watch in matters relevant to watch-keeping duties Procedures for the relief, maintenance and hand-over of a watch Information required to maintain a safe watch Basic environmental protection procedures	Assessment of evidence obtained from approved in-service experience or approved training ship experience	Communications are clear and concise and advice/clarification is sought from the officer on watch where watch information or instructions are not clearly understood Maintenance, hand-over and relief of the watch is in conformity with accepted practices and procedures
Operate emergency equipment and apply emergency procedures	Knowledge of emergency duties and alarm signals Knowledge of pyrotechnic distress signals; satellite EPIRBs and SARTs Avoidance of false distress alerts and action to be taken in event of accidental activation	Assessment of evidence obtained from demonstration and approved in-service experience or approved training ship experience	Initial action on becoming aware of an emergency or abnormal situation is in conformity with established practices and procedures Communications are clear and concise at all times and orders are acknowledged in a seamanlike manner The integrity of emergency and distress alerting systems is maintained at all times

Chapter III

Standards regarding the engine department

Section A-III/1

Mandatory minimum requirements for certification of officers in charge of an engineering watch in a manned engine-room or as designated duty engineers in a periodically unmanned engine-room

Training

- 1 The education and training required by paragraph 2.3 of regulation III/1 shall include training in mechanical and electrical workshop skills relevant to the duties of an engineer officer.

On-board training

- 2 Every candidate for certification as officer in charge of an engineering watch in a manned engine-room or as designated duty engineer in a periodically unmanned engine-room of ships powered by main propulsion machinery of 750 kW or more shall follow an approved programme of on-board training which:
 - .1 ensures that during the required period of seagoing service the candidate receives systematic practical training and experience in the tasks, duties and responsibilities of an officer in charge of an engine-room watch, taking into account the guidance given in section B-III/1 of this Code;
 - .2 is closely supervised and monitored by a qualified and certificated engineer officer aboard the ships in which the approved seagoing service is performed; and
 - .3 is adequately documented in a training record book.

Standard of competence

- 3 Every candidate for certification as officer in charge of an engineering watch in a manned engine-room or as designated duty engineer in a periodically unmanned engine-room on a seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more shall be required to demonstrate ability to undertake, at the operational level, the tasks, duties and responsibilities listed in column 1 of table A-III/1.
- 4 The minimum knowledge, understanding and proficiency required for certification is listed in column 2 of table A-III/1.
- 5 The level of knowledge of the material listed in column 2 of table A-III/1 shall be sufficient for engineer officers to carry out their watchkeeping duties.*
- 6 Training and experience to achieve the necessary theoretical knowledge, understanding and proficiency shall be based on section A-VIII/2, part 3-2 - Principles to be observed in keeping an engineering watch, and shall take into account the relevant requirements of this part and the guidance given in part B of this Code.
- 7 Candidates for certification for service in ships in which steam boilers do not form part of their machinery may omit the relevant requirements of table A-III/1. A certificate awarded on such a basis shall not be valid for service on ships in which steam boilers form part of a ship's machinery until the engineer officer meets the standard of competence in the items omitted from table A-III/1. Any such limitation shall be stated on the certificate and in the endorsement.
- 8 Every candidate for certification shall be required to provide evidence of having achieved the required standard of competence in accordance with the methods for demonstrating competence and the criteria for evaluating competence tabulated in columns 3 and 4 of table A-III/1.

* IMO Model Course 7.04 - Engineer Officer in Charge of a Watch may be of assistance in the preparation of courses.

Near-coastal voyages

- 9 The requirements of paragraphs 2.2 and 2.3 of regulation III/1 may be varied for engineer officers of ships powered by main propulsion machinery of less than 3,000 kW propulsion power engaged on near-coastal voyages, bearing in mind the effect on the safety of all ships which may be operating in the same waters. Any such limitation shall be stated on the certificate and in the endorsement.

Table A -III/I

Specification of minimum standard of competence for officers in charge of an engineering watch in a manned engine-room or designated duty engineers in a periodically unmanned engine-room

Function: Marine engineering at the operational level

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Use appropriate tools for fabrication and repair operations typically performed on ships	Characteristics and limitations of materials used in construction and repair of ships and equipment Characteristics and limitations of processes used for fabrication and repair Properties and parameters considered in the fabrication and repair of systems and components Application of safe working practices in the workshop environment	Assessment of evidence obtained from one or more of the following: .1 approved workshop skills training .2 approved practical experience and tests	Identification of important parameters for fabrication of typical ship related components is appropriate Selection of material is appropriate Fabrication is to designated tolerances Use of equipment and machine tools is appropriate and safe
Use hand tools and measuring equipment for dismantling, maintenance, repair and reassembly of ship-board plant and equipment	Design characteristics and selection of materials in construction of equipment Interpretation of machinery drawings and handbooks Operational characteristics of equipment and systems	Assessment of evidence obtained from one or more of the following: .1 approved workshop skills training .2 approved practical experience and tests	Safety procedures followed are appropriate Selection of tools and spare gear is appropriate Dismantling, inspecting, repairing and reassembling equipment is in accordance with manuals and good practice Re-commissioning and performance testing is in accordance with manuals and good practice

Function: Marine engineering at the operational level (*continued*)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Use hand tools, electrical and electronic measuring and test equipment for fault finding, maintenance and repair operations	Safety requirements for working on shipboard electrical systems Construction and operational characteristics of shipboard AC and DC electrical systems and equipment Construction and operation of electrical test and measuring equipment	Assessment of evidence obtained from one or more of the following: .1 approved workshop skills training .2 approved practical experience and tests	Implementation of safety procedures is satisfactory Selection and use of test equipment is appropriate and interpretation of results is accurate Selection of procedures for the conduct of repair and maintenance is in accordance with manuals and good practice Commissioning and performance testing of equipment and systems brought back into service after repair is in accordance with manuals and good practice
Maintain a safe engineering watch	Thorough knowledge of Principles to be observed in keeping an engineering watch, including: .1 duties associated with taking over and accepting a watch .2 routine duties undertaken during a watch .3 maintenance of the machinery space log-book and the significance of the readings taken .4 duties associated with handing over a watch	Assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 approved laboratory equipment training	The conduct, handover and relief of the watch conforms with accepted principles and procedures The frequency and extent of monitoring of engineering equipment and systems conforms to manufacturers' recommendations and accepted principles and procedures, including Principles to be observed in keeping an engineering watch A proper record is maintained of the movements and activities relating to the ship's engineering systems

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Maintain a safe engineering watch (continued)	Safety and emergency procedures; change-over of remote/ automatic to local control of all systems Safety precautions to be observed during a watch and immediate actions to be taken in the event of fire or accident, with particular reference to oil systems		
Use English in written and oral form	Adequate knowledge of the English language to enable the officer to use engineering publications and to perform engineering duties	Examination and assessment of evidence obtained from practical instruction	English language publications relevant to engineering duties are correctly interpreted Communications are clear and understood
Operate main and auxiliary machinery and associated control systems	Main and auxiliary machinery: .1 preparation of main machinery and preparation of auxiliary machinery for operation .2 operation of steam boilers, including combustion systems .3 methods of checking water level in steam boilers and action necessary if water level is abnormal .4 location of common faults in machinery and plant in engine and boiler rooms and action necessary to prevent damage	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 approved laboratory equipment training	Operations are planned and carried out in accordance with established rules and procedures to ensure safety of operations and avoid pollution of the marine environment Deviations from the norm are promptly identified The output of plant and engineering systems consistently meets requirements, including bridge orders relating to changes in speed and direction The causes of machinery malfunctions are promptly identified and actions are designed to ensure the overall safety of the ship and the plant, having regard to the prevailing circumstances and conditions

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Operate pumping systems and associated control systems	Pumping systems: .1 routine pumping operations .2 operation of bilge, ballast and cargo pumping systems	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 approved laboratory equipment training	Operations are planned and carried out in accordance with established rules and procedures to ensure safety of operations and avoid pollution of the marine environment

Function: Electrical, electronic and control engineering at the operational level

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Operate alternators, generators and control systems	<i>Generating plant</i> Appropriate basic electrical knowledge and skills Preparing, starting, coupling and changing over alternators or generators Location of common faults and action to prevent damage <i>Control systems</i> Location of common faults and action to prevent damage	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 approved laboratory equipment training	Operations are planned and carried out in accordance with established rules and procedures to ensure safety of operations

Function: Maintenance and repair at the operational level

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Maintain marine engineering systems, including control systems	<i>Marine systems</i> Appropriate basic mechanical knowledge and skills <i>Safety and emergency procedures</i> Safe isolation of electrical and other types of plant and equipment required before personnel are permitted to work on such plant or equipment Undertake maintenance and repair to plant and equipment	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 approved laboratory equipment training	Isolation, dismantling and reassembly of plant and equipment is in accordance with accepted practices and procedures. Action taken leads to the restoration of plant by the method most suitable and appropriate to the prevailing circumstances and conditions

Function: Controlling the operation of the ship and care for persons on board at the operational level

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Ensure compliance with pollution-prevention requirements	<i>Prevention of pollution of the marine environment</i> Knowledge of the precautions to be taken to prevent pollution of the marine environment Anti-pollution procedures and all associated equipment	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience	Procedures for monitoring shipboard operations and ensuring compliance with MARPOL requirements are fully observed

Function: Controlling the operation of the ship and care for persons on board at the operational level (*continued*)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Maintain seaworthiness of the ship	<i>Ship stability</i> Working knowledge and application of stability, trim and stress tables, diagrams and stress-calculating equipment Understanding of the fundamentals of watertight integrity Understanding of fundamental actions to be taken in the event of partial loss of intact buoyancy <i>Ship construction</i> General knowledge of the principal structural members of a ship and the proper names for the various parts	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 approved laboratory equipment training	The stability conditions comply with the IMO intact stability criteria under all conditions of loading Actions to ensure and maintain the watertight integrity of the ship are in accordance with accepted practice
Prevent, control and fight fires on board	<i>Fire prevention and fire-fighting appliances</i> Knowledge of fire prevention Ability to organize fire drills Knowledge of classes and chemistry of fire Knowledge of fire-fighting systems Action to be taken in the event of fire, including fires involving oil systems	Assessment of evidence obtained from approved fire-fighting training and experience as set out in section A-VI/3	The type and scale of the problem is promptly identified and initial actions conform with the emergency procedure and contingency plans for the ship Evacuation, emergency shutdown and isolation procedures are appropriate to the nature of the emergency and are implemented promptly The order of priority, and the levels and time-scales of making reports and informing personnel on board, are relevant to the nature of the emergency and reflect the urgency of the problem

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Operate life-saving appliances	<i>Life-saving</i> Ability to organize abandon ship drills and knowledge of the operation of survival craft and rescue boats, their launching appliances and arrangements, and their equipment, including radio life-saving appliances, satellite EPIRBs, SARTs, immersion suits and thermal protective aids. Knowledge of survival at sea techniques	Assessment of evidence obtained from approved training and experience as set out in section A-VI/2, paragraphs 1 to 4	Actions in responding to abandon ship and survival situations are appropriate to the prevailing circumstances and conditions and comply with accepted safety practices and standards
Apply medical first aid on board ship	<i>Medical aid</i> Practical application of medical guides and advice by radio, including the ability to take effective action based on such knowledge in the case of accidents or illnesses that are likely to occur on board ship	Assessment of evidence obtained from approved training as set out in section A-VI/4, paragraphs 1 to 3	Identification of probable cause, nature and extent of injuries or conditions is prompt and treatment minimizes immediate threat to life
Monitor compliance with legislative requirements	Basic working knowledge of the relevant IMO conventions concerning safety of life at sea and protection of the marine environment	Assessment of evidence obtained from examination or approved training	Legislative requirements relating to safety of life at sea and protection of the marine environment are correctly identified

Section A-III/2

Mandatory minimum requirements for certification of chief engineer officers and second engineer officers on ships powered by main propulsion machinery of 3,000 kW propulsion power or more

Standard of competence

- 1 Every candidate for certification as chief engineer officer and second engineer officer of seagoing ships powered by main propulsion machinery of 3,000 kW power or more

shall be required to demonstrate ability to undertake, at the management level, the tasks, duties and responsibilities listed in column 1 of table A-III/2.

- 2 The minimum knowledge, understanding and proficiency required for certification is listed in column 2 of table A-III/2. This incorporates, expands and extends in depth the subjects listed in column 2 of table A-III/1 for officers in charge of an engineering watch.
- 3 Bearing in mind that a second engineer officer shall be in a position to assume the responsibilities of the chief engineer officer at any time, assessment in these subjects shall be designed to test the candidate's ability to assimilate all available information that affects the safe operation of the ship's machinery and the protection of the marine environment.
- 4 The level of knowledge of the subjects listed in column 2 of table A-III/2 shall be sufficient to enable the candidate to serve in the capacity of chief engineer officer or second engineer officer.*
- 5 Training and experience to achieve the necessary level of theoretical knowledge, understanding and proficiency shall take into account the relevant requirements of this part and the guidance given in part B of this Code.
- 6 The Administration may omit knowledge requirements for types of propulsion machinery other than those machinery installations for which the certificate to be awarded shall be valid. A certificate awarded on such a basis shall not be valid for any category of machinery installation which has been omitted until the engineer officer proves to be competent in these knowledge requirements. Any such limitation shall be stated on the certificate and in the endorsement.
- 7 Every candidate for certification shall be required to provide evidence of having achieved the required standard of competence in accordance with the methods for demonstrating competence and the criteria for evaluating competence tabulated in columns 3 and 4 of table A-III/2.

Near-coastal voyages

- 8 The level of knowledge, understanding and proficiency required under the different sections listed in column 2 of table A-III/2 may be varied for officers of ships with limited propulsion power engaged on near-coastal voyages, as considered necessary, bearing in mind the effect on the safety of all ships which may be operating in the same waters. Any such limitation shall be stated on the certificate and in the endorsement.

* IMO Model Course 7.02 - *Chief and Second Engineer Officer (Motor Ships)* may be of assistance in the preparation of courses.

Table A-III/2

Specification of minimum standard of competence for chief engineer officers and second engineer officers on ships powered by main propulsion machinery of 3,000 kW propulsion power or more

Function: Marine engineering at the management level

Column 1	Column 2	Column 3	Column 4
Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Plan and schedule operations	Theoretical knowledge Thermodynamics and heat transmission Mechanics and hydromechanics Operating principles of ship power installations (diesel, steam and gas turbine) and refrigeration	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience; .2 approved training ship experience; .3 approved simulator training, where appropriate	The planning and preparation' of operations is suited to the design parameters of the power installation and to the requirements of the voyage
Start up and shut down main propulsion and auxiliary machinery, including associated systems	Physical and chemical properties of fuels and lubricants Technology of materials Naval architecture and ship construction, including damage control	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience; .2 approved training ship experience; .3 approved simulator training, where appropriate.	The methods of preparing the start-up and of making available fuels, lubricants, cooling water and air are the most appropriate Checks of pressures, temperatures and revolutions during the start-up and warm-up period are in accordance with technical specifications and agreed work plans Surveillance of main propulsion plant and auxiliary systems is sufficient to maintain safe operating conditions The methods of preparing the shutdown and of supervising the cooling down of the engine are the most appropriate

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Operate, monitor and evaluate engine performance and capacity	<i>Practical knowledge</i> Operation and maintenance of: .1 marine diesel engines .2 marine steam propulsion plant .3 marine gas turbines Operation and maintenance of auxiliary machinery, including pumping and piping systems, auxiliary boiler plant and steering-gear systems Operation, testing and maintenance of control systems Operation and maintenance of cargo-handling equipment and deck machinery	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate	The methods of measuring the load capacity of the engines are in accordance with technical specifications Performance is checked against bridge orders Performance levels are in accordance with technical specifications
Maintain safety of engine equipment, systems and services	Operation and maintenance of auxiliary machinery, including pumping and piping systems, auxiliary boiler plant and steering-gear systems Operation, testing and maintenance of control systems Operation and maintenance of cargo-handling equipment and deck machinery	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience	Arrangements for ensuring the safe and efficient operation and condition of the machinery installation are suitable for all modes of operation
Manage fuel and ballast operations	Operation and maintenance of machinery, including pumps and piping systems	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate	Fuel and ballast operations meet operational requirements and are carried out so as to prevent pollution of the marine environment

Function: Marine engineering at the management level (*continued*)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Use internal communication systems	Operation of all internal communication systems on board	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 approved laboratory equipment training	Transmission and reception of message* are consistently successful Communication records are complete, accurate and comply with statutory requirements

Function: Electrical, electronic and control engineering at the management level

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Operate electrical and electronic control equipment	<i>Theoretical knowledge</i> Marine electrotechnology, electronics and electrical equipment Fundamentals of automation, instrumentation and control systems <i>Practical knowledge</i>	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 approved laboratory equipment training	Operation of equipment and system is in accordance with operating manuals Performance levels are in accordance with technical specifications
Test, detect faults and maintain and restore electrical and electronic control equipment to operating condition	Operation, testing and maintenance of electrical and electronic control equipment, including fault diagnostics	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate .4 approved laboratory equipment training	Maintenance activities are correctly planned in accordance with technical, legislative, safety and procedural specifications The effect of malfunctions on associated plant and systems is accurately identified, ship's technical drawings are correctly interpreted, measuring and calibrating instruments are correctly used and actions taken are justified

Function: Maintenance and repair at the management level

Competence	Knowledge, Understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Organize safe maintenance and repair procedures	<i>Theoretical knowledge</i> Marine engineering practice <i>Practical knowledge</i> Organizing and carrying out safe maintenance and repair procedures	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved workshop training	Maintenance activities are correctly planned and carried out in accordance with technical, legislative, safety and procedural specifications Appropriate plans, specifications, materials and equipment are available for maintenance and repair Action taken leads to the restoration of plant by the most suitable method
Detect and identify the cause of machinery malfunctions and correct faults	<i>Practical knowledge</i> <i>Detection of machinery malfunction, location of faults and action to prevent damage</i>	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate	The methods of comparing actual operating conditions are in accordance with recommended practices and procedures Actions and decisions are in accordance with recommended operating specifications and limitations
Ensure safe working practices	<i>Practical knowledge</i> <i>Safe working practices</i>	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience	Working practices are in accordance with legislative requirements, codes of practice, permits to work and environmental concerns

Function: Controlling the operation of the ship and care for persons on board at the management level

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Control trim, stability and stress	Understanding of fundamental principles of ship construction and the theories and factors affecting trim and stability and measures necessary to preserve trim and stability Knowledge of the effect on trim and stability of a ship in the event of damage to and consequent flooding of a compartment and counter-measures to be taken Knowledge of IMO recommendations concerning ship stability	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate	Stability and stress conditions are maintained within safety limits at all times
Monitor and control compliance with legislative requirements and measures to ensure safety of life at sea and protection of the marine environment	Knowledge of relevant international maritime law embodied in international agreements and conventions Regard shall be paid especially to the following subjects: .1 certificates and other documents required to be carried on board ships by international conventions, how they may be obtained and the period of their legal validity .2 responsibilities under the relevant requirements of the International Convention on Load Lines	Examination and assessment of evidence obtained from one or more of the following: .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate	Procedures for monitoring operations and maintenance comply with legislative requirements Potential non-compliance is promptly and fully identified Requirements for renewal and extension of certificates ensure continued validity of survey items and equipment

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Monitor and control compliance with legislative requirements and measures to ensure safety of life at sea and protection of the marine environment	.3 responsibilities under the relevant requirements of the International Convention for the Safety of Life at Sea .4 responsibilities under the International Convention for the Prevention of Pollution from Ships .5 maritime declarations of health and the requirements of the International Health Regulations .6 responsibilities under international instruments affecting the safety of the ships, passengers, crew or cargo .7 methods and aids to prevent pollution of the environment by ships .8 knowledge of national legislation for implementing international agreements and conventions		

Function: Controlling the operation of the ship and care for persons on board at the management level (*continued*)

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Maintain safety and security of the vessel, crew and passengers and the operational condition of life-saving, fire-fighting and other safety systems	A thorough knowledge of life-saving appliance regulations (International Convention for the Safety of Life at Sea) Organization of fire and abandon ship drills Maintenance of operational condition of life-saving, fire-fighting and other safety systems Actions to be taken to protect and safeguard all persons on board in emergencies Actions to limit damage and save the ship following fire, explosion, collision or grounding	Examination and assessment of evidence obtained from practical instruction and approved in-service training and experience	Procedures for monitoring fire-detection and safety systems ensure that all alarms are detected promptly and acted upon in accordance with established emergency procedures
Develop emergency and damage control plans and handle emergency situations	Ship construction, including damage control Methods and aids for fire prevention, detection and extinction Functions and use of life-saving appliances	Examination and assessment of evidence obtained from approved in-service training and experience	Emergency procedures are in accordance with the established plans for emergency situations
Organize and manage the crew	A knowledge of personnel management, organization and training on board ships A knowledge of international man-time conventions and recommendations, and related national legislation	Examination and assessment of evidence obtained from approved in-service training and experience	The crew are allocated duties and informed of expected standards of work and behaviour in a manner appropriate to the individuals concerned Training objectives and activities are based on an assessment of current competence and capabilities and operational requirements

Section A-III/3

Mandatory minimum requirements for certification of chief engineer officers and second engineer officers on ships powered by main propulsion machinery of between 750 kW and 3,000 kW propulsion power

Standard of competence

- 1 Every candidate for certification as chief engineer officer and second engineer officer of seagoing ships powered by main propulsion machinery of between 750 kW and 3,000 kW power shall be required to demonstrate ability to undertake, at management level, the tasks, duties and responsibilities listed in column 1 of table A-III/2.
- 2 The minimum knowledge, understanding and proficiency required for certification is listed in column 2 of table A-III/2. This incorporates, expands and extends in depth the subjects listed in column 2 of table A-III/1 for officers in charge of an engineering watch in a manned engine-room or designated duty engineers in a periodically unmanned engine-room.
- 3 Bearing in mind that a second engineer officer shall be in a position to assume the responsibilities of the chief engineer officer at any time, assessment in these subjects shall be designed to test the candidate's ability to assimilate all available information that affects the safe operation of the ship's machinery and the protection of the marine environment.
- 4 The level of knowledge of the subjects listed in column 2 of table A-III/2 may be lowered but shall be sufficient to enable the candidate to serve in the capacity of chief engineer officer or second engineer officer at the range of propulsion power specified in this section.
- 5 Training and experience to achieve the necessary level of theoretical knowledge, understanding and proficiency shall take into account the relevant requirements of this part and the guidance given in part B of this Code.
- 6 The Administration may omit knowledge requirements for types of propulsion machinery other than those machinery installations for which the certificate to be awarded shall be valid. A certificate awarded on such a basis shall not be valid for any category of machinery installation which has been omitted until the engineer officer proves to be competent in these items. Any such limitation shall be stated on the certificate and in the endorsement.
- 7 Every candidate for certification shall be required to provide evidence of having achieved the required standard of competence in accordance with the methods for demonstrating competence and the criteria for evaluating competence tabulated in columns 3 and 4 of table A-III/2.

Near-coastal voyages

- 8 The level of knowledge, understanding and proficiency required under the different sections listed in column 2 of table A-III/2 and the requirements of paragraphs 2.1.1 and 2.1.2 of regulation III/3 may be varied for officers of ships engaged on near-coastal voyages, as considered necessary, bearing in mind the effect on the safety of all ships which may be operating in the same waters. Any such limitation shall be stated on the certificate and in the endorsement.

Section A-III/4***Mandatory minimum requirements for certification of ratings forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine-room******Standard of competence***

- 1 Every rating forming part of an engine-room watch on a seagoing ship shall be required to demonstrate the competence to perform the marine engineering function at the support level, as specified in column 1 of table A-III/4.
- 2 The minimum knowledge, understanding and proficiency required of ratings forming part of an engine-room watch is listed in column 2 of table A-III/4.
- 3 Every candidate for certification shall be required to provide evidence of having achieved the required standard of competence in accordance with the methods for demonstrating competence and the criteria for evaluating competence specified in columns 3 and 4 of table A-III/4. The reference to "practical test" in column 3 may include approved shore-based training in which the students undergo practical testing.
- 4 Where there are no tables of competence for the support level in respect to certain functions, it remains the responsibility of the Administration to determine the appropriate training, assessment and certification requirements to be applied to personnel designated to perform those functions at the support level.

Table A-III/4**Specification of minimum standard of competence for rating forming part of an engineering watch****Function: Marine engineering at the support level**

Column 1	Column 2	Column 3	Column 4
Competence	Knowledge, understanding and proficiency	Methods for Demonstrating competence	Criteria for evaluating competence
Carry out a watch routine appropriate to the duties of a rating forming part of an engine-room watch Understand orders and be understood in matters relevant to watchkeeping duties	Terms used in machinery spaces and names of machinery and equipment Engine-room watchkeeping procedures Safe working practices as related to engine-room operations Basic environmental protection procedures Use of appropriate internal communication system Engine-room alarm systems and ability to distinguish between the various alarms, with special reference to fire-extinguishing gas alarms	Assessment of evidence obtained from one or more of the following: .1 approved in-service experience; .2 approved training ship experience; or .3 practical test	Communications are clear and concise and advice or clarification is sought from the officer of the watch where watch information or instructions are not clearly understood Maintenance, hand-over and relief of the watch is in conformity with accepted principles and procedures
For keeping a boiler watch: Maintain the correct water levels and steam pressures	Safe operation of boilers	Assessment of evidence obtained from one or more of the following: .1 approved in-service experience; .2 approved training ship experience; or .3 practical test	Assessment of boiler condition is accurate and based on relevant information available from local and remote indicators and physical inspections The sequence and timing of adjustments maintains safety and optimum efficiency

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Operate emergency equipment and apply emergency procedures	Knowledge of emergency duties Escape routes from machinery spaces Familiarity with the location and use of fire-fighting equipment in the machinery spaces	Assessment of evidence obtained from demonstration and approved in-service experience or approved training ship experience	Initial action on becoming aware of an emergency or abnormal situation conforms with established procedures Communications are clear and concise at all times and orders are acknowledged in a seamanlike manner

Chapter IV

Standards regarding radio personnel

Section A-IV/1

Application

(No provisions)

Section A-IV/2

Mandatory minimum requirements for certification of GMDSS radio personnel

Standard of competence

- 1 The minimum knowledge, understanding and proficiency required for certification of GMDSS radio personnel shall be sufficient for radio personnel to carry out their radio duties. The knowledge required for obtaining each type of certificate defined in the Radio Regulations shall be in accordance with those regulations. In addition, every candidate for certification shall be required to demonstrate ability to undertake the tasks, duties and responsibilities listed in column 1 of table A-IV/2.
- 2 The knowledge, understanding and proficiency for endorsement under the Convention of certificates issued under the provisions of the Radio Regulations are listed in column 2 of table A-IV/2.
- 3 The level of knowledge of the subjects listed in column 2 of table A-IV/2 shall be sufficient for the candidate to carry out his duties.*
- 4 Every candidate shall provide evidence of having achieved the required standard of competence through:
 - 1 demonstration of competence to perform the tasks and duties and to assume responsibilities listed in column 1 of table A-IV/2, in accordance with the methods for demonstrating competence and the criteria for evaluating competence tabulated in columns 3 and 4 of that table; and
 - 2 examination or continuous assessment as part of an approved course of training based on the material set out in column 2 of table A-IV/2.

* The IMO Model Course related to each certificate (being developed) may be of assistance in the preparation of courses.

Table A-IV/2**Specification of minimum standard of competence for GMDSS radio operators****Function: Radiocommunications at the operational level**

Column 1	Column 2	Column 3	Column 4
Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Transmit and receive information using GMDSS subsystems and equipment and fulfilling the functional requirements of GMDSS	In addition to the requirements of the Radio Regulations, a knowledge of: .1 search and rescue radiocommunications, including procedures in the <i>IMO Merchant Ship Search and Rescue Manual</i> (MERSAR) .2 the means to prevent the transmission of false distress alerts and the procedures to mitigate the effects of such alerts .3 ship reporting systems .4 radio medical services .5 use of the International Code of Signals and the Standard Marine Navigational Vocabulary as replaced by the Standard Marine Communication Phrases .6 the English language, both written and spoken, for the communication of information relevant to safety of life at sea <i>Note:</i> This requirement may be reduced in the case of the Restricted Radio Operator's Certificate	Examination and assessment of evidence obtained from practical demonstration of operational procedures using: .1 approved equipment .2 GMDSS communication simulator, where appropriate** .3 radiocommunication laboratory equipment	Transmission and reception of communications comply with international regulations and procedures and are carried out efficiently and effectively English language messages relevant to the safety of the ship and persons on board and protection of the marine environment are correctly handled

** See paragraph 41 of section B-I/12 of this Code.

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Provide radio services in emergencies	The provision of radio services in emergencies such as: .1 abandon ship .2 fire on board ship .3 partial or full break-down of radio installations Preventive measures for the safety of ship and personnel in connection with hazards related to radio equipment, including electrical and non-ionizing radiation hazards	Examination and assessment of evidence obtained from practical demonstration of operational procedures using: .1 approved equipment .2 GMDSS communication simulator, where appropriate* .3 radiocommunication laboratory equipment	Response is carried out efficiently and effectively

Chapter V

Standards regarding special training requirements for personnel on certain types of ships

Section A-V/I

Mandatory minimum requirements for the training and qualifications of masters, officers and ratings on tankers

TANKER FAMILIARIZATION COURSE*

- 1 The tanker familiarization course referred to in paragraph 1.2 of regulation V/I shall cover at least the syllabus given in paragraphs 2 to 7 below.

Characteristics of cargoes

- 2 An outline treatment including practical demonstration of the physical properties of oil, chemicals and gases carried in bulk; vapour pressure/temperature relationship; influence of pressure on boiling temperature; explanation of saturated vapour pressure, diffusion, partial pressure, flammability limits, flashpoint and auto-ignition temperature; practical significance of flashpoint and lower flammable limit; simple explanation of types of electrostatic charge generation; chemical symbols and structures; elements of the chemistry of acids and bases and chemical reactions of well-known groupings sufficient to enable proper utilization of codes.

Toxicity

- 3 Simple explanation of principles and basic concepts; toxicity limits, both acute and chronic effects of toxicity, systemic poisons and irritants.

* See paragraph 41 of section B-I/12 of this Code.

* The following IMO Model Courses may be of assistance in the preparation of courses.

- .1 IMO Model Course 1.01 - *Oil Tanker Familiarization*
- .2 IMO Model Course 1.03 - *Chemical Tanker Familiarization*
- .3 IMO Model Course 1.05 - *Liquefied Gas Tanker Familiarization*

Hazards

- 4 An explanation of hazards, including:
 - .1 explosion and flammability hazards, flammability limits and sources of ignition and explosion;
 - .2 health hazards, including the dangers of skin contact, inhalation and ingestion; oxygen deficiency, with particular reference to inert gas systems; harmful properties of cargo carried; accidents to personnel and associated first-aid do's and don'ts;
 - .3 hazards to the environment, covering: the effect on human and marine life from the release of oil, chemicals or gases; effect of specific gravity and solubility; danger from vapour cloud drift; effect of vapour pressure and atmospheric conditions;
 - .4 reactivity hazards; self-reaction; polymerization; effects of temperature; impurities as catalysts; reaction with air, water and other chemicals; and
 - .5 corrosion hazards, covering: the dangers to personnel; attacks on constructional materials; effects of concentration and evolution of hydrogen.

Hazard control

- 5 Inerting, water padding, drying agents and monitoring techniques; anti-static measures; ventilation; segregation; cargo inhibition and the importance of compatibility of materials.

Safety equipment and protection of personnel

- 6 The function and calibration of measuring instruments and similar equipment; specialized fire-extinguishing appliances; breaching apparatus and tanker evacuating equipment; safe use of protective clothing and equipment; use of resuscitators and other rescue and escape equipment.

Pollution prevention

- 7 Procedures to be followed to prevent air and water pollution and measures to be taken in the event of spillage, including the need to:
 - .1 immediately report all relevant information to the appropriate officials when a spill is detected or when a malfunction has occurred which poses a risk of a spill;
 - .2 promptly notify shore-based response personnel; and
 - .3 properly implement shipboard spill-containment procedures.

OIL TANKER TRAINING PROGRAMME

- 8 The specialized training programme referred to in paragraph 2.2 of regulation V/I appropriate to duties on oil tankers shall provide theoretical and practical knowledge of the subjects specified in paragraphs 9 to 14 below.*

Regulations and codes of practice

- 9 Familiarization with the appropriate provisions of relevant international conventions; relevant international and national codes; the IMO *Manual on Oil Pollution*; relevant tanker safety guides** and relevant port regulations as commonly applied.

* IMO Model Course 1.02 - Advanced Training Programme on *Oil Tanker Operations* may be of assistance in the preparation of courses.

** The latest editions of the following non-IMO documents may be of assistance in the preparation of courses:

- .1 ICS, *Safety in Oil Tankers* (International Chamber of Shipping, Carthusian Court, 12 Carthusian Street, London EC1M 6EB)
- .2 ICS/OCIMF/IAPH, *International Safety Guide for Oil Tankers and Terminals* (Witherby and Co. Ltd., 32/36 Aylesbury Street, London EC1R. GET, U.K.) (ISBN 0-948691-62-X)
- .3 International Chamber of Shipping/Oil Companies International Marine Forum, *Ship to Ship Transfer Guide (Petroleum)* (Witherby & Co. Ltd., London) (ISBN 0-948691-49-2)

Design and equipment of oil tankers

- 10 Familiarization with piping, pumping, tank and deck arrangements; types of cargo pumps and their application to various types of cargo; tank cleaning, gas-freeing and inciting systems; cargo tank venting and accommodation ventilation; gauging systems and alarms; cargo heating systems; and the safety aspects of electrical systems.

Cargo characteristics

- 11 Knowledge of the chemical and physical properties of different oil cargoes.

Ship operations

- 12 Cargo calculations; loading and discharging plans; loading and discharge procedures, including ship-to-ship transfers; checklists; use of monitoring equipment; importance of proper supervision of personnel; gas-freeing operations and tank cleaning operations; where appropriate, crude oil washing procedures and the operation and maintenance of inert gas systems; control of entry into pump-rooms and enclosed spaces; use of gas-detecting and safety equipment; load-on-top and proper ballasting and deballasting procedures; air and water pollution prevention.

Repair and maintenance

- 13 Precautions to be taken before and during repair and maintenance work, including that affecting pumping, piping, electrical and control systems; safety factors necessary in the performance of hot work; control of hot work and proper hot-work procedures.

Emergency operations

- 14 The importance of developing ship emergency plans; cargo operations emergency shutdown; action in the event of failure of services essential to cargo; fire fighting on oil tankers; action following collision, stranding or spillage; medical first-aid procedures and the use of resuscitation equipment; use of breathing apparatus for safe entry into and rescue from enclosed spaces.

CHEMICAL TANKER TRAINING PROGRAMME

- 15 The specialized training programme referred to in paragraph 2.2 of regulation V/I appropriate to duties on chemical tankers shall provide theoretical and practical knowledge of the subjects specified in paragraphs 16 to 21 below.*

Regulations and codes of practice

- 16 Familiarization with relevant international conventions and relevant IMO and national codes and with relevant tanker safety guides** and relevant port regulations as commonly applied.

.4 International Chamber of Shipping/Oil Companies International Marine Forum, *Clean Seas Guide for Oil Tankers (Retention of oil residues on board)* (Witherby & Co. Ltd., London) (ISBN 0-948691-15-8)

.5 ICS, *Guide to Helicopter/Ship Operations* (Witherby & Co. Ltd., London) ISBN 0-948691-44-1)

* IMO Model Course 1.04 - *Advanced Training Programme on Chemical Tanker Operations* may be of assistance in the preparation of courses.

** The latest editions of the following non-IMO documents may be of assistance in the preparation of courses.

.1 ICS, *Safety in Chemical Tankers* (International Chamber of Shipping, Carthusian Court, 12 Carthusian Street, London EC1M 6EB).

.2 ICS, *Tanker Safety Guide (Chemicals)* (Witherby Marine Publishing, 32/36 Aylesbury Street, London EC1R 6ET, U.K.) (ISBN 0-948691-50-6)

.3 ICS/OCIMF/IAPH, *International Safety Guide for Oil Tankers and Terminals* (Witherby Manne Publishing, London) (ISBN 0-948691-62-X)

Design and equipment of chemical tankers

- 17 A brief description of specialized piping, pumping and tank arrangements, overflow control; types of cargo pumps and their application to various types of cargo; tank cleaning and gas-freeing systems; cargo tank venting; vapour-return systems; accommodation ventilation, airlocks; gauging systems and alarms; tank temperature control systems and alarms; the safety factors of electrical systems.

Cargo characteristics

- 18 Sufficient knowledge of liquid chemical cargo characteristics to allow proper use of relevant cargo safety guides***.

Ship operations

- 19 Cargo calculations; loading and discharging plans; loading and discharge procedures; vapour-return systems; checklists; use of monitoring equipment; gas-freeing operations and tank cleaning operations, including proper use of absorption and wetting agents and detergents; use and maintenance of inert atmospheres; control of entry into pump-rooms and enclosed spaces; use of detecting and safety equipment; disposal of waste and washings.

Repair and maintenance

- 20 Precautions to be taken before the repair and maintenance of pumping, piping, electrical and control systems.

Emergency operations

- 21 The importance of developing ship emergency plans; cargo operations emergency shutdown; action in the event of failure of services essential to cargo; fire fighting on chemical tankers; action following collision, stranding or spillage; medical first-aid procedures and the use of resuscitation and decontamination equipment; use of breathing apparatus and escape equipment; safe entry into and rescue from enclosed spaces.

LIQUEFIED GAS TANKER TRAINING PROGRAMME

- 22 The specialized training programme referred to in paragraph 2.2 of regulation V/I appropriate to the duties on liquefied gas tankers shall provide theoretical and practical knowledge of the subjects specified in paragraphs 23 to 34 below.*

.4 ICS/OCIMF/IAPH/INTERTANKO/CEFIC/SIGTTO, *Ship/Shore Safety Check List Guidelines* (Witherby Manne Publishing, London) (ISBN 0-854930-28-0)

.5 ICS/OCIMF, *Ship to Ship Transfer Guide (Petroleum)* (Witherby & Co. Ltd., London) (ISBN 0-948691-49-2)

.6 U.S. Coast Guard, *CHRIS Manual 2, Hazardous Chemical Data* (Government Printing Office, Washington, D.C.)

.7 *Tank Cleaning Guide* (Rotterdam, B.V. Chemical Laboratory "Dr. A. Verway")

.8 Bureau VERITAS, *Gas and Chemical Ships' Safety Handbook* (Lloyd's of London Press Ltd., London) (ISBN 1-85044-089-1)

.9 ICS, *Guide to Helicopter/Ship Operations* (Witherby & Co. Ltd., London) (ISBN 0-948691-44-1)

*** See footnote on previous page.

* IMO Model Course 1.06 - *Advanced Training Programme on Liquefied Gas Tanker Operations* may be of assistance in the preparation of courses.

Regulations and codes of practice

- 23 Familiarization with relevant international conventions and relevant IMO, national and industry codes.**
- 24 Familiarization with the ship design and equipment of liquefied gas tankers; types of liquefied gas tankers; cargo-containment systems (construction, surveys); cargo-handling equipment (pumps, piping systems); cargo conditioning systems (warm-up, cool-down); tank atmosphere control systems (inert gas, nitrogen); instrumentation of cargo-containment and -handling systems; fire-fighting system and safety and rescue equipment.

Fire fighting

- 25 Advanced practical fire-fighting techniques and tactics applicable to gas tankers, including the use of water-spray systems.

Chemistry and physics

- 26 An introduction to basic chemistry and physics as it relates to the safe carriage of liquefied gases in bulk in ships, covering:
- 1 the properties and characteristics of liquefied gases and their vapours, including the definition of gas; simple gas laws; the gas equation; density of gases; diffusion and mixing of gases; compression of gases; liquefaction of gases; refrigeration of gases; critical temperature; the practical significance of flashpoint; upper and lower explosive limits; auto-ignition temperature; compatibility of gases; reactivity; polymerization and inhibitors.
 - 2 the properties of single liquids, including densities of liquids and vapours; variation with temperature; vapour pressure and temperature; enthalpy; vaporization and boiling liquids; and
 - 3 the nature and properties of solutions, including the solubility of gases in liquids; miscibility between liquids and effects of temperature change; densities of solutions and dependence on temperature and concentration; effects of dissolved substances on melting and boiling points; hydrates, their formation and dispersion; hygroscopicity; drying of air and other gases; dewpoint and low-temperature effects.

Health hazards

- 27 Familiarization with health hazards relevant to the carriage of liquefied gas, covering:
- 1 toxicity, including the modes by which liquefied gases and their vapours may be toxic; the toxic properties of inhibitors and of products of combustion of both materials of construction and of liquefied gases carried; acute and chronic effects of toxicity, systemic poisons and irritants; and the Threshold Limit Value (TLV);
 - 2 hazards of skin contact, inhalation and ingestion; and
 - 3 medical first aid and administering of antidotes.

** The latest editions of the following non-IMO documents may be of assistance in the preparation of courses:

- 1 SIGTTO, *Liquefied Gas Handling Principles on Ships and in Terminals* (Witherby Marine Publishing, 32/36 Aylesbury Street, London EC1R 6ET, U.K.) (ISBN 0-900886-93-5)
- 2 International Chamber of Shipping, *Tanker Safety Guide* (Liquefied Cos) (Witherby & Co. Ltd., London) (ISBN 0-906270-01-4)
- 3 ICS/OCIMF, *Ship to Ship Transfer Guide (Liquefied Gases)* (Witherby & Co. Ltd., London) (ISBN 0-900886-51-X)
- 4 ICS, *Guide to Helicopter/Ship Operations* (Witherby & Co. Ltd., London) (ISBN 0-948691-44-1).

Cargo containment

- 28 Principles of containment systems; rules; surveys; tank construction, materials, coatings, insulation and compatibility.

Pollution

- 29 Hazards to human life and to the marine environment; the effect of specific gravity and solubility; danger from vapour cloud drift and the jettisoning of cryogenic liquids.

Cargo-handling systems

- 30 A description of the main types of pumps and pumping arrangements and vapour-return systems, piping systems and valves; an explanation of pressure, vacuum, suction, flow, head; filters and strainers; expansion devices; flame screens; commonly used inert gases; storage, generation and distribution systems; temperature and pressure monitoring systems; cargo vent systems; liquid re-circulation and re-liquefaction systems; cargo gauging, instrumentation systems and alarms; gas detection and monitoring systems; CO₂ monitoring systems; cargo boil-off systems and auxiliary systems.

Ship operating procedures

- 31 Loading and discharging preparations and procedures; checklists; cargo condition maintenance on passage and in harbour, segregation of cargoes and procedures for cargo transfer; changing cargoes, tank cleaning procedures; cargo sampling; ballasting and deballasting; warm up and gas-freeing procedures; and procedures for cool down of a gas-free system from ambient temperature and the safety precautions involved.

Safety practices and equipment

- 32 The function, calibration and use of portable measuring instruments; fire-fighting equipment and procedures; breathing apparatus; resuscitators; escape sets; rescue equipment; protective clothing and equipment; entry into enclosed spaces; precautions to be observed before and during repair and maintenance of cargo and control systems; supervision of personnel during potentially hazardous operations; types and principles of certified safe electrical equipment and sources of ignition.

Emergency procedures

- 33 The importance of developing ship emergency plans; emergency shutdown of cargo operations; emergency cargo valve closing systems; action to be taken in the event of failure of systems or services essential to cargo; and action to be taken following collision or stranding, spillage and envelopment of the ship in toxic or flammable vapour.

General principles of cargo operations

- 34 Inciting cargo tank and void spaces; tank cool down and loading; operations during loaded and ballasted voyages; discharging and tank stripping and emergency procedures, including pre-planned action in the event of leaks, fire, collision, stranding, emergency cargo discharge and personnel casualty.

Section A-V/2***Mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on ro-ro passenger ships******Crowd management training***

- 1 The crowd management training required by regulation V/2, paragraph 4 for personnel designated on muster lists to assist passengers in emergency situations shall include, but not necessarily be limited to:
- .1 awareness of life-saving appliance and control plans, including:
 - .1.1 knowledge of muster lists and emergency instructions,
 - .1.2 knowledge of the emergency exits, and

- .1.3 restrictions on the use of elevators;
- .2 the ability to assist passengers en route to muster and embarkation stations, including:
 - .2.1 the ability to give clear reassuring orders,
 - .2.2 the control of passengers in corridors, staircases and passageways,
 - .2.3 maintaining escape routes clear of obstructions,
 - .2.4 methods available for evacuation of disabled persons and persons needing special assistance, and
 - .2.5 search of accommodation spaces;
- .3 mustering procedures, including:
 - .3.1 the importance of keeping order,
 - .3.2 the ability to use procedures for reducing and avoiding panic,
 - .3.3 the ability to use, where appropriate, passenger lists for evacuation counts, and
 - .3.4 the ability to ensure that the passengers are suitably clothed and have donned their lifejackets correctly.

Familiarization training

- 2 The familiarization training required by regulation V/2, paragraph 5 shall at least ensure attainment of the abilities that are appropriate to the capacity to be filled and the duties and responsibilities to be taken up, as follows:

Design and operational limitations

- .1 Ability to properly understand and observe any operational limitations imposed on the ship, and to understand and apply performance restrictions, including speed limitations in adverse weather, which are intended to maintain the safety of life, ship and cargo.

Procedures for opening, closing and securing hull openings

- .2 Ability to apply properly the procedures established for the ship regarding the opening, closing and securing of bow, stern, and side doors and ramps and to correctly operate the related systems.

Legislation, codes and agreements affecting ro-ro passenger ships

- .3 Ability to understand and apply international and national requirements for ro-ro passenger ships relevant to the ship concerned and the duties to be performed.

Stability and stress requirements and limitations

- .4 Ability to take proper account of stress limitations for sensitive parts of the ship such as bow doors and other closing devices that maintain watertight integrity and of special stability considerations which may affect the safety of ro-ro passenger ships.

Procedures for the maintenance of special equipment on ro-ro passenger ships

- .5 Ability to apply properly the shipboard procedures for maintenance of equipment peculiar to ro-ro passenger ships such as bow, stern and side doors and ramps, scuppers and associated systems.

Loading and cargo securing manuals and calculators

- .6 Ability to make proper use of the loading and securing manuals in respect of all types of vehicles and rail can where applicable, and to calculate and apply stress limitations for vehicle decks.

Dangerous cargo areas

- .7 Ability to ensure proper observance of special precautions and limitations applying to designated dangerous cargo areas.

Emergency procedures

- .8 Ability to ensure proper application of any special procedures to:
 - .8.1 prevent or reduce the ingress of water on vehicle decks,
 - .8.2 remove water from vehicle decks, and
 - .8.3 minimize effects of water on vehicle decks.

Safety training for personnel providing direct service to passengers in passenger spaces

- 3 The additional safety training required by regulation V/2, paragraph 6, shall at least ensure attainment of the abilities as follows:

Communication

- .1 Ability to communicate with passengers during an emergency, taking into account:
 - .1.1 the language or languages appropriate to the principal nationalities of passengers carried on the particular route,
 - .1.2 the likelihood that an ability to use an elementary English vocabulary for basic instructions can provide a means of communicating with a passenger in need of assistance whether or not the passenger and crew member share a common language,
 - .1.3 the possible need to communicate during an emergency by some other means such as by demonstration, or hand signals, or calling attention to the location of instructions, muster stations, life-saving devices or evacuation routes, when oral communication is impractical,
 - .1.4 the extent to which complete safety instructions have been provided to passengers in their native language or languages, and
 - .1.5 the languages in which emergency announcements may be broadcast during an emergency or drill to convey critical guidance to passengers and to facilitate crew members in assisting passengers.

Life-saving appliances

- .2 Ability to demonstrate to passengers the use of personal life-saving appliances.

Passenger safety, cargo safety and hull integrity training

- 4 The passenger safety, cargo safety and hull integrity training required by regulation V/2, paragraph 7, for masters, chief mates, chief engineer officers, second engineer officers and persons assigned immediate responsibility for embarking and disembarking passengers, for loading, discharging or securing cargo or for closing hull openings shall at least ensure attainment of the abilities that are appropriate to their duties and responsibilities as follows:

Loading and embarkation procedures

- .1 Ability to apply properly the procedures established for the ship regarding:
 - .1.1 loading and discharging vehicles, rail cars and other cargo transport units, including related communications,
 - .1.2 lowering and hoisting ramps,
 - .1.3 setting up and stowing retractable vehicle decks, and
 - .1.4 embarking and disembarking passengers, with special attention to disabled persons and persons needing assistance.

Carriage of dangerous goods

- .2 Ability to apply any special safeguards, procedures and requirements regarding the carriage of dangerous goods on board ro-ro passenger ships.

Securing cargoes

- .3 Ability to:
 - .3.1 apply correctly the provisions of the Code of Safe Practice for Cargo Stowage and Securing to the vehicles, rail cars and other cargo transport units carried; and
 - .3.2 use properly the cargo-securing equipment and materials provided, taking into account their limitations.

Stability, trim and stress calculations

- .4 Ability to:
 - .4.1 make proper use of the stability and stress information provided,
 - .4.2 calculate stability and trim for different conditions of loading, using the stability calculators or computer programs provided,
 - .4.3 calculate load factors for decks, and
 - .4.4 calculate the impact of ballast and fuel transfers on stability, trim and stress.

Opening, closing and securing hull openings

- .5 Ability to:
 - .5.1 apply properly the procedures established for the ship regarding the opening, closing and securing of bow, stern and side doors and ramps and to correctly operate the associated systems, and
 - .5.2 conduct surveys on proper sealing. Ro-ro deck atmosphere
- .6 Ability to:
 - .6.1 use equipment, where carried, to monitor atmosphere in ro-ro cargo spaces, and
 - .6.2 apply properly the procedures established for the ship for ventilation of ro-ro cargo spaces during loading and discharging of vehicles, while on voyage and in emergencies.

Crisis management and human behaviour training

- 5 The crisis management and human behaviour training required by regulation V/2, paragraph 8, for masters, chief mates, chief engineer officers, second engineer officers and any person having responsibility for the safety of passengers in emergency situations shall be to the satisfaction of the Administration based on standards developed by the Organization.

Chapter VI***Standards regarding emergency, occupational safety, medical care and survival functions******Section A-VI/1******Mandatory minimum requirements for familiarization and basic safety training and instruction for all seafarers******Familiarization training***

- 1 Before being assigned to shipboard duties, all persons employed or engaged on a sea-going ship other than passengers, shall receive approved familiarization training in personal survival techniques or receive sufficient information and instruction, taking account of the guidance given in part B, to be able to:
 - .1 communicate with other persons on board on elementary safety matters and understand safety information symbols, signs and alarm signals;
 - .2 know what to do if:
 - .2.1 a person falls overboard,
 - .2.2 fire or smoke is detected, or

- .2.3 the fire or abandon ship alarm is sounded;
- .3 identify muster and embarkation stations and emergency escape routes;
- .4 locate and don lifejackets;
- .5 raise the alarm and have basic knowledge of the use of portable fire extinguishers;
- .6 take immediate action upon encountering an accident or other medical emergency before seeking further medical assistance on board; and
- .7 close and open the fire, weathertight and watertight doors fitted in the particular ship other than those for hull openings.

Basic training*

- 2 Seafarers employed or engaged in any capacity on board ship on the business of that ship as part of the ship's complement with designated safety or pollution-prevention duties in the operation of the ship shall, before being assigned to any shipboard duties:
 - .1 receive appropriate approved basic training or instruction in:
 - .1.1 personal survival techniques as set out in table A-VI/1-1,
 - .1.2 fire prevention and fire fighting as set out in table A-VI/1-2,
 - .1.3 elementary first aid as set out in table A-VI/1-3, and
 - .1.4 personal safety and social responsibilities as set out in table A-VI/1-4.
 - .2 be required to provide evidence of having achieved the required standard of competence to undertake the tasks, duties and responsibilities listed in column 1 of tables A-VI/1-1, A-VI/1-2, A-VI/1-3 and A-VI/1-4 within the previous five years through:
 - .2.1 demonstration of competence, in accordance with the methods and the criteria for evaluating competence tabulated in columns 3 and 4 of those tables; and
 - .2.2 examination or continuous assessment as part of an approved training programme in the subjects listed in column 2 of those tables.
- 3 The Administration may, in respect of ships other than passenger ships of more than 500 gross tonnage engaged on international voyages and tankers, if it considers that a ship's size and the length or character of its voyage are such as to render the application of the full requirements of this section unreasonable or impracticable, exempt to that extent the seafarers on such a ship or class of ships from some of the requirements, bearing in mind the safety of people on board, the ship and property and the protection of the marine environment.

* The following IMO Model Courses may assist in the preparation of courses:

- .1 IMO Model Course 1.19- *Personal Survival*
- .2 IMO Model Course 1.20 - *Basic Fire Fighting*
- .3 IMO Model Course 1.13 - *Medical Emergency - Basic Training*
- .4 IMO Model Course 1.21 - *Human Relationships*

Table A-VI/1-1
Specification of minimum standard of competence in personal survival techniques

Column 1	Column 2	Column 3	Column 4
Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Survive at sea in the event of ship abandonment	Types of emergency situations which may occur, such as collision, fire, foundering Types of life-saving appliances normally carried on ships Equipment in survival craft Location of personal life-saving appliances Principles concerning survival, including: .1 value of training and drills .2 personal protective clothing and equipment .3 need to be ready for any emergency .4 actions to be taken when called to survival craft stations .5 actions to be taken when required to abandon ship .6 actions to be taken when in the water .7 actions to be taken when aboard a survival craft .8 main dangers to survivors	Assessment of evidence obtained from approved instruction or during attendance at an approved course or approved in-service experience and examination, including practical demonstration of competence to: .1 don a lifejacket .2 don and use an immersion suit .3 safely jump from a height into the water .4 right an inverted life-craft while wearing a lifejacket .5 swim while wearing a lifejacket .6 keep afloat without a lifejacket .7 board a survival craft from ship and water while wearing a life-jacket .8 take initial actions on boarding survival craft to enhance chance of survival .9 stream a drogue or sea-anchor .10 operate survival craft equipment .11 operate location devices, including radio equipment	Action taken on identifying muster signals is appropriate to the indicated emergency and complies with established procedures The timing and sequence of individual actions are appropriate to the prevailing circumstance and conditions and minimize potential dangers and threats to survival Method of boarding survival craft is appropriate and avoids dangers to other survivors Initial actions after leaving the ship and procedures and actions in water minimize threats to survival

Table A-VI/1-2
Specification of minimum standard of competence in fire prevention
and fire fighting

Column 1	Column 2	Column 3	Column 4
Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Minimize the risk of fire and maintain a state of readiness to respond to emergency situations involving fire	Shipboard fire-fighting organization Location of fire-fighting appliances and emergency escape routes The elements of fire and explosion (the fire triangle) Types and sources of ignition Flammable materials, fire hazard and spread of fire The need for constant vigilance Actions to be taken on board ship Fire and smoke detection and automatic alarm systems Classification of fire and applicable extinguishing agents	Assessment of evidence obtained from approved instruction or attendance at an approved course	Initial actions on becoming aware of an emergency conform with accepted practices and procedures Action taken on identifying muster signals is appropriate to the indicated emergency and complies with established procedures

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Fight and extinguish fires	Fire-fighting equipment and its location on board Instruction in: .1 fixed installations .2 firefighter's outfits .3 personal equipment .4 fire-fighting appliances and equipment .5 fire-fighting methods .6 fire-fighting agents .7 fire-fighting procedures .8 use of breathing apparatus for fighting fires and effecting rescues	Assessment of evidence obtained from approved instruction or during attendance at an approved course, including practical demonstration in spaces which provide truly realistic training conditions (e.g. simulated shipboard conditions) and, whenever possible and practical, in darkness, of the ability to: .1 use various types of portable fire extinguishers .2 use self-contained breathing apparatus .3 extinguish smaller fires, e.g. electrical fires, oil fires, propane fires .4 extinguish extensive fires with water, using jet and spray nozzles .5 extinguish fires with foam, powder or any other suitable chemical agent .6 enter and pass through, with lifeline but without breathing apparatus, a compartment into which high-expansion foam has been injected .7 fight fire in smoke-filled enclosed spaces wearing self-contained breathing apparatus	Clothing and equipment are appropriate to the nature of the fire-fighting operations The timing and sequence of individual actions are appropriate to the prevailing circumstances and conditions Extinguishment of fire is achieved using appropriate procedures techniques and fire-fighting agents Breathing apparatus procedures and techniques comply with accepted practices and procedures

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Fight and extinguish fires <i>(continued)</i>		8 extinguish fire with water fog or any other suitable fire-fighting agent in an accommodation room or simulated engine-room with fire and heavy smoke 9 extinguish oil fire with fog applicator and spray nozzles, dry chemical powder or foam applicators 10 effect a rescue in a smoke-filled space wearing breathing apparatus	

Table A-VI/1-3**Specification of minimum standard of competence in elementary first aid**

Column 1	Column 2	Column 3	Column 4
Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Take immediate action upon encountering an accident or other medical emergency	Assessment of needs of casualties and threats to own safety Appreciation of body structure and functions Understanding of immediate measures to be taken in cases of emergency, including the ability to: .1 position casualty .2 apply resuscitation techniques .3 control bleeding .4 apply appropriate measures of basic shock management .5 apply appropriate measures in event of burns and scalds, including accidents caused by electric current .6 rescue and transport a casualty .7 improvise bandages and use materials in emergency kit	Assessment of evidence obtained from approved instruction or during attendance at an approved course	The manner and timing of raising the alarm is appropriate to the circumstances of the accident or medical emergency The identification of probable cause, nature and extent of injuries is prompt and complete and the priority and sequence of actions is proportional to any potential threat to life Risk of further harm to self and casualty is minimized at all times

Table A- VI/1-4**Specification of minimum standard of competence in personal safety and social responsibilities**

Column 1	Column 2	Column 3	Column 4
Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Comply with emergency procedures	Types of emergency which may occur, such as collision, fire, foundering Knowledge of ship-board contingency plans for response to emergencies Emergency signals and specific duties allocated to crew members in the muster list; muster stations; correct use of personal safety equipment Action to take on discovering potential emergency, including fire, collision, foundering and ingress of water into the ship Action to take on hearing emergency alarm signals Value of training and drills Knowledge of escape routes and internal communication and alarm systems	Assessment of evidence obtained from approved instruction or during attendance at an approved course	Initial action on becoming aware of an emergency conforms to established emergency response procedures Information given on raising alarm is prompt, accurate, complete and clear
Take precautions to prevent pollution of the marine environment	Effects of operational or accidental pollution of the marine environment Basic environmental protection procedures.	Assessment of evidence obtained from approved instruction or during attendance at an approved course	Organizational procedures designed to safeguard the marine environment are observed at all times

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Observe safe working practices	Importance of adhering to safe working practices at all times Safety and protective devices available to protect against potential hazards aboard ship Precautions to be taken prior to entering enclosed spaces Familiarization with international measures concerning accident prevention and occupational health*	Assessment of evidence obtained from approved instruction or during attendance at an approved course	Safe working practices are observed and appropriate safety and protective equipment is correctly used at all times
Understand orders and be understood in relation to shipboard duties	Ability to understand orders and to communicate with others in relation to shipboard duties	Assessment of evidence obtained from approved instruction or during attendance at an approved course	Communications are clear and effective at all times
Contribute to effective human relationships on board ship	Importance of maintaining good human and working relationships aboard ship Social responsibilities; employment conditions; individual rights and obligations; dangers of drug and alcohol abuse	Assessment of evidence obtained from approved instruction or during attendance at an approved course	Expected standards of work and behaviour are observed at all times

* The ILO Code of Practice on "Accident Prevention on Board Ship at Sea and in Port" may be of assistance in the preparation of courses.

Section A-VI/2***Mandatory minimum requirements for the issue of certificates of proficiency in survival craft, rescue boats and fast rescue boats******PROFICIENCY IN SURVIVAL CRAFT AND RESCUE BOATS OTHER THAN FAST RESCUE BOATS******Standard of competence***

- 1 Every candidate for a certificate of proficiency in survival craft and rescue boats other than fast rescue boats shall be required to demonstrate competence to undertake the tasks, duties and responsibilities listed in column 1 of table A-VI/2-1.
- 2 The level of knowledge of the subjects listed in column 2 of table A-VI/2-1 shall be sufficient to enable the candidate to launch and take charge of a survival craft or rescue boat in emergency situations.*
- 3 Training and experience to achieve the necessary level of theoretical knowledge, understanding and proficiency shall take account of the guidance given in part B of this Code.
- 4 Every candidate for certification shall be required to provide evidence of having achieved the required standard of competence within the previous five years through:
 - .1 demonstration of competence to undertake the tasks, duties and responsibilities listed in column 1 of table A-VI/2-1, in accordance with the methods for demonstrating competence and the criteria for evaluating competence tabulated in columns 3 and 4 of that table; and
 - .2 examination or continuous assessment as part of an approved training programme covering the material set out in column 2 of table A-VI/2-1.

PROFICIENCY IN FAST RESCUE BOATS***Standard of competence***

- 5 Every candidate for a certificate of proficiency in fast rescue boats shall be required to demonstrate competence to undertake the tasks, duties and responsibilities listed in column 1 of table A-VI/2-2.
- 6 The level of knowledge of the subjects listed in column 2 of table A-VI/2-2 shall be sufficient to enable the candidate to launch and take charge of a fast rescue boat in emergency situations.
- 7 Training and experience to achieve the necessary level of theoretical knowledge, understanding and proficiency shall take account of the guidance given in part B of this Code.
- 8 Every candidate for certification shall be required to provide evidence of having achieved the required standard of competence within the previous five years through:
 - .1 demonstration of competence to undertake the tasks, duties and responsibilities listed in column 1 of table A-VI/2-2, in accordance with the methods for demonstrating competence and the criteria for evaluating competence tabulated in columns 3 and 4 of that table; and
 - .2 examination or continuous assessment as part of an approved training programme covering the material set out in column 2 of table A-VI/2-2.

* IMO Model Course 1.23 - *Proficiency in Survival Craft* may be of assistance in the preparation of courses.

Table A-VI/2-1**Specification of the minimum standard of competence in survival craft and rescue boats other than fast rescue boats**

Column 1	Column 2	Column 3	Column 4
Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Take charge of a survival craft or rescue boat during and after launch	Construction and outfit of survival craft and rescue boats and individual items of their equipment Particular characteristics and facilities of survival craft and rescue boats Various types of device used for launching survival craft and rescue boats Methods of launching survival craft into a rough sea Methods of recovering survival craft Action to be taken after leaving the ship Methods of launching and recovering rescue boats in a rough sea	Assessment of evidence obtained from practical demonstration of ability to: .1 right an inverted liferaft while wearing a lifejacket .2 interpret the markings on survival craft as to the number of persons they are intended to carry .3 give correct commands for launching and boarding survival craft, clearing the ship and handling and disembarking persons from survival craft .4 prepare and safely launch survival craft and clear the ship's side quickly .5 safely recover survival craft and rescue boats using: inflatable liferaft and open or enclosed lifeboat with inboard engine	Preparation, boarding and launching of survival craft are within equipment limitations and enable survival craft to clear the ship safely Initial actions on leaving the ship minimize threat to survival Recovery of survival craft and rescue boats is within equipment limitations

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Operate a survival craft engine	Methods of starting and operating a survival craft engine and its accessories together with the use of the fire extinguisher provided	Assessment of evidence obtained from practical demonstration of ability to start and operate an in-board engine fitted in an open or enclosed lifeboat	Propulsion is available and maintained as required for manoeuvring
Manage, survivors and survival craft after abandoning ship	Handling survival craft in rough weather Use of painter, sea-anchor and all other equipment Apportionment of food and water in survival craft Action taken to maximize detectability and location of survival craft Method of helicopter rescue Effects of hypothermia and its prevention; use of protective covers and garments, including immersion suits and thermal protective aids Use of rescue boats and motor lifeboats for marshalling lifecrafts and rescue of survivors and persons in the sea Beaching survival craft	Assessment of evidence obtained from practical demonstration of ability to: .1 row and steer a boat and steer by compass .2 use individual items of equipment of survival craft .3 rig devices to aid location	Survival management is appropriate to prevailing circumstances and conditions

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Use locating devices, including communication and signalling apparatus and pyrotechnics	Radio life-saving appliances carried in survival craft, including satellite EPIRBs and SAKTs Pyrotechnic distress signals	Assessment of evidence obtained from practical demonstration of ability to: .1 use portable radio equipment for survival craft .2 use signalling equipment, including pyrotechnics	Use and choice of communication and signalling apparatus is appropriate to prevailing circumstances and conditions
Apply first aid to survivors	Use of the first-aid kit and resuscitation techniques Management of injured persons, including control of bleeding and shock	Assessment of evidence obtained from practical demonstration of ability to deal with injured persons both during and after abandonment, using first-aid kit and resuscitation techniques	Identification of the probable cause, nature and extent of injuries or condition is prompt and accurate Priority and sequence of treatment minimizes any threat to life

Table A-VI/2-2**Specification of the minimum standard of competence in fast rescue boats**

Column 1	Column 2	Column 3	Column 4
Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Take charge of a fast rescue boat during and after launch	Construction and outfit of fast rescue boats and individual items of their equipment Particular characteristics and facilities of fast rescue boats Safety precautions during launch and recovery of a fast rescue boat Procedures for righting a capsized fast rescue boat How to handle a fast rescue boat in prevailing and adverse weather and sea conditions Navigational and safety equipment available in a fast rescue boat Search patterns and environmental factors affecting their execution Assessment of the readiness of fast rescue boats and related equipment for immediate use Knowledge of the maintenance, emergency repairs, normal inflation and deflation of buoyancy compartments of inflated fast rescue boats	Assessment of evidence obtained from practical demonstration of ability to: .1 control safe launching and recovery of a fast rescue boat .2 right a capsized fast rescue boat .3 handle a fast rescue boat in prevailing weather and sea conditions .4 swim in special equipment .5 use communication and signalling equipment between the fast rescue boat and a helicopter and a ship .6 use the emergency equipment carried .7 recover a casualty from the water and transfer a casualty to a rescue helicopter or to a ship or to a place of safety .8 carry out search patterns, taking account of environmental factors	Preparation, boarding, launching and operation of fast rescue boats is within equipment limitations

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Operate a fast rescue boat engine	Methods of starting and operating a fast rescue boat engine and its accessories	Assessment of evidence obtained from practical demonstration of ability to start and operate a fast rescue boat engine	Engine is started and operated as required for manoeuvring

Section A-VI/3***Mandatory minimum training in advance fire fighting******Standard of competence***

- 1 Seafarers designated to control fire-fighting operations shall have successfully completed advanced training in techniques for fighting fire, with particular emphasis on organization, tactics and command, and shall be required to demonstrate competence to undertake the tasks, duties and responsibilities listed in column 1 of table A-VI/3.
- 2 The level of knowledge and understanding of the subjects listed in column 2 of table A-VI/3 shall be sufficient for the effective control of fire-fighting operations on board ship.*
- 3 Training and experience to achieve the necessary level of theoretical knowledge, understanding and proficiency shall take account of the guidance given in part B of this Code.
- 4 Every candidate for certification shall be required to provide evidence of having achieved the required standard of competence within the previous five years, in accordance with the methods for demonstrating competence and the criteria for evaluating competence tabulated in columns 3 and 4 of table A-VI/3.

* IMO Model Course 2.03 - *Advanced Training in Fire Fighting* may be of assistance in the preparation of courses.

Table A-VI/3**Specification of minimum standard of competence in advanced fire fighting**

Column 1	Column 2	Column 3	Column 4
Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Control fire - fighting operations aboard ships	Fire-fighting procedures at sea and in port with particular emphasis on organization, tactics and command Use of water for fire-extinguishing, the effect on ship stability, precautions and corrective procedures Communication and co-ordination during fire-fighting operations Ventilation control, including smoke extractor Control of fuel and electrical systems Fire-fighting process hazards (dry distillation, chemical reactions, boiler uptake fires, etc.) Fire fighting involving dangerous goods Fire precautions and hazards associated with the storage and handling of materials (paints, etc.) Management and control of injured persons Procedures for co-ordination with shore-based fire fighters	Practical exercises and instruction conducted under approved and truly realistic training conditions (e.g., simulated ship-board conditions) and, whenever possible and practicable, in darkness	Actions taken to control fires are based on a full and accurate assessment of the incident, using all available sources of information The order of priority, timing and sequence of actions are appropriate to the overall requirements of the incident and to minimize damage and potential damage to the ship, injuries to personnel and impairment of the operational effectiveness of the ship Transmission of information is prompt, accurate, complete and clear Personal safety during fire control activities is safeguarded at all times

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Organize and train fire parties	Preparation of contingency plans Composition and allocation of personnel to fire parties Strategies and tactics for control of fires in various parts of the ship	Practical exercises and instruction conducted under approved and truly realistic training conditions, e.g. simulated ship-board conditions	Composition and organization of fire control parties ensure the prompt and effective implementation of emergency plans and procedures
Inspect and service fire-detection and -extinguishing systems and equipment	Fire-detection systems; fixed fire-extinguishing systems; portable and mobile fire-extinguishing equipment including appliances, pumps and rescue, salvage, life-support, personal protective and communication equipment Requirements for statutory and classification surveys	Practical exercises using approved equipment and systems in a realistic training environment	Operational effectiveness of all fire-detection and -extinguishing systems and equipment is maintained at all times in accordance with performance specifications and legislative requirements
Investigate and compile reports on incidents involving fire	Assessment of cause of incidents involving fire	Practical exercises in a realistic training environment	Causes of fire are identified and the effectiveness of countermeasures is evaluated

Section A-VI/4

Mandatory minimum requirements related to medical first aid and medical care

Standard of competence for seafarers designated to provide medical first aid on board ship

- 1 Every seafarer who is designated to provide medical first aid on board ship shall be required to demonstrate the competence to undertake the tasks, duties and responsibilities listed in column 1 of table A-VI/4-1.
- 2 The level of knowledge of the subjects listed in column 2 of table A-VI/4-1 shall be sufficient to enable the designated seafarer to take immediate effective action in the case of accidents or illness likely to occur on board ship.*
- 3 Every candidate for certification under the provisions of regulation VI/4, paragraph 1 shall be required to provide evidence that the required standard of competence has been achieved in accordance with the methods for demonstrating competence and the criteria for evaluating competence tabulated in columns 3 and 4 of table A-VI/4-1.

* IMO Model Course 1.14- *Medical Emergency - First Aid* may be of assistance in the preparation of courses.

Standard of competence for seafarers designated to take charge of medical care on board ship.

- 4 Every seafarer who is designated to take charge of medical care on board ship shall be required to demonstrate the competence to undertake the tasks, duties and responsibilities listed in column 1 of table A-VT/4-2.
- 5 The level of knowledge of the subjects listed in column 2 of table A-VI/4-2 shall be sufficient to enable the designated seafarer to take immediate effective action in the case of accidents or illness likely to occur on board ship.**
- 6 Every candidate for certification under the provisions of regulation VI/4, paragraph 2 shall be required to provide evidence that the required standard of competence has been achieved in accordance with the methods for demonstrating competence and the criteria for evaluating competence tabulated in columns 3 and 4 of table A-VI/4-2.

** IMO Model Course 1.15 - *Medical Care* may be of assistance in the preparation of courses.

Table A-VI/4-1**Specification of minimum standard of proficiency in medical first aid**

Column 1	Column 2	Column 3	Column 4
Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Apply immediate first aid in the event of accident or illness on board	First-aid kit Body structure and function Toxicological hazards on board, including use of the <i>Medical First Aid Guide for Use in Accidents Involving Dangerous Goods (MFAG)</i> or its national equivalent Examination of casualty or patient Spinal injuries Burns, scalds and effects of heat and cold Fractures, dislocations and muscular injuries Medical care of rescued persons Radio medical advice Pharmacology Sterilization Cardiac arrest, drowning and asphyxia	Assessment of evidence obtained from practical instruction	The identification of probable cause, nature and extent of injuries is prompt, complete and conforms to current first-aid practice Risk of harm to self and others is minimized at all times Treatment of injuries and the patient's condition is appropriate, conforms to recognized first-aid practice and international guidelines

Table A-VI/4-2

Specification of minimum standard of proficiency for persons in charge of medical care on board ship

Column 1	Column 2	Column 3	Column 4
Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Provide medical care to the sick and injured while they remain on board	Care of casualty involving: .1 head and spinal injuries .2 injuries of ear, nose, throat and eyes .3 external and internal bleeding .4 burns, scalds and frostbite .5 fractures, dislocations and muscular injuries .6 wounds, wound healing and infection .7 pain relief .8 techniques of sewing and clamping .9 management of acute abdominal conditions .10 minor surgical treatment .11 dressing and bandaging Aspects of nursing: .1 general principles .2 nursing care	Assessment of evidence obtained from practical instruction and demonstration Where practicable, approved practical experience at a hospital or similar establishment	Identification of symptoms is based on the concepts of clinical examination and medical history Protection against infection and spread of diseases is complete and effective Personal attitude is calm, confident and reassuring Treatment of injury or condition is appropriate and conforms to accepted medical practice and relevant national and international medical guides The dosage and application of drugs and medication complies with manufacturers' recommendations and accepted medical practice The significance of changes in patient's condition is promptly recognized

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Provide medical care to the sick and injured while they remain on board (<i>continued</i>)	Diseases, including: .1 medical conditions and emergencies .2 sexually transmitted diseases .3 tropical and infectious diseases Alcohol and drug abuse Dental care Gynaecology, pregnancy and childbirth Medical care of rescued persons Death at sea Hygiene Disease prevention, including: .1 disinfection, disinfection, de-ratting .2 vaccinations Keeping records and copies of applicable regulations: .1 keeping medical records .2 international and national maritime medical regulations		

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Participate in co-ordinated schemes for medical assistance to ships	External assistance, including: .1 radio medical advice .2 transportation of the ill and injured, including helicopter evacuation .3 medical care of sick seafarers involving co-operation with port health authorities or out-patient wards in port		Clinical examination procedures are complete and comply with instructions received The method and preparation for evacuation is in accordance with recognized procedures and is designed to maximize the welfare of the patient Procedures for seeking radio medical advice conform to established practice and recommendations

Chapter VII

Standards regarding alternative certification

Section A-VII/1

Issue of alternative certificates

- 1 Every candidate for certification at the operational level under the provisions of chapter VII of the annex to the Convention shall be required to complete relevant education and training and meet the standard of competence for all the functions prescribed in either table A-II/1 or table A-III/1. Functions specified in tables A-III/1 or A-III/1 respectively may be added provided the candidate completes, as appropriate, additional relevant education and training and meets the standards of competence prescribed in those tables for the functions concerned.
- 2 Every candidate for certification at the management level as the person having command of a ship of 500 gross tonnage or more, or the person upon whom the command of such a ship will fall in the event of the incapacity of the person in command, shall be required, in addition to compliance with the standard of competence specified in table A-II/1, to complete relevant education and training and meet the standards of competence for all of the functions prescribed in table A-II/2. Functions specified in the tables of chapter III of this part may be added provided the candidate completes, as appropriate, additional relevant education and training and meets the standards of competence prescribed in those tables for the functions concerned.
- 3 Every candidate for certification at the management level as the person responsible for the mechanical propulsion of a ship powered by main propulsion machinery of 750 kW or more, or the person upon whom such responsibility will fall in the event of the incapacity of the person responsible for the mechanical propulsion of the ship, shall be required, in addition to compliance with the standard of competence specified in table A-III/1, to complete relevant education and training and meet the standards of competence for all of the functions prescribed in table A-III/2, as appropriate. Functions specified in

the tables of chapter II of this part may be added provided the candidate completes, as appropriate, additional relevant education and training and meets the standards of competence prescribed in those tables for the functions concerned.

- 4 Every candidate for certification at the support level in navigation or marine engineering shall comply with the standard of competence prescribed in table A-II/4 or A-III/4 of this part, as appropriate.

Section A-VII/2

Certification of seafarers

- 1 In accordance with the requirements of regulation VII/1, paragraph 1.3, every candidate for certification under the provisions of chapter VII at operational level in functions specified in tables A-II/1 or A-III/1 shall:
 1. have approved seagoing service of not less than one year, which service shall include a period of at least six months performing engine-room duties under the supervision of a qualified engineer officer and, where the function of navigation is required, a period of at least six months performing bridge watchkeeping duties under the supervision of a qualified bridge watchkeeping officer; and
 2. have completed, during this service, on-board training programmes approved as meeting the relevant requirements of sections A-II/1 and A-III/1 and documented in an approved training record book.
- 2 Every candidate for certification under the provisions of chapter VII at the management level in a combination of functions specified in tables A-II/2 and A-III/2 shall have approved seagoing service related to the functions to be shown in the endorsement to the certificate as follows:
 1. *for persons other than those having command or responsibility for the mechanical propulsion of a ship* - 12 months performing duties at the operational level related to regulation III/2 or III/3 as appropriate and, where the function of navigation at the management level is required, at least 12 months performing bridge watchkeeping duties at the operational level;
 2. *for those having command or the responsibility for the mechanical propulsion of a ship* - not less than 48 months, including the provisions in paragraph 2.1 of this section, performing, as a certificated officer, duties related to the functions to be shown in the endorsement to the certificate, of which 24 months shall be served performing functions set out in table A-II/1 and 24 months shall be served performing functions set out in tables A-III/1 and A-III/2.

Section A-VII/3

Principles governing the issue of alternative certificates

(No provisions)

Chapter VIII

Standards regarding watchkeeping

Section A-VIII/1

Fitness for duty

- 1 All persons who are assigned duty as officer in charge of a watch or as a rating forming part of a watch shall be provided a minimum of 10 hours of rest in any 24-hour period.
- 2 The hours of rest may be divided into no more than two periods, one of which shall be at least 6 hours in length.
- 3 The requirements for rest periods laid down in paragraphs 1 and 2 need not be maintained in the case of an emergency or drill or in other overriding operational conditions.
- 4 Notwithstanding the provisions of paragraphs 1 and 2, the minimum period of ten hours may be reduced to not less than 6 consecutive hours provided that any such reduction

shall not extend beyond two days and not less than 70 hours of rest are provided each seven-day period.

- 5 Administrations shall require that watch schedules be posted where they are easily accessible.

Section A-VIII/2

Watchkeeping arrangements and principles to be observed

PART 1 - CERTIFICATION

- 1 The officer in charge of the navigational or deck watch shall be duty qualified in accordance with the provisions of chapter II, or chapter VII appropriate to the duties related to navigational or deck watchkeeping.
- 2 The officer in charge of the engineering watch shall be duty qualified in accordance with the provisions of chapter III, or chapter VII appropriate to the duties related to engineering watchkeeping.

PART 2 - VOYAGE PLANNING

General requirements

- 3 The intended voyage shall be planned in advance, taking into consideration all pertinent information, and any course laid down shall be checked before the voyage commences.
- 4 The chief engineer officer shall, in consultation with the master, determine in advance the needs of the intended voyage, taking into consideration the requirements for fuel, water, lubricants, chemicals, expendable and other spare parts, tools, supplies and any other requirements.

Planning prior to each voyage

- 5 Prior to each voyage the master of every ship shall ensure that the intended route from the port of departure to the first port of call is planned using adequate and appropriate charts and other nautical publications necessary for the intended voyage, containing accurate, complete and up-to-date information regarding those navigational limitations and hazards which are of a permanent or predictable nature and which are relevant to the safe navigation of the ship.

Verification and display of planned route

- 6 When the route planning is verified taking into consideration all pertinent information, the planned route shall be clearly displayed on appropriate charts and shall be continuously available to the officer in charge of the watch, who shall verify each course to be followed prior to using it during the voyage.

Deviation from planned route

- 7 If a decision is made, during a voyage, to change the next port of call of the planned route, or if it is necessary for the ship to deviate substantially from the planned route for other reasons, then an amended route shall be planned prior to deviating substantially from the route originally planned.

PART 3 - WATCHKEEPING AT SEA

Principles applying to watchkeeping generally

- 8 Parties shall direct the attention of companies, masters, chief engineer officers and watchkeeping personnel to the following principles, which shall be observed to ensure that safe watches are maintained at all times.
- 9 The master of every ship is bound to ensure that watchkeeping arrangements are adequate for maintaining a safe navigational watch. Under the master's general direction,

the officers of the navigational watch are responsible for navigating the ship safely during their periods of duty, when they will be particularly concerned with avoiding collision and stranding.

- 10 The chief engineer officer of every ship is bound, in consultation with the master, to ensure that watchkeeping arrangements are adequate to maintain a safe engineering watch.

Protection of marine environment

- 11 The master, officers and ratings shall be aware of the serious effects of operational or accidental pollution of the marine environment and shall take all possible precautions to prevent such pollution, particularly within the framework of relevant international and port regulations.

Part 3-1 - Principles to be observed in keeping a navigational watch

- 12 The officer in charge of the navigational watch is the master's representative and is primarily responsible at all times for the safe navigation of the ship and for complying with the International Regulations for Preventing Collisions at Sea, 1972.

Look-out

- 13 A proper look-out shall be maintained at all times in compliance with rule 5 of the International Regulations for Preventing Collisions at Sea, 1972 and shall serve the purpose of:
 1. maintaining a continuous state of vigilance by sight and hearing as well as by all other available means, with regard to any significant change in the operating environment;
 2. fully appraising the situation and the risk of collision, stranding and other dangers to navigation; and
 3. detecting ships or aircraft in distress, shipwrecked persons, wrecks, debris and other hazards to safe navigation.
- 14 The look-out must be able to give full attention to the keeping of a proper look-out and no other duties shall be undertaken or assigned which could interfere with that task.
- 15 The duties of the look-out and helmsperson are separate and the helmsperson shall not be considered to be the look-out while steering, except in small ships where an unobstructed all-round view is provided at the steering position and there is no impairment of night vision or other impediment to the keeping of a proper look-out. The officer in charge of the navigational watch may be the sole look-out in daylight provided that on each such occasion:
 1. the situation has been carefully assessed and it has been established without doubt that it is safe to do so;
 2. full account has been taken of all relevant factors, including, but not limited to:
 - state of weather,
 - visibility,
 - traffic density,
 - proximity of dangers to navigation, and
 - the attention necessary when navigating in or near traffic separation schemes; and
 3. assistance is immediately available to be summoned to the bridge when any change in the situation so requires.
- 16 In determining that the composition of the navigational watch is adequate to ensure that a proper look-out can continuously be maintained, the master shall take into account all relevant factors, including those described in this section of the Code, as well as the following factors:

- .1 visibility, state of weather and sea;
- .2 traffic density, and other activities occurring in the area-in which the vessel is navigating;
- .3 the attention necessary when navigating in or near traffic separation schemes or other routing measures;
- .4 the additional workload caused by the nature of the ship's functions, immediate operating requirements and anticipated manoeuvres;
- .5 the fitness for duty of any crew members on call who are assigned as members of the watch;
- .6 knowledge of and confidence in the professional competence of the ship's officers and crew;
- .7 the experience of each officer of the navigational watch, and the familiarity of that officer with the ship's equipment, procedures, and manoeuvring capability;
- .8 activities taking place on board the ship at any particular time, including radiocommunication activities, and the availability of assistance to be summoned immediately to the bridge when necessary;
- .9 the operational status of bridge instrumentation and controls, including alarm systems;
- .10 rudder and propeller control and ship manoeuvring characteristics;
- .11 the size of the ship and the field of vision available from the conning position;
- .12 the configuration of the bridge, to the extent such configuration might inhibit a member of the watch from detecting by sight or hearing any external development; and
- .13 any other relevant standard, procedure or guidance relating to watch-keeping arrangements and fitness for duty which has been adopted by the Organization.

Watch arrangements

- 17 When deciding the composition of the watch on the bridge, which may include appropriately qualified ratings, the following factors, inter alia, shall be taken into account:
 - .1 at no time shall the bridge be left unattended;
 - .2 weather conditions, visibility and whether there is daylight or darkness;
 - .3 proximity of navigational hazards which may make it necessary for the officer in charge of the watch to carry out additional navigational duties;
 - .4 use and operational condition of navigational aids such as radar or electronic position-indicating devices and any other equipment affecting the safe navigation of the ship;
 - .5 whether the ship is fitted with automatic steering;
 - .6 whether there are radio duties to be performed;
 - .7 unmanned machinery space (UMS) controls, alarms and indicators provided on the bridge, procedures for their use and limitations; and
 - .8 any unusual demands on the navigational watch that may arise as a result of special operational circumstances.

Taking over the watch

- 18 The officer in charge of the navigational watch shall not hand over the watch to the relieving officer if there is reason to believe that the latter is not capable of carrying out the watchkeeping duties effectively, in which case the master shall be notified.
- 19 The relieving officer shall ensure that the members of the relieving watch are fully capable of performing their duties, particularly as regards their adjustment to night vision. Relieving officers shall not take over the watch until their vision is fully adjusted to the light conditions.
- 20 Prior to taking over the watch, relieving officers shall satisfy themselves as to the ship's estimated or true position and confirm its intended track, course and speed, and UMS

controls as appropriate and shall note any dangers to navigation expected to be encountered during their watch.

- 21 Relieving officers shall personally satisfy themselves regarding the:
 - .1 standing orders and other special instructions of the master relating to navigation of the ship;
 - .2 position, course, speed and draught of the ship;
 - .3 prevailing and predicted tides, currents, weather, visibility and the effect of these factors upon course and speed;
 - .4 procedures for the use of main engines to manoeuvre when the main engines are on bridge control; and
 - .5 navigational situation, including but not limited to:
 - .5.1 the operational condition of all navigational and safety equipment being used or likely to be used during the watch,
 - .5.2 the errors of gyro- and magnetic compasses,
 - .5.3 the presence and movement of ships in sight or known to be in the vicinity,
 - .5.4 the conditions and hazards likely to be encountered during the watch, and
 - .5.5 the possible effects of heel, trim, water density and squat on under-keel clearance.
- 22 If at any time the officer in charge of the navigational watch is to be relieved when a manoeuvre or other action to avoid any hazard is taking place, the relief of that officer shall be deferred until such action has been completed.

Performing the navigational watch

- 23 The officer in charge of the navigational watch shall:
 - .1 keep the watch on the bridge;
 - .2 in no circumstances leave the bridge until properly relieved;
 - .3 continue to be responsible for the safe navigation of the ship, despite the presence of the master on the bridge, until informed specifically that the master has assumed that responsibility and this is mutually understood; and
 - .4 notify the master when in any doubt as to what action to take in the interest of safety.
- 24 During the watch the course steered, position and speed shall be checked at sufficiently frequent intervals, using any available navigational aids necessary, to ensure that the ship follows the planned course.
- 25 The officer in charge of the navigational watch shall have full knowledge of the location and operation of all safety and navigational equipment on board the ship and shall be aware and take account of the operating limitations of such equipment.
- 26 The officer in charge of the navigational watch shall not be assigned or undertake any duties which would interfere with the safe navigation of the ship.
- 27 Officers of the navigational watch shall make the most effective use of all navigational equipment at their disposal.
- 28 When using radar, the officer in charge of the navigational watch shall bear in mind the necessity to comply at all times with the provisions on the use of radar contained in the International Regulations for Preventing Collisions at Sea, in force.
- 29 In cases of need, the officer in charge of the navigational watch shall not hesitate to use the helm, engines and sound signalling apparatus. However, timely notice of intended variations of engine speed shall be given where possible or effective use made of UMS engine controls provided on the bridge in accordance with the applicable procedures.
- 30 Officers of the navigational watch shall know the handling characteristics of their ship, including its stopping distances, and should appreciate that other ships may have different handling characteristics.

- 31 A proper record shall be kept during the watch of the movements and activities relating to the navigation of the ship.
- 32 It is of special importance that at all times the officer in charge of the navigational watch ensures that a proper look-out is maintained. In a ship with a separate chartroom the officer in charge of the navigational watch may visit the chartroom, when essential, for a short period for the necessary performance of navigational duties, but shall first ensure that it is safe to do so and that proper look out is maintained.
- 33 Operational tests of shipboard navigational equipment shall be carried out at sea as frequently as practicable and as circumstances permit, in particular before hazardous conditions affecting navigation are expected. Whenever appropriate, these tests shall be recorded. Such tests shall also be carried out prior to port arrival and departure.
- 34 The officer in charge of the navigational watch shall make regular checks to ensure that:
 - .1 the person steering the ship or the automatic pilot is steering the correct course;
 - .2 the standard compass error is determined at least once a watch and, when possible, after any major alteration of course; the standard and gyrocompasses are frequently compared and repeaters are synchronized with their master compass;
 - .3 the automatic pilot is tested manually at least once a watch;
 - .4 the navigation and signal lights and other navigational equipment are functioning properly;
 - .5 the radio equipment is functioning properly in accordance with paragraph 86 of this section; and
 - .6 the UMS controls, alarms and indicators are functioning properly.
- 35 The officer in charge of the navigational watch shall bear in mind the necessity to comply at all times with the requirements in force of the International Convention for the Safety of Life at Sea (SOLAS), 1974*. The officer of the navigational watch shall take into account:
 - .1 the need to station a person to steer the ship and to put the steering into manual control in good time to allow any potentially hazardous situation to be dealt with in a safe manner, and
 - .2 that with a ship under automatic steering it is highly dangerous to allow a situation to develop to the point where the officer in charge of the navigational watch is without assistance and has to break the continuity of the look-out in order to take emergency action.
- 36 Officers of the navigational watch shall be thoroughly familiar with the use of all electronic navigational aids carried, including their capabilities and limitations, and shall use each of these aids when appropriate and shall bear in mind that the echo-sounder is a valuable navigational aid.
- 37 The officer in charge of the navigational watch shall use the radar whenever restricted visibility is encountered or expected, and at all times in congested waters, having due regard to its limitations.
- 38 The officer in charge of the navigational watch shall ensure that range scales employed are changed at sufficiently frequent intervals so that echoes are detected as early as possible. It shall be borne in mind that small or poor echoes may escape detection.
- 39 Whenever radar is in use, the officer in charge of the navigational watch shall select an appropriate range scale and observe the display carefully, and shall ensure that plotting or systematic analysis is commenced in ample time.
- 40 The officer in charge of the navigational watch shall notify the master immediately:
 - .1 if restricted visibility is encountered or expected;

* See regulations V/19, V/19-1 and V/19-2.

- .2 if the traffic conditions or the movements of other ships are causing concern;
 - .3 if difficulty is experienced in maintaining course;
 - .4 on failure to sight land, a navigation mark or to obtain soundings by the expected time;
 - .5 if, unexpectedly, land or a navigation mark is sighted or a change in soundings occurs;
 - .6 on breakdown of the engines, propulsion machinery remote control, steering gear or any essential navigational equipment, alarm or indicator;
 - .7 if the radio equipment malfunctions;
 - .8 in heavy weather, if in any doubt about the possibility of weather damage;
 - .9 if the ship meets any hazard to navigation, such as ice or a derelict; and
 - .10 in any other emergency or if in any doubt.
- 41 Despite the requirement to notify the master immediately in the foregoing circumstances, the officer in charge of the navigational watch shall in addition not hesitate to take immediate action for the safety of the ship, where circumstances so require.
- 42 The officer in charge of the navigational watch shall give watchkeeping personnel all appropriate instructions and information which will ensure the keeping of a safe watch, including a proper look-out.

Watchkeeping under different conditions and in different areas

Clear weather

- 43 The officer in charge of the navigational watch shall take frequent and accurate compass bearings of approaching ships as a means of early detection of risk of collision and bear in mind that such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large ship or a tow or when approaching a ship at close range. The officer in charge of the navigational watch shall also take early and positive action in compliance with the applicable International Regulations for Preventing Collisions at Sea, 1972 and subsequently check that such action is having the desired effect.
- 44 In clear weather, whenever possible, the officer in charge of the navigational watch shall carry out radar practice.

Restricted visibility

- 45 When restricted visibility is encountered or expected, the first responsibility of the officer in charge of the navigational watch is to comply with the relevant rules of the International Regulations for Preventing Collisions at Sea, 1972 with particular regard to the sounding of fog signals, proceeding at a safe speed and having the engines ready for immediate manoeuvre. In addition, the officer in charge of the navigational watch shall:
- .1 inform the master;
 - .2 post a proper look-out;
 - .3 exhibit navigation lights; and
 - .4 operate and use the radar.

In hours of darkness

- 46 The master and the officer in charge of the navigational watch, when arranging look-out duty, shall have due regard to the bridge equipment and navigational aids available for use, their Limitations; procedures and safeguards implemented.

Coastal and congested waters

- 47 The largest scale chart on board, suitable for the area and corrected with the latest available information, shall be used. Fixes shall be taken at frequent intervals, and shall be carried out by more than one method whenever circumstances allow.

- 48 The officer in charge of the navigational watch shall positively identify all relevant navigation marks.

Navigation with pilot on board

- 49 Despite the duties and obligations of pilots, their presence on board does not relieve the master or officer in charge of the navigational watch from their duties and obligations for the safety of the ship. The master and the pilot shall exchange information regarding navigation procedures, local conditions and the ship's characteristics. The master and/or the officer in charge of the navigational watch shall co-operate closely with the pilot and maintain an accurate check on the ship's position and movement.
- 50 If in any doubt as to the pilot's actions or intentions, the officer in charge of the navigational watch shall seek clarification from the pilot and, if doubt still exists, shall notify the master immediately and take whatever action is necessary before the master arrives.

Ship at anchor

- 51 If the master considers it necessary, a continuous navigational watch shall be maintained at anchor. While at anchor, the officer in charge of the navigational watch shall:
- .1 determine and plot the ship's position on the appropriate chart as soon as practicable;
 - .2 when circumstances permit, check at sufficiently frequent intervals whether the ship is remaining securely at anchor by taking bearings of fixed navigation marks or readily identifiable shore objects;
 - .3 ensure that proper look-out is maintained;
 - .4 ensure that inspection rounds of the ship are made periodically;
 - .5 observe meteorological and tidal conditions and the state of the sea;
 - .6 notify the master and undertake all necessary measures if the ship drags anchor;
 - .7 ensure that the state of readiness of the main engines and other machinery is in accordance with the master's instructions;
 - .8 if visibility deteriorates, notify the master;
 - .9 ensure that the ship exhibits the appropriate lights and shapes and that appropriate sound signals are made in accordance with all applicable regulations; and
 - .10 take measures to protect the environment from pollution by the ship and comply with applicable pollution regulations.

Part 3-2 - Principles to be observed in keeping an engineering watch

- 52 The term *engineering watch* as used in parts 3-2, 4-2 and 4-4 of this section means either a person or a group of personnel comprising the watch or a period of responsibility for an officer during which the physical presence in machinery spaces of that officer may or may not be required.
- 53 The *officer in charge of the engineering watch* is the chief engineer officer's representative and is primarily responsible, at all times, for the safe and efficient operation and upkeep of machinery affecting the safety of the ship and is responsible for the inspection, operation and testing, as required, of all machinery and equipment under the responsibility of the engineering watch.

Watch arrangements

- 54 The composition of the engineering watch shall, at all times, be adequate to ensure the safe operation of all machinery affecting the operation of the ship, in either automated or manual mode, and be appropriate to the prevailing circumstances and conditions.
- 55 When deciding the composition of the engineering watch, which may include appropriately qualified ratings, the following criteria, *inter alia*, shall be taken into account:
- .1 the type of ship and the type and condition of the machinery;
 - .2 the adequate supervision, at all times, of machinery affecting the safe operation of the ship;

- .3 any special modes of operation dictated by conditions such as weather, ice, contaminated water, shallow water, emergency conditions, damage containment or pollution abatement;
- .4 the qualifications and experience of the engineering watch;
- .5 the safety of life, ship, cargo and port, and protection of the environment;
- .6 the observance of international, national and local regulations; and
- .7 maintaining the normal operations of the ship.

Taking over the watch

- 56 The officer in charge of the engineering watch shall not hand over the watch to the relieving officer if there is reason to believe that the latter is obviously not capable of carrying out the watchkeeping duties effectively, in which case the chief engineer officer shall be notified.
- 57 The relieving officer of the engineering watch shall ensure that the members of the relieving engineering watch are apparently fully capable of performing their duties effectively.
- 58 Prior to taking over the engineering watch, relieving officers shall satisfy themselves regarding at least the following:
 - .1 the standing orders and special instructions of the chief engineer officer relating to the operation of the ship's systems and machinery;
 - .2 the nature of all work being performed on machinery and systems, the personnel involved and potential hazards.
 - .3 the level and, where applicable, the condition of water or residues in bilges, ballast tanks, slop tanks, reserve tanks, fresh water tanks, sewage tanks and any special requirements for use or disposal of the contents thereof;
 - .4 the condition and level of fuel in the reserve tanks, settling tank, day tank and other fuel storage facilities;
 - .5 any special requirements relating to sanitary system disposals;
 - .6 condition and mode of operation of the various main and auxiliary systems, including the electrical power distribution system;
 - .7 where applicable, the condition of monitoring and control console equipment, and which equipment is being operated manually;
 - .8 where applicable, the condition and mode of operation of automatic boiler controls such as flame safeguard control systems, limit control systems, combustion control systems, fuel-supply control systems and other equipment related to the operation of steam boilers;
 - .9 any potentially adverse conditions resulting from bad weather, ice, or contaminated or shallow water;
 - .10 any special modes of operation dictated by equipment failure or adverse ship conditions;
 - .11 the reports of engine-room ratings relating to their assigned duties;
 - .12 the availability of fire-fighting appliances; and
 - .13 the state of completion of engine-room log.

Performing the engineering watch

- 59 The officer in charge of the engineering watch shall ensure that the established watchkeeping arrangements are maintained and that, under direction, engine-room ratings, if forming part of the engineering watch, assist in the safe and efficient operation of the propulsion machinery and auxiliary equipment.
- 60 The officer in charge of the engineering watch shall continue to be responsible for machinery-space operations, despite the presence of the chief engineer officer in the ma-

chinery spaces, until specifically informed that the chief engineer officer has assumed that responsibility and this is mutually understood.

- 61 All members of the engineering watch shall be familiar with their assigned watchkeeping duties. In addition, every member shall, with respect to the ship they are serving in, have knowledge of:
 - .1 the use of appropriate internal communication systems;
 - .2 the escape routes from machinery spaces;
 - .3 the engine-room alarm systems and be able to distinguish between the various alarms, with special reference to the fire-extinguishing media alarm; and
 - .4 the number, location and types of fire-fighting equipment and damage-control gear in the machinery spaces, together with their use and the various safety precautions to be observed.
- 62 Any machinery not functioning properly, expected to malfunction or requiring special service shall be noted along with any action already taken. Plans shall be made for any further action if required.
- 63 When the machinery spaces are in the manned condition, the officer in charge of the engineering watch shall at all times be readily capable, of operating the propulsion equipment in response to needs for changes in direction or speed.
- 64 When the machinery spaces are in the periodic unmanned condition, the designated duty officer in charge of the engineering watch shall be immediately available and on call to attend the machinery spaces.
- 65 All bridge orders shall be promptly executed. Changes in direction or speed of the main propulsion units shall be recorded, except where an Administration has determined that the size or characteristics of a particular ship make such recording impracticable. The officer in charge of the engineering watch shall ensure that the main propulsion unit controls, when in the manual mode of operation, are continuously attended under stand-by or manoeuvring conditions.
- 66 Due attention shall be paid to the ongoing maintenance and support of all machinery, including mechanical, electrical, electronic, hydraulic and pneumatic systems, their control apparatus and associated safety equipment, all accommodation service systems equipment and the recording of stores and spare gear usage.
- 67 The chief engineer officer shall ensure that the officer in charge of the engineering watch is informed of all preventive maintenance, damage control, or repair operations to be performed during the engineering watch. The officer in charge of the engineering watch shall be responsible for the isolation, bypassing and adjustment of all machinery under the responsibility of the engineering watch that is to be worked on, and shall record all work carried out.
- 68 When the engine-room is put in a stand-by condition, the officer in charge of the engineering watch shall ensure that all machinery and equipment which may be used during manoeuvring is in a state of immediate readiness and that an adequate reserve of power is available for steering gear and other requirements.
- 69 Officers in charge of an engineering watch shall not be assigned or undertake any duties which would interfere with their supervisory duties in respect of the main propulsion system and ancillary equipment. They shall keep the main propulsion plant and auxiliary systems under constant supervision until property relieved, and shall periodically inspect the machinery in their charge. They shall also ensure that adequate rounds of the machinery and steering-gear spaces are made for the purpose of observing and reporting equipment malfunctions or breakdowns, performing or directing routine adjustments, required upkeep and any other necessary tasks.
- 70 Officers in charge of an engineering watch shall direct any other member of the engineering watch to inform them of potentially hazardous conditions which may adversely affect the machinery or jeopardize the safety of life or of the ship.

- 71 The officer in charge of the engineering watch shall ensure that the machinery space watch is supervised, and shall arrange for substitute personnel in the event of the incapacity of any engineering watch personnel. The engineering watch shall not leave the machinery spaces unsupervised in a manner that would prevent the manual operation of the engine-room plant or throttles.
- 72 The officer in charge of the engineering watch shall take the action necessary to contain the effects of damage resulting from equipment breakdown, fire, flooding, rupture, collision, stranding, or other cause.
- 73 Before going off duty, the officer in charge of the engineering watch shall ensure that all events related to the main and auxiliary machinery which have occurred during the engineering watch are suitably recorded.
- 74 The officer in charge of the engineering watch shall co-operate with any engineer in charge of maintenance work during all preventive maintenance, damage control or repairs. This shall include but not necessarily be limited to:
 - .1 isolating and bypassing machinery to be worked on;
 - .2 adjusting the remaining plant to function adequately and safely during the maintenance period;
 - .3 recording, in the engine-room log or other suitable document, the equipment worked on and the personnel involved, and which safety steps have been taken and by whom, for the benefit of relieving officers and for record purposes; and
 - .4 testing and putting into service, when necessary, the repaired machinery or equipment.
- 75 The officer in charge of the engineering watch shall ensure that any engine-room ratings who perform maintenance duties are available to assist in the manual operation of machinery in the event of automatic equipment failure.
- 76 The officer in charge of the engineering watch shall bear in mind that changes in speed, resulting from machinery malfunction, or any loss of steering, may imperil the safety of the ship and life at sea. The bridge shall be immediately notified, in the event of fire, and of any impending action in machinery spaces that may cause reduction in the ship's speed, imminent steering failure, stoppage of the ship's propulsion system or any alteration in the generation of electric power or similar threat to safety. This notification, where possible, shall be accomplished before changes are made, in order to afford the bridge the maximum available time to take whatever action is possible to avoid a potential marine casualty.
- 77 The officer in charge of the engineering watch shall notify the chief engineer officer without delay:
 - .1 when engine damage or a malfunction occurs which may be such as to endanger the safe operation of the ship;
 - .2 when any malfunction occurs which, it is believed, may cause damage or breakdown of propulsion machinery, auxiliary machinery or monitoring and governing systems; and
 - .3 in any emergency or if in any doubt as to what decision or measures to take.
- 78 Despite the requirement to notify the chief engineer officer in the foregoing circumstances, the officer in charge of the engineering watch shall not hesitate to take immediate action for the safety of the ship, its machinery and crew where circumstances require.
- 79 The officer in charge of the engineering watch shall give the watchkeeping personnel all appropriate instructions and information which will ensure the keeping of a safe engineering watch. Routine machinery upkeep, performed as incidental tasks as a part of keeping a safe watch, shall be set up as an integral part of the watch routine. Detailed repair maintenance involving repairs to electrical, mechanical, hydraulic, pneumatic or applicable electronic equipment throughout the ship shall be performed with the cogni-

zance of the officer in charge of the engineering watch and chief engineer officer. These repairs shall be recorded.

Engineering watchkeeping under different conditions and in different areas

Restricted visibility

- 80 The officer in charge of the engineering watch shall ensure that permanent air or steam pressure is available for sound signals and that at all times bridge orders relating to changes in speed or direction of operation are immediately implemented and, in addition, that auxiliary machinery used for manoeuvring is readily available.

Coastal and congested waters

- 81 The officer in charge of the engineering watch shall ensure that all machinery involved with the manoeuvring of the ship can immediately be placed in the manual mode of operation when notified that the ship is in congested waters. The officer in charge of the engineering watch shall also ensure that an adequate reserve of power is available for steering and other manoeuvring requirements. Emergency steering and other auxiliary equipment shall be ready for immediate operation.

Ship at anchor

- 82 At an unsheltered anchorage the chief engineer officer shall consult with the master whether or not to maintain the same engineering watch as when under way.
- 83 When a ship is at anchor in an open roadstead or any other virtually "at-sea" condition, the engineer officer in charge of the engineering watch shall ensure that:
- .1 an efficient engineering watch is kept;
 - .2 periodic inspection is made of all operating and stand-by machinery;
 - .3 main and auxiliary machinery is maintained in a state of readiness in accordance with orders from the bridge;
 - .4 measures are taken to protect the environment from pollution by the ship, and that applicable pollution-prevention regulations are complied with; and
 - .5 all damage-control and fire-fighting systems are in readiness.

Part 3-3 - Principles to be observed in keeping a radio watch

General provisions

- 84 Administrations shall direct the attention of companies, masters and radio watchkeeping personnel to comply with the following provisions to ensure that an adequate safety radio watch is maintained while a ship is at sea. In complying with this Code, account shall be taken of the Radio Regulations.

Watch arrangements

- 85 In deciding the arrangements for the radio watch, the master of every seagoing ship shall:
- .1 ensure that the radio watch is maintained in accordance with the relevant provisions of the Radio Regulations and the SOLAS Convention;
 - .2 ensure that the primary duties for radio watchkeeping are not adversely affected by attending to radio traffic not relevant to the safe movement of the ship and safety of navigation; and
 - .3 take into account the radio equipment fitted on board and its operational status.

Performing the radio watch

- 86 The radio operator performing radio watchkeeping duties shall:
- .1 ensure that watch is maintained on the frequencies specified in the Radio Regulations and the SOLAS Convention; and

- .2 while on duty, regularly check the operation of the radio equipment and its sources of energy and report to the master any observed failure of this equipment.
- 87 The requirements of the Radio Regulations and the SOLAS Convention on keeping a radiotelegraph or radio log, as appropriate, shall be complied with.
- 88 The maintenance of radio records, in compliance with the requirements of the Radio Regulations and the SOLAS Convention, is the responsibility of the radio operator designated as having primary responsibility for radiocommunications during distress incidents. The following shall be recorded, together with the times at which they occur:
 - .1 a summary of distress, urgency and safety radiocommunications;
 - .2 important incidents relating to the radio service;
 - .3 where appropriate, the position of the ship at least once per day; and
 - .4 a summary of the condition of the radio equipment, including its sources of energy.
- 89 The radio records shall be kept at the distress communications operating position, and shall be made available:
 - .1 for inspection by the master; and
 - .2 for inspection by any authorized official of the Administration and by any duty authorized officer exercising control under article X of the Convention.

PART 4 - WATCHKEEPING IN PORT

Principles applying to all watchkeeping

General

- 90 On any ship safely moored or safely at anchor under normal circumstances in port, the master shall arrange for an appropriate and effective watch to be maintained for the purpose of safety. Special requirements may be necessary for special types of ships' propulsion systems or ancillary equipment and for ships carrying hazardous, dangerous, toxic or highly flammable materials or other special types of cargo.

Watch arrangements

- 91 Arrangements for keeping a deck watch when the ship is in port shall at all times be adequate to:
 - .1 ensure the safety of life, of the ship, the port and the environment, and the safe operation of all machinery related to cargo operation;
 - .2 observe international, national and local rules; and
 - .3 maintain order and the normal routine of the ship.
- 92 The master shall decide the composition and duration of the deck watch depending on the conditions of mooring, type of the ship and character of duties.
- 93 If the master considers it necessary, a qualified officer shall be in charge of the deck watch.
- 94 The necessary equipment shall be so arranged as to provide for efficient watchkeeping.
- 95 The chief engineer officer, in consultation with the master, shall ensure that engineering watchkeeping arrangements are adequate to maintain a safe engineering watch while in port. When deciding the composition of the engineering watch, which may include appropriate engine-room ratings, the following points are among those to be taken into account:
 - .1 on all ships of 3,000 kW propulsion power and over there shall always be an officer in charge of the engineering watch;
 - .2 on ships of less than 3,000 kW propulsion power there may be, at the master's discretion and in consultation with the chief engineer officer, no officer in charge of the engineering watch; and

- .3 officers, while in charge of an engineering watch, shall not be assigned or undertake any task or duty which would interfere with their supervisory duty in respect of the ship's machinery system.

Taking over the watch

- 96 Officers in charge of the deck or engineering watch shall not hand over the watch to their relieving officer if they have any reason to believe that the latter is obviously not capable of carrying out watchkeeping duties effectively, in which case the master or chief engineer shall be notified accordingly. Relieving officers of the deck or engineering watch shall ensure that all members of their watch are apparently fully capable of performing their duties effectively.
- 97 If, at the moment of handing over the deck or engineering watch, an important operation is being performed it shall be concluded by the officer being relieved, except when ordered otherwise by the master or chief engineer officer.

Part 4-1 - Taking over the deck watch

- 98 Prior to taking over the deck watch, the relieving officer shall be informed of the following by the officer in charge of the deck watch as to:
 - .1 the depth of the water at the berth, the ship's draught, the level and time of high and low waters; the securing of the moorings, the arrangement of anchors and the scope of the anchor chain, and other mooring features important to the safety of the ship; the state of main engines and their availability for emergency use;
 - .2 all work to be performed on board the ship; the nature, amount and disposition of cargo loaded or remaining, and any residue on board after unloading the ship;
 - .3 the level of water in bilges and ballast tanks;
 - .4 the signals or lights being exhibited or sounded;
 - .5 the number of crew members required to be on board and the presence of any other persons on board;
 - .6 the state of fire-fighting appliances;
 - .7 any special port regulations;
 - .8 the master's standing and special orders;
 - .9 the lines of communication available between the ship and shore personnel, including port authorities, in the event of an emergency arising or assistance being required;
 - .10 any other circumstances of importance to the safety of the ship, its crew, cargo or protection of the environment from pollution; and
 - .11 the procedures for notifying the appropriate authority of any environmental pollution resulting from ship activities.
- 99 Relieving officers, before assuming charge of the deck watch, shall verify that:
 - .1 the securing of moorings and anchor chain is adequate;
 - .2 the appropriate signals or lights are properly exhibited or sounded;
 - .3 safety measures and fire protection regulations are being maintained;
 - .4 they are aware of the nature of any hazardous or dangerous cargo being loaded or discharged and the appropriate action to be taken in the event of any spillage or fire;
 - .5 no external conditions or circumstances imperil the ship and that it does not imperil others.

Part 4-2 - Taking over the engineering watch

- 100 Prior to taking over the engineering watch, the relieving officer shall be informed by the officer in charge of the engineering watch as to:
 - .1 the standing orders of the day, any special orders relating to the ship operations, maintenance functions, repairs to the ship's machinery or control equipment;

- .2 the nature of all work being performed on machinery and systems on board ship, personnel involved and potential hazards;
 - .3 the level and condition, where applicable, of water or residue in bilges, ballast tanks, slop tanks, sewage tanks, reserve tanks and special requirements for the use or disposal of the contents thereof;
 - .4 any special requirements relating to sanitary system disposals;
 - .5 the condition and state of readiness of portable fire-extinguishing equipment and fixed fire-extinguishing installations and fire-detection systems;
 - .6 authorized repair personnel on board engaged in engineering activities, their work locations and repair functions and other authorized persons on board and the required crew;
 - .7 any port regulations pertaining to ship effluents, fire-fighting requirements and ship readiness, particularly during potential bad weather conditions;
 - .8 the lines of communication available between the ship and shore personnel, including port authorities, in the event of an emergency arising or assistance being required;
 - .9 any other circumstance of importance to the safety of the ship, its crew, cargo or the protection of the environment from pollution; and
 - .10 the procedures for notifying the appropriate authority of environmental pollution resulting from engineering activities.
- 101 Relieving officers, before assuming charge of the engineering watch, shall satisfy themselves that they are fully informed by the officer being relieved, as outlined above, and:
- .1 be familiar with existing and potential sources of power, heat and lighting and their distribution;
 - .2 know the availability and condition of ship's fuel, lubricants and all water supplies; and
 - .3 be ready to prepare the ship and its machinery, as far as is possible, for stand-by or emergency conditions as required.

Part 4-3 - Performing the deck watch

102 The officer in charge of the deck watch shall:

- .1 make rounds to inspect the ship at appropriate intervals;
- .2 pay particular attention to:
 - .2.1 the condition and securing of the gangway, anchor chain and moorings, especially at the turn of the tide and in berths with a large rise and fall, if necessary, taking measures to ensure that they are in normal working condition,
 - .2.2 the draught, under-keel clearance and the general state of the ship, to avoid dangerous listing or trim during cargo handling or ballasting,
 - .2.3 the weather and sea state,
 - .2.4 the observance of all regulations concerning safety and fire protection,
 - .2.5 the water level in bilges and tanks,
 - .2.6 all persons on board and their location, especially those in remote or enclosed spaces, and
 - .2.7 the exhibition and sounding, where appropriate, of lights and signals;
- .3 in bad weather, or on receiving a storm warning, take the necessary measures to protect the ship, persons on board and cargo;
- .4 take every precaution to prevent pollution of the environment by the ship;
- .5 in an emergency threatening the safety of the ship, raise the alarm, inform the master, take all possible measures to prevent any damage to the ship, its cargo and persons on board, and, if necessary, request assistance from the shore authorities or neighbouring ships;

- .6 be aware of the ship's stability condition so that, in the event of fire, the shore fire-fighting authority may be advised of the approximate quantity of water that can be pumped on board without endangering the ship;
- .7 offer assistance to ships or persons in distress;
- .8 take necessary precautions to prevent accidents or damage when propellers are to be turned; and
- .9 enter in the appropriate log-book all important events affecting the ship.

Part 4-4 - Performing the engineering watch

103 Officers in charge of the engineering watch shall pay particular attention to:

- .1 the observance of all orders, special operating procedures and regulations concerning hazardous conditions and their prevention in all areas in their charge;
- .2 the instrumentation and control systems, monitoring of all power supplies, components and systems in operation;
- .3 the techniques, methods and procedures necessary to prevent violation of the pollution regulations of the local authorities; and
- .4 the state of the bilges.

104 Officers in charge of the engineering watch shall:

- .1 in emergencies, raise the alarm when in their opinion the situation so demands, and take all possible measures to prevent damage to the ship, persons on board and cargo;
- .2 be aware of the deck officer's needs relating to the equipment required in the loading or unloading of the cargo and the additional requirements of the ballast and other ship stability control systems;
- .3 make frequent rounds of inspection to determine possible equipment malfunction or failure, and take immediate remedial action to ensure the safety of the ship, of cargo operations, of the port and the environment;
- .4 ensure that the necessary precautions are taken, within their area of responsibility, to prevent accidents or damage to the various electrical, electronic, hydraulic, pneumatic and mechanical systems of the ship;
- .5 ensure that all important events affecting the operation, adjustment or repair of the ship's machinery are satisfactorily recorded.

Part 4-5 - Watch in port on ships carrying hazardous cargo

General

105 The master of every ship carrying cargo that is hazardous, whether explosive, flammable, toxic, health-threatening or environment-polluting, shall ensure that safe watch-keeping arrangements are maintained. On ships carrying hazardous cargo in bulk, this will be achieved by the ready availability on board of a duly qualified officer or officers, and ratings where appropriate, even when the ship is safely moored or safely at anchor in port.

106 On ships carrying hazardous cargo other than in bulk, the master shall take full account of the nature, quantity, packing and stowage of the hazardous cargo and of any special conditions on board, afloat and ashore.

2.2.18. Annex 2

Seafarers' Training, Certification and Watchkeeping (STCW) Code

2.2.18.1. Part B

Recommended guidance regarding provisions of the STCW Convention and its annex

Introduction

- 1 This part of the STCW Code contains recommended guidance intended to assist Parties to the STCW Convention and those involved in implementing, applying or enforcing its measures to give the Convention full and complete effect in a uniform manner.
- 2 The measures suggested are not mandatory and the examples given are only intended to illustrate how certain Convention requirements may be complied with. However, the recommendations in general represent an approach to the matters concerned which has been harmonized through discussion within IMO involving, where appropriate, consultation with the International Labour Organization, the International Telecommunication Union and the World Health Organization.
- 3 Observance of the recommendations contained in this part will assist the Organization in achieving its goal of maintaining the highest practicable standards of competence in respect of crews of all nationalities and ships of all flags.
- 4 Guidance is provided in this part in respect of certain articles of the Convention, in addition to guidance on certain regulations in its annex. The numbering of the sections of this part therefore corresponds with that of the articles and the regulations of the Convention. As in part A, the text of each section may be divided into numbered parts and paragraphs, but such numbering is unique to that text alone.

Guidance regarding provisions of the articles

Section B-I

Guidance regarding general obligations under the Convention

(No provisions)

Section B-II

Guidance regarding definitions and clarifications

- 1 The definitions contained in article II of the Convention, and the definitions and clarifications contained in regulation I/1 of its annex, apply equally to the terms used in parts A and B of this Code. Supplementary definitions which apply only to the provisions of this Code are contained in section A-I/1.
- 2 The definition of certificate appearing in article II (c) provides for three possibilities:
 - .1 the Administration may issue the certificate;
 - .2 the Administration may have the certificate issued under its authority; or
 - .3 the Administration may recognize a certificate issued by another Party as provided for in regulation I/10.

Section B-III

Guidance regarding the application of the Convention

- 1 While the definition of fishing vessel contained in article II, paragraph (h) excludes vessels used for catching fish, whales, seals, walrus or other living resources of the sea

from application of the Convention, vessels not engaged in the catching activity cannot enjoy such exclusion.

- 2 The Convention excludes all wooden ships of primitive build, including junks.

Section B-IV

Guidance regarding the communication of information

In paragraph (1)(b) of article IV, the words "where appropriate" are intended to include:

- . 1 the recognition of a certificate issued by another Party; or
- . 2 the issue of the Administration's own certificate, where applicable, on the basis of recognition of a certificate issued by another Party.

Section B-V

Guidance regarding other treaties and interpretation

The word "arrangements" in paragraph (1) of article V is intended to include provisions previously established between States for the reciprocal recognition of certificates.

Section B-VI

Guidance regarding certificates

See the guidance given in sections B-II and B-I/2.

A policy statement and an outline of the procedures to be followed should be published for the information of companies operating ships under the flag of the Administration.

Section B-VII

Guidance regarding transitional provisions

Certificates issued for service in one capacity which are currently recognized by a Party as an adequate qualification for service in another capacity, e.g. chief mate certificates recognized for service as master, should continue to be accepted as valid for such service under article VII. This acceptance also applies to such certificates issued under the provisions of paragraph (2) of article VII.

Section B-VIII

Guidance regarding dispensations

A policy statement and an outline of the procedures to be followed should be published for the information of companies operating ships under the flag of the Administration. Guidance should be provided to those officials authorized by the Administration to issue dispensations. Information on action taken should be summarized in the initial report communicated to the Secretary-General in accordance with the requirements of section A-I/7.

Section B-IX

Guidance regarding equivalents

- 1 Naval certificates may continue to be accepted and certificates of service may continue to be issued to naval officers as equivalents under article IX, provided that the requirements of the Convention are met.

Section B-X

Guidance regarding control

(No provisions - see section B-I/4)

Section B-XI

Guidance regarding the promotion of technical co-operation

- 1 Governments should provide, or arrange to provide, in collaboration with IMO, assistance to States which have difficulty in meeting the requirements of the Convention and which request such assistance.
- 2 The importance of adequate training for masters and other personnel serving on board oil, chemical and liquefied gas tankers and ro-ro passenger ships is stressed, and it is

recognized that in some cases there may be limited facilities for obtaining the required experience and providing specialized training programmes, particularly in developing countries.

Examination database

- 3 Parties with maritime training academies or examination centres serving several countries and wishing to establish a database of examination questions and answers are encouraged to do so, on the basis of bilateral co-operation with a country or countries which already have such a database.

Availability of maritime training simulators

- 5 The IMO Secretariat maintains a list of maritime training simulators, as a source of information for Parties and others, on the availability of different types of simulators for training seafarers, in particular where such training facilities may not be available to them nationally.
- 6 Parties are urged* to provide information on their national maritime training simulators to the IMO Secretariat and to update the information whenever any change or addition is made to their maritime training simulator facilities.

Information on technical co-operation

- 7 Information on technical advisory services, access to international training institutions affiliated with IMO, and information on fellowships and other technical co-operation which may be provided by or through IMO may be obtained by contacting the Secretary-General at 4 Albert Embankment, London SE1 7SR, United Kingdom.
(No guidance provided regarding articles XII to XVII.)

Guidance regarding provisions of the annex to the STCW Convention

Chapter I

Guidance regarding general provisions

Section B-I/1

Guidance regarding definitions and clarifications

- 1 The definitions contained in article II of the Convention, and the definitions and interpretations contained in regulation I/I of its annex, apply equally to the terms used in parts A and B of this Code. Supplementary definitions which apply only to the provisions of this Code are contained in section A-I/1.
- 2 Officers with capacities covered under the provisions of chapter VII may be designated as polyvalent officer, dual-purpose officer or other designations as approved by the Administration, in accordance with the terminology used in the applicable safe manning requirements.
- 3 Ratings qualified to serve in capacities covered under the provisions of chapter VII may be designated as polyvalent ratings or other designations as approved by the Administration, in accordance with the terminology used in the applicable safe manning requirements.

Section B-I/2

Guidance regarding certificates and endorsements

- 1 Where an endorsement is integrated in the format of a certificate as provided by section A-I/2, paragraph 1, the relevant information should be inserted in the certificate in the manner explained hereunder, except for the omission of the space numbered .2. Other-

* See MSC/Circ. 567 as revised.

wise, in preparing endorsements attesting the issue of a certificate, the spaces numbered .1 to .17 in the form which follows the text hereunder should be completed as follows:

- .1 Enter the name of the issuing State.
- .2 Enter the number assigned to the certificate by the Administration.
- .3 Enter the full name of the seafarer to whom the certificate is issued. The name should be the same as that appearing in the seafarer's passport, seafarer's identity certificate and other official documents issued by the Administration.
- .4 The number or numbers of the STCW Convention regulation or regulations under which the seafarer has been found qualified should be entered here, for example:
 - .4.1 II/1, if the seafarer has been found qualified to fill the capacity of officer in charge of a navigational watch,
 - .4.2 III/1, if the seafarer has been found qualified to act as engineer officer in charge of a watch in a manned engine-room, or as designated duty engineer officer in a periodically unmanned engine-room,
 - .4.3 IV/2, if the seafarer has been found qualified to fill the capacity of radio operator,
 - .4.4 VII/1, if the certificate is a functional certificate and the seafarer has been found qualified to perform functions specified in part A of the Code, for example, the function of marine engineering at the management level, and
 - .4.5 III/1 and V/1, if found qualified to act as the engineer officer in charge of a watch in a manned engine-room, or as designated duty engineer officer in a periodically unmanned engine-room in tankers. (See limitations in paragraphs .8 and .10 below)
- .5 Enter the date of expiry of the endorsement. This date should not be later than the date of expiry, if any, of the certificate in respect of which the endorsement is issued, nor later than five years after the date of issue of the endorsement.
- .6 In this column should be entered each of the functions specified in part A of the Code which the seafarer is qualified to perform. Functions and their associated levels of responsibility are specified in the tables of competence set out in chapters II, III and IV of part A of the Code, and are also listed for convenient reference in the introduction to part A. When reference is made under .4 above to regulations in chapters II, HI or IV it is not necessary to list specific functions.
- .7 In this column should be entered the levels of responsibility at which the seafarer is qualified to perform each of the functions entered in column .6. These levels are specified in the tables of competence set out in chapters II, III and IV of part A of the Code, and are also listed for convenient reference in the introduction to part A.
- .8 A general limitation, such as the requirement to wear corrective lenses when performing duties, should be entered prominently at the top of this limitations column. Limitations applying to the functions listed in column .6 should be entered on the appropriate line against the function concerned, for example:
 - .8.1 "Not valid for service in tankers" - if not qualified under chapter V,
 - .8.2 "Not valid for service in tankers other than oil tankers" - if qualified under chapter V for service only in oil tankers,
 - .8.3 "Not valid for service in ships in which steam boilers form part of the ship's machinery" - if the related knowledge has been omitted in accordance with STCW Code provisions, and
 - .8.4 "Valid only on near-coastal voyages" - if the related knowledge has been omitted in accordance with STCW Code provisions.

Note: Tonnage and power limitations need not be shown here if they are already indicated in the title of the certificate and in the capacity entered in column .9.

- .9 The capacity or capacities entered in this column should be those specified in the title to the STCW regulation or regulations concerned in the case of certificates is-

sued under chapters II or III, or should be as specified in the applicable safe manning requirements of the Administration, as appropriate.

- .10 A general limitation such as the requirement to wear corrective lenses when performing duties should be entered prominently at the top of this limitations column also. The limitations entered in column .10 should be the same as those shown in column .8 for the functions performed in each capacity entered.
- .11 The number entered in this space should be that of the certificate, so that both certificate and endorsement have the same unique number for reference and for location in the register of certificates and/or endorsements, etc.
- .12 The date of original issue of the endorsement should be entered here; it may be the same as, or differ from, the date of issue of the certificate, in accordance with the circumstances.
- .13 The name of the official authorized to issue the endorsement should be shown here in block letters below the official's signature.
- .14 The date of birth shown should be the date confirmed from Administration records or as otherwise verified.
- .15 The endorsement should be signed by the seafarer in the presence of an official, or may be incorporated from the seafarer's application form duly completed and verified.
- .16 The photograph should be a standard black and white or colour passport type head and shoulders photograph, supplied in duplicate by the seafarer so that one may be kept in or associated with the register of certificates.
- .17 If the blocks for revalidation are shown as part of the endorsement form (see section A-1/2, paragraph 1), the Administration may revalidate the endorsement by completing the block after the seafarer has demonstrated continuing proficiency as required by regulation I/11.

(Official Seal)

(COUNTRY)

ENDORSEMENT ATTESTING THE ISSUE OF A CERTIFICATE UNDER THE PROVISIONS OF THE INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS. 1978. AS AMENDED IN 1995

The Government of 1..... certifies that certificate No 2..... has been issued to 3..... who has been found duly qualified in accordance with the provisions of regulation 4... of the above Convention, as amended, and has been found competent to perform the following functions, at the levels specified, subject to any limitations indicated until 5..... or until the date of expiry of any extension of the validity of this endorsement as may be shown overleaf:

.6 FUNCTION	.7 LEVEL	.8 LIMITATIONS APPLYING (IF ANY)

The lawful holder of this endorsement may serve in the following capacity or capacities specified in the applicable safe manning requirements of the Administration:

.9 CAPACITY	.10 LIMITATIONS APPLYING (IF ANY)

Endorsement No. 11..... issued on 12.....

(Official Seal)

Signature of duly authorized official

.....13.....

Name of duly authorized official

The original of this endorsement must be kept available in accordance with regulation I/2, paragraph 9 of the Convention while serving on a ship.

Date of birth of the holder of the certificate 14.....

Signature of the holder of the certificate 15.....

Photograph of the holder of the certificate 16.....

The validity of this endorsement is hereby extended until

(Official seal)

Signature of duly authorized official

Date of revalidation.....17.....

Name of duly authorized official

The validity of this endorsement is hereby extended until

(Official seal)

Signature of duly authorized official

Date of revalidation.....17.....

Name of duly authorized official

- 2 An endorsement attesting the recognition of a certificate may be attached to and form part of the certificate endorsed, or may be issued as a separate document (see STCW regulation I/2, paragraph 6). All entries made in the form are required to be in Roman characters and Arabic figures (see STCW regulation I/2, paragraph 8). The spaces

- numbered .1 to .17 in the form which follows the text hereunder are intended to be completed as indicated in paragraph 1 above, except in respect of the following spaces:
- .2 where the number assigned by the Party which issued the certificate being recognized should be entered;
 - .3 where the name entered should be the same as that appearing in the certificate being recognized;
 - .4 where the name of the Party which issued the certificate being recognized should be entered;
 - .9 where the capacity or capacities entered should be selected, as appropriate, from those specified in the safe applicable manning requirements of the Administration which is recognizing the certificate;
 - .11 where the number entered should be unique to the endorsement both for reference and for location in the register of endorsements; and
 - .12 where the date of original issue of the endorsement should be entered.
- 3 When replacing a certificate or endorsement which has been lost or destroyed, Parties should issue the replacement under a new number, to avoid confusion with the document to be replaced.

(Official Seal)

(COUNTRY)

ENDORSEMENT ATTESTING THE RECOGNITION OF A CERTIFICATE UNDER THE PROVISIONS OF THE INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS. 1978. AS AMENDED IN 1995

The Government of 1..... certifies that certificate No 2..... issued to 3..... by or on behalf of the Government of 4..... is duly recognized in accordance with the provisions of regulation I/10 of the above Convention, as amended, and the lawful holder is authorized to perform the following functions, at the levels specified, subject to any limitations indicated until 5..... or until the date of expiry of any extension of the validity of this endorsement as may be shown overleaf.

.6 FUNCTION	.7 LEVEL	.8 LIMITATIONS APPLYING (IF ANY)

The lawful holder of this endorsement may serve in the following capacity or capacities specified in the applicable safe manning requirements of the Administration:

.9 CAPACITY	.10 LIMITATIONS APPLYING (IF ANY)

Endorsement No. 11..... issued on 12.....

(Official Seal).....
Signature of duly authorized official.....13.....
Name of duly authorized official

The original of this endorsement must be kept available in accordance with regulation I/2, paragraph 9 of the Convention while serving on a ship.

Date of birth of the holder of the certificate 14.....

Signature of the holder of the certificate 15.....

Photograph of the holder of the certificate 16

The validity of this endorsement is hereby extended until

(Official seal).....
Signature of duly authorized officialDate of revalidation.....17.....
Name of duly authorized official

The validity of this endorsement is hereby extended until

(Official seal).....
Signature of duly authorized officialDate of revalidation.....17...
Name of duly authorized official**Section B-I/3****Guidance regarding near-coastal voyages**

- 1 When a Party defines near-coastal voyages, *inter alia*, for the purposes of applying variations to the subjects listed in column 2 of the standard of competence tables contained in chapters II and III of part A of the Code, for the issue of certificates valid for service in ships entitled to fly the flag of that Party and engaged on such voyages, account should be taken of the following factors, bearing in mind the effect on the safety of all ships and on the marine environment.
- .1 the type of ship and the trade in which it is engaged;
 - .2 the gross tonnage of the ship and the power in kW of the main propulsion machinery;
 - .3 the nature and length of the voyages;
 - .4 the maximum distance from a port of refuge;

- .5 the adequacy of the coverage and accuracy of navigational position-fixing devices;
 - .6 the weather conditions normally prevailing in the near-coastal voyage area;
 - .7 the provision of shipboard and coastal communication facilities for search and rescue.
- 2 A Party which includes voyages off another Party's coast within the limits of its near-coastal voyage definition may enter into a bilateral agreement with the Party concerned.
 - 3 It is not intended that ships engaged on near-coastal voyages should extend their voyages world-wide, under the excuse that they are navigating constantly within the limits of designated near-coastal voyages of neighbouring Parties.

Section B-I/4

Guidance regarding control procedures*

Introduction

- 1 The purpose of the control procedures of regulation I/4 is to enable officers duly authorized by port States to ensure that the seafarers on board have sufficient competence to ensure safe and pollution-free operation of the ship.
- 2 This provision is no different in principle from the need to make checks on ships' structures and equipment. Indeed, it builds on these inspections to make an appraisal of the total system of on-board safety and pollution prevention.

Assessment

- 3 By restricting assessment as indicated in section A-I/4, the subjectivity which is an unavoidable element in all control procedures is reduced to a minimum, no more than would be evident in other types of control inspection.
- 4 The clear grounds given in regulation I/4, paragraph 1.3 will usually be sufficient to direct the inspector's attention to specific areas of competency, which could then be followed up by seeking evidence of training in the skills in question. If this evidence is inadequate or unconvincing, the authorized officer may ask to observe a demonstration of the relevant skill.
- 5 It will be a matter for the professional judgement of the inspector when on board, either following an incident as outlined in regulation I/4 or for the purposes of a routine inspection, whether the ship is operated in a manner likely to pose a danger to persons, property or the environment.*

Section B-I/5

Guidance regarding national provisions

(No provisions)

Section B-I/6

Guidance regarding training and assessment

Qualifications of instructors and assessors

- 1 Each Party should ensure that instructors and assessors are appropriately qualified and experienced for the particular types and levels of training or assessment of competence of seafarers, as required under the Convention, in accordance with the guidelines in this section.

* IMO Model Course 3.09 - *Port State Control* may be of assistance in the preparation of courses.

* IMO Model Course 3.11 - *Marine Accident and Incident Investigation* may be of assistance in the preparation of courses.

In-service training and assessment

- 2 Any person, on board or ashore, conducting in-service training of a seafarer intended to be used in qualifying for certification under the Convention should have received appropriate guidance in instructional techniques.**
- 3 Any person responsible for the supervision of in-service training of a seafarer intended to be used in qualifying for certification under the Convention should have appropriate knowledge of instructional techniques and of training methods and practice.
- 4 Any person, on board or ashore, conducting an in-service assessment of the competence of a seafarer intended to be used in qualifying for certification under the Convention should have:
 - .1 received appropriate guidance in assessment methods and practice;^ and
 - .2 gained practical assessment experience under the supervision and to the satisfaction of an experienced assessor.
- 5 Any person responsible for the supervision of the in-service assessment of competence of a seafarer intended to be used in qualifying for certification under the Convention should have a full understanding of the assessment system, assessment methods and practice.***

Section B-I/7***Guidance regarding communication of information******Reports of difficulties encountered***

Parties are requested to include in the reports required by regulation I/7 an indication of any relevant guidance contained in part B of this Code, the observance of which has been found to be impracticable.

Section B-I/8***Guidance regarding quality standards***

- 1 In applying quality standards under the provisions of regulation I/8 and section A-I/8 to the administration of its certification system, each Party should take account of existing national or international models, and incorporate the following key elements:
 - .1 an expressed policy regarding quality and the means by which such policy is to be implemented;
 - .2 a quality system incorporating the organizational structure, responsibilities, procedures, processes and resources necessary for quality management;
 - .3 the operational techniques and activities to ensure quality control;
 - .4 systematic monitoring arrangements, including internal quality assurance evaluations, to ensure that all defined objectives are being achieved; and
 - .5 arrangements for periodic external quality evaluations as described in the following paragraphs.
- 2 In establishing such quality standards for the administration of their national certification system, Administrations should seek to ensure that the arrangements adopted:
 - .1 are sufficiently flexible to enable the certification system to take account of the varying needs of the industry, and that they facilitate and encourage the application of new technology;
 - .2 cover all the administrative matters that give effect to the various provisions of the Convention, in particular regulations I/2 to I/15 and other provisions which enable

** IMO Model Course 6.09 - *Training Course for Instructors* may be of assistance in the preparation of courses.

*** IMO Model Course 3.12 - *Examination and Certification of Seafarers* may be of assistance in the preparation of courses.

the Administration to grant certificates of service and dispensations and to withdraw, cancel and suspend certificates;

- 3 encompass the Administration's responsibilities for approving training and assessment at all levels, from undergraduate-type courses and updating courses for certificates of competency to short courses of vocational training; and
- 4 incorporate arrangements for the internal quality assurance reviews under paragraph 1.4 involving a comprehensive self-study of the administrative procedures, at all levels, in order to measure achievement of defined objectives and to provide the basis for the independent external evaluation required under section A-I/8, paragraph 3.

Quality standards model for assessment of knowledge, understanding, skills and competence

- 3 The quality standards model for assessment of knowledge, understanding, skills and competence should incorporate the recommendations of this section within the general framework of either:
 - 1 a national scheme for education and training accreditation or quality standards; or
 - 2 an alternative quality standards model acceptable to the Organization.
- 4 The above quality standards model should incorporate:
 - 1 a quality policy, including a commitment by the training institution or unit to the achievement of its stated aims and objectives and to the consequential recognition by the relevant accrediting or quality standards authority;
 - 2 those quality management functions that determine and implement the quality policy, relating to aspects of the work which impinge on the quality of what is provided, including provisions for determining progression within a course or programme;
 - 3 quality system coverage, where appropriate, of the academic and administrative organizational structure, responsibilities, procedures, processes and the resources of staff and equipment;
 - 4 the quality control functions to be applied at all levels to the teaching, training, examination and assessment activities, and to their organization and implementation, in order to ensure their fitness for their purpose and the achievement of their defined objectives;
 - 5 the internal quality assurance processes and reviews which monitor the extent to which the institution, or framing unit, is achieving the objectives of the programmes it delivers, and is effectively monitoring the quality control procedures which it employs; and
 - 6 the arrangements made for periodic external quality evaluations required under regulation I/8, paragraph 2 and described in the following paragraphs, for which the outcome of the quality assurance reviews forms the basis and starting point.
- 5 In establishing quality standards for education, training and assessment programmes, the organizations responsible for implementing these programmes should take account of the following:
 - 1 Where provisions exist for established national accreditation, or education quality standards, such provisions should be utilized for courses incorporating the knowledge and understanding requirements of the Convention. The quality standards should be applied to both management and operational levels of the activity, and should take account of how it is managed, organized, undertaken and evaluated, in order to ensure that the identified goals are achieved.
 - 2 Where acquisition of a particular skill or accomplishment of a designated task is the primary objective, the quality standards should take account of whether real or simulated equipment is utilized for this purpose, and of the appropriateness of the qualifi-

cations and experience of the assessors, in order to ensure achievement of the set standards.

- .3 The internal quality assurance evaluations should involve a comprehensive self-study of the programme, at all levels, to monitor achievement of defined objectives through the application of quality standards. These quality assurance reviews should address the planning, design, presentation and evaluation of programmes as well as the teaching, learning and communication activities. The outcome provides the basis for the independent evaluation required under section A-1/8, paragraph 3.

The independent evaluation

- 6 Each independent evaluation should include a systematic and independent examination of all quality activities, but should not evaluate the validity of the defined objectives. The evaluation team should:
 - .1 carry out the evaluation in accordance with documented procedures;
 - .2 ensure that the results of each evaluation are documented and brought to the attention of those responsible for the area evaluated; and
 - .3 check that timely action is taken to correct any deficiencies.
- 7 The purpose of the evaluation is to provide an independent assessment of the effectiveness of the quality standard arrangements at all levels. In the case of an education or training establishment, a recognized academic accreditation or quality standards body or Government agency should be used. The evaluation team should be provided with sufficient advance information to give an overview of the tasks in hand. In the case of a major training institution or programme, the following items are indicative of the information to be provided:
 - .1 the mission statement of the institution;
 - .2 details of academic and training strategies in use;
 - .3 an organization chart and information on the composition of committees and advisory bodies;
 - .4 staff and student information;
 - .5 a description of training facilities and equipment; and
 - .6 an outline of the policies and procedures on:
 - .6.1 student admission,
 - .6.2 the development of new courses and review of existing courses,
 - .6.3 the examination system, including appeals and resits,
 - .6.4 staff recruitment, training, development, appraisal and promotion,
 - .6.5 feedback from students and from industry, and
 - .6.6 staff involvement in research and development.

The report

- 8 Before submitting a final report, the evaluation team should forward an interim report to the management seeking their comments on their findings. Upon receiving their comments, the evaluators should submit their final report, which should:
 - .1 include brief background information about the institution or training programme;
 - .2 be full, fair and accurate;
 - .3 highlight the strengths and weaknesses of the institution;
 - .4 describe the evaluation procedure followed;
 - .5 cover the various elements identified in paragraph 4;
 - .6 indicate the extent of compliance or non-compliance with the requirements of the Convention and the effectiveness of the quality standards in ensuring achievement of defined aims and objectives; and
 - .7 spell out clearly the areas found deficient, offer suggestions for improvement and provide any other comments the evaluators consider relevant.

Section B-I/9***Guidance regarding medical standards - Issue and registration of certificates*****MEDICAL EXAMINATION AND CERTIFICATION**

- 1 The standards developed pursuant to regulation I/9, paragraph 1, should take into account the views of recognized medical practitioners experienced in medicine as applied in the maritime environment.
- 2 The medical standards may differentiate between those persons seeking to start a career at sea and those seafarers already serving at sea. In the former case, for example, it might be appropriate to designate higher standards in certain areas, while in the latter case some reduction may be made for age.
- 3 The standards should, so far as possible, define objective criteria with regard to fitness for sea service, taking into account access to medical facilities and medical expertise on board ship. They should, in particular, specify the conditions under which seafarers suffering from potentially life-threatening medical conditions controlled by medication may be allowed to continue to serve at sea.
- 4 The medical standards should also identify particular medical conditions, such as colour blindness, which might disqualify seafarers from holding particular positions on board ship.
- 5 Medical examinations and certification of seafarers under the standards should be conducted by one or more medical practitioners recognized by the Party. A list of medical practitioners so recognized should be made available to other Parties and to companies on request.
- 6 In the absence of mandatory international eyesight standards for seafarers, Parties should regard the minimum in-service eyesight standards set out in paragraphs 7 to 11 and table B-I/9 hereunder as the minimum for the safe operation of ships, and report on maritime casualties where poor eyesight has contributed to such incidents.
- 7 Each Administration has the discretionary authority to grant a variance or waiver of any of the standards set out in table B-I/9 hereunder, based on an assessment of a medical evaluation and any other relevant information concerning an individual's adjustment to the condition and proven ability to satisfactorily perform assigned shipboard functions. However, if the aided distant visual acuity of either eye is less than the standard, the aided distant visual acuity in the better eye should be at least 0.2 higher than the standard indicated in the table. The unaided distant visual acuity in the better eye should be at least 0.1.
- 8 Persons requiring the use of spectacles or contact lenses to perform duties should have a spare pair conveniently available on board the ship. Any need to wear visual aids to meet the required standards should be recorded on each certificate and endorsement issued.
- 9 Eyes of seafarers should be free of disease. Any permanent or progressing debilitating pathology without recovery should be cause for a determination of unfitness.
- 10 All tests needed to determine the visual fitness of a seafarer must be reliable and performed by a competent person recognized by the Administration.
- 11 Notwithstanding these provisions, the Administration may require higher standards than those given in table B-I/9 below.

ISSUE AND REGISTRATION OF CERTIFICATES***Approval of seagoing service***

- 12 In approving seagoing service required by the Convention, Parties should ensure that the service concerned is relevant to the qualification being applied for, bearing in mind that, apart from the initial familiarization with service in seagoing ships, the purpose of such service is to allow the seafarer to be instructed in and to practice, under appropri-

ate supervision, those safe and proper seagoing practices, procedures and routines which are relevant to the qualification applied for.

Approval of training courses

- 13 In approving training courses and programmes, Parties should take into account that the various IMO Model Courses identified by footnotes in part A of this Code can assist in the preparation of such courses and programmes and ensure that the detailed learning objectives recommended therein are suitably covered.

Electronic access to registers

- 14 Where the register or registers of certificates, endorsements and other documents issued by or on behalf of a Party are maintained by electronic means, provision should be made to allow controlled electronic access to such register or registers to allow Administrations and companies to confirm:
1. the name of the seafarer "to whom a certificate, endorsement or other qualification was issued, its relevant number, date of issue, and date of expiry;
 2. the capacity in which the holder may serve and any limitations attaching thereto; and
 3. the functions the holder may perform, the levels authorized and any limitations attaching thereto.

Table B-I/9
Minimum in-service eyesight standards

STCW Conve- nion Regu- lation	Category of sea- farer	Distance vision *		Near/imme- diate vision	Col- our vi- sion	Visual fields	Night blindness	Diplo- pia (double vision)
		one eye	other eye	Both eyes together Aided or unaided				
I/11 II/1 II/2 II/3 II/4	Masters, deck offi- cers and racings re- quired to undertake lookout duties Aided: Unaided:	0.5* 0.1	0.5 0.1	Vision required for ships' navigation (e.g. chart and nauti- cal publication refer- ence, use of bridge instrumentation and equipment, and iden- tification of aids to navigation)		Normal visual fields	Vision re- quired to perform all neces- sary func- tions in darkness without compro- mise	No sig- nificant condi- tion evi- dent
I/11 III/1 III/2 III/3 III/4	All engi- neer offi- cers and ratings forming part of an engine- room watch Aided: Unaided:	0.4 0.1	0.4 0.1	Vision required to read instruments in close proximity, to operate equipment, and to identify sys- tems/components as necessary		Suffi- cient visual fields	Vision re- quired to perform all neces- sary func- tions in darkness without compro- mise	No sig- nificant condi- tion evi- dent

* Note: Values given in Snellen decimal notation.

* Note: A value of at least 0.7 in one eye is recommended to reduce the risk of undetected underlying eye disease

STCW Conve- ntion Regu- lation	Category of sea- farer	Distance vision *		Near/imme- diate vision	Col- our vi- sion	Visual fields	Night blindness	Diplo- pia (double vision)
		one eye	other eye	Both eyes together Aided or unaided				
I/11 IV/2	Radio of- ficers and electrical/ electronic officers Aided: Unaided:	0.4 0.1	0.4 0.1	Vision required to read instruments in close proximity, to operate equipment, and to identify sys- tems/components as necessary		Suffi- cient visual fields	Vision re- quired to perform all neces- sary func- tions in darkness without com- promise	No sig- nificant condi- tion evi- dent

Section B-I/10**Guidance regarding the recognition of certificates**

(No provisions)

Section B-I/11**Guidance regarding the revalidation of certificates**

The courses required by regulation I/11 should include relevant changes in marine technology and recommendations concerning the safety of life at sea and the protection of the marine environment.

Section B-I/12**Guidance regarding the use of simulators**

- 1 When simulators are being used for training or assessment of competency, the following guidelines should be taken into consideration in conducting any such training or assessment.**

TRAINING AND ASSESSMENT IN RADAR OBSERVATION AND PLOTTING*

- 2 Training and assessment in radar observation and plotting should:
 - .1 incorporate the use of radar simulation equipment; and
 - .2 conform to standards not inferior to those given in paragraphs 3 to 17 below.
- 3 Demonstrations of and practice in radar observation should be undertaken where appropriate on live marine radar equipment, including the use of simulators. Plotting exercises should preferably be undertaken in real time, in order to increase trainees' awareness of the hazards of the improper use of radar data and improve their plotting techniques to a standard of radar plotting commensurate with that necessary for the safe execution of collision-avoidance manoeuvring under actual seagoing conditions.

* Note: Values given in Snellen decimal notation.

** The current edition of the ILO/IMO *Document for Guidance* may be of assistance in the preparation of courses.

* The following IMO Model Courses may be of assistance in the preparation of courses:

- .1 IMO Model Course 1.07 - *Radar Observation and Plotting*
- .2 IMO Model Course 1.09 - *Radar Simulator*

General

Factors affecting performance and accuracy

- 4 An elementary understanding should be attained of the principles of radar, together with a full practical knowledge of:
 - .1 range and bearing measurement, characteristics of the radar set which determine the quality of the radar display, radar antennae, polar diagrams, the effects of power radiated in directions outside the main beam, a non-technical description of the radar system, including variations in the features encountered in different types of radar set, performance monitors and equipment factors which affect maximum and minimum detection ranges and accuracy of information;
 - .2 the current marine radar performance specification adopted by the Organization;**
 - .3 the effects of the siting of the radar antenna, shadow sectors and arcs of reduced sensitivity, false echoes, effects of antenna height on detection ranges and of siting radar units and storing spares near magnetic compasses, including magnetic safe distances; and
 - .4 radiation hazards and safety precautions to be taken in the vicinity of -antenna and open waveguides.

Detection of misrepresentation of information, including false echoes and sea returns

- 5 A knowledge of the limitations to target detection is essential, to enable the observer to estimate the dangers of failure to detect targets. The following factors should be emphasized:
 - .1 performance standard of the equipment;
 - .2 brilliance, gain and video processor control settings;
 - .3 radar horizon;
 - .4 size, shape, aspect and composition of targets;
 - .5 effects of the motion of the ship in a seaway;
 - .6 propagation conditions;
 - .7 meteorological conditions; sea clutter and rain clutter,
 - .8 anti-clutter control settings;
 - .9 shadow sectors; and
 - .10 radar-to-radar interference.
- 6 A knowledge should be attained of factors which might lead to faulty interpretation, including false echoes, effects of nearby pylons and large structures, effects of power lines crossing rivers and estuaries, echoes from distant targets occurring on second or later traces.
- 7 A knowledge should be attained of aids to interpretation, including corner reflectors and radar beacons; detection and recognition of land targets; the effects of topographical features; effects of pulse length and beamwidth; radar-conspicuous and inconspicuous targets; factors which affect the echo strength from targets.

Practice

Setting up and maintaining displays

- 8 A knowledge should be attained of:
 - .1 the various types of radar display mode; unstabilized ship's-head-up relative motion; ship's-head-up, course-up and north-up stabilized relative motion and true motion;
 - .2 the effects of errors on the accuracy of information displayed; effects of transmitting compass errors on stabilized and true motion displays; effects of transmitting log er-

** See resolution A. 477 (XII) – Performance Standards for Radar Equipment.

rors on a true motion display; and the effects of inaccurate manual speed settings on a true motion display;

- .3 methods of detecting inaccurate speed settings on true motion controls; the effects of receiver noise limiting ability to display weak echo returns, and the effects of saturation by receiver noise, etc.; the adjustment of operational controls; criteria which indicate optimum points of adjustment; the importance of proper adjustment sequence, and the effects of maladjusted controls; the detection of maladjustments and corrections of:
 - .3.1 controls affecting detection ranges, and
 - .3.2 controls affecting accuracy;
- .4 the dangers of using radar equipment with maladjusted controls; and
- .5 the need for frequent regular checking of performance, and the relationship of the performance indicator to the range performance of the radar set.

Range and bearing

- 9 A knowledge should be attained of:
 - .1 the methods of measuring ranges; fixed range markers and variable range markers;
 - .2 the accuracy of each method and the relative accuracy of the different methods;
 - .3 how range data are displayed; ranges at stated intervals, digital counter and graduated scale;
 - .4 the methods of measuring bearings; rotatable cursor on transparent disc covering the display, electronic bearing cursor and other methods;
 - .5 bearing accuracy and inaccuracies caused by: parallax, heading marker displacement, centre maladjustment;
 - .6 how bearing data are displayed; graduated scale and digital counter; and
 - .7 the need for regular checking of the accuracy of ranges and bearings, methods of checking for inaccuracies and correcting or allowing for inaccuracies.

Plotting techniques and relative motion concepts

- 10 Practice should be provided in manual plotting techniques, including the use of reflection plotters, with the objective of establishing a thorough understanding of the interrelated motion between own ship and other ships, including the effects of manoeuvring to avoid collision. At the preliminary stages of this training, simple plotting exercises should be designed to establish a sound appreciation of plotting geometry and relative motion concepts. The degree of complexity of exercises should increase throughout the training course until the trainee has mastered all aspects of the subject. Competence can best be enhanced by exposing the trainee to real-time exercises performed on a simulator or using other effective means.

Identification of critical echoes

- 11 A thorough understanding should be attained of:
 - .1 position fixing by radar from land targets and sea marks;
 - .2 the accuracy of position fixing by ranges and by bearings;
 - .3 the importance of cross-checking the accuracy of radar against other navigational aids; and
 - .4 the value of recording ranges and bearings at frequent, regular intervals when using radar as an aid to collision avoidance.

Course and speed of other ships

- 12 A thorough understanding should be attained of:
 - .1 the different methods by which course and speed of other ships can be obtained from recorded ranges and bearings, including:
 - .1.1 the unstabilized relative plot,

- .1.2 the stabilized relative plot, and
- .1.3 the true plot; and
- .2 the relationship between visual and radar observations, including detail and the accuracy of estimates of course and speed of other ships, and the detection of changes in movements of other ships.

Time and distance of closest approach of crossing, meeting or overtaking ships

- 13 A thorough understanding should be attained of:
- .1 the use of recorded data to obtain:
 - .1.1 measurement of closest approach distance and bearing, and
 - .1.2 time to closest approach, and
 - .2 the importance of frequent, regular observations.

Detecting course and speed changes of other ships

- 14 A thorough understanding should be attained of:
- .1 the effects of changes of course and/or speed by other ships on their tracks across the display;
 - .2 the delay between change of course or speed and detection of that change; and
 - .3 the hazards of small changes as compared with substantial changes of course or speed in relation to rate and accuracy of detection.

Effects of changes in own ship's course or speed or both

- 15 A thorough understanding of the effects on a relative motion display of own ship's movements, and the effects of other ships' movements and the advantages of compass stabilization of a relative display.
- 16 In respect of true motion displays, a thorough understanding should be attained of:
- .1 the effects of inaccuracies of:
 - .1.1 speed and course settings, and
 - .1.2 compass stabilization data driving a stabilized relative motion display;
 - .2 the effects of changes in course or speed or both by own ship on tracks of other ships on the display; and
 - .3 the relationship of speed to frequency of observations.

Application of the International Regulations for Preventing Collisions at Sea

- 17 A thorough understanding should be attained of the relationship of the International Regulations for Preventing Collisions at Sea to the use of radar, including:
- .1 action to avoid collision, dangers of assumptions made on inadequate information and the hazards of small alterations of course or speed;
 - .2 the advantages of safe speed when using radar to avoid collision;
 - .3 the relationship of speed to closest approach distance and time and to the manoeuvring characteristics of various types of ships;
 - .4 the importance of radar observation reports and radar reporting procedures being well defined;
 - .5 the use of radar in clear weather, to obtain an appreciation of its capabilities and limitations, compare radar and visual observations and obtain an assessment of the relative accuracy of information;
 - .6 the need for early use of radar in clear weather at night and when there are indications that visibility may deteriorate;
 - .7 comparison of features displayed by radar with charted features; and
 - .8 comparison of the effects of differences between range scales.

TRAINING AND ASSESSMENT IN THE OPERATIONAL USE OF AUTOMATIC RADAR PLOTTING AIDS (ARPA)

- 18 Training and assessment in the operational use of automatic radar plotting aids (ARPA) should:
- .1 require prior completion of the training in radar observation and plotting or combine that training with the training given in paragraphs 19 to 35 below;*
 - .2 incorporate the use of ARPA simulation equipment; and
 - .3 conform to standards not inferior to those given in paragraphs 19 to 35 below.
- 19 Where ARPA training is provided as part of the general training under the 1978 STCW Convention, masters, chief mates and officers in charge of a navigational watch should understand the factors involved in decision-making based on the information supplied by ARPA in association with other navigational data inputs, having a similar appreciation of the operational aspects and of system errors of modern electronic navigational systems. This training should be progressive in nature, commensurate with the responsibilities of the individual and the certificates issued by Parties under the 1978 STCW Convention.

Theory and demonstration***Possible risks of over-reliance on ARPA***

- 20 Appreciation that ARPA is only a navigational aid and:
- .1 that its limitations, including those of its sensors, make over-reliance on ARPA dangerous, in particular for keeping a look-out; and
 - .2 the need to observe at all times the Principles to be observed in keeping a navigational watch and the Guidance on keeping a navigational watch.

Principal types of ARPA systems and their display characteristics

- 21 Knowledge of the principal types of ARPA systems in use; their various display characteristics and an understanding of when to use ground or sea stabilized modes and north-up, course-up or head-up presentations.

IMO performance standards for ARPA

- 22 An appreciation of the IMO performance standards for ARPA, in particular the standards relating to accuracy.**

Factors affecting system performance and accuracy

- 23 Knowledge of ARPA sensor input performance parameters - radar, compass and speed inputs and the effects of sensor malfunction on the accuracy of ARPA data.
- 24 Knowledge of:
- .1 the effects of the limitations of radar range and bearing discrimination and accuracy and the limitations of compass and speed input accuracies on the accuracy of ARPA data; and
 - .2 factors which influence vector accuracy.

Tracking capabilities and limitations

- 25 Knowledge of:
- .1 the criteria for the selection of targets by automatic acquisition;
 - .2 the factors leading to the correct choice of targets for manual acquisition;

* IMO Model Course 1.08 - *The Operational Use of Automatic Radar Plotting Aids (ARPA)* may be of assistance in the preparation of courses

** See resolution A.422(XI) - Performance Standards for Automatic Radar Plotting Aids (ARPA) and resolution A.823(19) - Performance Standards for Automatic Radar Plotting Aids (ARPAs).

- .3 the effects on tracking of "lost" targets and target fading;
- .4 the circumstances causing "target swap" and its effects on displayed data.

Processing delays

- 26 Knowledge of the delays inherent in the display of processed ARPA information, particularly on acquisition and re-acquisition or when a tracked target manoeuvres.

Operational warnings, their benefits and limitations

- 27 Appreciation of the uses, benefits and limitations of ARPA operational warnings and their correct setting, where applicable, to avoid spurious interference.

System operational tests

- 28 Knowledge of:
 - .1 methods of testing for malfunctions of ARPA systems, including functional self-testing; and
 - .2 precautions to be taken after a malfunction occurs.

Manual and automatic acquisition of targets and their respective limitations

- 29 Knowledge of the limits imposed on both types of acquisition in multi-target scenarios, and the effects on acquisition of target fading and target swap.

True and relative vectors and typical graphic representation of target information and danger areas

- 30 Thorough knowledge of true and relative vectors; derivation of targets' true courses and speeds including:
 - .1 threat assessment, derivation of predicted closest point of approach and predicted time to closest point of approach from forward extrapolation of vectors, the use of graphic representation of danger areas;
 - .2 the effects of alterations of course and/or speed of own ship and/or targets on predicted closest point of approach and predicted time to closest point of approach and danger areas;
 - .3 the effects of incorrect vectors and danger areas; and
 - .4 the benefit of switching between true and relative vectors.

Information on past positions of targets being tracked

- 31 Knowledge of the derivation of past positions of targets being tracked, recognition of historic data as a means of indicating recent manoeuvring of targets and as a method of checking the validity of the ARPA's tracking.

Practice

Setting up and maintaining displays

- 32 Ability to demonstrate:
 - .1 the correct starting procedure to obtain the optimum display of ARPA information;
 - .2 the selection of display presentation; stabilized relative motion displays and true motion displays;
 - .3 the correct adjustment of all variable radar display controls for optimum display of data;
 - .4 the selection, as appropriate, of required speed input to ARPA;
 - .5 the selection of ARPA plotting controls, manual/automatic acquisition, vector/graphic display of data;
 - .6 the selection of the time scale of vectors/graphics;
 - .7 the use of exclusion areas when automatic acquisition is employed by ARPA; and
 - .8 performance checks of radar, compass, speed input sensors and ARPA.

System operational tests

- 33 Ability to perform system checks and determine data accuracy of ARPA, including the trial manoeuvre facility, by checking against basic radar plot.

Obtaining information from the ARPA display

- 34 Demonstrate the ability to obtain information in both relative and true motion modes of display, including:
- .1 the identification of critical echoes;
 - .2 the speed and direction of target's relative movement;
 - .3 the time to, and predicted range at, target's closest point of approach;
 - .4 the courses and speeds of targets;
 - .5 detecting course and speed changes of targets and the limitations of such information;
 - .6 the effect of changes in own ship's course or speed or both; and
 - .7 the operation of the trial manoeuvre facility.

Application of the International Regulations for Preventing Collisions at Sea

- 35 Analysis of potential collision situations from displayed information, determination and execution of action to avoid close-quarters situations in accordance with the International Regulations for Preventing Collisions at Sea in force.

RECOMMENDED PERFORMANCE STANDARDS FOR NON-MANDATORY TYPES OF SIMULATION

- 36 Performance standards for non-mandatory simulation equipment used for training and/or assessment of competence or demonstration of skills are set out hereunder. Such forms of simulation include, but are not limited to, the following types:
- .1 navigation and watchkeeping;
 - .2 ship handling and manoeuvring;
 - .3 cargo handling and stowage;
 - .4 radiocommunications; and
 - .5 main and auxiliary machinery operation

Navigation and watchkeeping simulation

- 37 Navigation and watchkeeping simulation equipment should, in addition to meeting all applicable performance standards set out in section A-I/12, be capable of simulating navigational equipment and bridge operational controls which meet all applicable performance standards adopted by the Organization*, incorporate facilities to generate soundings and:

* See:

- .1 Resolution A.224(VII) - Performance Standards for Echo-Sounding Equipment
- .2 Resolution A.282(VIII) - Recommendation on the Installation and Use of Manoeuvring Lights
- .3 Resolution A.342(IX) - Recommendation on Performance Standards for Automatic Pilots
- .4 Resolution A.422(XI) - Performance Standards for Automatic Radar Plotting Aids (ARPA) and resolution A.823(18) - Performance Standards for Automatic Radar Plotting Aids (ARPAs)
- .5 Resolution A.424(XI) - Performance Standards for Gyro-Compasses
- .6 Resolution A.477(XII) - Performance Standards for Radar Equipment
- .7 Resolution A.478(XII) - Performance Standards for Devices to Indicate Speed and Distance and resolution A.824(19) - Performance Standards for Devices to Indicate Speed and Distance
- .8 Resolution A.526(13) - Performance Standards for Ratc-of-Turn Indicators
- .9 Resolution A.529(13) - Accuracy Standards for Navigation
- .10 Resolution A.574(14) - Recommendation on General Requirements for Electronic Navigational Aids
- .11 Resolution A.575(14) - Unification of Performance Standards for Navigational Equipment
- .12 Resolution A.665(16) - Performance Standards for Radio Direction-Finding Systems

- .1 create a real-time operating environment, including navigation control and communications instruments and equipment appropriate to the navigation and watchkeeping tasks to be carried out and the manoeuvring skills to be assessed;
- .2 provide a realistic visual scenario by day or by night, including variable visibility, or by night only as seen from the bridge, with a minimum horizontal field of view available to the trainee in viewing sectors appropriate to the navigation and watchkeeping tasks and objectives; and
- .3 realistically simulate 'Own ship' dynamics in open water conditions, including the effects of weather, tidal stream, currents and interaction with other ships.

Ship handling and manoeuvring simulation

38 In addition to meeting the performance standards set out in paragraph 37, ship handling simulation equipment should:

- .1 provide a realistic visual scenario as seen from the bridge by day and by night with variable visibility throughout a minimum horizontal field of view available to the trainee in viewing sectors appropriate to the ship handling and manoeuvring training tasks and objectives;* and
- .2 realistically simulate 'Own ship' dynamics in restricted waterways, including shallow-water and bank effects.

39 Where manned scale models are used to provide ship handling and manoeuvring simulation, in addition to the performance standards set out in paragraphs 37.3 and 38.2, such equipment should:

- .1 incorporate scaling factors which present accurately the dimensions, areas, volume and displacement, speed, time and rate of turn of a real ship; and
- .2 incorporate controls for the rudder and engines to the correct time-scale.

Cargo handling and stowage simulation

40 Cargo handling simulation equipment should be capable of simulating cargo handling and control equipment which meets all applicable performance standard adopted by the Organization,** and incorporate facilities to:

- .1 create an effective operational environment, including a cargo-control station with such instrumentation as may be appropriate to the particular type of cargo system modelled;
- .2 model loading and unloading functions and stability and stress data appropriate to the cargo-handling tasks to be carried out and the skills to be assessed; and
- .3 simulate loading, unloading, ballasting and deballasting operations and appropriate associated calculations for stability, trim, list, longitudinal strength, torsional stress and damage stability*.

GMDSS communication simulation

41 GMDSS communication simulation equipment should be capable of simulating GMDSS communication equipment which meets all applicable performance standards adopted by the Organization**, and incorporate facilities to:

.13 Resolution A.694(17) — General Requirements for Shipborne Radio Equipment Forming Part of the Global Maritime Distress and Safety System (GMDSS) and for Electronic Navigational Aids

* IMO Model Course 1.22 - *Ship Simulator and Bridge Teamwork* may be of assistance in the preparation of courses.

** No standards have as yet been adopted by the Organization.

* IMO Model Course 2.06 - *Cargo and Ballast Handling Simulator* may be of assistance in the preparation of courses.

** See:

- .1 simulate the operation of VHP, VHF-DSC, NAVTEX, EPIRB and watch receiver equipment as required for the Restricted Operator's Certificate (ROC);
- .2 simulate the operation of INMARSAT-A, -B and -C ship earth stations, MF/HF NBDP, MF/HF-DSC, VHP, VHF-DSC, NAVTEX, EPIRB and watch receiver equipment as required for the General Operator's Certificate (GOC);
- .3 provide voice communication with background noise;
- .4 provide a printed text communication facility; and
- .5 create a real-time operating environment, consisting of an integrated system, incorporating at least one instructor/assessor station and at least two GMDSS ship or shore stations.

Main and auxiliary machinery operation simulation

- 42 Engine-room simulation equipment should be capable of simulating a main and auxiliary machinery system and incorporate facilities to:
 - .1 create a real-time environment for seagoing and harbour operations with communication devices and simulation of appropriate main and auxiliary propulsion machinery equipment and control panels;
 - .2 simulate relevant sub-systems that should include but not be restricted to boiler, steering gear, electrical power general and distribution systems, including emergency power supplies, and fuel, cooling water, refrigeration, bilge and ballast systems;
-
- .1 Resolution A.421 (XI) concerning operational standards for radiotelephone alarm signal generators (see also resolutions A.807(19) and A.808(19))
 - .2 Resolution A.803(19) - Performance Standards for Shipborne VHP Radio Installations Capable of Voice Communication and Digital Selective Calling
 - .3 Resolution A.804(19) - Performance Standards for Shipborne MF Radio Installations Capable of Voice Communication and Digital Selective Calling
 - .4 Resolution A.805(19) - Performance Standards for Float-Free VHF Emergency Position-indicating Radio Beacons
 - .5 Resolution A.806(19) - Performance Standards for Shipborne MF/HF Radio Installations Capable of Voice Communication, Narrow-Band Direct Printing and Digital Selective Calling
 - .6 Resolution A.812(19) - Performance Standards for Float-Free Satellite Emergency Position-indicating Radio Beacons Operating through the Geostationary Inmarsat Satellite System on 1.6 GHz
 - .7 Resolution A.662(16) - Performance Standards for Float-Free Release and Activation Arrangements for Emergency Radio Equipment
 - .8 Resolution A.807(19) - Performance Standards for Inmarsat-C Ship Earth Stations Capable of Transmitting and Receiving Direct-Printing Communications and resolution A.570(14) - Type Approval of Ship Earth Stations
 - .9 Resolution A.664(16) - Performance Standards for Enhanced Group Call Equipment
 - .10 Resolution A.694(17) - General Requirements for Shipborne Radio Equipment Forming Part of the GMDSS and for Electronic Navigational Aids
 - .11 Resolution A.696(17) - Type Approval for Satellite Emergency Position-indicating Radio Beacons (EPIRBs) Operating in the COSPAS-SARSAT System
 - .12 Resolution A.802(19) - Performance Standards for Survival Craft Radar Transponders for use in Search and Rescue Operations
 - .13 Resolution A.808(19) - Performance standards for Ship Earth Stations Capable of Two-way Communications and resolution A.570(14) - Type Approval of Ship Earth Stations
 - .14 Resolution A.699(17) - System Performance Standard for the Promulgation and Coordination of Maritime Safety Information using HF NBDP
 - .15 Resolution A.700(17) - Performance Standards for Narrow-Band Direct-Printing Telegraph Equipment for the Reception of Navigational and Meteorological Warnings and Urgent Information to Ships (MSI) by HF
 - .16 Resolution A.810(19) - Performance Standards for Float-Free Satellite Emergency Position-Indicating Radio Beacons (EPIRBs) Operating on 406 MHz.

- .3 monitor and evaluate engine performance and remote sensing systems;
- .4 simulate machinery malfunctions;
- .5 allow for the variable external conditions to be changed so as to influence the simulated operations: weather, ship's draught, seawater and air temperatures;
- .6 allow for instructor-controlled external conditions to be changed: deck steam, accommodation steam, deck air, ice conditions, deck cranes, heavy power, bow thrust, ship load;
- .7 allow for instructor-controlled simulator dynamics to be changed: emergency run, process responses, ship responses; and
- .8 provide a facility to isolate certain processes, such as speed, electrical system, diesel oil system, lubricating oil system, heavy oil system, seawater system, steam system, exhaust boiler and turbo generator, for performing specific training tasks.*

Section B-I/13

Guidance regarding the conduct of trials

(No provisions)

Section B-I/14

Guidance regarding responsibilities of companies and recommended responsibilities of masters and crew members

Companies

- 1 Companies should provide ship-specific introductory programmes aimed at assisting newly employed seafarers to familiarize themselves with all procedures and equipment relating to their areas of responsibility.

Master

- 2 The master should take all steps necessary to implement any company instructions issued in accordance with section A-I/14. Such steps should include:
 - .1 identifying all seafarers who are newly employed on board the ship before they are assigned to any duties;
 - .2 providing the opportunity for all newly arrived seafarers to:
 - .2.1 visit the spaces in which their primary duties will be performed,
 - .2.2 get acquainted with the location, controls and display features of equipment they will be operating or using,
 - .2.3 activate the equipment when possible and perform functions using the controls on the equipment, and
 - .2.4 observe and ask questions of someone who is already familiar with the equipment, procedures and other arrangements, and who can communicate information in a language which the seafarer understands; and
 - .3 providing for a suitable period of supervision when there is any doubt that a newly employed seafarer is familiar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of his or her duties.

Crew members

- 3 Seafarers who are newly assigned to a ship should take full advantage of every opportunity provided to become familiar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of their duties. Immediately upon arriving on board for the first time, each seafarer has the responsibility to become

* IMO Model Cours 2.07 - Engine Room Simulator may be of assistance in the preparation of courses.

acquainted with the ship's working environment, particularly with respect to new or unfamiliar equipment, procedures or arrangements.

- 4 Seafarers who do not promptly attain the level of familiarity required for performing their duties have the obligation to bring this fact to the attention of their supervisor or to the attention of the crew member designated in accordance with section A-I/14, paragraph 2.2, and to identify any equipment, procedure or arrangement which remains unfamiliar.

Section B-I/15

Guidance regarding transitional provisions

(No provisions)

Chapter II

Guidance regarding the master and the deck department

Section B-II/1

Guidance regarding the certification of officers in charge of a navigational watch on ships of 500 gross tonnage or more

Training

- 1 Every candidate for certification as officer in charge of a navigational watch should have completed a planned and structured programme of training designed to assist a prospective officer to achieve the standard of competence in accordance with table A-II/1.
- 2 The structure of the programme of training should be set out in a training plan which clearly expresses for all parties involved the objectives of each stage of training on board and ashore. It is important that the prospective officer, tutors, ships' staff and company personnel are clear about the competences which are to be achieved at the end of the programme and how they are to be achieved through a combination of education, training and practical experience on board and ashore.
- 3 The mandatory periods of seagoing service are of prime importance in learning the job of being a ship's officer and in achieving the overall standard of competence required. Properly planned and structured, the periods of seagoing service will enable prospective officers to acquire and practice skills and will offer opportunities for competences achieved to be demonstrated and assessed.
- 4 Where the seagoing service forms part of an approved training programme, the following principles should be observed:
 - .1 The programme of on-board training should be an integral part of the overall training plan.
 - .2 The programme of on-board training should be managed and co-ordinated by the company which manages the ship on which the seagoing service is to be performed.
 - .3 The prospective officer should be provided with a training record book* to enable a comprehensive record of practical training and experience at sea to be maintained. The training record book should be laid out in such a way that it can provide detailed information about the tasks and duties which should be undertaken and the progress towards their completion. Duty completed, the record book will provide unique evidence that a structured programme of on-board training has been completed which

* IMO Model Course 7.03 - *Officer in Charge of a Navigational Watch* and a similar document produced by the International Shipping Federation may be of assistance in the preparation of training record books.

can be taken into account in the process of evaluating competence for the issue of a certificate.

- .4 At all times, the prospective officer should be aware of two identifiable individuals who are immediately responsible for the management of the programme of on-board training. The first of these is a qualified seagoing officer, referred to as the shipboard training officer, who, under the authority of the master, should organise and supervise the programme of training for the duration of each voyage. The second should be a person nominated by the company, referred to as the company training officer, who should have an overall responsibility for the training programme and for co-ordination with colleges and training institutions.
- .5 The company should ensure that appropriate periods are set aside for completion of the programme of on-board training within the normal operational requirements of the ship.

Roles and responsibilities

- 5 The following section summarises the roles and responsibilities of those individuals involved in organizing and conducting on-board training:
 - .1 The company training officer should be responsible for:
 - .1.1 overall administration of the programme of training,
 - .1.2 monitoring the progress of the prospective officer throughout, and
 - .1.3 issuing guidance as required and ensuring that all concerned with the training programme play their parts.
 - .2 The shipboard training officer should be responsible for:
 - .2.1 organizing the programme of practical training at sea,
 - .2.2 ensuring in a supervisory capacity that the training record book is properly maintained and that all other requirements are fulfilled, and
 - .2.3 making sure, so far as is practicable, that the time the prospective officer spends on board is as useful as possible in terms of training and experience, and is consistent with the objectives of the training programme, the progress of training and the operational constraints of the ship.
 - .3 The master's responsibilities should be to:
 - .3.1 provide the link between the shipboard training officer and the company training officer ashore,
 - .3.2 fulfill the role of continuity if the shipboard training officer is relieved during the voyage, and
 - .3.3 ensure that all concerned are effectively carrying out the on-board training programme.
 - .4 The prospective officer's responsibilities should be to:
 - .4.1 follow diligently the programme of training as laid down,
 - .4.2 make the most of the opportunities presented, be they in or outside working hours, and
 - .4.3 keep the training record book up to date and ensure that it is available at all times for scrutiny.

Induction

- 6 At the beginning of the programme and at the start of each voyage on a different ship, prospective officers should be given foil information and guidance as to what is expected of them and how the training programme is to be organized. Induction presents the opportunity to brief prospective officers about important aspects of the tasks they will be undertaking, with particular regard to safe working practices and protection of the marine environment.

Shipboard programme of training

- 7 The training record book should contain, amongst other things, a number of training tasks or duties which should be undertaken as part of the approved programme of on-board training. Such tasks and duties should relate to at least the following areas:
 - .1 steering systems;
 - .2 general seamanship;
 - .3 mooring, anchoring and port operations;
 - .4 life-saving and fire-fighting appliances;
 - .5 systems and equipment;
 - .6 cargo work;
 - .7 bridge work and watchkeeping; and
 - .8 engine-room familiarization.
- 8 It is extremely important that the prospective officer is given adequate opportunity for supervised bridge watchkeeping experience, particularly in the later stages of the on-board training programme.
- 9 The performance of the prospective officers in each of the tasks and duties itemized in the training record book should be initialled by a qualified officer when, in the opinion of the officer concerned, a prospective officer has achieved a satisfactory standard of proficiency. It is important to appreciate that a prospective officer may need to demonstrate ability on several occasions before a qualified officer is confident that a satisfactory standard has been achieved.

Monitoring and reviewing

- 10 Guidance and reviewing are essential to ensure that prospective officers are fully aware of the progress they are making and to enable them to join in decisions about their future programme. To be effective, reviews should be linked to information gained through the training record book and other sources as appropriate. The training record book should be scrutinized and endorsed formally by the master and the shipboard training officer at the beginning, during and at the end of each voyage. The training record book should also be examined and endorsed by the company training officer between voyages.

Assessment of abilities and skills in navigational watchkeeping

- 11 A candidate for certification who is required to have received special training and assessment of abilities and skills in navigational watchkeeping duties should be required to provide evidence, through demonstration either on a simulator or on board ship as part of an approved programme of shipboard training, that the skills and ability to perform as officer in charge of a navigational watch in at least the following areas have been acquired, namely to:
 - .1 prepare for and conduct a passage, including:
 - .1.1 interpreting and applying information obtained from charts,
 - .1.2 fixing position in coastal waters,
 - .1.3 applying basic information obtained from tide tables and other navigational publications,
 - .1.4 checking and operating bridge equipment,
 - .1.5 checking magnetic and gyro-compasses,
 - .1.6 assessing available meteorological information,
 - .1.7 using celestial bodies to fix position,
 - .1.8 determining the compass error by celestial and terrestrial means, and
 - .1.9 performing calculations for sailings of up to 24 hours;
 - .2 operate and apply information obtained from electronic navigation systems;

- .3 operate radar and ARPA and apply radar information for navigation and collision avoidance;
 - .4 operate propulsion and steering systems to control heading and speed;
 - .5 implement navigational watch routines and procedures;
 - .6 implement the manoeuvres required for rescue of persons overboard;
 - .7 initiate action to be taken in the event of an imminent emergency situation (e.g. fire, collision, stranding) and action in the immediate aftermath of an emergency;
 - .8 initiate action to be taken in event of malfunction or failure of major items of equipment or plant (e.g. steering gear, power, navigation systems);
 - .9 conduct radiocommunications and visual and sound signalling in normal and emergency situations; and
 - .10 monitor and operate safety and alarm systems, including internal communications.
- 12 Assessment of abilities and skills in navigational watchkeeping should:
- .1 be made against the criteria for evaluating competence for the function of navigation set out in table A-II/1;
 - .2 ensure that the candidate performs navigational watchkeeping duties in accordance with the Principles to be observed in keeping a safe navigational watch (section A-VIII/2, part 3-1) and the Guidance on keeping a navigational watch (section B-VIII/2, part 3-1).

Evaluation of competence

- 13 The standard of competence to be achieved for certification as officer in charge of a navigational watch is set out in table A-II/1. The standard specifies the knowledge and skill required and the application of that knowledge and skill to the standard of performance required on board ship.
- 14 Scope of knowledge is implicit in the concept of competence. Assessment of competence should, therefore, encompass more than the immediate technical requirements of the job, the skills and tasks to be performed, and should reflect the broader aspects needed to meet the full expectations of competent performance as a ships' officer. This includes relevant knowledge, theory, principles and cognitive skills which, to varying degrees, underpin all levels of competence. It also encompasses proficiency in what to do, how and when to do it, and why it should be done. Properly applied, this will help to ensure that a candidate can:
- .1 work competently in different ships and across a range of circumstances;
 - .2 anticipate, prepare for and deal with contingencies; and
 - .3 adapt to new and changing requirements.
- 15 The criteria for evaluating competence (column 4 of table A-II/1) identify, primarily in outcome terms, the essential aspects of competent performance. They are expressed so that assessment of a candidate's performance can be made against them and should be adequately documented in the training record book.
- 16 Evaluation of competence is the process of:
- .1 collecting sufficient valid and reliable evidence about the candidate's knowledge, understanding and proficiency to accomplish the tasks, duties and responsibilities listed in column 1 of table A-II/1; and
 - .2 judging that evidence against the criteria specified in the standard.
- 17 The arrangements for evaluating competence should be designed to take account of different methods of assessment which can provide different types of evidence about candidates' competence, e.g.:
- .1 direct observation of work activities (including seagoing service);
 - .2 skills/proficiency/competency tests;
 - .3 projects and assignments;
 - .4 evidence from previous experience; and

- .5 written, oral and computer-based questioning techniques.*
- 18 One or more of the first four methods listed should almost invariably be used to provide evidence of ability, in addition to appropriate questioning techniques to provide evidence of supporting knowledge and understanding.

Section B-II/2

Guidance regarding the certification of masters and chief mates on ships of 500 gross tonnage or more

(See section B-II/1 for guidance.)

Section B-II/3

Guidance regarding the certification of officers in charge of a navigational watch and of masters on ships of less than 500 gross tonnage

(See section B-II/1 for guidance.)

Section B-II/4

Guidance regarding the training and certification of ratings forming part of a navigational watch

In addition to the requirements stated in table A-II/4 of this Code, Parties are encouraged for safety reasons to include the following subjects in the training of ratings forming part of a navigational watch:

- .1 a basic knowledge of the International Regulations for Preventing Collisions at Sea;
- .2 rigging a pilot ladder;
- .3 an understanding of wheel orders given by pilots in English;
- .4 training for proficiency in survival craft and rescue boats;
- .5 support duties when berthing and unberthing and during towing operations;
- .6 a basic knowledge of anchoring;
- .7 a basic knowledge of dangerous cargoes;
- .8 a basic knowledge of stowage procedures and arrangements for bringing stores on board; and
- .9 a basic knowledge of deck maintenance and tools used on deck.

Chapter III

Guidance regarding the engine department

Section B-III/1

Guidance regarding the certification of officers in charge of an engineering watch in a manned engine-room or as designated duty engineers in a periodically unmanned engine-room

- 1 In table A-III/1, column 1, top block, the tools referred to should include hand tools, common measuring equipment, centre lathes, drilling machines, welding equipment and milling machines as appropriate.
- 2 Training in workshop skills ashore can be carried out in a training institution or approved workshop.
- 3 On-board training should be adequately documented in the training record book by qualified assessors.

* IMO Model Course 3.12 - *Examination and Certification of Seafarers* may be of assistance in the preparation of courses.

Section B-III/2

Guidance regarding the certification of chief engineer officers and second engineer officers of ships powered by main propulsion machinery of 3,000 kW propulsion power or more

(No provisions)

Section B-III/3

Guidance regarding the certification of chief engineer officers and second engineer officers of ships powered by main propulsion machinery between 750 kW and 3,000 kW propulsion power

(No provisions)

Section B-III/4

Guidance regarding the training and certification of ratings forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine-room

In addition to the requirements stated in section A-III/4 of this Code, Parties are encouraged for safety reasons to include the following items in the training of ratings forming part of an engineering watch:

- .1 a basic knowledge of routine pumping operations, such as bilge, ballast and cargo pumping systems;
- .2 a basic knowledge of electrical installations and the associated dangers;
- .3 a basic knowledge of maintenance and repair of machinery and tools used in the engine-room; and
- .4 a basic knowledge of stowage and arrangements for bringing stores on board.

Chapter IV

Guidance regarding radiocommunication and radio personnel

Section B-IV/1

Guidance regarding the application of chapter IV

(No provisions)

Section B-IV/2

Guidance regarding training and certification of GMDSS radio personnel

TRAINING RELATED TO THE FIRST-CLASS RADIOELECTRONIC CERTIFICATE

General

- 1 The requirements of medical fitness, especially as to hearing, eyesight and speech, should be met by the candidate before training is commenced.
- 2 The training should be relevant to the provisions of the STCW Convention, the provisions of the Radio Regulations annexed to the International Telecommunication Convention (Radio Regulations) and the provisions of the International Convention for the Safety of Life at Sea (SOLAS Convention) currently in force, with particular attention given to provisions for the global maritime distress and safety system (GMDSS). In de-

veloping training requirements, account should be taken of at least the knowledge and training given in paragraphs 3 to 14 hereunder.*

Theory

- 3 Knowledge of the general principles and basic factors necessary for safe and efficient use of all sub-systems and equipment required in the GMDSS, sufficient to support the practical training provisions given in paragraph 13.
- 4 Knowledge of the use, operation and service areas of GMDSS sub-systems, including satellite system characteristics, navigational and meteorological warning systems and selection of appropriate communication circuits.
- 5 Knowledge of the principles of electricity and the theory of radio and electronics sufficient to meet the provisions given in paragraphs 6 to 10 below.
- 6 Theoretical knowledge of GMDSS radiocommunication equipment, including narrow-band direct-printing telegraphy and radiotelephone transmitters and receivers, digital selective calling equipment, ship earth stations, emergency position-indicating radio beacons (EPIRBs), marine antenna systems, radio equipment for survival craft together with all auxiliary items, including power supplies, as well as general knowledge of the principles of other equipment generally used for radionavigation, with particular reference to maintaining the equipment in service.
- 7 Knowledge of factors that affect system reliability, availability, maintenance procedures and proper use of test equipment.
- 8 Knowledge of microprocessors and fault diagnosis in systems using micro processors.
- 9 Knowledge of control systems in the GMDSS radio equipment, including testing and analysis.
- 10 Knowledge of the use of computer software for the GMDSS radio equipment and methods for correcting faults caused by loss of software control of the equipment.

Regulations and documentation

- 11 Knowledge of:
 - .1 the SOLAS Convention and the Radio Regulations, with particular emphasis on:
 - .1.1 distress, urgency and safety radiocommunications,
 - .1.2 avoiding harmful interference, particularly with distress and safety traffic, and
 - .1.3 prevention of unauthorized transmissions;
 - .2 other documents relating to operational and communication procedures for distress, safety and public correspondence services, including charges, navigational warnings, and weather broadcasts in the Maritime Mobile Service and the Maritime Mobile Satellite Service; and
 - .3 use of the International Code of Signals and the Standard Marine Navigational Vocabulary as replaced by the IMO Standard Marine Communication Phrases.

Watchkeeping and procedures

- 12 Knowledge of and training in:
 - .1 communication procedures and discipline to prevent harmful interference in GMDSS sub-systems;
 - .2 procedures for using propagation-prediction information to establish optimum frequencies for communications;
 - .3 radiocommunication watchkeeping relevant to all GMDSS sub-systems, exchange of radiocommunication traffic, particularly concerning distress, urgency and safety procedures and radio records;

* IMO Model Course [] related to the First-Class Radioelectronic Certificate (being developed) may be of assistance in the preparation of courses.

- .4 use of the international phonetic alphabet;
- .5 monitoring a distress frequency while simultaneously monitoring or working on at least one other frequency;
- .6 ship reporting systems and procedures;
- .7 radiocommunication procedures of the IMO Merchant Ship Starch and Rescue Manual (MERSAR);
- .8 radio medical systems and procedures; and
- .9 causes of false distress alerts and means to avoid them.*

Practical

- 13 Practical training, supported by appropriate laboratory work, should be given in:
 - .1 correct and efficient operation of all GMDSS sub-systems and equipment under normal propagation conditions and under typical interference conditions;
 - .2 safe operation of all the GMDSS communication equipment and ancillary devices, including safety precautions;
 - .3 adequate and accurate keyboard skills for the satisfactory exchange of communications;
 - .4 operational techniques for
 - .4.1 receiver and transmitter adjustment for the appropriate mode of operation, including digital selective calling and direct-printing telegraphy,
 - .4.2 antenna adjustment and re-alignment, as appropriate,
 - .4.3 use of radio life-saving appliances, and
 - .4.4 use of emergency position-indicating radio beacons (EPIRBs);
 - .5 antenna rigging, repair and maintenance, as appropriate;
 - .6 reading and understanding pictorial, logic and circuit diagrams;
 - .7 use and care of those tools and test instruments necessary to carry out at-sea electronic maintenance;
 - .8 manual soldering and desoldering techniques, including those involving semiconductor devices and modern circuits, and the ability to distinguish whether the circuit is suitable to be manually soldered or desoldered;
 - .9 tracing and repair of faults to component level where practicable, and to board/module level in other cases;
 - .10 recognition and correction of conditions contributing to the fault occurring;
 - .11 maintenance procedures, both preventive and corrective, for all GMDSS communication equipment and radionavigation equipment; and
 - .12 methods of alleviating electrical and electromagnetic interference such as bonding, shielding and bypassing.

Miscellaneous

- 14 Knowledge of and/or training in:
 - .1 the English language, both written and spoken, for the satisfactory exchange of communications relevant to the safety of life at sea;
 - .2 world geography, especially the principal shipping routes, services of rescue co-ordination centres (RCCs) and related communication routes;
 - .3 survival at sea, the operation of lifeboats, rescue boats, liferafts, buoyant apparatus and their equipment, with special reference to radio life-saving appliances;
 - .4 fire prevention and fire fighting, with particular reference to the radio installation;
 - .5 preventive measures for the safety of ship and personnel in connection with hazards related to radio equipment, including electrical, radiation, chemical and mechanical hazards;

* See COM/Circ.127 - Guidelines for avoiding false distress alerts.

- .6 first aid, including heart - respiration revival techniques; and
- .7 co-ordinated universal time (UTC), global time zones and the international date line.

TRAINING RELATED TO THE SECOND-CLASS RADIOELECTRONIC CERTIFICATE

General

- 15 The requirements of medical fitness, especially as to hearing, eyesight and speech, should be met by the candidate before training is commenced.
- 16 The training should be relevant to the provisions of the STCW Convention, and the SOLAS Convention currently in force, with particular attention given to provisions for the global maritime distress and safety system (GMDSS). In developing training requirements, account should be taken of at least the knowledge and training given in paragraphs 17 to 28 hereunder.*

Theory

- 17 Knowledge of the general principles and basic factors necessary for safe and efficient use of all sub-systems and equipment required in the GMDSS, sufficient to support the practical training provisions given in paragraph 27 below.
- 18 Knowledge of the use, operation and service areas of GMDSS sub-systems, including satellite system characteristics, navigational and meteorological warning systems and selection of appropriate communication circuits.
- 19 Knowledge of the principles of electricity and the theory of radio and electronics sufficient to meet the provisions given in paragraphs 20 to 24 below.
- 20 General theoretical knowledge of GMDSS radiocommunication equipment, including narrow-band direct-printing telegraph and radiotelephone transmitters and receivers, digital selective calling equipment, ship earth stations, emergency position- indicating radio beacons (EPIRBs), marine antenna systems, radio equipment for survival craft together with all auxiliary items, including power supplies, as well as general knowledge of other equipment generally used for radionavigation, with particular reference to maintaining the equipment in service.
- 21 General knowledge of factors that affect system reliability, availability, maintenance procedures and proper use of test equipment.
- 22 General knowledge of microprocessors and fault diagnosis in systems using microprocessors.
- 23 General knowledge of control systems in the GMDSS radio equipment, including testing and analysis.
- 24 Knowledge of the use of computer software for the GMDSS radio equipment and methods for correcting faults caused by loss of software control of the equipment.

Regulations and documentation

- 25 Knowledge of:
 - .1 the SOLAS Convention and the Radio Regulations, with particular emphasis on:
 - .1.1 distress, urgency and safety radiocommunications,
 - .1.2 avoiding harmful interference, particularly with distress and safety traffic, and
 - .1.3 the prevention of unauthorized transmissions;
 - .2 other documents relating to operational and communication procedures for distress, safety and public correspondence services, including charges, navigational warn-

* IMO Model Course [] related to the Second-Class Radioelectronic Certificate (being developed) may be of assistance in the preparation of courses.

- ings, and weather broadcasts in the Maritime Mobile Service and the Maritime Mobile Satellite Service; and
- .3 the use of the International Code of Signals and the Standard Marine Navigational Vocabulary as replaced by the IMO Standard Marine Communication Phrases.

Watchkeeping and procedures

26 Training should be given in:

- .1 communication procedures and discipline to prevent harmful interference in GMDSS sub-systems;
- .2 procedures for using propagation-prediction information to establish optimum frequencies for communications;
- .3 radiocommunication watchkeeping relevant to all GMDSS sub-systems, exchange of radiocommunication traffic, particularly concerning distress, urgency and safety procedures and radio records;
- .4 use of the international phonetic alphabet;
- .5 monitoring a distress frequency while simultaneously monitoring or working on at least one other frequency;
- .6 ship reporting systems and procedures;
- .7 radiocommunication procedures of the IMO Merchant Ship Search and Rescue Manual (MERSAR);
- .8 radio medical systems and procedures; and
- .9 causes of false distress alerts and means to avoid them.*

Practical

27 Practical training, supported by appropriate laboratory work, should be given in:

- .1 correct and efficient operation of all GMDSS sub-systems and equipment under normal propagation conditions and under typical interference conditions;
- .2 safe operation of all the GMDSS communication equipment and ancillary devices, including safety precautions;
- .3 adequate and accurate keyboard skills for the satisfactory exchange of communications;
- .4 operational techniques for:
 - .4.1 receiver and transmitter adjustment for the appropriate mode of operation, including digital selective calling and direct-printing telegraphy,
 - .4.2 antenna adjustment and re-alignment, as appropriate,
 - .4.3 use of radio life-saving appliances, and
 - .4.4 use of emergency position-indicating radio beacons (EPIRBs);
- .5 antenna rigging, repair and maintenance, as appropriate;
- .6 reading and understanding pictorial, logic and module interconnection diagrams;
- .7 use and care of those tools and test instruments necessary to carry out at-sea electronic maintenance at the level of unit or module replacement;
- .8 basic manual soldering and desoldering techniques and their Limitations;
- .9 tracing and repair of faults to board/module level;
- .10 recognition and correction of conditions contributing to the fault occurring;
- .11 basic maintenance procedures, both preventive and corrective, for all the GMDSS communication equipment and radionavigation equipment; and
- .12 methods of alleviating electrical and electromagnetic interference such as bonding, shielding and bypassing.

* See COM/Circ. 127 - Guidelines for avoiding false distress alerts.

Miscellaneous

28 Knowledge of, and/or training in:

- .1 the English language, both written and spoken, for the satisfactory exchange of communications relevant to the safety of life at sea;
- .2 world geography, especially the principal shipping routes, services of rescue co-ordination centres (RCCs) and related communication routes;
- .3 survival at sea, the operation of lifeboats, rescue boats, liferafts, buoyant apparatus and their equipment, with special reference to radio life-saving appliances;
- .4 fire prevention and fire fighting, with particular reference to the radio installation;
- .5 preventive measures for the safety of ship and personnel in connection with hazards related to radio equipment, including electrical, radiation, chemical and mechanical hazards;
- .6 first aid, including heart-respiration revival techniques; and
- .7 co-ordinated universal time (UTC), global time zones and international date line.

TRAINING RELATED TO THE GENERAL OPERATOR'S CERTIFICATE**General⁵**

- 29 The requirements of medical fitness, especially as to hearing, eyesight and speech, should be met by the candidate before training is commenced.
- 30 The training should be relevant to the provisions of the STCW Convention, the Radio Regulations and the SOLAS Convention currently in force, with particular attention given to provisions for the global maritime distress and safety system (GMDSS). In developing training requirements, account should be taken of at least the knowledge and training given in paragraphs 31 to 36 hereunder.*

Theory

- 31 Knowledge of the general principles and basic factors necessary for safe and efficient use of all sub-systems and equipment required in the GMDSS sufficient to support the practical training provisions given in paragraph 35 below.
- 32 Knowledge of the use, operation and service areas of GMDSS sub-systems, including satellite system characteristics, navigational and meteorological warning systems and selection of appropriate communication circuits.

Regulations and documentation

33 Knowledge of:

- .1 the SOLAS Convention and the Radio Regulations, with particular emphasis on:
 - .1.1 distress, urgency and safety radiocommunications,
 - .1.2 avoiding harmful interference, particularly with distress and safety traffic, and
 - .1.3 prevention of unauthorized transmissions;
- .2 other documents relating to operational and communication procedures for distress, safety and public correspondence services, including charges, navigational warnings, and weather broadcasts in the Maritime Mobile Service and the Maritime Mobile Satellite Service; and
- .3 use of the International Code of Signals and the Standard Marine Navigational Vocabulary as replaced by the IMO Standard Marine Communication Phrases.

* IMO Model Course [] related to the General Operator's Certificate (being developed) may be of assistance in the preparation of courses.

Watchkeeping and procedures

34 Training should be given in:

- .1 communication procedures and discipline to prevent harmful interference in GMDSS sub-systems;
- .2 procedures for using propagation-prediction information to establish optimum frequencies for communications;
- .3 radiocommunication watchkeeping relevant to all GMDSS sub-systems, exchange of radiocommunication traffic, particularly concerning distress, urgency and safety procedures and radio records;
- .4 use of the international phonetic alphabet;
- .5 monitoring a distress frequency while simultaneously monitoring or working on at least one other frequency;
- .6 ship reporting systems and procedures;
- .7 radiocommunication procedures of the IMO Merchant Ship Search and Rescue Manual (MERSAR);
- .8 radio medical systems and procedures; and
- .9 causes of false distress alerts and means to avoid them.*

Practical

35 Practical training should be given in:

- .1 correct and efficient operation of all GMDSS sub-systems and equipment under normal propagation conditions and under typical interference conditions;
- .2 safe operation of all the GMDSS communications equipment and ancillary devices, including safety precautions;
- .3 accurate and adequate keyboard skills for the satisfactory exchange of communications; and
- .4 operational techniques for:
 - .4.1 receiver and transmitter adjustment for the appropriate mode of operation, including digital selective calling and direct-printing telegraphy,
 - .4.2 antenna adjustment and re-alignment as appropriate,
 - .4.3 use of radio life-saving appliances, and
 - .4.4 use of emergency position-indicating radio beacons (EPIRBs).

Miscellaneous

36 Knowledge of, and/or training in:

- .1 the English language, both written and spoken, for the satisfactory exchange of communications relevant to the safety of life at sea;
- .2 world geography, especially the principal shipping routes, services of rescue co-ordination centres (RCCs) and related communication routes;
- .3 survival at sea, the operation of lifeboats, rescue boats, liferafts, buoyant apparatus and their equipment, with special reference to radio life-saving appliances;
- .4 fire prevention and fire fighting, with particular reference to the radio installation;
- .5 preventive measures for the safety of ship and personnel in connection with hazards related to radio equipment, including electrical, radiation, chemical and mechanical hazards;
- .6 first aid, including heart-respiration revival techniques; and
- .7 co-ordinated universal time (UTC), global time zones and international date line.

* See COM/Circ.127 - Guidelines for avoiding false distress alerts.

TRAINING RELATED TO THE RESTRICTED OPERATOR'S CERTIFICATE**General**

- 37 The requirements of medical fitness, especially as to hearing, eyesight and speech, should be met by the candidate before training is commenced.
- 38 The training should be relevant to the provisions of the STCW Convention, the Radio Regulations and the SOLAS Convention currently in force, with particular attention given to provisions for the global maritime distress and safety system (GMDSS). In developing training guidance, account should be taken of at least the knowledge and training given in paragraphs 39 to 44 hereunder.*

Theory

- 39 Knowledge of the general principles and basic factors, including VHP range limitation and antenna height effect necessary for safe and efficient use of all sub systems and equipment required in GMDSS in sea area A1, sufficient to support the training given in paragraph 43 below.
- 40 Knowledge of the use, operation and service areas of GMDSS sea area A1 sub systems, e.g. navigational and meteorological warning systems and the appropriate communication circuits.

Regulations and documentation

- 41 Knowledge of:
- .1 those parts of the SOLAS Convention and the Radio Regulations relevant to sea area A1, with particular emphasis on:
 - .1.1 distress, urgency and safety radiocommunications,
 - .1.2 avoiding harmful interference, particularly with distress and safety traffic, and
 - .1.3 prevention of unauthorized transmissions;
 - .2 other documents relating to operational and communication procedures for distress, safety and public correspondence services, including charges, navigational warnings and weather broadcasts in the Maritime Mobile Service in sea area A1; and
 - .3 use of the International Code of Signals and the Standard Marine Navigational Vocabulary as replaced by the IMO Standard Marine Communication Phrases.

Watchkeeping and procedures

- 42 Training should be given in:
- .1 communication procedures and discipline to prevent harmful interference in GMDSS sub-systems used in sea area A1;
 - .2 VHP communication procedures for:
 - .2.1 radiocommunication watchkeeping, exchange of radiocommunication traffic, particularly concerning distress, urgency and safety procedures and radio records,
 - .2.2 monitoring a distress frequency while simultaneously monitoring or working on at least one other frequency, and
 - .2.3 the digital selective calling system;
 - .3 use of the international phonetic alphabet;
 - .4 ship reporting systems and procedures;
 - .5 VHP radiocommunication procedures of the IMO Merchant Ship Search and Rescue Manual (MERSAR);

* IMO Model Course [] related to the Restricted Operator's Certificate (being developed) may be of assistance in the preparation of courses.

- .6 radio medical systems and procedures; and
- .7 causes of false distress alerts and means to avoid them*

Practical

- 43 Practical training should be given in:
- .1 correct and efficient operation of the GMDSS sub-systems and equipment prescribed for ships operating in sea area A1 under normal propagation conditions and under typical interference conditions;
 - .2 safe operation of relevant GMDSS communication equipment and ancillary devices, including safety precautions; and
 - .3 operational techniques for use of:
 - .3.1 VHP, including channel, squelch, and mode adjustment, as appropriate,
 - .3.2 radio life-saving appliances,
 - .3.3 emergency position-indicating radio beacons (EPIRBs), and
 - .3.4 NAVTEX receivers.

Miscellaneous

- 44 Knowledge of, and/or training in:
- .1 the English language, both written and spoken, for the satisfactory exchange of communications relevant to the safety of life at sea;
 - .2 services of rescue co-ordination centres (RCCs) and related communication routes;
 - .3 survival at sea, the operation of lifeboats, rescue boats, liferafts, buoyant apparatus and their equipment, with special reference to radio life-saving appliances;
 - .4 fire prevention and fire fighting, with particular reference to the radio installation;
 - .5 preventive measures for the safety of ship and personnel in connection with hazards related to radio equipment, including electrical, radiation, chemical and mechanical hazards; and
 - .6 first aid, including heart-respiration revival techniques.

TRAINING RELATED TO MAINTENANCE OF GMDSS INSTALLATIONS ON BOARD SHIPS

General

- 45 Reference is made to the maintenance requirements of SOLAS Convention regulation FV/15, and to IMO resolution A.702(17) on Radio maintenance guidelines for the GMDSS related to sea areas A3 and A4, which includes in its annex the following provision:
- "4.2 The person designated to perform functions for at-sea electronic maintenance should either hold an appropriate certificate as specified by the Radio Regulations, as required, or have equivalent at-sea electronic maintenance qualifications, as may be approved by the Administration, taking into account the recommendations of the Organization on the training of such personnel."
- 46 The following guidance on equivalent electronic maintenance qualifications is provided for use by Administrations as appropriate.**
- 47 Training as recommended below does not qualify any person to be an operator of GMDSS radio equipment who does not hold an appropriate Radio Operator's Certificate.

* See COM/Circ.127 - Guidelines for avoiding false distress alerts.

** IMO Model Course [] Training in Maintenance of Ships' GMDSS Installations (being developed) may be of assistance in the preparation of courses.

Maintenance training equivalent to the First-Class Radioelectronic Certificate

- 48 In determining training equivalent to the elements of the listed First-Class Radioelectronic Certificate:
- .1 the theory content should cover at least the subjects given in paragraphs 3 to 10;
 - .2 the practical content should cover at least the subjects given in paragraph 13; and
 - .3 the miscellaneous knowledge included should cover at least the subjects given in paragraph 14.

Maintenance training equivalent to the Second-Class Radioelectronic Certificate

- 49 In determining training equivalent to the maintenance elements of the Second-Class Radioelectronic Certificate:
- .1 the theory content should cover at least the subjects given in paragraphs 17 to 24;
 - .2 the practical content should cover at least the subjects given in paragraph 27; and
 - .3 the miscellaneous knowledge included should cover at least the subjects given in paragraph 28.

Chapter V
Guidance regarding special training requirements for personnel
on certain types of ships

Section B-V/1***Guidance regarding the training and qualifications of tanker personnel******OIL TANKER TRAINING***

- 1 The training required by paragraph 2.2 of regulation V/1 in respect of oil tankers should be divided into two parts, a general part concerning principles involved and a part on the application of those principles to ship operation. Any of this training may be given on board or ashore. It should be supplemented by practical instruction on board and, where appropriate, in a suitable shore-based installation. All training and instruction should be given by properly qualified and suitably experienced personnel.*
- 2 As much use as possible should be made of shipboard operation and equipment manuals, films and suitable visual aids, and the opportunity should be taken to introduce discussion of the part to be played by the safety organization on board ship and the role of safety officers and safety committees.

CHEMICAL TANKER TRAINING

- 3 The training required by paragraph 2.2 of regulation V/1 in respect of chemical tankers should be divided into two parts, a general part concerning principles involved and a part on the application on board of those principles to ship operations. Any of this training may be given on board or ashore. It should be supplemented by practical instruction on board and, where appropriate, in a suitable shore-based installation. All training and instruction should be given by properly qualified and suitably experienced personnel.**
- 4 As much use as possible should be made of shipboard operation and equipment manuals, films and suitable visual aids, and the opportunity should be taken to introduce dis-

* The following IMO Model Courses may be of assistance in the preparation of courses:
.1 IMO Model Course 1.02 - *Advanced Training Programme on Oil Tanker Operations*
.2 IMO Model Course 1.11 - *MARPOL 73/78 - Annex I*
.3 IMO Model Course 2.06 - *Cargo and Ballast Handling Simulator*

** The following IMO Model Courses may be of assistance in the preparation of courses:
.1 IMO Model Course 1.04 - *Advanced Training Programme on Chemical Tanker Operations*
.2 IMO Model Course 1.12 - *MARPOL 73/78-Annex II*

cussion of the part to be played by the safety organization on board ship and the role of safety officers and safety committees.

LIQUEFIED GAS TANKER TRAINING

5 The training required by paragraph 2.2 of regulation V/I in respect of liquefied gas tankers should be divided into the following two parts:

- 1 supervised instruction, conducted in a shore-based facility or on board a specially equipped ship having training facilities and special instructors for this purpose, dealing with the principles involved and the application of these principles to ship operation, so however that Administrations may, in special situations, permit junior officers or ratings to be trained on board liquefied gas tankers on which they are serving, provided that such service is for a limited period, as established by the Administration, and that such crew members do not have duties or responsibilities in connection with cargo or cargo equipment and provided further that they are later trained in accordance with this guidance for any subsequent service; and
- 2 supplementary shipboard training and experience, wherein the principles learned are applied to a particular type of ship and cargo-containment system.

All training and instruction should be given by properly qualified and suitably experienced personnel.*

6 As much use as possible should be made of shipboard operation and equipment manuals, films and suitable visual aids, and the opportunity should be taken to introduce discussion of the part to be played by the safety organization on board ship and the role of safety officers and safety committees.

ON-BOARD TRAINING FOR ALL TANKER PERSONNEL

7 All tanker personnel should undergo training on board and, where appropriate, ashore, which should be given by qualified personnel experienced in the handling and characteristics of oil, chemical or liquefied gas cargoes as appropriate and the safety procedures involved. The training should at least cover the matters set out in paragraphs 8 to 14 below.

Regulations

8 Knowledge of the ship's rules and regulations governing the safety of personnel on board a tanker in port and at sea.

Health hazards and precautions to be taken

9 Dangers of skin contact; inhalation and accidental swallowing of cargo; oxygen deficiency, with particular reference to inert-gas systems; the harmful properties of cargoes carried, personnel accidents and associated first aid; lists of do's and don'ts.

Fire prevention and fire fighting

10 Control of smoking and cooking restrictions; sources of ignition; fire and explosion prevention; methods of fire fighting; of portable extinguishers and fixed installations.

Pollution prevention

11 Procedures to be followed to prevent air and water pollution and measures which will be taken in the event of spillage.

Safety equipment and its use

12 The proper use of protective clothing and equipment, resuscitators, escape and rescue equipment.

* IMO Model Course 1.06 - *Advanced Training Programme on Liquefied Gas Tanker Operations* may be of assistance in the preparation of courses.

Emergency procedures

13 Familiarization with the emergency plan procedures.

Cargo equipment and operations

14 A general description of cargo-handling equipment; safe loading and discharge procedures and precautions and safe entry into enclosed spaces.

ON-BOARD TRAINING FOR LIQUEFIED GAS TANKER PERSONNEL

15 Personnel who are required to be trained under regulation V/I should be provided supplementary shipboard training and experience based on the ship's operation manual. Such training and experience should cover the following systems as applicable:

1. the cargo-handling system, including piping systems; pumps; valves; expansion devices and vapour systems; service requirements and operating characteristics of the cargo-handling systems and liquid re-circulation;
2. instrumentation systems, including cargo level indicators; gas-detection systems; hull and cargo temperature monitoring systems; the various methods of transmitting a signal from a sensor to the monitoring station and automatic shutdown systems;
3. boil-off disposal, including use as fuel; compressors; heat exchanger; gas piping and ventilation in machinery and manned spaces; principles of dual-fuel boilers, gas turbines, diesel engines; emergency venting and re-liquefaction;
4. auxiliary systems, including ventilation and inerting; quick-closing, remote control, pneumatic, excess flow, safety relief, and pressure/vacuum valves; steam systems for voids, ballast tanks and condenser, and
5. general principles of operating the cargo-handling plant, including inerting cargo tanks and void spaces; tank cool-down and loading; operations during loaded and ballasted voyages; discharging and tank stripping; emergency procedures, and pre-planned action in the event of leaks, fires, collision, stranding, emergency cargo discharge and personnel casualty.

PROOF OF QUALIFICATION

16 The master of every oil, chemical and liquefied gas tanker should ensure that the officer primarily responsible for the cargo possesses an appropriate certificate, issued or endorsed or validated as required by regulation V/I, paragraph 4, and has had adequate recent practical experience on board an appropriate type of tanker to permit that officer to safely perform the duties assigned.

Section B-V/2***Guidance regarding mandatory minimum requirements for the training and qualification of masters, officers, ratings and other personnel on ro-ro passenger ships***

(No provisions)

Section B-V/3****Guidance regarding additional training for masters and chief mates of large ships and ships with unusual manoeuvring characteristics***

- 1 It is important that masters and chief mates should have had relevant experience and training before assuming the duties of master or chief mate of large ships or ships having unusual manoeuvring and handling characteristics significantly different from those in which they have recently served. Such characteristics will generally be found in

* Note there are no corresponding regulations in the Convention or sections in part A of the Code for sections B-V/3, B-V/4 and B-V/5.

ships which are of considerable deadweight or length or of special design or of high speed.

- 2 Prior to their appointment to such a ship, masters and chief mates should:
 - 1 be informed of the ship's handling characteristics by the company, particularly in relation to the knowledge, understanding and proficiency listed under ship manoeuvring and handling in column 2 of table A-II/2 -Specification of the minimum standard of competence for masters and chief mates of ships of 500 gross tonnage or more; and
 - 2 be made thoroughly familiar with the use of all navigational and manoeuvring aids fitted in the ship concerned, including their capabilities and limitations.
- 3 Before initially assuming command of one of the ships referred to above, the prospective master should have sufficient and appropriate general experience as master or chief mate, and either:
 - 1 have sufficient and appropriate experience manoeuvring the same ship under supervision or in manoeuvring a ship having similar manoeuvring characteristics; or
 - 2 have attended an approved ship handling simulator course on an installation capable of simulating the manoeuvring characteristics of such a ship.**
- 4 The additional training and qualifications of masters and chief mates of dynamically supported and high-speed craft should be in accordance with the relevant guidelines of the IMO Code of Safety for Dynamically Supported Craft and the IMO Code of Safety for High-Speed Craft (HSC Code), as appropriate.

Section B-V/4

Guidance regarding training of officers and ratings responsible for cargo handling on ships carrying dangerous and hazardous substances in solid form in bulk,

- 1 Training should be divided into two parts, a general part on the principles involved and a part on the application of such principles to ship operation. All training and instruction should be given by properly qualified and suitably experienced personnel and cover at least the subjects given in paragraphs 2 to 14 hereunder.

PRINCIPLES

Characteristics and properties

- 2 The important physical characteristics and chemical properties of dangerous and hazardous substances, sufficient to give a basic understanding of the intrinsic hazards and risks involved.

Classification of materials possessing chemical hazards

- 3 IMO dangerous goods classes 4—9 and materials hazardous only in bulk (MHB) and the hazards associated with each class.

Health hazards

- 4 Dangers from skin contact, inhalation, ingestion and radiation.

Conventions, regulations and recommendations

- 5 General familiarization with the relevant requirements of chapters II-2 and VII of the 1974 SOLAS Convention as amended.
- 6 General use of and familiarization with the Code of Safe Practice for Solid Bulk Cargoes (BC Code) with particular reference to:

** IMO Model Course 1.22 - *Ship Simulator and Bridge Teamwork* may be of assistance in the preparation of courses.

- .1 safety of personnel, including safety equipment, measuring instruments, their use and practical application and interpretation of results;
- .2 hazards from cargoes which have a tendency to shift; and
- .3 materials possessing chemical hazards.

SHIPBOARD APPLICATION

Class 4.1 - Flammable solids

Class 4.2 - Substances liable to spontaneous combustion

Class 4.3 - Substances which, in contact with water, emit flammable gases

- 7 Carriage, stowage and control of temperature to prevent decomposition and possible explosion; stowage categories; general stowage precautions, including those applicable to self-reactive and related substances; segregation requirements to prevent heating and ignition; the emission of poisonous or flammable gases and the formation of explosive mixtures.

Class 5.1 - Oxidizing substances

- 8 Carriage, stowage and control of temperature to prevent decomposition and possible explosion; stowage categories; general stowage precautions and segregation requirements to ensure separation from combustible material, from acids and heat sources to prevent fire, explosion and the formation of toxic gases.

Class 6.1 - Toxic substances

- 9 Contamination of foodstuffs, working areas and living accommodation and ventilation.

Class 7 - Radioactives

- 10 Transport index; types of ores and concentrates; stowage and segregation from persons, undeveloped photographic film and plates and foodstuffs; stowage categories; general stowage requirements; special stowage requirements; segregation requirements and separation distances; segregation from other dangerous goods.

Class 8 - Corrosives

- 11 Dangers from wetted substances.

Class 9 - Miscellaneous dangerous substances and articles

- 12 Examples and associated hazards; the hazards of materials hazardous only in bulk (MHB); general and specific stowage precautions; working and transport precautions; segregation requirements.

Safety precautions and emergency procedures

- 13 Electrical safety in cargo spaces; precautions to be taken for entry into enclosed spaces that may contain oxygen-depleted, poisonous or flammable atmospheres; the possible effects of fire in shipments of substances of each class; use of the Emergency Procedures for Ships Carrying Dangerous Goods; emergency plans and procedures to be followed in case of incidents involving dangerous and hazardous substances and the use of individual entries in the Code of Safe Practice for Solid Bulk Cargoes in this respect.

Medical first aid

- 14 The IMO Medical First Aid Guide JOT Use in Accidents Involving Dangerous Goods (MFAG) and its use and application in association with other guides and medical advice by radio.

Section B-V/5

Guidance regarding training of officers and ratings responsible for cargo handling on ships carrying dangerous and hazardous substances in packaged form

- 1 Training should be divided into two parts, a general part on the principles involved and a part on the application of such principles to ship operation. All training and instruc-

tion should be given by properly qualified and suitably experienced personnel and cover at least the subjects given in paragraphs 2 to 19 hereunder.

PRINCIPLES

Characteristics and properties

- 2 The important physical characteristics and chemical properties of dangerous and hazardous substances, sufficient to give a basic understanding of the intrinsic hazards and risks involved.

Classification of dangerous and hazardous substances and materials possessing chemical hazards

- 3 IMO dangerous goods classes 1-9 and the hazards associated with each class; materials hazardous only in bulk (MHB).

Health hazards

- 4 Dangers from skin contact, inhalation, ingestion and radiation.

Conventions, regulations and recommendations

- 5 General familiarization with the relevant requirements of chapters II-2 and VII of the 1974 SOLAS Convention and of Annex III of MARPOL 73/78, including its implementation through the IMDG Code.

Use of and familiarization with the International Maritime Dangerous Goods (IMDG) Code

- 6 General knowledge of the requirements of the IMDG Code concerning declaration, documentation, packing, labelling and placarding; freight container and vehicle packing; portable tanks, tank containers and road tank vehicles, and other transport units used for dangerous substances.
- 7 Knowledge of identification, marking and labelling for stowage, securing, separation and segregation in different ship types mentioned in the IMDG Code.
- 8 Safety of personnel, including safety equipment, measuring instruments, their use and practical application and the interpretation of results.

SHIPBOARD APPLICATION

Class 1 - Explosives

- 9 The 6 hazard divisions and 13 compatibility groups; packagings and magazines used for carriage of explosives; structural serviceability of freight containers and vehicles; stowage provisions, including specific arrangements for on-deck and under-deck stowage; segregation from dangerous goods of other classes within class 1 and from non-dangerous goods; transport and stowage on passenger ships; suitability of cargo spaces; security precautions; precautions to be taken during loading and unloading.

Class 2 - Gases (compressed, liquefied, or dissolved under pressure), flammable, non-flammable, non-toxic and toxic

- 10 Types of pressure vessels and portable tanks, including relief and closing devices used; stowage categories; general stowage precautions, including those for flammable and poisonous gases and gases which are marine pollutants.

Class 3 - Flammable liquids

- 11 Packagings, tank containers, portable tanks and road tank vehicles; stowage categories, including the specific requirements for plastics receptacles; general stowage precautions, including those for marine pollutants; segregation requirements; precautions to be taken when carrying flammable liquids at elevated temperatures.

Class 4.1 - Flammable solids**Class 4.2 - Substances liable to spontaneous combustion****Class 4.3 - Substances which, in contact with water, emit flammable gases**

- 12 Types of packagings; carriage and stowage under controlled temperatures to prevent decomposition and possible explosion; stowage categories; general stowage precautions, including those applicable to self-reactive and related substances, desensitized explosives and marine pollutants; segregation requirements to prevent heating and ignition, the emission of poisonous or flammable gases and the formation of explosive mixtures.

Class 5.1 - Oxidizing substances Class 5.2 - Organic peroxides

- 13 Types of packagings; carriage and stowage under controlled temperatures to prevent decomposition and possible explosion; stowage categories; general stowage precautions, including those applicable to marine pollutants; segregation requirements to ensure separation from combustible material, from acids and heat sources to prevent fire, explosion and the formation of toxic gases; precautions to minimize friction and impact which can initiate decomposition.

Class 6.1 - Toxic substances Class 6.2 - Infectious substances

- 14 Types of packagings; stowage categories; general stowage precautions, including those applicable to toxic, flammable liquids and marine pollutants; segregation requirements, especially considering that the characteristic common to these substances is their ability to cause death or serious injury to human health; decontamination measures in the event of spillage.

Class 7 - Radioactives

- 15 Types of packagings; transport index in relation to stowage and segregation; stowage and segregation from persons, undeveloped photographic film and plates and food-stuffs; stowage categories; general stowage requirements; segregation requirements and separation distances; segregation from other dangerous goods.

Class 8 - Corrosives

- 16 Types of packagings; stowage categories; general stowage precautions, including those applicable to corrosive, flammable liquids and marine pollutants; segregation requirements, especially considering that the characteristic common to these substances is their ability to cause severe damage to living tissue.

Class 9 - Miscellaneous dangerous substances and articles

- 17 Examples of hazards including marine pollution.

Safety precautions and emergency procedures

- 18 Electrical safety in cargo spaces; precautions to be taken for entry into enclosed spaces that may contain oxygen-depleted, poisonous or flammable atmospheres; the possible effects of spillage or fire in shipments of substances of each class; consideration of events on deck or below deck; use of the IMO Emergency Procedures for Ships Carrying Dangerous Goods; emergency plans and procedures to be followed in case of incidents involving dangerous substances.

Medical first aid

- 19 The *IMO Medical First Aid Guide for Use in Accidents Involving Dangerous Goods (MFAG)* and its use and application in association with other guides and medical advice by radio.

Chapter VI
**Guidance regarding emergency, occupational safety,
 medical care and survival functions**

Section B-VI/1

Guidance regarding familiarization and basic safety training and instruction for all seafarers

FIRE PREVENTION AND FIRE FIGHTING

- 1 The basic training in fire prevention and fire fighting required by section A-VI/1 should include at least the theoretical and practical elements itemized in paragraphs 2 to 4 hereunder.*

Theoretical training

- 2 The theoretical training should cover
 - .1 the three elements of fire and explosion (the fire triangle): fuel; source of ignition; oxygen;
 - .2 ignition sources: chemical; biological; physical;
 - .3 flammable materials: flammability; ignition point; burning temperature; burning speed; thermal value; lower flammable limit (LFL); upper flammable limit (UFL); flammable range; inerting; static electricity; flashpoint; auto-ignition;
 - .4 fire hazard and spread of fire by radiation, convection, and conduction;
 - .5 reactivity;
 - .6 classification of fires and applicable extinguishing agents;
 - .7 main causes of fire on board ships: oil leakage in engine-room; cigarettes; overheating (bearings); galley appliances (stoves, flues, fryers, hotplates, etc.); spontaneous ignition (cargo, wastes, etc.); hot work (welding, cutting, etc.); electrical apparatus (short circuit, non-professional repairs); reaction, self-heating and auto-ignition; arson; static electricity;
 - .8 fire prevention;
 - .9 fire and smoke detection systems; automatic fire alarms;
 - .10 fire-fighting equipment, including:
 - .10.1 fixed installations on board and their locations; fire mains, hydrants; international shore connection; smothering installations, carbon dioxide (CO₂), foam; halogenated hydrocarbons; pressure water spray system in special category spaces, etc.; automatic sprinkler system; emergency fire pump; emergency generator, chemical powder applicators; general outline of required and available mobile apparatus; high-pressure fog system; high-expansion foam; new developments and equipment;
 - .10.2 firefighter's outfit, personal equipment; breathing apparatus; resuscitation apparatus; smoke helmet or mask; fireproof lifeline and harness; and their location on board; and
 - .10.3 general equipment, including fire hoses, nozzles, connections, fire axes; portable fire extinguishers; fire blankets;
 - .11 construction and arrangements, including escape routes; means for gas-freeing tanks; Class A, B and C divisions; inert gas systems;
 - .12 ship fire-fighting organization, including general alarm; fire control plans, muster stations and duties of individuals; communications, including ship-shore when in port; personnel safety procedures; periodic shipboard drills; patrol systems.
 - .13 practical knowledge of resuscitation methods;

* IMO Model Course 1.20 - *Basic Fire Fighting* may be of assistance in the preparation of courses.

- .14 fire-fighting methods, including sounding the alarm; locating and isolating; jettisoning; inhibiting; cooling; smothering; extinguishing; reflash watch; smoke extraction; and
- .15 fire-fighting agents, including water, solid jet, spray, fog, flooding; foam, high-, medium- and low-expansion; carbon dioxide (CO₂); halon; aqueous-film-forming foam (AFFF); dry chemical powder; new developments and equipment.

Practical training

- 3 The practical training given below should take place in spaces which provide truly realistic training conditions (e.g. simulated shipboard conditions), and whenever possible and practical should also be carried out in darkness as well as by daylight and should allow the trainees to acquire the ability to:
 - .1 use various types of portable fire extinguishers;
 - .2 use self-contained breathing apparatus;
 - .3 extinguish smaller fires, e.g. electrical fires, oil fires and propane fires;
 - .4 extinguish extensive fires with water (jet and spray nozzles);
 - .5 extinguish fires with either foam, powder or any other suitable chemical agent;
 - .6 enter and pass through, with lifeline but without breathing apparatus, a compartment into which high-expansion foam has been injected;
 - .7 fight fire in smoke-filled enclosed spaces wearing self-contained breathing apparatus;
 - .8 extinguish fire with water fog or any other suitable fire-fighting agent in an accommodation room or simulated engine-room with fire and heavy smoke;
 - .9 extinguish an oil fire with fog applicator and spray nozzles; dry chemical powder or foam applicators;
 - .10 effect a rescue in a smoke-filled space wearing breathing apparatus.

General

- 4 Trainees should also be made aware of the necessity of maintaining a state of readiness on board.

ELEMENTARY FIRST AID*

- 5 The training in elementary first aid required by regulation VI/1 as part of the basic training should be given at an early stage in vocational training, preferably during pre-sea training, to enable seafarers to take immediate action upon encountering an accident or other medical emergency until the arrival of a person with first-aid skills or the person in charge of medical care on board.

PERSONAL SAFETY AND SOCIAL RESPONSIBILITIES

- 6 Administrations should bear in mind the significance of communication and language skills in maintaining safety of life and property at sea and in preventing marine pollution. Given the international character of the maritime industry, the reliance on voice communications from ship-to-ship and ship-to-shore, the increasing use of multinational crews, and the concern that crew members should be able to communicate with passengers in an emergency, adoption of a common language for maritime communications would promote safe practice by reducing the risk of human error in communicating essential information.
- 7 Although not universal, by common practice English is rapidly becoming the standard language of communication for maritime safety purposes, partly as a result of the use

* IMO Model Course 1.13 - Medical Emergency - *Basic Training* may be of assistance in the preparation of courses.

of the Standard Marine Navigational Vocabulary, as replaced by the IMO Standard Marine Communication Phrases.

- 8 Administrations should consider the benefits of ensuring that seafarers have an ability to use at least an elementary English vocabulary, with an emphasis on nautical terms and situations.

Section B-VI/2

Guidance regarding certification for proficiency in survival craft, rescue boats and fast rescue boats

- 1 Before training is commenced the requirement of medical fitness, particularly regarding eyesight and hearing, should be met by the candidate.
- 2 The training should be relevant to the provisions of the International Convention for the Safety of Life at Sea (SOLAS), as amended.*

Section B-VI/3

Guidance regarding training in advanced fire fighting

(No provisions)

Section B-VI/4

Guidance regarding requirements in medical first aid and medical care

(No provisions)

Chapter VII

Guidance regarding alternative certification

Section B-VII/1

Guidance regarding the issue of alternative certificates

(No provisions)

Section B-VII/2

Guidance regarding certification of seafarers

(No provisions)

Section B-VII/3

Guidance regarding principles governing the issue of alternative certificates

(No provisions)

* IMO Model Course 1.23 – *Proficiency in Survival Craft* may be of assistance in the preparation of courses.

Chapter VIII
Guidance regarding watchkeeping

Section B-VIII/1

Guidance regarding fitness for duty

Prevention of fatigue

- 1 In observing the rest period requirements, "overriding operational conditions" should be construed to mean only essential shipboard work which cannot be delayed for safety or environmental reasons or which could not reasonably have been anticipated at the commencement of the voyage.
- 2 Although there is no universally accepted technical definition of fatigue, every one involved in ship operations should be alert to the factors which can contribute to fatigue, including, but not limited to, those identified by the Organization,* and take them into account when making decisions on ship operations.
- 3 In applying regulation VIII/1, the following should be taken into account:
 - .1 provisions made to prevent fatigue should ensure that excessive or unreasonable overall working hours are not undertaken. In particular, the minimum rest periods specified in section A-VIII/1 should not be interpreted as implying that all other hours may be devoted to watch-keeping or other duties;
 - .2 the frequency and length of leave periods, and the granting of compensatory leave, are material factors in preventing fatigue from building up over a period of time; and
 - .3 the provisions may be varied for ships on short sea voyages, provided special safety arrangements are put in place.
- 4 Administrations should consider the introduction of a requirement that records of hours of work or rest of seafarers should be maintained and that such records are inspected by the Administration at appropriate intervals to ensure compliance with regulations concerning working hours or rest periods.
- 5 Based on information received as a result of investigating maritime casualties, Administrations should keep their provisions on prevention of fatigue under review.

Section B-VIII/2

Guidance regarding watchkeeping arrangements and principles to be observed

- 1 The following operational guidance should be taken into account by companies, masters and watchkeeping officers.

PART 1 - GUIDANCE ON CERTIFICATION

(No provisions)

PART 2 - GUIDANCE ON VOYAGE PLANNING (No provisions)

PART 3 - GUIDANCE ON WATCHKEEPING AT SEA

(No provisions)

Part 3-1 - Guidance on keeping a navigational watch

Introduction

- 2 Particular guidance may be necessary for special types of ships as well as for ships carrying hazardous, dangerous, toxic or highly flammable cargoes. The master should provide this operational guidance as appropriate.

* See the annex to IMO resolution A.772(18), paragraphs 2 to 4.4.1.

- 3 It is essential that officers in charge of the navigational watch appreciate that the efficient performance of their duties is necessary in the interests of the safety of life and property at sea and of preventing pollution of the marine environment.

Bridge resource management

- 4 Companies should issue guidance on proper bridge procedures and promote the use of checklists appropriate to each ship, taking into account national and international guidance.*
- 5 Companies should also issue guidance to masters and officers in charge of the navigational watch on each ship concerning the need for continuously reassessing how bridge-watch resources are being allocated and used, based on bridge resource management principles such as the following:
 - .1 a sufficient number of qualified individuals should be on watch to ensure all duties can be performed effectively;
 - .2 all members of the navigational watch should be appropriately qualified and fit to perform their duties efficiently and effectively or the officer in charge of the navigational watch should take into account any limitation in qualifications or fitness of the individuals available when making navigational and operational decisions;
 - .3 duties should be clearly and unambiguously assigned to specific individuals, who should confirm that they understand their responsibilities;
 - .4 tasks should be performed according to a clear order of priority;
 - .5 no member of the navigational watch should be assigned more duties or more difficult tasks than can be performed effectively;
 - .6 individuals should be assigned at all times to locations at which they can most efficiently and effectively perform their duties, and individuals should be reassigned to other locations as circumstances may require;
 - .7 members of the navigational watch should not be assigned to different duties, tasks or locations until the officer in charge of the navigational watch is certain that the adjustment can be accomplished efficiently and effectively;
 - .8 instruments and equipment considered necessary for effective performance of duties should be readily available to appropriate members of the navigational watch;
 - .9 communications among members of the navigational watch should be clear, immediate, reliable, and relevant to the business at hand;
 - .10 non-essential activity and distractions should be avoided, suppressed or removed;
 - .11 all bridge equipment should be operating properly and if not, the officer in charge of the navigational watch should take into account any malfunction which may exist in making operational decisions;
 - .12 all essential information should be collected, processed and interpreted, and made conveniently available to those who require it for the performance of their duties;
 - .13 non-essential materials should not be placed on the bridge or any work surface; and
 - .14 members of the navigational watch should at all times be prepared to respond efficiently and effectively to changes in circumstances.

Part 3-2 - Guidance on keeping an engineering watch

- 6 Particular guidance may be necessary for special types of propulsion systems or ancillary equipment and for ships carrying hazardous, dangerous, toxic or highly flammable materials or other special types of cargo. The chief engineer officer should provide this operational guidance as appropriate.

* ICS *Bridge Procedures Guide* (Witherby Marine Publishing, 32/36 Aylesbury Street, London EC1R 0ET, UK) may be of assistance in the preparation of programmes.

- 7 It is essential that officers in charge of the engineering watch appreciate that the efficient performance of engineering watchkeeping duties is necessary in the interest of the safety of life and property at sea and of preventing pollution of the marine environment.
- 8 The relieving officer, before assuming charge of the engineering watch, should:
 - .1 be familiar with the location and use of the equipment provided for the safety of life in a hazardous or toxic environment;
 - .2 ascertain that materials for the administration of emergency medical first aid are readily available, particularly those required for the treatment of burns and scalds; and
 - .3 when in port, safely anchored or moored, be aware of:
 - .3.1 cargo activities, the status of maintenance and repair functions and all other operations affecting the watch, and
 - .3.2 the auxiliary machinery in use for passenger or crew accommodation services, cargo operations, operational water supplies and exhaust systems.

Part 3-3 - Guidance on keeping a radio watch

General

- 9 Among other things, the Radio Regulations require that each ship radio station is licensed, is under the ultimate authority of the master or other person responsible for the ship and is only operated under the control of adequately qualified personnel. The Radio Regulations also require that a distress alert shall only be sent on the authority of the master or other person responsible for the ship.
- 10 The master should bear in mind that all personnel assigned responsibility for sending a distress alert must be instructed with regard to, be knowledgeable of, and be able to operate properly all radio equipment on the ship as required by regulation I/14, paragraph 1.4. This should be recorded in the deck or radio log-book.

Watchkeeping

- 11 In addition to the requirements concerning radio watchkeeping, the master of every seagoing ship should ensure that:
 - .1 the ship's radio station is adequately manned for the purpose of exchanging general communications - in particular public correspondence, taking into account the constraints imposed by the duties of those authorized to operate it; and
 - .2 the radio equipment provided on board and, where fitted, the reserve sources of energy are maintained in an efficient working condition.
- 12 Necessary instruction and information on use of radio equipment and procedures for distress and safety purposes should be given periodically to all relevant crew members by the person designated in the muster list to have primary responsibility for radio-communications during distress incidents. This should be recorded in the radio log.
- 13 The master of every ship not subject to the SOLAS Convention should require that radio watchkeeping is adequately maintained as determined by the Administration, taking into account the Radio Regulations.

Operational

- 14 Prior to sailing, the radio operator designated as having primary responsibility for radiocommunications during distress incidents should ensure that:
 - .1 all distress and safety radio equipment and the reserve source of energy are in an efficient working condition, and that this is recorded in the radio log;
 - .2 all documents required by international agreement, notices to ship radio stations and additional documents required by the Administration are available and are corrected

- in accordance with the latest supplements, and that any discrepancy is reported to the master,
- .3 the radio clock is correctly set against standard time signals;
 - .4 antennae are correctly positioned, undamaged and properly connected; and
 - .5 to the extent practicable, routine weather and navigational warning messages for the area in which the ship will be navigating are updated together with those for other areas requested by the master, and that such messages are passed to the master.
- 15 On sailing and opening the station, the radio operator on watch should:
- .1 listen on the appropriate distress frequencies for any possible existing distress situation; and
 - .2 send a traffic report (name, position and destination, etc.) to the local coast station and any other appropriate coast station from which general communications may be expected.
- 16 While the station is open, the radio operator on watch should:
- .1 check the radio clock against standard time signals at least once a day,
 - .2 send a traffic report when entering and on leaving the service area of a coast station from which general communications might be expected; and
 - .3 transmit reports to ship reporting systems in accordance with the instructions of the master.
- 17 While at sea, the radio operator designated as having primary responsibility for radio-communications during distress incidents should ensure the proper functioning of:
- .1 the digital selective calling (DSC) distress and safety radio equipment by means of a test call at least once each week; and
 - .2 the distress and safety radio equipment by means of a test at least once each day but without radiating any signal.
- The results of these tests should be recorded in the radio log.
- 18 The radio operator designated to handle general communications should ensure that an effective watch is maintained on those frequencies on which communications are likely to be exchanged, having regard to the position of the ship in relation to those coast stations and to coast earth stations from which traffic may be expected. When exchanging traffic, radio operators should follow the relevant ITU recommendations.
- 19 When closing the station on arrival at a port, the radio operator on watch should advise the local coast station and other coast stations with which contact has been maintained of the ship's arrival and of the closing of the station.
- 20 When closing the radio station the radio operator designated as having primary responsibility for radiocommunications during distress incidents should:
- .1 ensure that transmitting antennae are earthed; and
 - .2 check that the reserve sources of energy are sufficiently charged.

Distress alerts and procedures

- 21 The distress alert or distress call has absolute priority over all other transmissions. All stations which receive such signals are required by the Radio Regulations to immediately cease all transmissions capable of interfering with distress communications.
- 22 In the case of a distress affecting own ship, the radio operator designated as having primary responsibility for radiocommunications during distress incidents should immediately assume responsibility for following the procedures of the Radio Regulations and relevant ITU-R Recommendations.
- 23 On receiving a distress alert:
- .1 the radio operator on watch should alert the master and, if appropriate, the radio operator designated as having primary responsibility for radio-communications during distress incidents; and

- .2 the radio operator designated as having primary responsibility for radiocommunications during distress incidents should evaluate the situation and immediately assume responsibility for following the procedures of the Radio Regulations and relevant ITU-R Recommendations.

Urgency messages

- 24 In cases of urgency affecting own ship, the radio operator designated as having responsibility for radiocommunications during distress incidents should immediately assume responsibility for following the procedures of the Radio Regulations and relevant ITU-R Recommendations.
- 25 In cases of communications relating to medical advice, the radio operator designated as having primary responsibility for radiocommunications during distress incidents should follow the procedures of the Radio Regulations and adhere to the conditions as published in the relevant international documentation (see paragraph 14.2) or as specified by the satellite service provider.
- 26 In cases of communications relating to medical transports, as defined in the Annex 1 to the Protocol additional to the Geneva Conventions of 12 August 1949 relating to the protection of victims of international armed conflicts (Protocol 1), the radio operator designated as having primary responsibility for radiocommunication during distress incidents should follow the procedures of the Radio Regulations.
- 27 On receiving an urgency message, the radio operator on watch should alert the master and, if appropriate, the radio operator designated as having primary responsibility for radiocommunications during distress incidents.

Safety messages

- 28 When a safety message is to be transmitted, the master and the radio operator on watch should follow the procedures of the Radio Regulations.
- 29 On receiving a safety message, the radio operator on watch should note its content and act in accordance with the master's instructions.
- 30 Bridge-to-bridge communications should be exchanged on VHP channel 13. Bridge-to-bridge communications are described as "Intership Navigation Safety Communications" in the Radio Regulations.

Radio records

- 31 Additional entries in the radio log should be made in accordance with paragraphs 10, 12, 14, 17 and 33.
- 32 Unauthorized transmissions and incidents of harmful interference should, if possible, be identified, recorded in the radio log and brought to the attention of the Administration in compliance with the Radio Regulations, together with an appropriate extract from the radio log.

Battery maintenance

- 33 Batteries providing a source of energy for any part of the radio installation including those associated with uninterrupted power supplies, are the responsibility of the radio operator designated as having primary responsibility for radiocommunications during distress incidents and should be:
 - .1 tested on-load and off-load daily and, where necessary, brought up to the fully charged condition;
 - .2 tested once per week by means of a hydrometer where practicable, or where a hydrometer cannot be used, by a suitable load test; and
 - .3 checked once per month for the security of each battery and its connections and the condition of the batteries and their compartment or compartments.The results of these tests should be recorded in the radio log.

PART 4 - GUIDANCE ON WATCHKEEPING IN PORT

(No provisions)

PART 5 - GUIDANCE ON PREVENTION OF DRUG AND ALCOHOL ABUSE*

- 34 Drug and alcohol abuse directly affect the fitness and ability of a seafarer to perform watchkeeping duties. Seafarers found to be under the influence of drugs or alcohol should not be permitted to perform watchkeeping duties until they are no longer impaired in their ability to perform those duties.
- 35 Administrations should consider developing national legislation:
- .1 prescribing a maximum of 0.08% blood alcohol level (BAC) during watchkeeping duty as a minimum safety standard on their ships; and
 - .2 prohibiting the consumption of alcohol within 4 hours prior to serving as a member of a watch.

Drug and alcohol abuse screening programme guidelines

- 36 The Administration should ensure that adequate measures are taken to prevent alcohol and drugs from impairing the ability of watchkeeping personnel, and should establish screening programmes as necessary which:
- .1 identify drug and alcohol abuse;
 - .2 respect the dignity, privacy, confidentiality and fundamental legal rights of the individuals concerned; and
 - .3 take into account relevant international guidelines.

* See MSC/Circ. 595 - Principles and Guidelines Concerning Drug and Alcohol Abuse Programmes and MSC/Circ. 634 - Drug Use and Alcohol Abuse.

3. The International Safety Management (ISM) Code

3.1. Content and practical application

3.1.1. Scope and purpose

The International Management Code for the Safe Operation of Ships and for Pollution Prevention, referred to as the International Safety Management Code (ISM) reflects a managerial/operational approach to maritime safety¹. As such, and despite possible controversy², it may be considered a significant text concerning the human element.

The Code was adopted on 4 November 1993 by means of Resolution A.741(18) and in view of its application, a new Chapter IX was added to the Safety of Life at Sea Convention (SOLAS)³. From 1st July 1998 the Code came into force in respect of passenger ships, oil tankers, chemical tankers, gas tankers, bulk carriers and high speed cargo vessels with a GRT of more than 500, on international voyages, and became mandatory for companies operating other ship types on international voyages from 1st July 2002; the Code was notably amended by the IMO by Resolution MSC.104(73) of 5 December 2000.

¹ For a more comprehensive bibliography on the ISM Code, see IMO Information Resources (Sheet no 23) available at <http://www.imo.org> (under Human Element). Also see Aleka Mandraraka – Sheppard, *Modern Admiralty Law* 1st ed., Cavendish Publishing Ltd., London, 2001, 951 seq., Douglas B. Stevenson, *Tanker Crew Fatigue: Some New Solutions to an Old Problem*, 27 J.M.L.C. 453- 468 (1996), K. X. Li and Jim Mi Ng, *International Maritime Conventions: Seafarers' Safety and Human Rights*, 33 J.M.L.C. 381 – 404 (2002), Laurie Crick Sahatjian, *The ISM Code: a Brief Overview*, 29 J.M.L.C. 405-409 (1998), Philip Anderson, *Cracking the Code: The Relevance of the ISM Code and its Impact on Shipping Practices*, The Nautical Institute, 2003, Philip Anderson, *The Mariner's Role in Collecting Evidence in the Light of the ISM*, 3rd ed., The Nautical Institute, 2006, Suzan Hodges, *The Legal Implications of the ISM Code: Insurance and Limitation of Liability*, I.J.I.L. 39-59 (2000).

² The ISM Code was subject to controversial assessments. See e.g. *ISM: The Bulb That Failed to Bloom*, Fairplay 22 Feb. 2001. Recent research demonstrates however that attitudes towards the ISM Code “are evolving from skepticism and suspicion to acknowledgement and acceptance” [see review of Anderson’s book *The Relevance of the ISM Code and its Impact on Shipping Practices*, referred to above, by Max Mejia in 3 WMU J. Mar. Aff. 1 (2004)].

³ Also note Resolution A. 788(19) of the IMO providing for Guidelines on the implementation of the ISM Code by Administrations. These Guidelines, adopted on 23 November 1995, were amended by Resolution A. 913(22) dated 29 November 2001.

The purpose of the Code, according to its Preamble, is to establish an international standard for the safe management and operation of ships and for pollution prevention⁴. The rationale behind the adoption of the Code is the consideration of crew negligence, ineffective management and lack of communication between the vessel and shore-based management as factors determining marine casualties. The Code departs from the idea that the cornerstone of good safety management is commitment from the top, and that in matters of safety and pollution prevention it is the commitment, competence, attitudes and motivation of *individuals at all levels* that determine the end result⁵. It deserves special mention that the Code focuses primarily on shipping companies and their vessels rather than on flag States⁶.

While measures designed to address fatigue problems have focused primarily on regulating hours of work and hours of rest, with regard to crew fatigue, the ISM Code envisages the problem through fatigue producing factors, and encourages operators to address them, particularly with respect to the environment, morale, stress and mental aspects of fatigue⁷.

3.1.2. New responsibilities for shipping companies and masters

The company is at the centre of the system provided for in the Code; it is defined by the Code as the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the shipowner and who, on assuming such responsibility, has agreed to take over all duties and responsibility imposed by the Code⁸. Every company should develop, implement and maintain a Safety Management System (SMS) which should include functional requirements such as safety and environmental protection policy, instructions and procedures in view of the safe operation of the ship, defined levels of authority and lines of communication between, and amongst, shore and shipboard personnel, procedures to prepare for and respond to emergency situations and procedures for internal audits and management reviews⁹. The documents used to describe and implement the SMS are referred to as the Safety Management Manual (SMM)¹⁰. A ship should be issued a Safety Management Certificate (SMC)¹¹ and be operated by a Company which is issued a Document of Compliance (DOC) relevant to that ship¹².

The Company is held to define and document the responsibility, authority and interrelation of all personnel who manage, perform and verify work relating to and

⁴ See para. 1 of the Preamble of the Code.

⁵ See para. 6 of the Preamble of the Code. Emphasis added.

⁶ See Stevenson, *supra* note 1, 463.

⁷ *Id.*

⁸ See para. 1.1.2 of the Code.

⁹ See para. 1.4 of the Code.

¹⁰ See para. 11.3 of the Code.

¹¹ See para. 13.4 of the Code.

¹² See para. 13.1 of the Code.

affecting safety and pollution prevention; moreover, the Company is responsible for ensuring that adequate resources and shorebased support are provided to enable the designated person who is in charge of safety, to carry out his functions¹³. The responsibilities of the so-called Designated Person whose function is to link the company and those on board, are provided for in the Code¹⁴.

Moreover, the Company is held to “clearly define and document the master’s responsibility” with regard to a number of parameters such as the implementation of the safety and environmental-protection policy of the Company¹⁵. It is the responsibility of the Company to ensure that the master is properly qualified for command, conversant with the Company’s SMS and provided adequate support for the execution of its duties¹⁶.

3.1.3. The ISM Code in the European Union

It is noteworthy that the Code has been endorsed by the European Community via Regulation 3051/95/EC of 8 December 1995 on the management of roll-on/roll-off (RoRo) passenger vessels. The Regulation provided for the anticipated application of the ISM Code to RoRo passenger vessels at the EC level. The Code was rendered mandatory at Community level with effect from 1st July 1996 for all Ro-Ro passenger ferries operating in a regular service to and from ports of the EC Member States, on both domestic and international voyages and regardless of their flag. The EC instrument in question was subject to subsequent amendments until it was repealed in 2006¹⁷.

Under the current EC regime, the ISM Code applies to cargo ships and passenger ships flying the flag of a Member State and engaged on international voyages, cargo ships and passenger ships engaged exclusively on domestic voyages, regardless of their flag, cargo ships and passenger ships operating to or from ports of the Member States on a regular shipping service regardless of their flag, and mobile offshore drilling units operating under the authority of a Member State¹⁸. The EC regime notably departs from the international regime by providing the applicability of the ISM Code on domestic voyages. The latter are defined as the voyages from a port of a Member State to the same or another port within that Member State¹⁹.

¹³ See para. 3.2 and 3.3 of the Code.

¹⁴ See para. 4 of the Code.

¹⁵ See para. 5 of the Code.

¹⁶ See Section 6 of the Code.

¹⁷ Regulation 3051/95/EC of 8 December 1995, OJ L 320, 30.12.1995, subject to several amendments and finally repealed by Regulation 336/2006/EC of 15 February 2006 on the implementation of the ISM Code within the Community, OJ L 64, 4.3.2006.

¹⁸ See Article 3(1) of Regulation 336/2006/EC. On the exceptions, see Article 3(2).

¹⁹ See Article 2(9) of Regulation 336/2006/EC.

3.1.4. Litigation (prevention and practice)

With regard to practical application, in the developments that follow we have selected to present the general framework of the impact of the ISM Code on litigation. The legal implications of the ISM Code potentially reach nearly all parts of the maritime chain. The ISM Code affects disputes concerning personal injury²⁰, environment - related incidents and property claims²¹. The latter notably include claims with regard to cargo damage, loss or shortage, collisions, groundings and other types of ship - related incidents. The Code does not fail to place a certain number of persons, such as for example, the so-called Designated Person and the Master, in a particularly determining position as to the outcome of a dispute.

The case-law which refers to the ISM Code is still limited. Cargo-related incidents have particularly drawn the attention in the light of the Code. We will limit developments to this aspect.

3.1.4.1. *The obligation to implement and not only document*

The ISM Code should in no manner impose a mere documentation exercise²². Shipowners and operators are held to effectively demonstrate *how* existing safety regulations are implemented. The ISM mechanism implies, however, the gathering of a significant amount of information that the company is required to collect and maintain. For example, if an incident occurs and a claim is brought, the procedures manuals will be subject to examination in order to determine the appropriate procedures which have to be followed with regard to the Code and the extent of effective application of the procedures in question, in practice. The Company's vetting and recruitment procedures as well as documentation, such as records of emergency drills on board and reports of non-conformities following external or internal verification audits, will also constitute a valuable source of information in the framework of an investigation which is likely to have an impact on the outcome of the dispute.

In this context, the Code is to be employed to a Company's benefit or detriment by claimants and prosecutors and potentially provide a "road map" for investigations and judicial proceedings²³. The rationale behind the Code is not the quest for perfection which is humanly impossible, but the ability to prove that, despite a mistake or error which had occurred, the weakness of the system was detected and appropriate corrective action was adopted²⁴. As rightly described by Phil Ander-

²⁰ See the decision of the Court of Appeal of Piraeus no 161/2004 [32 Greek Rev. Mar. L. 1, 3 (2004) (in Greek)] on the collision of a passenger ferry and its ensuing grounding, which resulted in the death of 80 passengers.

²¹ For a comprehensive approach to each aspect of the question, especially from the perspective of collecting evidence, see Anderson, *The Mariner's Role in Collecting Evidence in the Light of ISM*, *supra* note 1.

²² See *Papera Traders Co. Ltd & Others v. Hyundai Merchant Marine Co. Ltd & Another (The Eurasian Dream)* [2002] 1 Lloyd's Rep. 719.

²³ See Crick Sahatjian, *supra* note 1, 407.

²⁴ See *The Torepo* [2002] EWCA Civ. 1132.

son, it is about demonstrating that “this particular accident was just that- a most unfortunate ‘one-off’ accident-and was not symptomatic of a badly run ship”²⁵.

3.1.4.2. Criminal liability

With regard to criminal liability, the crucial question is the extent to which the ISM documentation, including paperwork on the basis of internal audits, should be used against the “Company” and the persons who have responsibilities under the Code. It is obvious that the work of the prosecutor is facilitated by the Code since the latter identifies the persons in charge of safety²⁶.

With regard to U.S. law, if a Company can prove that the ISM documentation that it bears signifies a commitment to correct deficiencies and improve its safety and environmental record, the Company should be in a better position to receive mitigative consideration during sentencing²⁷. As far as UK law is concerned, where the Merchant Shipping Act 1995 provides for statutory criminal offences for owners, charterers or managers notably in case of dangerously unsafe ship or unsafe operation of a ship regardless of its flag²⁸, after the introduction of the Code the prosecutor will not have first to identify the person who was the controlling mind and will of the Company in order to prove afterwards that that person had the guilty intent necessary for the criminal offence since Article 4 of the Code provides the prosecutor with the solution to such problems²⁹.

3.1.4.3. Civil liability

The carrier’s civil liability, under the Hague, the Hague/Visby and the Hamburg Rules, is also likely to be affected by the Code. The issue at stake, *inter alia*, is the impact of such influence with regard to the duty of care of the carrier, which raises the question of seaworthiness, and to the limitation of liability³⁰.

It should be noted that, under certain jurisdictions, the carrier’s obligation to exercise due diligence to render the ship seaworthy is personal to the carrier even if it has been delegated³¹.

Among the duties provided for in the ISM Code, some relate to the selection and training of the crew. “The Company should ensure that each ship is manned

²⁵ Anderson, *The Mariner’s Role in Collecting Evidence in the Light of ISM*, *supra* note 1, 29.

²⁶ See e.g. Captain AK Bansal MNI, *The Designated Person and Criminal Liability*, M.R.I., 1.11.2001.

²⁷ See Crick Sahatjian, *supra* note 1, 407. Also see Anderson, *The Mariner’s Role in Collecting Evidence in the Light of ISM*, *supra* note 1, 28.

²⁸ See Sections 98 and 100 of the 1995 MSA. Relevant also is Section 51 of the 1988 MSA.

²⁹ See G.P. Pamborides, *International Shipping Law*, Kluwer Law International/Ant. N. Sakkoulas, Athens, 1999, 162.

³⁰ See *inter alia* Dr. Volker Looks (Nautischen Verein zu Bremen, 24.2.2001), *Legal Problems Arising out of the Implementation of an Effective Safety Management System: Book Shelf Solution Versus Individual Development*, available at <http://www.gmaa.de/gvorloo2.htm> (last visit 3 November 2006). Also see a more pragmatic approach to the question by Anderson, *The Mariner’s Role in Collecting Evidence in Light of ISM*, *supra* note 1.

³¹ See the English case *The Muncaster Castle* [1961] 1 Lloyd’s Rep. 57.

with qualified, certificated and medically fit seafarers....”³² and “The Company should ensure that all personnel involved in the Company’s SMS have an adequate understanding of the relevant rules, regulations, codes and guidelines”³³. Moreover, “The Company should establish procedures by which the ship’s personnel receive relevant information on the SMS in a working language or languages understood by them”³⁴.

- The Hague Rules

In this context, the ISM Code sheds new light on the obligation under the Hague Rules to exercise due diligence to provide a vessel which is both seaworthy and properly manned³⁵, and on the crew negligence exception³⁶. This signifies that the obligation under the ISM Code to properly select and train the crew is likely to be used to demonstrate that the carrier did not exercise due diligence to man the vessel properly and as a result, carriers could be restrained from relying on the exceptions contained in Article IV of the Hague Rules³⁷.

The Patraikos 2 case before the Singapore Court, dated 2002, confirms the above³⁸. In this case, where a container ship ran aground because of negligent navigation by a second mate, the Court considered that the officer was incompetent and that the ship operators had failed to exercise due diligence to render the vessel seaworthy because of their vetting and recruitment policy. As a result, the carrier did not benefit from the crew negligence exception based on error of navigation.

– The Hague-Visby Rules

The Hague-Visby Rules provide for the obligation of the carrier to provide a seaworthy ship, including the human element requirements³⁹. As pointed out above,

³² Para. 6.2.

³³ Para. 6.4.

³⁴ Para. 6.6.

³⁵ Article III(1) of the Hague Rules provides that, “The carrier shall be bound before and at the beginning of the voyage to exercise due diligence to: (a) Make the ship seaworthy, (b) Properly man, equip and supply the ship, (c) Make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried, fit and safe for the reception, carriage and preservation”.

³⁶ Article IV(2)(a) of the Hague Rules provides that, “Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from: (a) Act, neglect, or default of the master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship”. *Inter alia* see Leslie Tomasello Weitz, *The Nautical Fault Debate (The Hamburg Rules, the US COGSA 95, the STCW 95 and the ISM Code)*, 22 Tul. Mar. L. J. 581-594 (1998), 593.

³⁷ According to Article IV(1) of the Hague Rules “Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy and to secure that the ship is properly manned, equipped and supplied.....” (Emphasis added). See Tomasello Weitz, *id.*, 593.

³⁸ *The Patraikos 2* [2002] 4 SLR 232.

³⁹ See Article IV(1) of the Hague-Visby Rules according to which “Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy and to secure that the ship is properly manned, equipped and supplied.....” (Emphasis added).

the vessel is likely to be considered unseaworthy when the crew has no knowledge of the SMS, fails to understand it or to communicate effectively when carrying out its duties. It should be remembered that, under the Hague-Visby Rules, the carrier is liable for damage arising from an error in navigation or other management of the ship, if he has not provided a seaworthy vessel at the beginning of the voyage⁴⁰. Consequently, the ISM Code constitutes an important factor for the assessment of seaworthiness; a finding on the effective application of or the failure to apply the Code via the SMS which is specific to the Company is likely to limit the significance of the crew negligence exception.

–The Hamburg Rules

As far as the Hamburg Rules are concerned, which at present probably cover less than five per cent of world maritime trade⁴¹, the carrier is not confined to providing a seaworthy vessel, but is presumed to be at fault. The carrier is held responsible for the loss of or damage to goods whilst in his charge, unless he can prove that all reasonable measures to avoid damage or loss were taken⁴². Consequently, it is likely that a finding of compliance with the ISM Code will support necessary evidence required by the carrier to prove his case in court, while non-compliance with the ISM requirements is likely to enhance the presumption of fault on the part of the carrier.

3.1.4.4. Limitation of liability

The ISM Code is likely to have a significant impact on the “privity requirement” which permits the breaking of the limitation of liability under the Brussels Convention (1957)⁴³. Privity means not only actual knowledge, but also constructive knowledge, i.e. something which the person concerned ought to have known, even if he did not in fact know it⁴⁴. The obligation prescribed by the ISM Code to document, report and follow-up non-conformities⁴⁵ increases the possibilities of the Company being considered privy to incidents related to maritime safety.

As already mentioned, the London Convention (1976) provides for the loss of the right of the carrier to limit his liability if evidence is provided that the incident resulted from a personal act or omission, committed with the intent to cause such

⁴⁰ According to Article IV(2)(a) “Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from: (a) Act, neglect, or default of the master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship”.

⁴¹ See http://www.oecd.org/document/13/0,2340,en_2649_34367_1866253_1_1_1_1,00.html (last visit 20 November 06).

⁴² See Article 5(1) of the Hamburg Rules according to which “The carrier is liable for loss resulting from loss or damage to the goods as well as from delay in delivery, if the occurrence which caused the loss, damage or delay took place while the goods were in his charge as defined in article 4, unless the carrier proves that he, his servants or agents took all measures that could reasonably be required to avoid the occurrence and its consequences”.

⁴³ See *supra* under the developments on the STCW Convention.

⁴⁴ See Christopher Hill, *Maritime Law*, 6th ed. LLP, 2003.

⁴⁵ See *inter alia* paras. 9 and 11 of the ISM Code.

loss, or recklessly and with knowledge that such loss would probably result. The ISM Code is likely to contribute to the evidence of omissions committed by a shipowner both recklessly and with the knowledge that such a loss would probably result. This could be the case, for example, of non-compliance reports which have not been given appropriate attention and which did not result in corrective action by the Company.

3.2. Texts

3.2.1. International Safety Management (ISM) Code

Preamble

- 1 The purpose of this Code is to provide an international standard for the safe management and operation of ships and for pollution prevention.
- 2 The Assembly adopted resolution A.443(XI), by which it invited all Governments to take the necessary steps to safeguard the shipmaster in the proper discharge of his responsibilities with regard to maritime safety and the protection of the marine environment.
- 3 The Assembly also adopted resolution A.680(17), by which it further recognized the need for appropriate organization of management to enable it to respond to the need of those on board ships to achieve and maintain high standards of safety and environmental protection.
- 4 Recognizing that no two shipping companies or shipowners are the same, and that ships operate under a wide range of different conditions, the Code is based on general principles and objectives.
- 5 The Code is expressed in broad terms so that it can have a widespread application. Clearly, different levels of management, whether shore-based or at sea, will require varying levels of knowledge and awareness of the items outlined.
- 6 The cornerstone of good safety management is commitment from the top. In matters of safety and pollution prevention it is the commitment, competence, attitudes and motivation of individuals at all levels that determines the end result.

PART A - IMPLEMENTATION

1 GENERAL

1.1 Definitions

The following definitions apply to parts A and B of this Code.

- 1.1.1 "International Safety Management (ISM) Code" means the International Management Code for the Safe Operation of Ships and for Pollution Prevention as adopted by the Assembly, as may be amended by the Organization.
- 1.1.2 "Company" means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the shipowner and who, on assuming such responsibility, has agreed to take over all duties and responsibility imposed by the Code.
- 1.1.3 "Administration" means the Government of the State whose flag the ship is entitled to fly.

- 1.1.4 "Safety management system" means a structured and documented system enabling Company personnel to implement effectively the Company safety and environmental protection policy.
- 1.1.5 "Document of Compliance" means a document issued to a Company which complies with the requirements of this Code.
- 1.1.6 "Safety Management Certificate" means a document issued to a ship which signifies that the Company and its shipboard management operate in accordance with the approved safety management system.
- 1.1.7 "Objective evidence" means quantitative or qualitative information, records or statements of fact pertaining to safety or to the existence and implementation of a safety management system element, which is based on observation, measurement or test and which can be verified.
- 1.1.8 "Observation" means a statement of fact made during a safety management audit and substantiated by objective evidence.
- 1.1.9 "Non-conformity" means an observed situation where objective evidence indicates the non-fulfilment of a specified requirement.
- 1.1.10 "Major non-conformity" means an identifiable deviation that poses a serious threat to the safety of personnel or the ship or a serious risk to the environment that requires immediate corrective action and includes the lack of effective and systematic implementation of a requirement of this Code.
- 1.1.11 "Anniversary date" means the day and month of each year that corresponds to the date of expiry of the relevant document or certificate.
- 1.1.12 "Convention" means the International Convention for the Safety of Life at Sea, 1974, as amended.

1.2 Objectives

- 1.2.1 The objectives of the Code are to ensure safety at sea, prevention of human injury or loss of life, and avoidance of damage to the environment, in particular to the marine environment and to property,
- 1.2.2 Safety management objectives of the Company should, *inter alia*:
 - .1 provide for safe practices in ship operation and a safe working environment;
 - .2 establish safeguards against all identified risks; and
 - .3 continuously improve safety management skills of personnel ashore and aboard ships, including preparing for emergencies related both to safety and environmental protection.
- 1.2.3 The safety management system should ensure:
 - .1 compliance with mandatory rules and regulations; and
 - .2 that applicable codes, guidelines and standards recommended by the Organization, Administrations, classification societies and maritime industry organizations are taken into account.

1.3 Application

The requirements of this Code may be applied to all ships.

1.4 Functional requirements for a safety management system

Every Company should develop, implement and maintain a safety management system which includes the following functional requirements:

- .1 a safety and environmental-protection policy;
- .2 instructions and procedures to ensure safe operation of ships and protection of the environment in compliance with relevant international and flag State legislation;
- .3 defined levels of authority and lines of communication between, and amongst, shore and shipboard personnel;

- .4 procedures for reporting accidents and non-conformities with the provisions of this Code;
- .5 procedures to prepare for and respond to emergency situations; and
- .6 procedures for internal audits and management reviews.

2 SAFETY AND ENVIRONMENTAL-PROTECTION POLICY

- 2.1 The Company should establish a safety and environmental-protection policy which describes how the objectives given in paragraph 1.2 will be achieved.
- 2.2 The Company should ensure that the policy is implemented and maintained at all levels of the organization, both ship-based and shore-based.

3 COMPANY RESPONSIBILITIES AND AUTHORITY

- 3.1 If the entity who is responsible for the operation of the ship is other than the owner, the owner must report the full name and details of such entity to the Administration.
- 3.2 The Company should define and document the responsibility, authority and interrelation of all personnel who manage, perform and verify work relating to and affecting safety and pollution prevention.
- 3.3 The Company is responsible for ensuring that adequate resources and shore-based support are provided to enable the designated person or persons to carry out their functions.

4 DESIGNATED PERSON(S)

To ensure the safe operation of each ship and to provide a link between the Company and those on board, every Company, as appropriate, should designate a person or persons ashore having direct access to the highest level of management. The responsibility and authority of the designated person or persons should include monitoring the safety and pollution-prevention aspects of the operation of each ship and ensuring that adequate resources and shore-based support are applied, as required.

5 MASTER'S RESPONSIBILITY AND AUTHORITY

- 5.1 The Company should clearly define and document the master's responsibility with regard to:
 - .1 implementing the safety and environmental-protection policy of the Company;
 - .2 motivating the crew in the observation of that policy;
 - .3 issuing appropriate orders and instructions in a clear and simple manner;
 - .4 verifying that specified requirements are observed; and
 - .5 reviewing the safety management system and reporting its deficiencies to the shore-based management.
- 5.2 The Company should ensure that the safety management system operating on board the ship contains a clear statement emphasizing the master's authority. The Company should establish in the safety management system that the master has the overriding authority and the responsibility to make decisions with respect to safety and pollution prevention and to request the Company's assistance as may be necessary.

6 RESOURCES AND PERSONNEL

- 6.1 The Company should ensure that the master is:
 - .1 properly qualified for command;
 - .2 fully conversant with the Company's safety management system; and
 - .3 given the necessary support so that the master's duties can be safely performed.
- 6.2 The Company should ensure that each ship is manned with qualified, certificated and medically fit seafarers in accordance with national and international requirements.
- 6.3 The Company should establish procedures to ensure that new personnel and personnel transferred to new assignments related to safety and protection of the environ-

ment are given proper familiarization with their duties. Instructions which are essential to be provided prior to sailing should be identified, documented and given.

- 6.4 The Company should ensure that all personnel involved in the Company's safety management system have an adequate understanding of relevant rules, regulations, codes and guidelines.
- 6.5 The Company should establish and maintain procedures for identifying any training which may be required in support of the safety management system and ensure that such training is provided for all personnel concerned.
- 6.6 The Company should establish procedures by which the ship's personnel receive relevant information on the safety management system in a working language or languages understood by them.
- 6.7 The Company should ensure that the ship's personnel are able to communicate effectively in the execution of their duties related to the safety management system.

7 DEVELOPMENT OF PLANS FOR SHIPBOARD OPERATIONS

The Company should establish procedures for the preparation of plans and instructions, including checklists as appropriate, for key shipboard operations concerning the safety of the ship and the prevention of pollution. The various tasks involved should be defined and assigned to qualified personnel.

8 EMERGENCY PREPAREDNESS

- 8.1 The Company should establish procedures to identify, describe and respond to potential emergency shipboard situations.
- 8.2 The Company should establish programmes for drills and exercises to prepare for emergency actions.
- 8.3 The safety management system should provide for measures ensuring that the Company's organization can respond at any time to hazards, accidents and emergency situations involving its ships.

9 REPORTS AND ANALYSIS OF NON-CONFORMITIES, ACCIDENTS AND HAZARDOUS OCCURRENCES

- 9.1 The safety management system should include procedures ensuring that non-conformities, accidents and hazardous situations are reported to the Company, investigated and analysed with the objective of improving safety and pollution prevention.
- 9.2 The Company should establish procedures for the implementation of corrective action.

10 MAINTENANCE OF THE SHIP AND EQUIPMENT

- 10.1 The Company should establish procedures to ensure that the ship is maintained in conformity with the provisions of the relevant rules and regulations and with any additional requirements which may be established by the Company.
- 10.2 In meeting these requirements the Company should ensure that:
 - .1 inspections are held at appropriate intervals;
 - .2 any non-conformity is reported, with its possible cause, if known;
 - .3 appropriate corrective action is taken; and
 - .4 records of these activities are maintained.
- 10.3 The Company should establish procedures in its safety management system to identify equipment and technical systems the sudden operational failure of which may result in hazardous situations. The safety management system should provide for specific measures aimed at promoting the reliability of such equipment or systems. These measures should include the regular testing of stand-by arrangements and equipment or technical systems that are not in continuous use.

- 10.4 The inspections mentioned in 10.2 as well as the measures referred to in 10.3 should be integrated into the ship's operational maintenance routine.

11 DOCUMENTATION

- 11.1 The Company should establish and maintain procedures to control all documents and data which are relevant to the safety management system.
- 11.2 The Company should ensure that:
- .1 valid documents are available at all relevant locations;
 - .2 changes to documents are reviewed and approved by authorized personnel; and
 - .3 obsolete documents are promptly removed.
- 11.3 The documents used to describe and implement the safety management system may be referred to as the Safety Management Manual. Documentation should be kept in a form that the Company considers most effective. Each ship should carry on board all documentation relevant to that ship.

12 COMPANY VERIFICATION, REVIEW AND EVALUATION

- 12.1 The Company should carry out internal safety audits to verify whether safety and pollution-prevention activities comply with the safety management system.
- 12.2 The Company should periodically evaluate the efficiency of and, when needed, review the safety management system in accordance with procedures established by the Company.
- 12.3 The audits and possible corrective actions should be carried out in accordance with documented procedures.
- 12.4 Personnel carrying out audits should be independent of the areas being audited unless this is impracticable due to the size and the nature of the Company.
- 12.5 The results of the audits and reviews should be brought to the attention of all personnel having responsibility in the area involved.
- 12.6 The management personnel responsible for the area involved should take timely corrective action on deficiencies found.

PART B - CERTIFICATION AND VERIFICATION

13 CERTIFICATION AND PERIODICAL VERIFICATION

- 13.1 The ship should be operated by a Company which has been issued with a Document of Compliance or with an Interim Document of Compliance in accordance with paragraph 14.1, relevant to that ship.
- 13.2 The Document of Compliance should be issued by the Administration, by an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government to the Convention to any Company complying with the requirements of this Code for a period specified by the Administration which should not exceed five years. Such a document should be accepted as evidence that the Company is capable of complying with the requirements of this Code.
- 13.3 The Document of Compliance is only valid for the ship types explicitly indicated in the document. Such indication should be based on the types of ships on which the initial verification was based. Other ship types should only be added after verification of the Company's capability to comply with the requirements of this Code applicable to such ship types. In this context, ship types are those referred to in regulation IX/1 of the Convention.
- 13.4 The validity of a Document of Compliance should be subject to annual verification by the Administration or by an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government within three months before or after the anniversary date.

- 13.5 The Document of Compliance should be withdrawn by the Administration or, at its request, by the Contracting Government which issued the Document when the annual verification required in paragraph 13.4 is not requested or if there is evidence of major non-conformities with this Code.
- 13.5.1 All associated Safety Management Certificates and/or Interim Safety Management Certificates should also be withdrawn if the Document of Compliance is withdrawn.
- 13.6 A copy of the Document of Compliance should be placed on board in order that the master of the ship, if so requested, may produce it for verification by the Administration or by an organization recognized by the Administration or for the purposes of the control referred to in regulation IX/6.2 of the Convention. The copy of the Document is not required to be authenticated or certified.
- 13.7 The Safety Management Certificate should be issued to a ship for a period which should not exceed five years by the Administration or an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government. The Safety Management Certificate should be issued after verifying that the Company and its shipboard management operate in accordance with the approved safety management system. Such a Certificate should be accepted as evidence that the ship is complying with the requirements of this Code.
- 13.8 The validity of the Safety Management Certificate should be subject to at least one intermediate verification by the Administration or an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government. If only one intermediate verification is to be carried out and the period of validity of the Safety Management Certificate is five years, it should take place between the second and third anniversary dates of the Safety Management Certificate.
- 13.9 In addition to the requirements of paragraph 13.5.1, the Safety Management Certificate should be withdrawn by the Administration or, at the request of the Administration, by the Contracting Government which has issued it when the intermediate verification required in paragraph 13.8 is not requested or if there is evidence of major non-conformity with this Code.
- 13.10 Notwithstanding the requirements of paragraphs 13.2 and 13.7, when the renewal verification is completed within three months before the expiry date of the existing Document of Compliance or Safety Management Certificate, the new Document of Compliance or the new Safety Management Certificate should be valid from the date of completion of the renewal verification for a period not exceeding five years from the date of expiry of the existing Document of Compliance or Safety Management Certificate.
- 13.11 When the renewal verification is completed more than three months before the expiry date of the existing Document of Compliance or Safety Management Certificate, the new Document of Compliance or the new Safety Management Certificate should be valid from the date of completion of the renewal verification for a period not exceeding five years from the date of completion of the renewal verification."

14 INTERIM CERTIFICATION

- 14.1 An Interim Document of Compliance may be issued to facilitate initial implementation of this Code when:
- .1 a Company is newly established; or
 - .2 new ship types are to be added to an existing Document of Compliance, following verification that the Company has a safety management system that meets the objectives of paragraph 1.2.3 of this Code, provided the Company demonstrates

plans to implement a safety management system meeting the full requirements of this Code within the period of validity of the Interim Document of Compliance. Such an Interim Document of Compliance should be issued for a period not exceeding 12 months by the Administration or by an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government. A copy of the Interim Document of Compliance should be placed on board in order that the master of the ship, if so requested, may produce it for verification by the Administration or by an organization recognized by the Administration or for the purposes of the control referred to in regulation IX/6.2 of the Convention. The copy of the Document is not required to be authenticated or certified.

14.2 An Interim Safety Management Certificate may be issued:

- .1 to new ships on delivery;
- .2 when a Company takes on responsibility for the operation of a ship which is new to the Company; or
- .3 when a ship changes flag.

Such an Interim Safety Management Certificate should be issued for a period not exceeding 6 months by the Administration or an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government.

14.3 An Administration or, at the request of the Administration, another Contracting Government may, in special cases, extend the validity of an Interim Safety Management Certificate for a further period which should not exceed 6 months from the date of expiry.

14.4 An Interim Safety Management Certificate may be issued following verification that:

- .1 the Document of Compliance, or the Interim Document of Compliance, is relevant to the ship concerned;
- .2 the safety management system provided by the Company for the ship concerned includes key elements of this Code and has been assessed during the audit for issuance of the Document of Compliance or demonstrated for issuance of the Interim Document of Compliance;
- .3 the Company has planned the audit of the ship within three months;
- .4 the master and officers are familiar with the safety management system and the planned arrangements for its implementation;
- .5 instructions, which have been identified as being essential, are provided prior to sailing; and
- .6 relevant information on the safety management system has been given in a working language or languages understood by the ship's personnel.

15 VERIFICATION

15.1 All verifications required by the provisions of this Code should be carried out in accordance with procedures acceptable to the Administration, taking into account the guidelines developed by the Organization.

16 FORMS OF CERTIFICATES

16.1 The Document of Compliance, the Safety Management Certificate, the Interim Document of Compliance and the Interim Safety Management Certificate should be drawn up in a form corresponding to the models given in the appendix to this Code. If the language used is neither English nor French, the text should include a translation into one of these languages.

16.2 In addition to the requirements of paragraph 13.3, the ship types indicated on the Document of Compliance and the Interim Document of Compliance may be en-

dorsed to reflect any limitations in the operations of the ships described in the safety management system.

3.2.2. Resolution MSC. 104 (73) (adopted on 5 December 2000)

ADOPTION OF AMENDMENTS TO THE INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE

THE MARITIME SAFETY COMMITTEE,

RECALLING Article 28(b) of the Convention on the International Maritime Organization concerning the functions of the Committee,

RECALLING ALSO resolution A.741 (18) by which the Assembly, at its eighteenth session adopted the International Management Code for the Safe Operation of Ships and for Pollution Prevention (International Safety Management (ISM) Code),

RECALLING FURTHER resolution A.788(19) by which the Assembly, at its nineteenth session, adopted the Guidelines on implementation of the International Safety Management (ISM) Code by Administrations (the Guidelines),

RECOGNIZING the need to incorporate in the ISM Code relevant provisions of the Guidelines relating to periods of validity of certificates, interim certificates and forms of certificates,

NOTING article VII1(b) and regulation IX/1.1 of the International Convention for the Safety of Life at Sea (SOLAS), 1974 (hereinafter referred to as "the Convention") concerning the procedure for amending the ISM Code,

HAVING CONSIDERED, at its seventy-third session, amendments to the ISM Code proposed and circulated in accordance with article VIII(b)(i) of the Convention,

1. ADOPTS, in accordance with article VIII(b)(iv) of the Convention, amendments to the ISM Code, the text of which is set out in the Annex to the present resolution;
2. DETERMINES, in accordance with article VIII(b)(vi)(2)(bb) of the Convention, that the amendments shall be deemed to have been accepted on 1 January 2002, unless, prior to that date, more than one third of the Contracting Governments to the Convention or Contracting Governments the combined merchant fleets of which constitute not less than 50% of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments;
3. INVITES Contracting Governments to note that, in accordance with article VIII(b)(vii)(2) of the Convention, the amendments shall enter into force on 1 July 2002 upon their acceptance in accordance with paragraph 2 above;
4. REQUESTS the Secretary-General, in conformity with article VIII(b)(v) of the Convention, to transmit certified copies of the present resolution and the text of the amendments contained in the Annex to all Contracting Governments to the Convention;
5. FURTHER REQUESTS the Secretary-General to transmit copies of this resolution and its Annex to Members of the Organization, which are not Contracting Governments to the Convention.

ANNEX AMENDMENTS TO THE INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE

- 1 A new heading "PART A-IMPLEMENTATION" is added before the heading "1 GENERAL".

1 GENERAL

1.1 Definitions

- 2 The following new sentence is inserted between "1.1 Definitions"" and paragraph 1.1.1:
"The following definitions apply to parts A and B of this Code."
- 3 The following new definitions are added after paragraph 1.1.3:
 - 1.1.4 Safety Management System means a structured and documented system enabling Company personnel to implement effectively the Company safety and environmental protection policy.
 - 1.1.5 Document of Compliance means a document issued to a Company which complies with the requirements of this Code.
 - 1.1.6 Safety Management Certificate means a document issued to a ship which signifies that the Company and its shipboard management operate in accordance with the approved safety management system.
 - 1.1.7 Objective evidence means quantitative or qualitative information, records or statements of fact pertaining to safety or to the existence and implementation of an safety management system element, which is based on observation, measurement or test and which can be verified.
 - 1.1.8 Observation means a statement of fact made during a safety management audit and substantiated by objective evidence.
 - 1.1.9 Non-conformity means an observed situation where objective evidence indicates the non-fulfillment of a specified requirement.
 - 1.1.10 Major non-conformity means an identifiable deviation that poses a serious threat to the safety of personnel or the ship or a serious risk to the environment that requires immediate corrective action and includes the lack of effective and systematic implementation of a requirement of this Code.
 - 1.1.11 Anniversary date means the day and month of each year that corresponds to the date of expiry of the relevant document or certificate.
 - 1.1.12 Convention means the International Convention for the Safety of Life at Sea, 1974 as amended."

7 DEVELOPMENT OF PLANS FOR SHIPBOARD OPERATIONS

- 4 The text of existing chapter 7 is replaced by the following:
"The Company should establish procedures for the preparation of plans and instructions, including checklists as appropriate, for key shipboard operations concerning the safety of the ship and the prevention of pollution. The various tasks involved should be defined and assigned to qualified personnel."

13 CERTIFICATION, VERIFICATION AND CONTROL

- 5 The title and text of existing chapter 13 is replaced by the following:

"PART B - CERTIFICATION AND VERIFICATION

13 CERTIFICATION AND PERIODICAL VERIFICATION

- 13.1 The ship should be operated by a Company which has been issued with a Document of Compliance or with an Interim Document of Compliance in accordance with paragraph 14.1, relevant to that ship.
- 13.2 The Document of Compliance should be issued by the Administration, by an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government to the Convention to any Company complying with the requirements of this Code for a period specified by the Administration which should not exceed five years. Such a document should be accepted as evidence that the Company is capable of complying with the requirements of this Code.

- 13.3 The Document of Compliance is only valid for the ship types explicitly indicated in the document. Such indication should be based on the types of ships on which the initial verification was based. Other ship types should only be added after verification of the Company's capability to comply with the requirements of this Code applicable to such ship types. In this context, ship types are those referred to in regulation IX/1 of the Convention.
- 13.4 The validity of a Document of Compliance should be subject to annual verification by the Administration or by an organization recognized by the Administration or, at the request of the Administration by another Contracting Government within three months before or after the anniversary date.
- 13.5 The Document of Compliance should be withdrawn by the Administration or, at its request, by the Contracting Government which issued the document, when the annual verification required in paragraph 13.4 is not requested or if there is evidence of major non-conformities with this Code.
- 13.5.1 All associated Safety Management Certificates and/or Interim Safety Management Certificates should also be withdrawn if the Document of Compliance is withdrawn.
- 13.6 A copy of the Document of Compliance should be placed on board in order that the master of the ship, if so requested, may produce it for verification by the Administration or by an organization recognized by the Administration or for the purposes of the control referred to in regulation IX/6.2 of the Convention. The copy of the document is not required to be authenticated or certified.
- 13.7 The Safety Management Certificate should be issued to a ship for a period which should not exceed five years by the Administration or an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government.

The Safety Management Certificate should be issued after verifying that the Company and its shipboard management operate in accordance with the approved safety management system. Such a certificate should be accepted as evidence that the ship is complying with the requirements of this Code.

- 13.8 The validity of the Safety Management Certificate should be subject to at least one intermediate verification by the Administration or an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government.

If only one intermediate verification is to be carried out and the period of validity of the Safety Management Certificate is five years, it should take place between the second and third anniversary date of the Safety Management Certificate.

- 13.9 In addition to the requirements of paragraph 13.5.1, the Safety Management Certificate should be withdrawn by the Administration or, at the request of the Administration, by the Contracting Government which has issued it when the intermediate verification required in paragraph 13.8 is not requested or if there is evidence of major non conformity with this Code.
- 13.10 Notwithstanding the requirements of paragraphs 13.2 and 13.7, when the renewal verification is completed within three months before the expiry date of the existing Document of Compliance or Safety Management Certificate, the new Document of Compliance or the new Safety Management Certificate should be valid from the date of completion of the renewal verification for a period not exceeding five years from the date of expiry of the existing Document of Compliance or Safety Management Certificate.
- 13.11 When the renewal verification is completed more than three months before the expiry date of the existing Document of Compliance or Safety Management Certificate, the new Document of Compliance or the new Safety Management Certificate

cate should be valid from the date of completion of the renewal verification for a period not exceeding five years from the date of completion of the renewal verification."

6 A new chapter 14 is added after chapter 13 as follows:

"14 INTERIM CERTIFICATION

14.1 An Interim Document of Compliance may be issued to facilitate initial implementation of this Code when:

- .1 a Company is newly established; or
- .2 new ship types are to be added to an existing Document of Compliance, following verification that the Company has a safety management system that meets the objectives of paragraph 1.2.3 of this Code, provided the Company demonstrates plans to implement a safety management system meeting the full requirements of this Code within the period of validity of the Interim Document of Compliance. Such an Interim Document of Compliance should be issued for a period not exceeding 12 months by the Administration or by an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government. A copy of the Interim Document of Compliance should be placed on board in order that the master of the ship, if so requested, may produce it for verification by the Administration or by an organization recognized by the Administration or for the purposes of the control referred to in regulation IX/6.2 of the Convention. The copy of the document is not required to be authenticated or certified.

14.2 An Interim Safety Management Certificate may be issued:

- .1 to new ships on delivery;
- .2 when a Company takes on responsibility for the operation of a ship which is new to the Company; or
- .3 when a ship changes flag.

Such an Interim Safety Management Certificate should be issued for a period not exceeding 6 months by the Administration or an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government.

14.3 An Administration or, at the request of the Administration, another Contracting Government may, in special cases, extend the validity of an Interim Safety Management Certificate for a further period which should not exceed 6 months from the date of expiry.

14.4 An Interim Safety Management Certificate may be issued following verification that:

- .1 the Document of Compliance, or the Interim Document of Compliance, is relevant to the ship concerned;
- .2 the safety management system provided by the Company for the ship concerned includes key elements of this Code and has been assessed during the audit for issuance of the Document of Compliance or demonstrated for issuance of the Interim Document of Compliance;
- .3 the Company has planned the audit of the ship within three months;
- .4 the master and officers are familiar with the safety management system and the planned arrangements for its implementation;
- .5 instructions, which have been identified as being essential, are provided prior to sailing; and
- .6 relevant information on the safety management system has been given in a working language or languages understood by the ship's personnel".

7 A new chapter 15 is added after new chapter 14 as follows:

"15 VERIFICATION

15.1 All verifications required by the provisions of this Code should be carried out in accordance with procedures acceptable to the Administration, taking into account the guidelines developed by the Organization*."

8 A new chapter 16 is added after new chapter 15 as follows:

16 FORMS OF CERTIFICATE

16.1 The Document of Compliance, the Safety Management Certificate, the Interim Document of Compliance and the Interim Safety Management Certificate should be drawn up in a form corresponding to the models given in the appendix to this Code. If the language used is neither English nor French, the text should include a translation in to one of these languages.

16.2 In addition to the requirements of paragraph 13.3 the ship types indicated on the Document of Compliance and the Interim Document of Compliance may be endorsed to reflect any limitations in the operations of the ships described in the safety management system."

9 The following appendix is added:

* Refer to the Guidelines on implementation of the International Safety Management (ISM) Code by Administrations adopted by the Organization by resolution A.788(19).

"APPENDIX**Forms of the Document of Compliance, the Safety Management Certificate, the Interim Document of Compliance and the Interim Safety Management Certificate****DOCUMENT OF COMPLIANCE**

(Official seal)

(State)

Certificate No.

Issued under the provisions of the
 INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974, as
 amended under the authority of the Government of _____
 (name of the State)

By _____
 (person or organization authorized)

Name and address of the Company

 (see paragraph 1.1.2 of the ISM Code)

THIS IS TO CERTIFY THAT the safety management system of the Company has been
 audited and that it complies with the requirements of the International Management Code
 for the Safe Operation of Ships and for Pollution Prevention (ISM Code) for the types of
 ships listed below (delete as appropriate):

Passenger ship
 Passenger high- speed craft
 Cargo high- speed craft
 Bulk carrier
 Oil tanker
 Chemical tanker
 Gas carrier
 Mobile offshore drilling unit
 Other cargo ship

This Document of Compliance is valid until, subject to periodical ve-
 rification.

Issued at
 (place of issue of the document)

Date of issue

.....
 (Signature of the duly authorized official issuing the document)
 (Seal or stamp of issuing authority, as appropriate)

Certificate No.

ENDORSEMENT FOR ANNUAL VERIFICATION

THIS IS TO CERTIFY THAT, at the periodical verification in accordance with regulation IX/6.1 of the Convention and paragraph 13.4 of the ISM Code, the safety management system was found to comply with the requirements of the ISM Code.

1st ANNUAL VERIFICATION Signed:
(Signature of authorized official)

Place:
Date:

2nd ANNUAL VERIFICATION Signed:
(Signature of authorized official)

Place:
Date:

3rd ANNUAL VERIFICATION Signed:
(Signature of authorized official)

Place:
Date:

4th ANNUAL VERIFICATION Signed:
(Signature of authorized official)

Place:
Date:

SAFETY MANAGEMENT CERTIFICATE

(Official seal)

(State)

Certificate No.

Issued under the provisions of the

INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974, as amended

Under the authority of the Government of _____
(name of the State)by _____
(person or organization authorized)

Name of ship:

Distinctive number of letters:

Port of registry:

Type of ship*

Gross tonnage:

IMO Number:

Name and address of Company:

(see paragraph 1.1.2 of the ISM Code)

THIS IS TO CERTIFY THAT the safety management system of the ship has been audited and that it complies with the requirements of the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code), following verification that the Document of Compliance for the Company is applicable to this type of ship.

This Safety Management Certificate is valid until, subject to periodical verification and the Document of Compliance remaining valid.

Issued at

(place of issue of the document)

Date of issue

(Signature of the duly authorized official issuing the certificate)

(Seal or stamp of issuing authority, as appropriate)

* Insert the type of ship from among the following: passenger ship; passenger high – speed craft; cargo high-speed craft, bulk carrier, oil tanker, chemical tanker, gas carrier, mobile offshore drilling unit; other cargo ship.

Certificate No.

**ENDORSEMENT FOR INTERMEDIATE VERIFICATION
AND ADDITIONAL VERIFICATION (IF REQUIRED)**

THIS IS TO CERTIFY THAT, at the periodical verification in accordance with regulation IX/6.1 of the Convention and paragraph 13.8 of the ISM Code, the safety management system was found to comply with the requirements of the ISM Code.

INTERMEDIATE VERIFICATION Signed:
(to be completed between the **second** and (Signature of authorized official)
third anniversary date)
Place:
Date:

ADDITIONAL VERIFICATION* Signed:
(Signature of authorized official)
Place:
Date:

ADDITIONAL VERIFICATION* Signed:
(Signature of authorized official)
Place:
Date:

ADDITIONAL VERIFICATION* Signed:
(Signature of authorized official)
Place:
Date:

* If applicable. Reference is made to paragraph 3.2.3 of the Guidelines on Implementation of the International Safety Management (ISM) Code by Administrations (resolution A.788(19)).

INTERIM DOCUMENT OF COMPLIANCE

(Official seal)
Certificate No.

(State)

Issued under the provisions of the
INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974, as
amended

Under the authority of the Government of _____
(name of the State)

by _____
(person or organization authorized)

Name and address of the Company
.....
(see paragraph 1.1.2 of the ISM Code)

THIS IS TO CERTIFY THAT the safety management system of the Company has been
recognized as meeting the objectives of paragraph 1.2.3 of the International Management
Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code), for the
type(s) of ships listed below (delete as appropriate):

Passenger ship
Passenger high-speed craft
Cargo high- speed craft
Bulk carrier
Oil tanker
Chemical tanker
Gas carrier
Mobile offshore drilling unit
Other cargo ship

This Interim Document of Compliance is valid until

Issued at
(place of issue of the document)

Date of issue
.....
(Signature of the duly authorized official issuing the document)

(Seal or stamp of issuing authority, as appropriate)

INTERIM SAFETY MANAGEMENT CERTIFICATE

(Official seal)
Certificate No.

(State)

Issued under the provisions of the
INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974, as
amended

Under the authority of the Government of _____
(name of the State)

by _____
(person or organization authorized)

Name of ship:
Distinctive number or letters:
Port of registry:
Type of ship*
Gross tonnage:
IMO Number:
Name and address of Company:

.....
(see paragraph 1.1.2 of the ISM Code)

THIS IS TO CERTIFY THAT the requirements of paragraph 14.4 of the ISM Code
have been met and that the Document of Compliance/ Interim Document of Compliance* of
the Company is relevant to this ship.

This Interim Safety Management Certificate is valid until subject to
the Document of Compliance / Interim Document of Compliance** remaining valid.

Issued at
(place of issue of the document)

Date of issue
.....

(Signature of the duly authorized official issuing the certificate)
(Seal or stamp of issuing authority, as appropriate)

Certificate No.

The validity of this Interim Safety Management Certificate is extended to:

Date of extension:

.....
(Signature of the duly authorized official extending the validity)
(Seal or stamp of issuing authority, as appropriate)

* Insert the type of ship from among the following: passenger ship, passenger high-speed craft, cargo high-speed craft, bulk carrier, oil tanker, chemical tanker, gas carrier, mobile offshore, drilling unit, other cargo ship.

** Delete as appropriate.

4. The International Ship and Port Facility (ISPS) Code

4.1. Content and practical application

4.1.1. Scope and purpose

The International Ship and Port Facility (ISPS) Code, which is articulated in the IMO International Convention for the Safety of Life at Sea (SOLAS) is not an instrument which specifically addresses maritime labour issues. The Code reflected the post “11 September 2001” reaction of the international community within the IMO¹ under the weight of the U.S.’s influence² with regard to the threat of terrorism against shipping. Terrorist acts on board or within ports are not unknown nowadays³, even though the threat that they actually represent is difficult to determine.

The presence of seafarers in the areas affected by security measures in the maritime sphere, i.e. the port and the ship, is significant as regards the seafarers’ involvement in the task of ensuring security but also as regards the ensuing need to protect seafarers’ rights and freedoms. Consequently, not only does the ISPS Code present an impact on the commercial aspects of maritime transport⁴, which how-

¹ See Hartmut Hesse and Nicolaos L. Charalambous, *New Security Measures for the International Shipping Community*, 3 WMU I. Mar.Aff. 2, 123-138 (2004), Rosalie Balkin, *The IMO and Maritime Security*, 30 Tul. Mar. L.J. 1, 45-88 (2006).

² See Stephen Girvin, *The Commercial Implications of the ISPS Code*, in Marius (Scandinavian Institute of Maritime Law) no 330, 308 (2005).

³ See the Achille Lauro incident in 1985, where an Italian cruise ship was hijacked by a group of gunmen, and the City of Poros incident in 1988, where gunmen boarded a cruise ferry in Greece, opened fire and killed 9 people. Following the Achille Lauro, the IMO adopted resolution A.584(14) on Measures to Prevent Unlawful Acts Which Threaten the Safety of Ships and the Security of Their Passengers and Crews. In March 1988, the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA) was adopted. In October 2002, a blast ripped through a French tanker, the Limburg. The incident in question was believed to be a terrorist attack (http://news.bbc.co.uk/2/hi/middle_east/2324431.stm) (last visit 28 March 2007). On March 2004, a double suicide bombing killed 10 persons in the port of Ashdod on the Mediterranean coast. On the security-related framework by the IMO, see Balkin, *supra* note 1 and Hesse and N. Charalambous, *supra* note 1.

⁴ The ISPS Code may also be examined from the point of view of its commercial implications. For a presentation of the impact of the said Code on voyage and time charterparties see Girvin, *supra* note 2.

ever will not be examined here, but also on the protection, in the broadest sense of the word, of maritime labour⁵.

The Code aims to ensure the security of ships and port facilities⁶ - defined as determined locations where the ship/port interface⁷ takes place- from the perspective of a risk management approach, which implies the assessment of risks in each particular case and the consequent determination of security measures⁸. The instrument in question resulted technically from the amendment in the year 2002⁹ of the SOLAS Convention, and the split of Chapter XI of SOLAS into two chapters. Chapter XI-2 was entitled Special Measures to Enhance Maritime Security and was followed by the Code. The latter comprises Part A which is mandatory and Part B which is of recommendatory nature. The Code came into force on 1 July 2004. It covers both passenger ships and cargo ships (including tankers) of 500 gross tonnage or more as well as port facilities serving ships on international voyages, and mobile offshore units¹⁰.

Obligations affecting contracting Governments, ports, companies and ships are provided for in a “standardized, consistent framework for managing risk and permitting the meaningful exchange and evaluation of information [between the above-mentioned]”¹¹. In practice, the mechanism established by the Code notably comprises checks prior to entry of a ship into a port as well as certificate verification in the port¹².

4.1.2. Entities involved (contracting Governments, port facilities, shipping companies and ships)

Contracting Governments are held to set the security level applicable at any particular time with regard to ships flying their flag and/or approaching their ports and port facilities within their territory¹³. Contracting Governments, which can establish Designated Authorities with a view to undertaking their security responsibilities and Recognised Security Organizations (RSOs), are obliged to conduct a Port Facility Security Assessment (PFSA) of their ports¹⁴. The PFSA aims at the

⁵ See Patrick Chaumette, *Du Bien-Etre des Marins en Escal: Les Ports Confrontés à la Sécurité et à l'Humanité*, Mélanges André-Hubert Mesnard, L'Homme, ses Territoires, ses Cultures, LGDJ, Paris, Coll. Développement Local, 2006, 45-58.

⁶ See Chapter XI-2.

⁷ A ship/port interface means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons, goods or the provisions of port services to or from the ship [see Regulation 1(8) of Chapter XI-2].

⁸ See Iliana Christodoulou-Varotsi, *A New Maritime Security Regime-Terrorist Trap or Lawyers' Paradise?- The EC Regulatory Framework on the Prevention of Terrorist Attacks on Maritime Transport*, in Marius (Scandinavian Institute of Maritime Law) no 330, 285-306 (2005).

⁹ It bears repeating that the amendment took place in the year following the terrorist attacks of September 11 in the US.

¹⁰ See Regulation 2(1) of Chapter XI-2.

¹¹ See Hesse and Charalambous, *supra* note 1.

¹² See Regulation 9 of Chapter XI-2.

¹³ See Regulation 3 of Chapter XI-2.

¹⁴ See Article 15 of Part A of the Code.

identification and evaluation of important assets and infrastructures which are critical to the port facility. The assessment identifies the actual threat to the critical assets in question, in order to set priorities for security measures, and also includes the examination of the vulnerability of the port facility. Upon completion of the assessment, the contracting Government is obliged to evaluate the risk. A number of measures are to be adopted so as to reduce vulnerability.

On the basis of the results of the Port Facility Security Assessments, a Port Facility Security Officer (PFSO) will be appointed where appropriate¹⁵. The latter is responsible for the elaboration of the Port Facility Security Plan (PFSP)¹⁶. The PFSP notably indicates the minimum operational and physical security measures of the Port Facility, which shall always be applied (security level 1).

Shipping companies operating ships subject to the Code are obliged to appoint a Company Security Officer (CSO)¹⁷ for the company and a Ship Security Officer (SSO)¹⁸ for each of their ships.

Ships are subject to verification and certification¹⁹. They notably have to bear an International Ship Security Certificate (ISSC), indicating compliance with the requirements of the mandatory provisions of the ISPS Code²⁰. Moreover, a Ship Security Plan (SSP)²¹ will have to be established under the responsibility of the Company Security Officer which provides *inter alia* for the minimum operational and physical security measures the ship shall take at all times (security level 1).

A Ship Security Alert System (SSAS) is prescribed for the use of seafarers in order for them to be able to notify authorities and other vessels of a terrorist act on board ships²².

4.1.3. Maritime security in Europe

In terms of methodology, the EC has adopted the same approach as in the field of maritime safety; it consequently rendered obligatory for Member States requirements stemming from the international sphere in view of the setting of a higher and more uniform standard of maritime security by its 27 Member States.

The EC regime in this field comprises Regulation 725/2004/EC on enhancing ship and port facility security²³ and Directive 2005/65/EC on enhancing port security²⁴. It deserves special mention that Regulations are directly applicable in do-

¹⁵ See Article 17 of Part A of the Code.

¹⁶ See Article 16 of Part A of the Code.

¹⁷ See Article 11 of Part A of the Code.

¹⁸ See Article 12 of Part A of the Code.

¹⁹ See Article 19 of Part A of the Code.

²⁰ *Id.*

²¹ See Article 9 of Part A of the Code.

²² *Id.*

²³ Regulation 725/2004/EC of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security (Text with EEA relevance), OJ L 129, 29.4.2004, 6.

²⁴ Directive 2005/65/EC of the European Parliament and of the Council of 26 October 2005 on enhancing port security (Text with EEA relevance), OJ L 310, 25.11.2005, 28.

mestic legal orders, while Directives require, upon expiration of a deadline, national transposition measures, such as, for example, statutes, decrees, etc²⁵.

Regulation 725/2004/EC provides for the application of international requirements on maritime security, not only to international but also to domestic shipping²⁶. In addition to this, a number of points, which may be found in part B of the ISPS Code and which are of recommendatory nature, are rendered obligatory by the Code towards EC Member States²⁷. As Regulation 725/2004/EC is limited in scope to security measures on board vessels and the immediate ship/port interface, a more comprehensive degree of protection was sought under Directive 2005/65/EC which provides for security measures in ports²⁸. The measures in question are applicable to all those ports in which one or more port facilities covered by Regulation 725/2004/EC are located.

4.1.4. Maritime labour issues

From a practical view of the ISPS Code, as seafarers work and live on ships, access to shore facilities and shore leave are areas which are likely to become problematic under this instrument. While seafarers were recognized by the drafters of Chapter XI-2 and the Code as being significant participants in the implementation of the new security regime, at the same time the risk of possible conflicts between the new security regime and seafarers' right of free movement was latent.

The Code's preamble, which is indicative of the intentions of its drafters, provides that the Code should not impair the respect of seafarers' fundamental rights and freedoms²⁹. The Code also contains in its Preamble mention of the Convention on the Facilitation of Maritime Traffic, 1965, as amended, according to which foreign crew members shall be allowed ashore by the public authorities while the ship on which they arrive is in port, and on condition that the formalities on arrival of the ship have been fulfilled and that the public authorities have no reason to refuse such permission for reasons of public health, public safety or public order³⁰. Moreover, the Code provides in its mandatory part that a Port Facility Security Plan (PFSP) must contain procedures for facilitating shore leave, crew changes and access for visitors, including representatives of seafarers' welfare and labour organizations³¹. Under Part B of the Code, maritime administrations are encour-

²⁵ See *inter alia* Guy Isaac, Marc Blanquet, *Droit Communautaire Général*, Dalloz Sirey, Paris, 2006 and James Hanlon, *European Community Law*, Sweet & Maxwell, 2003.

²⁶ See Article 1(1).

²⁷ See Article 3 (5). E.g. indicating the authorities authorized to carry out a Port Facility Security Assessment (Article 1.16 of Part B of the Code), the minimum competencies of the Recognized Security Organizations (Article 4.5 of Part B of the ISPS Code), etc.

²⁸ Within the boundaries defined by the Member State concerned.

²⁹ Rights in question are set out in international instruments. They particularly relate to maritime workers and refugees including the ILO Declaration of Fundamental Principles and Rights at Work as well as international standards concerning maritime and port workers. See Para .10 of the Preamble.

³⁰ Para. 11 of the Preamble.

³¹ See Article 16.3.15 of Part A of the ISPS Code. The guidelines contained in paragraph 16.8.14 of Part B of the Code reinforces this requirement by providing that the Port Facility Security Plan

aged to take into account any additional workload which may result from the implementation of the Ship's Security Plan (SSP) and ensure that the ship is sufficiently and effectively manned³². In doing so, the Administration should verify that the ships are able to implement the hours of rest and other measures necessary to address fatigue which have been promulgated under national law, in the context of all shipboard duties assigned to the various shipboard personnel³³.

It is obvious that some vital aspects of the seafarers' general wellbeing are likely to be jeopardized, unless proper attention is given to the specificities of maritime labour. In this context, IMO Conference Resolution 11 (Human element-related aspects and shore leave for seafarers) of 9-13 December 2002, is noteworthy³⁴. The latter invites Governments to take into account the human element, the need to afford special protection to seafarers and the critical importance of shore leave when implementing the provisions of Chapter XI-2 of the Convention and the Code.

The above should be associated with the interest demonstrated by the ILO, notably via Convention no 185 which revises relevant Convention no 108 on Seafarers' Identity Documents; as mentioned in Part I, Convention no 185 was adopted in 2003³⁵ and came into force in 2005. Convention no 185 was not affected by the consolidation process of the ILO maritime labour conventions which took place in February 2006³⁶. Seafarers' identity documents, which are issued upon request by national administrations, make use of biometric authentication³⁷. In principle, any seafarer who holds a valid seafarers' identity document issued in accordance with the provisions of the Convention is recognized as a seafarer³⁸. On the basis of the identity document provided for in the Convention shore leave is facilitated³⁹ and seafarers are not required to hold a visa⁴⁰.

should contain procedures relating to all security levels. See IMO MSC/Circ. 1112, dated 7 June 2004 on Shore Leave and access to Ships under the ISPS Code.

³² See Article 4.28 of Part B of the ISPS Code.

³³ *Id.*

³⁴ See http://www.imo.org/Safety/mainframe.asp?topic_id=583&doc_id=2689#resos (last visit 20 May 2007).

³⁵ See <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C185> (last visit 28. February 07).

³⁶ See Dmitry A. Pentsov and Iliana Christodoulou-Varotsi, *New ILO Consolidated Maritime Labour Convention*, Year Book of Social and Social Protection Law of the University of St Petersburg (Russian Federation), 2/2006 (in Russian).

³⁷ See Article 3(8) of the Convention.

³⁸ See Article 6(1) of the Convention

³⁹ See Article 6(4).

⁴⁰ See Article 6(6).

4.2. Texts

4.2.1. Attachment 1 to the Final Act of the Conference

RESOLUTION 1 OF THE CONFERENCE OF CONTRACTING GOVERNMENTS TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974 ADOPTED ON 12 DECEMBER 2002

ADOPTION OF AMENDMENTS TO THE ANNEX TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974

THE CONFERENCE,

BEARING IN MIND the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of friendly relations and co-operation among States,

DEEPLY CONCERNED about the world-wide escalation of acts of terrorism in all its forms, which endanger or take innocent human lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

BEING AWARE of the importance and significance of shipping to the world trade and economy and, therefore, being determined to safeguard the worldwide supply chain against any breach resulting from terrorist attacks against ships, ports, offshore terminals or other facilities,

CONSIDERING that unlawful acts against shipping jeopardize the safety and security of persons and property, seriously affect the operation of maritime services and undermine the confidence of the peoples of the world in the safety of maritime navigation,

CONSIDERING that the occurrence of such acts is a matter of grave concern to the international community as a whole, while also recognizing the importance of the efficient and economic movement of world trade,

BEING CONVINCED of the urgent need to develop international co-operation between States in devising and adopting effective and practical measures, additional to those already adopted by the International Maritime Organization (hereinafter referred to as .the Organization.), to prevent and suppress unlawful acts directed against shipping in its broad sense,

RECALLING the United Nations Security Council resolution 1373(2001), adopted on 28 September 2001, requiring States to take measures to prevent and suppress terrorist acts, including calling on States to implement fully anti-terrorist conventions,

HAVING NOTED the Co-operative G8 Action on Transport Security (in particular, the Maritime Security section thereof), endorsed by the G8 Leaders during their Summit in Kananaskis, Alberta (Canada) in June 2002,

RECALLING article VIII(c) of the International Convention for the Safety of Life at Sea, 1974, as amended (hereinafter referred to as .the Convention.), concerning the procedure for amending the Convention, by a Conference of Contracting Governments,

NOTING resolution A.924 (22) entitled. Review of measures and procedures to prevent acts of terrorism which threaten the security of passengers and crew and the safety of ships, adopted by the Assembly of the Organization on 20 November 2001, which, *inter alia*:

(a) recognizes the need for the Organization to review, with the intent to revise, existing international legal and technical measures, and to consider appropriate new measures, to prevent and suppress terrorism against ships and to improve security aboard and ashore in order to reduce the risk to passengers, crew and post personnel on board ships and in port areas and to the vessels and their cargoes; and

(b) requests the Organization's Maritime Safety Committee, the Legal Committee and the Facilitation Committee under the direction of the Council to undertake, on a high priority basis, a review to ascertain whether there is a need to update the instruments referred to in the preambular paragraphs of the aforesaid resolution and any other relevant IMO instrument under their scope and/or to adopt other security measures and, in the light of such a review, to take action as appropriate;

HAVING IDENTIFIED resolution A.584 (14) entitled. Measures to prevent unlawful acts which threaten the safety of ships and the security of their passengers and crew., MSC/Circ. 443 on. Measures to prevent unlawful acts against passengers and crew on board ships and MSC/Circ. 754 on. Passenger ferry security among the IMO instruments relevant to the scope of resolution A.924(22),

RECALLING resolution 5 entitled. Future amendments to chapter XI of the 1974 SOLAS Convention on special measures to enhance maritime safety, adopted by the 1994 Conference of Contracting Government to the International Convention for the Safety of Life at Sea, 1974,

HAVING CONSIDERED amendments to the Annex of the Convention proposed and circulated to all Members of the Organization and to all Contracting Governments to the Convention,

1. ADOPTS, in accordance with article VIII(c)(ii) of the Convention, amendments to the Annex of the Convention, the text of which is given in the Annex to the present resolution;
2. DETERMINES, in accordance with article VIII(b)(vi)(2)(l)b) of the Convention, that the aforementioned amendments shall be deemed to have been accepted on 1 January 2004, unless, prior to that date, more than one third of the Contracting Governments to the Convention or Contracting Governments the combined merchant fleets of which constitute not less than 50% of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments;
3. INVITES Contracting Governments to the Convention to note that, in accordance with article VIII(b)(vii)(2) of the Convention, the said amendments shall enter into force on 1 July 2004 upon their acceptance in accordance with paragraph 2 above;
4. REQUESTS the Secretary-General of the Organization, in conformity with article VIII (b) (v) of the Convention, to transmit certified copies of due present resolution and the text of the amendments contained in the Annex to all Contracting Governments to the Convention;
5. FURTHER REQUESTS the Secretary-General to transmit copies of this resolution and its Annex to all Members of the Organization, which are not Contracting Governments to the Convention.

ANNEX

AMENDMENTS TO THE ANNEX TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974 AS AMENDED

CHAPTER V SAFETY OF NAVIGATION

Regulation 19 - Carriage requirements for shipborne navigational systems and equipment

- 1 The existing subparagraphs .4, .5 and .6 of paragraph 2.4.2 are replaced by the following:

- "4 in the case of ships, other than passenger ships and tankers, of 300 gross tonnage and upwards but less than 50,000 gross tonnage, not later than the first safety equipment survey* after 1 July 2004 or by 31 December 2004, whichever occurs earlier; and"
- 2 The following new sentence is added at the end of the existing subparagraph .7 of paragraph 2.4:
- "Ships fitted with AIS shall maintain AIS in operation at all times except where international agreements, rules or standards provide for the protection of navigational information".

CHAPTER XI

SPECIAL MEASURES TO ENHANCE MARITIME SAFETY

- 3 The existing chapter XI is renumbered as chapter XI-1.

Regulation 3 - Ship identification number

- 4 The following text is inserted after the title of the regulation:
- "(Paragraphs 4 and 5 apply to all ships to which this regulation applies. For ships constructed before 1 July 2004, the requirements of paragraphs 4 and 5 shall be complied with not later than the first scheduled dry-docking of the ship after 1 July 2004)"
- 5 The existing paragraph 4 is deleted and the following new text is inserted:
- "4 The ship's identification number shall be permanently marked:
- 1 in a visible place either on the stern of the ship or on either side of the hull, amidships port and starboard, above the deepest assigned load line or either side of the superstructure, port and starboard or on the front of the superstructure or, in the case of passenger ships, on a horizontal surface visible from the air; and
 - 2 in an easily accessible place either on one of the end transverse bulkheads of the machinery spaces, as defined in regulation II-2/3.30, or on one of the hatchways or, in the case of tankers, in the pump-room or, in the case of ships with ro-ro spaces, as defined in regulation II-2/3.41, on one of the end transverse bulkheads of the ro-ro spaces.
 - 5.1 The permanent marking shall be plainly visible, clear of any other markings on the hull and shall be painted in a contrasting colour.
 - 5.2 The permanent marking referred to in paragraph 4.1 shall be not less than 200 mm in height. The permanent marking referred to in paragraph 4.2 shall not be less than 100 mm in height. The width of the marks shall be proportionate to the height.
 - 5.3 The permanent marking may be made by raised lettering or by cutting it in or by center punching it or by any other equivalent method of marking the ship identification number which ensures that the marking is not easily expunged.
 - 5.4 On ships constructed of material other than steel or metal, the Administration shall approve the method of marking the ship identification number."
- 6 The following new regulation 5 is added after the existing regulation 4:

Regulation 5

Continuous Synopsis Record

- 1 Every ship to which chapter I applies shall be issued with a Continuous Synopsis Record.

* The first safety equipment survey means the first annual survey the first periodical survey or the first renewal survey for safety equipment, whichever is due first after 1 July 2004 and, in addition, in the case of ships under construction, the initial survey

- 2.1 The Continuous Synopsis Record is intended to provide an on-board record of the history of the ship with respect to the information recorded therein.
- 2.2 For ships constructed before 1 July 2004, the Continuous Synopsis Record shall, at least, provide the history of the ship as from 1 July 2004.
- 3 The Continuous Synopsis Record shall be issued by the Administration to each ship that is entitled to fly its flag and it shall contain at least, the following information:
 - .1 the name of the State whose flag the ship is entitled to fly;
 - .2 the date on which the ship was registered with that State;
 - .3 the ship's identification number in accordance with regulation 3;
 - .4 the name of the ship;
 - .5 the port at which the ship is registered;
 - .6 the name of the registered owner(s) and their registered address(es);
 - .7 the name of the registered bareboat charterer(s) and their registered address(es), if applicable;
 - .8 the name of the Company, as defined in regulation IX/1, its registered address and the address(es) from where it carries out the safety management activities;
 - .9 the name of all classification society(ies) with which the ship is classed;
 - .10 the name of the Administration or of the Contracting Government or of the recognized organization which has issued the Document of Compliance (or the Interim Document of Compliance), specified in the ISM Code as defined in regulation IX/1, to the Company operating the ship and the name of the body which has carried out the audit on the basis of which the document was issued, if other than that issuing the document;
 - .11 the name of the Administration or of the Contracting Government or of the recognized organization that has issued the Safety Management Certificate (or the Interim Safety Management Certificate), specified in the ISM Code as defined in regulation IX/1, to the ship and the name of the body which has carried out the audit on the basis of which the certificate was issued, if other than that issuing the certificate;
 - .12 the name of the Administration or of the Contracting Government or of the recognized security organization that has issued the International Ship Security Certificate (or an Interim International Ship Security Certificate), specified in part A of the ISPS Code as defined in regulation XI-2/1, to the ship and the name of the body which has carried out the verification on the basis of which the certificate was issued, if other than that issuing the certificate; and
 - .13 the date on which the ship ceased to be registered with that State.
- 4.1 Any changes relating to the entries referred to in paragraphs 3.4 to 3.12 shall be recorded in the Continuous Synopsis Record so as to provide updated and current information together with the history of the changes.
- 4.2 In case of any changes relating to the entries referred to in paragraph 4.1, the Administration shall issue, as soon as is practically possible but not later than three months from the date of the change, to the ships entitled to fly its flag either a revised and updated version of the Continuous Synopsis Record or appropriate amendments thereto.
- 4.3 In case of any changes relating to the entries referred to in paragraph 4.1, the Administration, pending the issue of a revised and updated version of the Continuous Synopsis Record, shall authorise and require either the Company as defined in regulation IX/1 or the master of the ship to amend the Continuous Synopsis Record to reflect the changes. In such cases, after the Continuous Synopsis Record has been amended the Company shall, without delay, inform the Administration accordingly.
- 5.1 The Continuous Synopsis Record shall be in English, French or Spanish language. Additionally, a translation of the Continuous Synopsis Record into the official language or languages of the Administration may be provided.

- 5.2 The Continuous Synopsis Record shall be in the format developed by the Organization and shall be maintained in accordance with guidelines developed by the Organization. Any previous entries in the Continuous Synopsis Record shall not be modified, deleted or, in any way, erased or defaced.
- 6 Whenever a ship is transferred to the flag of another State or the ship is sold to another owner (or is taken over by another bareboat charterer) or another Company assumes the responsibility for the operation of the ship, the Continuous Synopsis Record shall be left on board.
 - 7 When a ship is to be transferred to the flag of another State, the Company shall notify the Administration of the name of the State under whose flag the ship is to be transferred so as to enable the Administration to forward to that State a copy of the Continuous Synopsis Record covering the period during which the ship was under their jurisdiction.
 - 8 When a ship is transferred to the flag of another State the Government of which is a Contracting Government, the Contracting Government of the State whose flag the ship was flying hitherto shall transmit to the Administration as soon as possible after the transfer takes place a copy of the relevant Continuous Synopsis Record covering the period during which the ship was under their jurisdiction together with any Continuous Synopsis Records previous issued to the ship by other States.
 - 9 When a ship is transferred to the flag of another State, the Administration shall append the previous Continuous Synopsis Records to the Continuous Synopsis Record the Administration will issue to the ship so to provide the continuous history record intended by this regulation.
 - 10 The Continuous Synopsis Record shall be kept on board the ship and shall be available for inspection at all times.
 - 7 The following new chapter XI-2 is inserted after the renumbered chapter XI-1:

CHAPTER XI-2 SPECIAL MEASURES TO ENHANCE MARITIME SECURITY

Regulation 1

Definitions

- 1 For the purpose of this chapter, unless expressly provided otherwise:
 - .1 *Bulk carrier* means a bulk carrier as defined in regulation IX/1.6.
 - .2 *Chemical tanker* means a chemical tanker as defined in regulation VII/8.2.
 - .3 *Gas carrier* means a gas carrier as defined in regulation VII/11.2.
 - .4 *High-speed craft* means a craft as defined in regulation X/1.2.
 - .5 *Mobile offshore drilling unit* means a mechanically propelled mobile offshore drilling unit, as defined in regulation IX/1, not on location.
 - .6 *Oil tanker* means an oil tanker as defined in regulation 11-1 /2.12.
 - .7 *Company* means a Company as defined in regulation IX/1.
 - .8 *Ship/port interface* means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons, goods or the provisions of port services to or from the ship.
 - .9 *Port facility* is a location, as determined by the Contracting Government or by the Designated Authority, where the ship/port interface takes place. This includes areas such as anchorages, waiting berths and approaches from seaward, as appropriate.
 - .10 *Ship in ship activity* means any activity nor related to a port facility that involves the transfer of goods or persons from one ship to another.
 - .11 *Designated Authority* means the organization(s) or the administration(s) identified, within the Contracting Government, as responsible for ensuring the implementation

of the provisions of this chapter pertaining to port facility security and ship/port interface, from the point of view of the port facility.

- .12 *International Ship and Port Facility Security (ISPS) Code* means the International Code for the Security of Ships and of Port Facilities consisting of Part A (the provisions of which shall be treated as mandatory) and part B (the provisions of which shall be treated as recommendatory), as adopted, on 12 December 2002, by resolution 2 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 as may be amended by the Organization, provided that:
 - .1 amendments to part A of the Code are adopted, brought into force and take effect in accordance with article VIII of the present Convention concerning the amendment procedures applicable to the Annex other than chapter I; and
 - .2 amendments to part B of the Code are adopted by the Maritime Safety Committee in accordance with its Rules of Procedure.
- .13 *Security incident* means any suspicious act or circumstance threatening the security of a ship, including a mobile offshore drilling unit and a high speed craft, or of a port facility or of any ship/port interface or any ship to ship activity.
- .14 *Security level* means the qualification of the degree of risk that a security incident will be attempted or will occur.
- .15 *Declaration of security* means an agreement reached between a ship and either a port facility or another ship with which it interfaces specifying the security measures each will implement.
- .16 *Recognized security organization* means an organization with appropriate expertise in security matters and with appropriate knowledge of ship and port operations authorized to carry out an assessment, or a verification, or an approval or a certification activity, required by this chapter or by part A of the ISPS Code.
- 2 The term "ship", when used in regulations 3 to 13, includes mobile offshore drilling units and high-speed craft.
- 3 The term .all ships., when used in this chapter, means any ship to which this chapter applies.
- 4 The term .Contracting Government., when used in regulations 3, 4, 7, 10, 11, 12 and 13 includes a reference to the "Designated Authority".

Regulation 2

Application

- 1 This chapter applies to:
 - .1 the following types of ships engaged on international voyages:
 - .1.1 passenger ships, including high-speed passenger craft;
 - .1.2 cargo ships, including high-speed craft, of 500 gross tonnage and upwards; and
 - .1.3 mobile offshore drilling units; and
 - .2 port facilities serving such ships engaged on international voyages.
- 2 Notwithstanding the provisions of paragraph 1.2, Contracting Governments shall decide the extent of application of this chapter and of the relevant sections of part A of the ISPS Code to those port facilities within their territory which, although used primarily by ships not engaged on international voyages, are required, occasionally, to serve ships arriving or departing on an international voyage.

- 2.1 Contracting Governments shall base their decisions, under paragraph 2, on a port facility security assessment earned out in accordance with the provisions of part A of the ISPS Code.
- 2.2 Any decision which a Contracting Government makes, under paragraph 2, shall not compromise the level of security intended to be achieved by this chapter or by part A of the ISPS Code.
- 3 This chapter does not apply to warships, naval auxiliaries or other ships owned or operated by a Contracting Government and used only on Government non-commercial service.
- 4 Nothing in this chapter shall prejudice the rights or obligations of States under international law.

Regulation 3

Obligations of Contracting Governments with respect to security

- 1 Administrations shall set security levels and ensure the provision of security level information to ships entitled to fly their flag. When changes in security level occur, security level information shall be updated as the circumstance dictates.
- 2 Contracting Governments shall set security levels and ensure the provision of security level information to port facilities within their territory, and to ships prior to entering a port or whilst in a port within their territory. When changes in security level occur, security level information shall be updated as the circumstance dictates.

Regulation 4

Requirements for Companies and ships

- 1 Companies shall comply with the relevant requirements of this chapter and of part A of the ISPS Code, taking into account the guidance given in part B of the ISPS Code.
- 2 Ships shall comply with the relevant requirements of this chapter and of part A of the ISPS Code, taking into account the guidance given in part B of the ISPS Code, and such compliance shall be verified and certified as provided for in part A of the ISPS Code.
- 3 Prior to entering a port or whilst in a port within the territory of a Contracting Government, a ship shall comply with the requirements for the security level set by that Contracting Government, if such security level is higher than the security level set by the Administration for that ship.
- 4 Ships shall respond without undue delay to any change to a higher security level.
- 5 Where a ship is not in compliance with the requirements of this chapter or of part A of the ISPS Code, or cannot comply with the requirements of the security level set by the Administration or by another Contracting Government and applicable to that ship, then the ship shall notify the appropriate competent authority prior to conducting any ship/port interface or prior to entry into port, whichever occurs earlier.

Regulation 5

Specific responsibility of Companies

The Company shall ensure that the master has available on board, at all times, information through which officers duly authorised by a Contracting Government can establish:

- .1 who is responsible for appointing the members of the crew or other persons currently employed or engaged on board the ship in any capacity on the business of that ship;
- .2 who is responsible for deciding the employment of the ship; and
- .3 in cases where the ship is employed under the terms of charter party (ies), who are the parties to such charter party (ies).

Regulation 6

Ship security alert system

- 1 All ships shall be provided with a ship security alert system, as follows:
 - .1 ships constructed on or after 1 July 2004;
 - .2 passenger ships, including- high-speed passenger craft, constructed before 1 July 2004, not later than the first survey of the radio installation after July 2004;
 - .3 oil tankers, chemical tankers, gas carriers, bulk carriers and cargo high speed craft, of 500 gross tonnage and upwards constructed before 1 July 2004, not later than the first survey of the radio installation after 1 July 2004; and
 - .4 other cargo ships of 500 gross tonnage and upward and mobile offshore drilling units constructed before July 2004, not later than the first survey of the radio installation after 1 July 2006.
- 2 The ship security alert system, when activated, shall:
 - .1 initiate and transmit a ship-to-shore security alert to a competent authority designated by the Administration, which in these circumstances may include the Company, identifying the ship, its location and indicating that the security of the ship is under threat or it has been compromised;
 - .2 not send the ship security alert to any other ships;
 - .3 not raise any alarm on-board the ship; and
 - .4 continue the ship security alert until deactivated and/or reset.
- 3 The ship security alert system shall:
 - .1 be capable of being activated from the navigation bridge and in at least one other location; and
 - .2 conform to performance standards not inferior to those adopted by the Organization.
- 4 The ship security alert system activation points shall be designed so as to prevent the inadvertent initiation of the ship security alert.
- 5 The requirement for a ship security alert system may be complied with by using the radio installation fitted for compliance with the requirements of chapter IV, provided all requirements of this regulation are complied with.
- 6 When an Administration receives notification of a ship security alert, that Administration shall immediately notify the State(s) in the vicinity of which the ship is presently operating.
- 7 When a Contracting Government receives notification of a ship security alert from a ship which is not entitled to fly its flag, that Contracting Government shall immediately notify the relevant Administration and, if appropriate, the State(s) in the vicinity of which the ship is presently operating.

Regulation 7

Threats to ships

- 1 Contracting Governments shall set security levels and ensure the provision of security level information to ships operating in their territorial sea or having communicated an intention to enter their territorial sea.
- 2 Contracting Governments shall provide a point of contact through which such ships can request advice or assistance and to which such ships can report any security concerns about other ships, movements or communications.
- 3 Where a risk of attack has been identified, the Contracting Government concerned shall advise the ships concerned and their Administrations of:
 - .1 the current security level;
 - .2 any security measures that should be put in place by the ships concerned to protect themselves from attack, in accordance with the provisions of part A of the ISPS Code; and

- .3 security measures that the coastal State has decided to put in place, as appropriate.

Regulation 8

Master's discretion for ship safety and security

- 1 The master shall not be constrained by the Company, the charterer or any other person from taking or executing any decision which, in the professional judgement of the master, is necessary to maintain the safety and security of the ship. This includes denial of access to persons (except those identified as duly authorized by a Contracting Government) or their effects and refusal to load cargo, including containers or other closed cargo transport units.
- 2 If, in the professional judgement of the master, a conflict between any safety and security requirements applicable to the ship arises during its operations, the master shall give effect to those requirements necessary to maintain the safety of the ship. In such cases, the master may implement temporary security measures and shall forthwith inform the Administration and, if appropriate, the Contracting Government in whose port the ship is operating or intends to enter. Any such temporary security measures under this regulation shall, to the highest possible degree, be commensurate with the prevailing security level. When such cases are identified, the Administration shall ensure that such conflicts are resolved and that the possibility of recurrence is minimised.

Regulation 9

Control and compliance measures

- 1 Control of ships in port
 - 1.1 For the purpose of this chapter, every ship to which this chapter applies is subject to control when in a port of another Contracting Government by officers duly authorized by that Government, who may be the same as those earning out the functions of regulation I/19. Such control shall be limited to verifying that there is onboard a valid International Ship Security Certificate or a valid Interim International Ships Security Certificate issued under the provisions of part A of the ISPS Code (Certificate), which if valid shall be accepted, unless there are clear grounds for believing that the ship is not in compliance with the requirements of this chapter or part A of the ISPS Code.
 - 1.2 When there are such clear grounds, or where no valid Certificate is produced when required, the officers duly authorized by the Contracting Government shall impose any one or more control measures in relation to that ship as provided in paragraph 1.3. Any such measures imposed must be proportionate, taking into account the guidance given in part B of the TSPS Code.
 - 1.3 Such control measures are as follows: inspection of the ship, delaying the ship, detention of the ship, restriction of operations including movement within the port, or expulsion of the ship from port. Such control measures may additionally or alternatively include other lesser administrative or corrective measures.
- 2 Ships intending to enter a port of another Contracting Government
 - 2.1 For the purpose of this chapter, a Contracting Government may require that ships intending to enter its ports provide the following information to officers duly authorized by that Government to ensure compliance with this chapter prior to entry into port with the aim of avoiding the need to impose control measures or steps:
 - .1 that the ship possesses a valid Certificate and the name of its issuing authority;
 - .2 the security level at which the ship is currently operating;

- .3 the security level at which the ship operated in any previous port where it has conducted a ship/port interface within the timeframe specified in paragraph 2.3;
- .4 any special or additional security measures that were taken by the ship in any previous port where it has conducted a ship/port interface within the timeframe specified in paragraph 2.3;
- .5 that the appropriate ship security procedures were maintained during any ship to ship activity within the timeframe specified in paragraph 2.3; or
- .6 other practical security related information (but not details of the ship security plan), taking into account the guidance given in part B of the ISPS Code.

If requested by the Contracting Government, the ship or the Company shall provide confirmation, acceptable to that Contracting Government, of the information required above.

2.2 Every ship to which this chapter applies intending to enter the port of another Contracting Government shall provide the information described in paragraph 2.1 on the request of the officers duly authorized by that Government. The master may decline to provide such information on the understanding that failure to do so may result in denial of entry into port.

2.3 The ship shall keep records of the information referred to in paragraph 2.1 for the last 10 calls at port facilities.

2.4 If, after receipt of the information described in paragraph 2.1, officers duly authorized by the Contracting Government of the port in which the ship intends to enter have clear grounds for believing that the ship is in non-compliance with the requirements of this chapter or part A of the ISPS Code, such officers shall attempt to establish communication with and between the ship and the Administration in order to rectify the non-compliance. If such communication does not result in rectification, or if such officers have clear grounds otherwise for believing that the ship is in non-compliance with the requirements of this chapter or part A of the ISPS Code, such officers may take steps in relation to that ship as provided in paragraph 2.5. Any such steps taken must be proportionate, taking into account the guidance given in part B of the ISPS Code.

2.5 Such steps are as follows:

- .1 a requirement for the rectification of the non-compliance;
- .2 a requirement that the ship proceed to a location specified in the territorial sea or internal waters of that Contracting Government;
- .3 inspection of the ship, if the ship is in the territorial sea of the Contracting Government the port of which the ship intends to enter; or
- .4 denial of entry into port.

Prior to initiating any such steps, the ship shall be informed by the Contracting Government of its intentions. Upon this information the master may withdraw the intention to enter that port. In such cases, this regulation shall not apply.

3 Additional provisions

3.1 In the event:

- .1 of the imposition of a control measure, other than a lesser administrative or corrective measure, referred to in paragraph 1.3; or
- .2 any of the steps referred to in paragraph 2.5 are taken, an officer duly authorized by the Contracting Government shall forthwith inform in writing the Administration specifying which control measures have been imposed or steps taken and the reasons thereof. The Contracting Government imposing the control measures or steps shall also notify the recognized security organization, which issued the Certificate relating to the ship concerned and the Organization when any such control measures have been imposed or steps taken.

- 3.2 When entry into port is denied or the ship is expelled from port, the authorities of the port State should communicate the appropriate facts to the authorities of the State of the next appropriate ports of call, when known, and any other appropriate coastal States, taking into account guidelines to be developed by the Organization. Confidentiality and security of such notification shall be ensured.
- 3.3 Denial of entry into port, pursuant to paragraphs 2.4 and 2.5, or expulsion from port, pursuant to paragraphs 1.1 to 1.3, shall only be imposed where the officers duly authorized by the Contracting Government have clear grounds to believe that the ship poses an immediate threat to the security or safety of persons, or of ships or other property and there are no other appropriate means for removing that threat.
- 3.4 The control measures referred to in paragraph 1.3 and the steps referred to in paragraph 2.5 shall only be imposed, pursuant to this regulation, until the non-compliance giving rise to the control measures or steps has been corrected to the satisfaction of the Contracting Government, taking into account actions proposed by the ship or the Administration, if any.
- 3.5 When Contracting Governments exercise control under paragraph 1 or take steps under paragraph 2:
 - .1 all possible efforts shall be made to avoid a ship being unduly detained or delayed. If a ship is thereby unduly detained, or delayed, it shall be entitled to compensation for any loss or damage suffered; and
 - .2 necessary access to the ship shall not be prevented for emergency or humanitarian reasons and for security purposes.

Regulation 10

Requirements for port facilities

- 1 Port facilities shall comply with the relevant requirements of this chapter and part A of the ISPS Code, taking into account the guidance given in part B of the ISPS Code.
- 2 Contracting Governments with a port facility or port facilities within their territory, to which this regulation applies, shall ensure that:
 - .1 port facility security assessments are carried out, reviewed and approved in accordance with the provisions of part A of the ISPS Code; and
 - .2 port facility security plans are developed, reviewed, approved and implemented in accordance with the provisions of part A of the ISPS Code.
- 3 Contracting Governments shall designate and communicate the measures required to be addressed in a port facility security plan for the various security levels, including when the submission of a Declaration of Security will be required.

Regulation 11

Alternative security agreements

- 1 Contracting Governments may, when implementing this chapter and part A of the ISPS Code, conclude in writing bilateral or multilateral agreements with other Contracting Governments on alternative security arrangements covering short international voyages on fixed routes between port facilities located within their territories.
- 2 Any such agreement shall not compromise the level of security of other ships or of port facilities not covered by the agreement.
- 3 No ship covered by such an agreement shall conduct any ship-to-ship activities with any ship nor covered by the agreement.
- 4 Such agreements shall be reviewed periodically, taking into account the experience gained as well as any changes in the particular circumstances or the assessed threats to the security of the ships, the port facilities or the routes covered by the agreement.

Regulation 12

Equivalent security arrangements

- 1 An Administration may allow a particular ship or a group of ships entitled to fly its flag to implement other security measures equivalent to those prescribed in this chapter or in part A of the ISPS Code, provided such security measures are at least as effective as those prescribed in this chapter or part A of the ISPS Code. The Administration, which allows such security measures, shall communicate to the Organization particulars thereof.
- 2 When implementing this chapter and part A of the ISPS Code, a Contracting Government may allow a particular port facility or a group of port facilities located within its territory, other than those covered by an agreement concluded under regulation 11, to implement security measures equivalent to those prescribed in this chapter or in Part A of the ISPS Code, provided such security measures are at least as effective as those prescribed in this chapter or part A of the ISPS Code. The Contracting Government, which allows such security measures, shall communicate to the Organization particulars thereof.

Regulation 13

Communication of information

- 1 Contracting Governments shall, not later than 1 July 2004, communicate to the Organization and shall make available for the information of Companies and ships:
 - .1 the names and contact details of their national authority or authorities responsible for ship and port facility security;
 - .2 the locations within their territory covered by the approved port facility security plans.
 - .3 the names and contact details of those who have been designated to be available at all times to receive and act upon the ship-to-shore security alerts, referred to in regulation 6.2.1;
 - .4 the names and contact details of those who have been designated to be available at all times to receive and act upon any communications from Contracting Governments exercising control and compliance measures, referred to in regulation 9.3.1; and
 - .5 the names and contact details of those who have been designated to be available at all times to provide advice or assistance to ships and to whom ships can report any security concerns, referred to in regulation 7.2;
 and thereafter update such information as and when changes relating thereto occur. The Organization shall circulate such particulars to other Contracting Governments for the information of their officers.
- 2 Contracting Governments shall, not later than 1 July 2004, communicate to the Organization the names and contact details of any recognized security organizations authorized to act on their behalf together with details of the specific responsibility and conditions of authority delegated to such organizations. Such information shall be updated as and when changes relating thereto occur. The Organization shall circulate such particulars to other Contracting Governments for the information of their officers.
- 3 Contracting Governments shall, not later than 1 July 2004 communicate to the Organization a list showing the approved port facility security plans for the port facilities located within their territory together with the location or locations covered by each approved port facility security plan and the corresponding date of approval and thereafter shall further communicate when any of the following changes take place:
 - .1 changes in the location or locations covered by an approved port facility security plan are to be introduced or have been introduced. In such cases the information to

be communicated shall indicate the changes in the location or locations covered by the plan and the date as of which such changes are to be introduced or were implemented;

- .2 an approved port facility security plan, previously included in the list submitted to the Organization, is to be withdrawn or has been withdrawn.

In such cases, the information to be communicated shall indicate the date on which the withdrawal will take effect or was implemented. In these cases, the communication shall be made to the Organization as soon as is practically possible; and ,

- .3 additions are to be made to the list of approved port facility security plans.

In such cases, the information to be communicated shall indicate the location or locations covered by the plan and the date of approval.

- 4 Contracting Governments shall, at five year intervals after 1 July 2004, communicate to the Organization a revised and updated list showing all the approved port facility security plans for the port facilities located within their territory together with the location or locations covered by each approved port facility security plan and the corresponding date of approval (and the date of approval of any amendments thereto) which will supersede and replace all information communicated to the Organization, pursuant to paragraph 3, during the preceding five years.
- 5 Contracting Governments shall communicate to the Organization information that an agreement under regulation 11 has been concluded. The information communicated shall include:
 - .1 the names of the Contracting Governments which have concluded the agreement;
 - .2 the port facilities and the fixed routes covered by the agreement;
 - .3 the periodicity of review of the agreement;
 - .4 the date of entry into force of the agreement; and
 - .5 information on any consultations which have taken place with other Contracting Governments;
 and thereafter shall communicate, as soon as practically possible, to the Organization information when the agreement has been amended or has ended.
- 6 Any Contracting Government which allows, under the provisions of regulation 12, any equivalent security arrangements with respect to a ship entitled to fly its flag or with respect to a port facility located within its territory, shall communicate to the Organization particulars thereof.
- 7 The Organization shall make available the information communicated under paragraph 3 to other Contracting Governments upon request.

4.2.2. Annex 1 Conference Resolution 2 (adopted on 12 December 2002)

ADOPTION OF THE INTERNATIONAL CODE FOR THE SECURITY OF SHIPS AND OF PORT FACILITIES

THE CONFERENCE,

HAVING ADOPTED amendments to the International Convention for the Safety of Life at Sea, 1974, as amended (hereinafter referred to as 'the Convention.'), concerning special measures to enhance maritime safety and security,

CONSIDERING that the new chapter XI-2 of the Convention makes a reference to an International Ship and Port Facility Security (ISPS) Code and requires that ships, companies and port facilities to comply with the relevant requirements of part A of the International Ship and Port Facility Security (ISPS) Code, as specified in part A of the ISPS Code,

BEING OF THE OPINION that the implementation by Contracting Governments of the said chapter will greatly contribute to the enhancement of maritime safety and security and safeguarding those on board and ashore,

HAVING CONSIDERED a draft of the International Code for the Security of Ships and of Port Facilities prepared by the Maritime Safety Committee of the International Maritime Organization (hereinafter referred to as the Organization.), at its seventy-fifth and seventy-sixth session, for consideration and adoption by the Conference,

1. ADOPTS the International Code for the Security of Ships and of Port Facilities (hereinafter referred to as the Code.), the text of which is set out in the Annex to the present resolution;
2. INVITES Contracting Governments to the Convention to note that the Code will take effect on 1 July 2004 upon entry into force of the new chapter XI-2 of the Convention;
3. REQUESTS the Maritime Safety Committee to keep the Code under review and amend it, as appropriate;
4. REQUESTS the Secretary-General of the Organization to transmit certified copies of the present resolution and the text of the Code contained in the Annex to all Contracting Governments to the Convention;
5. FURTHER REQUESTS the Secretary-General to transmit copies of this resolution and its Annex to all Members of the Organization, which are not Contracting Governments to the Convention.

4.2.2.1. Annex

INTERNATIONAL CODE FOR THE SECURITY OF SHIPS AND OF PORT FACILITIES

PREAMBLE

- 1 The Diplomatic Conference on Maritime Security held in London in December 2002 adopted new provisions in the International Convention for the Safety of Life at Sea, 1974 and this Code* to enhance maritime security. These new requirements form the international framework through which ships and port facilities can co-operate to detect and deter acts which threaten security in the maritime transport sector.
- 2 Following the tragic events of 11th September 2001, the twenty-second session of the Assembly of the International Maritime Organization (the Organization), in November 2001, unanimously agreed to the development of new measures relating to the security of ships and of port facilities for adoption by a Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 (known as the Diplomatic Conference on Maritime Security) in December 2002. Preparation for the Diplomatic Conference was entrusted to the Organization's Maritime Safety Committee (MSC) on the basis of submissions made by Member States, intergovernmental organizations and non governmental organizations in consultative status with the Organization.
- 3 The MSC, at its first extraordinary session, held also in November 2001, in order to accelerate the development and the adoption of the appropriate security measures established an MSC Intersessional Working Group on Maritime Security. The first meeting of the MSC Intersessional Working Group on Maritime Security was held in February 2002 and the outcome of its discussions was reported to, and considered by, the sev-

* The complete name of this Code is the International Code for the Security of Ships and of Port Facilities. The abbreviated name of this Code, as referred to in regulation XI 2/1 of SOLAS 74 as amended, is the International Ship and Port Facility Security (ISPS) Code or, in short, the ISPS Code.

enty-fifth session of the MSC in March 2002, when an ad hoc Working Group was established to further develop the proposals made. The seventy-fifth session of the MSC considered the report of that Working Group and recommended that work should be taken forward through a further MSC Intersessional Working Group, which was held in September 2002. The seventy-sixth session of the MSC considered the outcome of the September 2002 session of the MSC Intersessional Working Group and the further work undertaken by the MSC Working Group held in conjunction with the Committee's seventy-sixth session in December 2002, immediately prior to the Diplomatic Conference and agreed the final version of the proposed texts to be considered by the Diplomatic Conference.

- 4 The Diplomatic Conference (9 to 13 December 2002) also adopted amendments to the existing provisions of the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74) accelerating the implementation of the requirement to fit Automatic Identification Systems and adopted new Regulations in Chapter XI-1 of SOLAS 74 covering marking of the Ship's Identification Number and the carriage of a Continuous Synopsis Record. The Diplomatic Conference also adopted a number of Conference Resolutions including those covering implementation and revision of this Code, Technical Co-operation, and co-operative work with the International Labour Organization and World Customs Organization. It was recognized that review and amendment of certain of the new provisions regarding maritime security may be required on completion of the work of these two Organizations.
- 5 The provision of Chapter XI-2 of SOLAS 74 and this Code apply to ships and to port facilities. The extension of SOLAS 74 to cover port facilities was agreed on the basis that SOLAS 74 offered the speediest means of ensuring the necessary security measures entered into force and given effect quickly. However, it was further agreed that the provisions relating to port facilities should relate solely to the ship/port interface. The wider issue of the security of port areas will be the subject of further joint work between the International Maritime Organization and the International Labour Organization. It was also agreed that the provisions should not extend to the actual response to attacks or to any necessary clear up activities after such an attack.
- 6 In drafting the provision care has been taken to ensure compatibility with the provisions of the International Convention on Standards of Training, Certification and watchkeeping and Certification for Seafarers, 1978, as amended, the International Safety Management (ISM) Code and the harmonised system of survey and certification.
- 7 The provisions represent a significant change in the approach of the international maritime industries to the issue of security in the maritime transport sector. It is recognized that they may place a significant additional burden on certain Contracting Governments. The importance of Technical Co-operation to assist Contracting Governments implement the provisions is fully recognized.
- 8 Implementation of the provisions will require continuing effective co-operation and understanding between all those involved with, or using, ships and port facilities including ship's personnel, port personnel, passengers, cargo interests, ship and port management and those in National and Local Authorities with security responsibilities. Existing practices and procedures will have to be reviewed and changed if they do not provide an adequate level of security. In the interests of enhanced maritime security additional responsibilities will have to be carried by the shipping and port industries and by National and Local Authorities.
- 9 The guidance given in part B of this Code should be taken into account when implementing the security provisions set out in Chapter XI-2 of SOLAS 74 and in part A of this Code. However, it is recognized that the extent to which the guidance applies may vary depending on the nature of the port facility and of the ship, its trade and/or cargo.

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- 10 Nothing in this Code shall be interpreted or applied in a manner inconsistent with the proper respect of fundamental rights and freedoms as set out in international instruments, particularly those relating to maritime workers and refugees including the International Labour Organization Declaration of Fundamental Principles and Rights at Work as well as international standards concerning maritime and port workers.
 - 11 Recognizing that the Convention on the Facilitation of Maritime Traffic, 1965, as amended, provides that foreign crew members shall be allowed ashore by the public authorities while the ship on which they arrive is in port, provided that the formalities on arrival of the ship have been fulfilled and the public authorities have no reason to refuse permission to come ashore for reasons of public health, public safety or public order, Contracting Governments when approving ship and port facility security plans should pay due cognisance to the fact that ship's personnel live and work on the vessel and need shore leave and access to shore based seafarer welfare facilities, including medical care.

PART A
MANDATORY REQUIREMENTS REGARDING THE PROVISIONS
OF CHAPTER XI-2 OF THE INTERNATIONAL CONVENTION FOR THE
SAFETY OF LIFE AT SEA, 1974, AS AMENDED

1 GENERAL

1.1 Introduction

This part of the International Code for the Security of Ships and Port Facilities contains mandatory provisions to which reference is made in chapter XI-2 of the International Convention for the Safety of Life at Sea, 1974 as amended.

1.2 Objectives

The objectives of this Code are:

- .1 to establish an international framework involving co-operation between Contracting Governments, Government agencies, local administrations and the shipping and port industries to detect security threats and take preventive measures against security incidents affecting ships or port facilities used in international trade;
- .2 to establish the respective roles and responsibilities of the Contracting Governments, Government agencies, local administrations and the shipping and port industries, at the national and international level for ensuring maritime security;
- .3 to ensure the early and efficient collection and exchange of security-related information;
- .4 to provide a methodology for security assessments so as to have in place plans and procedures to react to changing security levels; and
- .5 to ensure confidence that adequate and proportionate maritime security measures are in place.

1.3 Functional requirements

In order to achieve its objectives, this Code embodies a number of functional requirements.

These include, but are not limited to:

- .1 gathering and assessing information with respect to security threats and exchanging such information with appropriate Contracting Governments;
- .2 requiring the maintenance of communication protocols for ships and port facilities;
- .3 preventing unauthorized access to ships, port facilities and their restricted areas;
- .4 preventing the introduction of unauthorized weapons, incendiary devices or explosives to ships or port facilities;
- .5 providing means for raising the alarm in reaction to security threats or security incidents;
- .6 requiring ship and port facility security plans based upon security assessments; and
- .7 requiring training, drills and exercises to ensure familiarity with security plans and procedures.

2 DEFINITIONS

- 2.1 For the purpose of this part, unless expressly provided otherwise:
 - .1 *Convention* means the International Convention for the Safety of Life at Sea, 1974 as amended.
 - .2 *Regulation* means a regulation of the Convention.
 - .3 *Chapter* means a chapter of the Convention.
 - .4 *Ship security plan* means a plan developed to ensure the application of measures on board the ship designed to protect persons on board, cargo, cargo transport units, ship's stores or the ship from the risks of a security incident.

- .5 *Port facility security plan* means a plan developed to ensure the application of measures designed to protect the port facility and ships, persons, cargo, cargo transport units and ship's stores within the port facility from the risks of a security incident.
- .6 *Ship security officer* means the person on board the ship, accountable to the master, designated by the Company as responsible for the security of the ship, including implementation and maintenance of the ship security plan and for liaison with the company security officer and port facility security officers.
- .7 *Company security officer* means the person designated by the Company for ensuring that a ship security assessment is carried out; that a ship security plan is developed, submitted for approval, and thereafter implemented and maintained and for liaison with port facility security officers and the ship security officer.
- .8 *Port facility security officer* means the person designated as responsible for the development, implementation, revision and maintenance of the port facility security plan and for liaison with the ship security officers and company security officers.
- .9 *Security level 1* means the level for which minimum appropriate protective security measures shall be maintained at all times.
- .10 *Security level 2* means the level for which appropriate additional protective security measures shall be maintained for a period of time as a result of heightened risk of a security incident.
- .11 *Security level 3* means the level for which further specific protective security measures shall be maintained for a limited period of time when a security incident is probable or imminent, although it may not be possible to identify the specific target.
- 2.2 The term *ship*, when used in this Code, includes mobile offshore drilling units and high-speed craft as defined in regulation XI 2/1.
- 2.3 The term *Contracting Government* in connection with any reference to a port facility, when used in sections 14 to 18, includes a reference to the *Designated Authority*.
- 2.4 Terms not otherwise defined in this part shall have the same meaning as the meaning attributed to them in chapters 1 and XI 2.

3 APPLICATION

- 3.1 This Code applies to:
 - .1 the following types of ships engaged on international voyages:
 - .1 passenger ships, including high-speed passenger craft;
 - .2 cargo ships, including high-speed craft, of 500 gross tonnage and upwards; and
 - .3 mobile offshore drilling units; and
 - .2 port facilities serving such ships engaged on international voyages.
- 3.2 Notwithstanding the provisions of section 3.1.2, Contracting Governments shall decide the extent of application of this Part of the Code to those port facilities within their territory which, although used primarily by ships not engaged on international voyages, are required, occasionally, to serve ships arriving or departing on an international voyage.
 - 3.2.1 Contracting Governments shall base their decisions, under section 3.2, on a port facility security assessment carried out in accordance with this Part of the Code.
 - 3.2.2 Any decision which a Contracting Government makes, under section 3.2, shall not compromise the level of security intended to be achieved by chapter XI-2 or by this Part of the Code.
- 3.3 This Code does not apply to warships, naval auxiliaries or other ships owned or operated by a Contracting Government and used only on Government non-commercial service.

- 3.4 Sections 5 to 13 and 19 of this part apply to Companies and ships as specified in regulation XI-2/4.
- 3.5 Sections 5 and 14 to 18 of this part apply to port facilities as specified in regulation XI-2/10.
- 3.6 Nothing in this Code shall prejudice the rights or obligations of States under international law.

4 RESPONSIBILITIES OF CONTRACTING GOVERNMENTS

- 4.1 Subject to the provisions of regulation XI-2/3 and XI-2/7, Contracting Governments shall set security levels and provide guidance for protection from security incidents. Higher security levels indicate greater likelihood of occurrence of a security incident. Factors to be considered in setting the appropriate security level include:
 - .1 the degree that the threat information is credible;
 - .2 the degree that the threat information is corroborated;
 - .3 the degree that the threat information is specific or imminent; and
 - .4 the potential consequences of such a security incident.
- 4.2 Contracting Governments, when they set security level 3, shall issue, as necessary, appropriate instructions and shall provide security related information to the ships and port facilities that may be affected.
- 4.3 Contracting Governments may delegate to a recognized security organization certain of their security related duties under chapter XI 2 and this Part of the Code with the exception of:
 - .1 setting of the applicable security level;
 - .2 approving a Port Facility Security Assessment and subsequent amendments to an approved assessment;
 - .3 determining the port facilities which will be required to designate a Port Facility Security Officer;
 - .4 approving a Port Facility Security Plan and subsequent amendments to an approved plan;
 - .5 exercising control and compliance measures pursuant to regulation XI-2/9; and
 - .6 establishing the requirements for a Declaration of Security.
- 4.4 Contracting Governments shall, to the extent they consider appropriate, test the effectiveness of the Ship or the Port Facility Security Plans, or of amendments to such plans, they have approved, or, in the case of ships, of plans which have been approved on their behalf.

5 DECLARATION OF SECURITY

- 5.1 Contracting Governments shall determine when a Declaration of Security is required by assessing the risk the ship/port interface or ship to ship activity poses to persons, property or the environment.
- 5.2 A ship can request completion of a Declaration of Security when:
 - .1 the ship is operating at a higher security level than the port facility or another ship it is interfacing with;
 - .2 there is an agreement on a Declaration of Security between Contracting Governments covering certain international voyages or specific ships on those voyages;
 - .3 there has been a security threat or a security incident involving the ship or involving the port facility, as applicable;
 - .4 the ship is at a port which is not required to have and implement an approved port facility security plan; or
 - .5 the ship is conducting ship to ship activities with another ship not required to have and implement an approved ship security plan.

- 5.3 Requests for the completion of a Declaration of Security, under this section, shall be acknowledged by the applicable port facility or ship.
- 5.4 The Declaration of Security shall be completed by:
- .1 the master or the ship security officer on behalf of the ship(s); and, if appropriate,
 - .2 the port facility security officer or, if the Contracting Government determines otherwise, by any other body responsible for shore-side security, on behalf of the port facility.
- 5.5 The Declaration of Security shall address the security requirements that could be shared between a port facility and a ship (or between ships) and shall state the responsibility for each.
- 5.6 Contracting Governments shall specify, bearing in mind the provisions of regulation XI-2/9.2.3, the minimum period for which Declarations of Security shall be kept by the port facilities located within their territory.
- 5.7 Administrations shall specify, bearing in mind the provisions of regulation XI-2/9.2.3, the minimum period for which Declarations of Security shall be kept by ships entitled to fly their flag.

6 OBLIGATIONS OF THE COMPANY

- 6.1 The Company shall ensure that the ship security plan contains a clear statement emphasizing the master's authority. The Company shall establish in the ship security plan that the master has the overriding authority and responsibility to make decisions with respect to the safety and security of the ship and to request the assistance of the Company or of any Contracting Government as may be necessary.
- 6.2 The Company shall ensure that the company security officer, the master and the ship security officer are given the necessary support to fulfil their duties and responsibilities in accordance with chapter XI-2 and this Part of the Code.

7 SHIP SECURITY

- 7.1 A ship is required to act upon the security levels set by Contracting Governments as set out below.
- 7.2 At security level 1, the following activities shall be carried out, through appropriate measures, on all ships, taking into account the guidance given in part B of this Code, in order to identify and take preventive measures against security incidents:
- .1 ensuring the performance of all ship security duties;
 - .2 controlling access to the ship;
 - .3 controlling the embarkation of persons and their effects;
 - .4 monitoring restricted areas to ensure that only authorized persons have access;
 - .5 monitoring of deck areas and areas surrounding the ship;
 - .6 supervising the handling of cargo and ship's stores; and
 - .7 ensuring that security communication is readily available.
- 7.3 At security level 2, the additional protective measures, specified in the ship security plan, shall be implemented for each activity detailed in section 7.2, taking into account the guidance given in part B of this Code.
- 7.4 At security level 3, further specific protective measures, specified in the ship security-plan, shall be implemented for each activity detailed in section 7.2, taking into account the guidance given in part B of this Code.
- 7.5 Whenever security level 2 or 3 is set by the Administration, the ship shall acknowledge receipt of the instructions on change of the security level.
- 7.6 Prior to entering a port or whilst in a port within the territory of a Contracting Government that has set security level 2 or 3, the ship shall acknowledge receipt of this instruction and shall confirm to the port facility security officer the initiation of the implementation of the appropriate measures and procedures as detailed in the ship secu-

urity plan, and in the case of security level 3, in instructions issued by the Contracting Government which has set security level 3. The ship shall report any difficulties in implementation. In such cases, the port facility security officer and ship security officer shall liaise and co-ordinate the appropriate actions.

- 7.7 If a ship is required by the Administration to set, or is already at, a higher security level than that set for the port it intends to enter or in which it is already located, then the ship shall advise, without delay, the competent authority of the Contracting Government within whose territory the port facility is located and the port facility security officer of the situation.
 - 7.7.1 In such cases, the ship security officer shall liaise with the port facility security officer and co-ordinate appropriate actions, if necessary.
- 7.8 An Administration requiring ships entitled to fly its flag to set security level 2 or 3 in a port of another Contracting Government shall inform that Contracting Government without delay.
- 7.9 When Contracting Governments set security levels and ensure the provision of security level information to ships operating in their territorial sea, or having communicated an intention to enter their territorial sea, such ships shall be advised to maintain vigilance and report immediately to their Administration and any nearby coastal States any information that comes to their attention that might affect maritime security in the area.
 - 7.9.1 When advising such ships of the applicable security level, a Contracting Government shall, taking into account the guidance given in the part B of this Code, also advise those ships of any security measure that they should take and, if appropriate, of measures that have been taken by the Contracting Government to provide protection against the threat.

8 SHIP SECURITY ASSESSMENT

- 8.1 The ship security assessment is an essential and integral part of the process of developing and updating the ship security plan.
- 8.2 The company security officer shall ensure that the ship security assessment is carried out by persons with appropriate skills to evaluate the security of a ship, in accordance with this section, taking into account the guidance given in part B of this Code.
- 8.3 Subject to the provisions of section 9.2.1, a recognized security organization may carry out the ship security assessment of a specific ship.
- 8.4 The ship security assessment shall include an on-scene security survey and, at least, the following elements:
 - .1 identification of existing security measures, procedures and operations;
 - .2 identification and evaluation of key ship board operations that it is important to protect;
 - .3 identification of possible threats to the key ship board operations and the likelihood of their occurrence, in order to establish and prioritise security measures; and
 - .4 identification of weaknesses, including human factors in the infrastructure, policies and procedures.
- 8.5 The ship security assessment shall be documented, reviewed, accepted and retained by the Company.

9 SHIP SECURITY PLAN

- 9.1 Each ship shall carry on board a ship security plan approved by the Administration. The plan shall make provisions for the three security levels as defined in this Part of the Code.

- 9.1.1 Subject to the provisions of section 9.2.1, a recognized security organization may prepare the ship security plan for a specific ship.
- 9.2 The Administration may entrust the review and approval of ship security plans, or of amendments to a previously approved plan, to recognized security organizations.
- 9.2.1 In such cases the recognized security organization, undertaking the review and approval of a ship security plan, or its amendments, for a specific ship shall not have been involved in either the preparation of the ship security assessment or of the ship security plan, or of the amendments, under review.
- 9.3 The submission of a ship security plan, or of amendments to a previously approved plan, for approval shall be accompanied by the security assessment on the basis of which the plan, or the amendments, have been developed.
- 9.4 Such a plan shall be developed, taking into account the guidance given in part B of this Code and shall be written in the working language or languages of the ship. If the language or languages used is not English, French or Spanish, a translation into one of these languages shall be included. The plan shall address, at least, the following:
- .1 measures designed to prevent weapons, dangerous substances and devices intended for use against persons, ships or ports and the carriage of which is not authorized from being taken on board the ship;
 - .2 identification of the restricted areas and measures for the prevention of unauthorized access to them;
 - .3 measures for the prevention of unauthorized access to the ship;
 - .4 procedures for responding to security threats or breaches of security, including provisions for maintaining critical operations of the ship or ship/port interface;
 - .5 procedures for responding to any security instructions Contracting may give at security level 3;
 - .6 procedures for evacuation in case of security threats or breaches of security;
 - .7 duties of shipboard personnel assigned security responsibilities and of other shipboard personnel on security aspects;
 - .8 procedures for auditing the security activities;
 - .9 procedures for training, drills and exercises associated with the plan;
 - .10 procedures for interfacing with port facility security activities;
 - .11 procedures for the periodic review of the plan and for updating;
 - .12 procedures for reporting security incidents;
 - .13 identification of the ship security officer;
 - .14 identification of the company security officer including 24-hour contact details;
 - .15 procedures to ensure the inspection, testing, calibration, and maintenance of any security equipment provided on board;
 - .16 frequency for testing or calibration of any security equipment provided on board;
 - .17 identification of the locations where the ship security alert system activation points are provided*; and
 - .18 procedures, instructions and guidance on the use of the ship security alert system, including the testing, activation, deactivation and resetting and to limit false alerts.*
- 9.4.1 Personnel conducting internal audits of the security activities specified in the plan or evaluating its implementation shall be independent of the activities being audited unless this is impracticable due to the size and the nature of the Company or of the ship.

* Administrations may allow, in order to avoid compromising in any way the objective of providing on board the ship security alert system, this information to be kept elsewhere on board in a document known to the master, the ship security officer and other senior shipboard personnel as may be decided by the Company.

- 9.5 The Administration shall determine which changes to an approved ship security plan or to any security equipment specified in an approved plan shall not be implemented unless the relevant amendments to the plan are approved by the Administration. Any such changes shall be at least as effective as those measures prescribed in chapter XI-2 and this Part of the Code.
- 9.5.1 The nature of the changes to the ship security plan or the security equipment that have been specifically approved by the Administration, pursuant to section 9.5, shall be documented in a manner that clearly indicates such approval. This approval shall be available on board and shall be presented together with the International Ship Security Certificate (or the Interim International Ship Security Certificate). If these changes are temporary, once the original approved measures or equipment are reinstated, this documentation no longer needs to be retained by the ship.
- 9.6 The plan may be kept in an electronic format. In such a case, it shall be protected by procedures aimed at preventing its unauthorized deletion, destruction or amendment.
- 9.7 The plan shall be protected from unauthorized access or disclosure.
- 9.8 Ship security plans are not subject to inspection by officers duly authorized by a Contracting Government to carry out control and compliance measures in accordance with regulation XI-2/9, save in circumstances specified in section 9.8.1.
- 9.8.1 If the officers duly authorized by a Contracting Government have clear grounds to believe that the ship is not in compliance with the requirements of chapter XI-2 or part A of this Code, and the only means to verify or rectify the non-compliance is to review the relevant requirements of the ship security plan, limited access to the specific sections of the plan relating to the non-compliance is exceptionally allowed, but only with the consent of the Contracting Government of, or the master of, the ship concerned. Nevertheless, the provisions in the plan relating to section 9.4 subsections .2, .4, .5, .7, .15, .17 and .18 of this Part of the Code are considered as confidential information, and cannot be subject to inspection unless otherwise agreed by the Contracting Governments concerned.

10 RECORDS

- 10.1 Records of the following activities addressed in the ship security plan shall be kept on board for at least the minimum period specified by the Administration, bearing in mind the provisions of regulation XI-2/9.2.3:
- .1 training, drills and exercises;
 - .2 security threats and security incidents;
 - .3 breaches of security;
 - .4 changes in security level;
 - .5 communications relating to the direct security of the ship such as specific threats to the ship or to port facilities the ship is, or has been;
 - .6 internal audits and reviews of security activities;
 - .7 periodic review of the ship security assessment;
 - .8 periodic review of the ship security plan;
 - .9 implementation of any amendments to the plan and
 - .10 maintenance, calibration and testing of any security equipment provided on board including testing of the ship security alert system.
- 10.2 The records shall be kept in the working language or languages of the ship. If the language or languages used are not English, French or Spanish, a translation into one of these languages shall be included.

10.3 The records may be kept in an electronic format. In such a case, they shall be protected by procedures aimed at preventing their unauthorized deletion, destruction or amendment.

10.4 The records shall be protected from unauthorized access or disclosure.

11 COMPANY SECURITY OFFICER

11.1 The Company shall designate a company security officer. A person designated as the company security officer may act as the company security officer for one or more ships, depending on the number or types of ships the Company operates provided it is clearly identified for which ships this person is responsible. A Company may, depending on the number or types of ships they operate designate several persons as company security officers provided it is clearly identified for which ships each person is responsible.

11.2 In addition to those specified elsewhere in this Part of the Code, the duties and responsibilities of the company security officer shall include, but are not limited to:

- .1 advising the level of threats likely to be encountered by the ship, using appropriate security assessments and other relevant information;
- .2 ensuring that ship security assessments are carried out;
- .3 ensuring the development, the submission for approval, and thereafter the implementation and maintenance of the ship security plan;
- .4 ensuring that the ship security plan is modified, as appropriate, to correct deficiencies and satisfy the security requirements of the individual ship;
- .5 arranging for internal audits and reviews of security activities;
- .6 arranging for the initial and subsequent verifications of the ship by the Administration or the recognized security organization;
- .7 ensuring that deficiencies and non-conformities identified during internal audits, periodic reviews, security inspections and verifications of compliance are promptly addressed and dealt with;
- .8 enhancing security awareness and vigilance;
- .9 ensuring adequate training for personnel responsible for the security of the ship;
- .10 ensuring effective communication and co-operation between the ship security officer and the relevant port facility security officers;
- .11 ensuring consistency between security requirements and safety requirements;
- .12 ensuring that, if sister-ship or fleet security plans are used, the plan for each ship reflects the ship-specific information accurately; and
- .13 ensuring that any alternative or equivalent arrangements approved for a particular ship or group of ships are implemented and maintained.

12 SHIP SECURITY OFFICER

12.1 A ship security officer shall be designated on each ship.

12.2 In addition to those specified elsewhere in this Part of the Code, the duties and responsibilities of the ship security officer shall include, but are not limited to:

- .1 undertaking regular security inspections of the ship to ensure that appropriate security-measures are maintained;
- .2 maintaining and supervising the implementation of the ship security plan, including any amendments to the plan;
- .3 co-ordinating the security aspects of the handling of cargo and ship's stores with other shipboard personnel and with the relevant port facility security officers;
- .4 proposing modifications to the ship security plan;
- .5 reporting to the company security officer any deficiencies and non-conformities identified during internal audits, periodic reviews, security inspections and verifications of compliance and implementing any corrective actions;

- .6 enhancing security awareness and vigilance on board;
- .7 ensuring that adequate training has been provided to shipboard personnel, as appropriate;
- .8 reporting all security incidents;
- .9 co-ordinating implementation of the ship security plan with the company security officer and the relevant port facility security officer; and
- .10 ensuring that security equipment is properly operated, tested, calibrated and maintained, if any.

13 TRAINING, DRILLS AND EXERCISES ON SHIP SECURITY

- 13.1 The company security officer and appropriate shore-based personnel shall have Knowledge and have received training, taking into account the guidance given in part B of this Code.
- 13.2 The ship security officer shall have knowledge and have received training, taking into account the guidance given in part B of this Code.
- 13.3 Shipboard personnel having specific security duties and responsibilities shall understand their responsibilities for ship security as described in the ship security plan and shall have sufficient knowledge and ability to perform their assigned duties, taking into account the guidance given in part B of this Code.
- 13.4 To ensure the effective implementation of the ship security plan, drills shall be carried out at appropriate intervals taking into account the ship type, ship personnel changes, port facilities to be visited and other relevant circumstances, taking into account the guidance given in part B of this Code.
- 13.5 The company security officer shall ensure the effective coordination and implementation of ship security plans by participating in exercises at appropriate intervals, taking into account the guidance given in part B of this Code.

14 PORT FACILITY SECURITY

- 14.1 A port facility is required to act upon the security levels set by the Contracting Government within whose territory it is located. Security measures and procedures shall be applied at the port facility in such a manner as to cause a minimum of interference with, or delay to, passengers, ship, ship's personnel and visitors, goods and services.
- 14.2 At security level 1, the following activities shall be carried out through appropriate measures in all port facilities, taking into account the guidance given in part B of this Code, in order to identify and take preventive measures against security incidents:
 - .1 ensuring the performance of all port facility security duties;
 - .2 controlling access to the port facility;
 - .3 monitoring of the port facility, including anchoring and berthing area(s);
 - .4 monitoring restricted areas to ensure that only authorized persons have access;
 - .5 supervising the handling of cargo;
 - .6 supervising the handling of ship's stores; and
 - .7 ensuring that security communication is readily available.
- 14.3 At security level 2, the additional protective measures, specified in the port facility security plan, shall be implemented for each activity detailed in section 14.2, taking into account the guidance given in part B of this Code.
- 14.4 At security level 3, further specific protective measures, specified in the port facility security plan, shall be implemented for each activity detailed in section 14.2, taking into account the guidance given in part B of this Code.
 - 14.4.1 In addition, at security level 3, port facilities are required to respond to and implement any security instructions given by the Contracting Government within whose territory the port facility is located.

- 14.5 When a port facility security officer is advised that a ship encounters difficulties in complying with the requirements of chapter XI-2 or this part or in implementing the appropriate measures and procedures as detailed in the ship security plan, and in the case of security level 3 following any security instructions given by the Contracting Government within whose territory the port facility is located, the port facility security officer and ship security officer shall liaise and co-ordinate appropriate actions.
- 14.6 When a port facility security officer is advised that a ship is at a security level, which is higher than that of the port facility, the port facility security officer shall report the matter to the competent authority and shall liaise with the ship security officer and co-ordinate appropriate actions, if necessary.

15 PORT FACILITY SECURITY ASSESSMENT

- 15.1 The port facility security assessment is an essential and integral part of the process of developing and updating the port facility security plan.
- 15.2 The port facility security assessment shall be carried out by the Contracting Government within whose territory the port facility is located. A Contracting Government may authorise a recognized security organization to carry out the port facility security assessment of a specific port facility located within its territory.
- 15.2.1 When the port facility security assessment has been carried out by a recognized security organization, the security assessment shall be reviewed and approved for compliance with this section by the Contracting Government within whose territory the port facility is located.
- 15.3 The persons carrying out the assessment shall have appropriate skills to evaluate the security of the port facility in accordance with this section, taking into account the guidance given in part B of this Code.
- 15.4 The port facility security assessments shall periodically be reviewed and updated, taking account of changing threats and/or minor changes in the port facility and shall always be reviewed and updated when major changes to the port facility take place.
- 15.5 The port facility security assessment shall include, at least, the following elements:
- .1 identification and evaluation of important assets and infrastructure it is important to protect;
 - .2 identification of possible threats to the assets and infrastructure and the likelihood of their occurrence, in order to establish and prioritize security measures;
 - .3 identification, selection and prioritization of counter measures and procedural changes and their level of effectiveness in reducing vulnerability; and
 - .4 identification of weaknesses, including human factors in the infrastructure, policies and procedures.
- 15.6 The Contracting Government may allow a port facility security assessment to cover more than one port facility if the operator, location, operation, equipment, and design of these port facilities are similar. Any Contracting Government, which allows such an arrangement, shall communicate to the Organization particulars thereof.
- 15.7 Upon completion of the port facility security assessment, a report shall be prepared, consisting of a summary of how the assessment was conducted, a description of each vulnerability found during the assessment and a description of counter measures that could be used to address each vulnerability. The report shall be protected from unauthorized access or disclosure.

16 PORT FACILITY SECURITY PLAN

- 16.1 A port facility security plan shall be developed and maintained, on the basis of a port facility security assessment, for each port facility, adequate for the ship/port interface. The plan shall make provisions for the three security levels, as defined in this Part of the Code.

- 16.1.1 Subject to the provisions of section 16.2, a recognized security organization may prepare the port facility security plan of a specific port facility.
- 16.2 The port facility security plan shall be approved by the Contracting Government in whose territory the port facility is located.
- 16.3 Such a plan shall be developed taking into account the guidance given in part B of this Code and shall be in the working language of the port facility. The plan shall address, at least, the following:
- .1 measures designed to prevent weapons or any other dangerous substances and devices intended for use against persons, ships or ports and the carriage of which is not authorized, from being introduced into the port facility or on board a ship;
 - .2 measures designed to prevent unauthorized access to the port facility, to ships moored at the facility, and to restricted areas of the facility;
 - .3 procedures for responding to security threats or breaches of security, including provisions for maintaining critical operations of the port facility or ship/port interface;
 - .4 procedures for responding to any security instructions the Contracting Government, in whose territory the port facility is located, may give at security level 3;
 - .5 procedures for evacuation in case of security threats or breaches of security;
 - .6 duties of port facility personnel assigned security responsibilities and of other facility personnel on security aspects;
 - .7 procedures for interfacing with ship security activities;
 - .8 procedures for the periodic review of the plan and updating;
 - .9 procedures for reporting security incidents;
 - .10 identification of the port facility security officer including 24-hour contact details;
 - .11 measures to ensure the security of the information contained in the plan;
 - .12 measures designed to ensure effective security of cargo and the cargo handling equipment at the port facility;
 - .13 procedures for auditing the port facility security plan;
 - .14 procedures for responding in case the ship security alert system of a ship at the port facility has been activated; and
 - .15 procedures for facilitating shore leave for ship's personnel or personnel changes, as well as access of visitors to the ship including representatives of seafarers' welfare and labour organizations.
- 16.3.1 Personnel conducting internal audits of the security activities specified in the plan or evaluating its implementation shall be independent of the activities being audited unless this is impracticable due to the size and the nature of the port facility.
- 16.4 The port facility security plan may be combined with, or be part of, the port security plan or any other port emergency plan or plans.
- 16.5 The Contracting Government in whose territory the port facility is located shall determine which changes to the port facility security plan shall not be implemented unless the relevant amendments to the plan are approved by them.
- 16.6 The plan may be kept in an electronic format. In such a case, it shall be protected by procedures aimed at preventing its unauthorized deletion, destruction or amendment.
- 16.7 The plan shall be protected from unauthorized access or disclosure.
- 16.8 Contracting Governments may allow a port facility security plan to cover more than one port facility if the operator, location, operation, equipment, and design of these port facilities are similar. Any Contracting Government, which allows such an alternative arrangement, shall communicate to the Organization particulars thereof.

17 PORT FACILITY SECURITY OFFICER

- 17.1 A port facility security officer shall be designated for each port facility. A person may be designated as the port facility security officer for one or more port facilities.

- 17.2 In addition to those specified elsewhere in this Part of the Code, the duties and responsibilities of the port facility security officer shall include, but are not limited to:
- .1 conducting an initial comprehensive security survey of the port facility taking into account the relevant port facility security assessment;
 - .2 ensuring the development and maintenance of the port facility security plan;
 - .3 implementing and exercising the port facility security plan;
 - .4 undertaking regular security inspections of the port facility to ensure the continuation of appropriate security measures;
 - .5 recommending and incorporating, as appropriate, modifications to the port facility security plan in order to correct deficiencies and to update the plan to take into account of relevant changes to the port facility;
 - .6 enhancing security awareness and vigilance of the port facility personnel;
 - .7 ensuring adequate training has been provided to personnel responsible for the security of the port facility;
 - .8 reporting to the relevant authorities and maintaining records of occurrences which threaten the security of the port facility;
 - .9 co-ordinating implementation of the port facility security plan with the appropriate Company and ship security officer(s);
 - .10 co-ordinating with security services, as appropriate;
 - .11 ensuring that standards for personnel responsible for security of the port facility are met;
 - .12 ensuring that security equipment is properly operated, tested, calibrated and maintained, if any; and
 - .13 assisting ship security officers in confirming the identity of those seeking to board the ship when requested.
- 17.3 The port facility security officer shall be given the necessary support to fulfil the duties and responsibilities imposed by chapter XI-2 and this Part of the Code.

18 TRAINING, DRILLS AND EXERCISES ON PORT FACILITY SECURITY

- 18.1 The port facility security officer and appropriate port facility security personnel shall have knowledge and have received training, taking into account the guidance given in part B of this Code.
- 18.2 Port facility personnel having specific security duties shall understand their duties and responsibilities for port facility security, as described in the port facility security plan and shall have sufficient knowledge and ability to perform their assigned duties, taking into account the guidance given in part B of this Code.
- 18.3 To ensure the effective implementation of the port facility security plan, drills shall be carried out at appropriate intervals taking into account the types of operation of the port facility, port facility personnel changes, the type of ship the port facility is serving and other relevant circumstances, taking into account guidance given in part B of this Code.
- 18.4 The port facility security officer shall ensure the effective coordination and implementation of the port facility security plan by participating in exercises at appropriate intervals, taking into account the guidance given in part B of this Code.

19 VERIFICATION AND CERTIFICATION FOR SHIPS

- 19.1 Verifications
- 19.1.1 Each ship to which this Part of the Code applies shall be subject to the verifications specified below:
- .1 an initial verification before the ship is put in service or before the certificate required under section 19.2 is issued for the first time, which shall include a complete verification of its security system and any associated security equipment covered by

the relevant provisions of chapter XI-2, this Part of the Code and the approved ship security plan. This verification shall ensure that the security system and any associated security equipment of the ship fully complies with the applicable requirements of chapter XI-2 and this Part of the Code, is in satisfactory condition and fit for the service for which the ship is intended;

- .2 a renewal verification at intervals specified by the Administration, but not exceeding five years, except where section 19.3 is applicable. This verification shall ensure that the security system and any associated security equipment of the ship fully complies with the applicable requirements of chapter XI-2, this Part of the Code and the approved ship security plan, is in satisfactory condition and fit for the service for which the ship is intended;
- .3 at least one intermediate verification. If only one intermediate verification is carried out it shall take place between the second and third anniversary date of the certificate as defined in regulation I/2(n). The intermediate verification shall include inspection of the security system and any associated security equipment of the ship to ensure that it remains satisfactory for the service for which the ship is intended. Such intermediate verification shall be endorsed on the certificate;
- .4 any additional verifications as determined by the Administration.

19.1.2 The verifications of ships shall be carried out by officers of the Administration. The Administration may, however, entrust the verifications to a recognized security organization referred to in regulation XI 2/1.

19.1.3 In every case, the Administration concerned shall fully guarantee the completeness and efficiency of the verification and shall undertake to ensure the necessary arrangements to satisfy this obligation.

19.1.4 The security system and any associated security equipment of the ship after verification shall be maintained to conform with the provisions of regulations XI-2/4.2 and XT 2/6, this Part of the Code and the approved ship security plan. After any verification under section 19.1.1 has been completed, no changes shall be made in security system and in any associated security equipment or the approved ship security plan without the sanction of the Administration.

19.2 Issue or endorsement of certificate

19.2.1 An International Ship Security Certificate shall be issued after the initial or renewal verification in accordance with the provisions of section 19.1.

19.2.2 Such certificate shall be issued or endorsed either by the Administration or by a recognized security organization acting on behalf of the Administration.

19.2.3 Another Contracting Government may, at the request of the Administration, cause the ship to be verified and, if satisfied that the provisions of section 19.1.1 are complied with, shall issue or authorize the issue of an International Ship Security Certificate to the ship and, where appropriate, endorse or authorize the endorsement of that certificate on the ship, in accordance with this Code.

19.2.3.1 A copy of the certificate and a copy of the verification report shall be transmitted as soon as possible to the requesting Administration.

19.2.3.2 A certificate so issued shall contain a statement to the effect that it has been issued at the request of the Administration and it shall have the same force and receive the same recognition as the certificate issued under section 19.2.2.

19.2.4 The International Ship Security Certificate shall be drawn up in a form corresponding to the model given in the appendix to this Code. If the language used is not English, French or Spanish, the text shall include a translation into one of these languages.

19.3 Duration and validity of certificate

19.3.1 An International Ship Security Certificate shall be issued for a period specified by the Administration which shall not exceed five years.

- 19.3.2 When the renewal verification is completed within three months before the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal verification to a date not exceeding five years from the date of expiry of the existing certificate.
- 19.3.2.1 When the renewal verification is completed after the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal certification to a date not exceeding five years from the date of expiry of the existing certificate.
- 19.3.2.2 When the renewal verification is completed more than three months before the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal verification to a date not exceeding five years from the date of completion of the renewal verification.
- 19.3.3 If a certificate is issued for a period of less than five years, the Administration may extend the validity of the certificate beyond the expiry date to the maximum period specified in section 19.3.1, provided that the verifications referred to in section 19.1.1 applicable when a certificate is issued for a period of five years are carried out as appropriate.
- 19.3.4 If a renewal verification has been completed and a new certificate cannot be issued or placed on board the ship before the expiry date of the existing certificate, the Administration or recognized security organization acting on behalf of the Administration may endorse the existing certificate and such a certificate shall be accepted as valid for a further period which shall not exceed five months from the expiry date.
- 19.3.5 If a ship at the time when a certificate expires is not in a port in which it is to be verified, the Administration may extend the period of validity of the certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be verified, and then only in cases where it appears proper and reasonable to do so. No certificate shall be extended for a period longer than three months, and the ship to which an extension is granted shall not, on its arrival in the port in which it is to be verified, be entitled by virtue of such extension to leave that port without having a new certificate. When the renewal verification is completed, the new certificate shall be valid to a date not exceeding five years from the expiry date of the existing certificate before the extension was granted.
- 19.3.6 A certificate issued to a ship engaged on short voyages which has not been extended under the foregoing provisions of this section may be extended by the Administration for a period of grace of up to one month from the date of expiry stated on it. When the renewal verification is completed, the new certificate shall be valid to a date not exceeding five years from the date of expiry of the existing certificate before the extension was granted.
- 19.3.7 If an intermediate verification is completed before the period specified in section 19.1.1, then:
- .1 the expiry date shown on the certificate shall be amended by endorsement to a date which shall not be more than three years later than the date on which the intermediate verification was completed;
 - .2 the expiry date may remain unchanged provided one or more additional verifications are carried out so that the maximum intervals between the verifications prescribed by section 19.1.1 are not exceeded.
- 19.3.8 A certificate issued under section 19.2 shall cease to be valid in any of the following cases:
- .1 If the relevant verifications are not completed within the periods specified under section 19.1.1;
 - .2 if the certificate is not endorsed in accordance with section 19.1.1.3 and 19.3.7.1, if applicable;

- .3 when a Company assumes the responsibility for the operation of a ship not previously operated by that Company; and
- .4 upon transfer of the ship to the flag of another State.

19.3.9 In the case of:

- .1 a transfer of a ship to the flag of another Contracting Government, the Contracting Government whose flag the ship was formerly entitled to fly shall, as soon as possible, transmit to the receiving Administration copies of, or all information relating to, the International Ship Security Certificate carried by the ship before the transfer and copies of available verification reports, or
- .2 a Company that assumes responsibility for the operation of a ship not previously operated by that Company, the previous Company shall as soon as possible, transmit to the receiving Company copies of any information related to the International Ship Security Certificate or to facilitate the verifications described in section 19.4.2.

19.4 Interim certification

- 19.4.1 The certificates specified in section 19.2 shall be issued only when the Administration issuing the certificate is fully satisfied that the ship complies with the requirements of section

19.1. However, after 1 July 2004, for the purposes of:

- .1 a ship without a certificate, on delivery or prior to its entry or re-entry into service;
- .2 transfer of a ship from the flag of a Contracting Government to the flag of another Contracting Government;
- .3 transfer of a ship to the flag of a Contracting Government from a State which is not a Contracting Government; or
- .4 when a Company assumes the responsibility for the operation of a ship not previously operated by that Company;

until the certificate referred to the section 19.2 is issued, the Administration may cause an Interim International Ship Security Certificate to be issued, in a form corresponding to the model given in the Appendix to this Part of the Code.

- 19.4.2 An Interim International Ship Security Certificate shall only be issued when the Administration or recognized security organization, on behalf of the Administration, has verified that:

- .1 the ship security assessment required by this Part of the Code has been completed,
- .2 a copy of the ship security plan meeting the requirements of chapter XI-2 and part A of this Code is provided on board, has been submitted for review and approval, and is being implemented on the ship;
- .3 the ship is provided with a ship security alert system meeting the requirements of regulation XI-2/6, if required,
- .4 the company security officer:
 - .1 has ensured:
 - .1 the review of the ship security plan for compliance with this Part of the Code,
 - .2 that the plan has been submitted for approval, and
 - .3 that the plan is being implemented on the ship, and
 - .2 has established the necessary arrangements, including arrangements for drills, exercises and internal audits, through which the company security officer is satisfied that the ship will successfully complete the required verification in accordance with section 19.1.1.1, within 6 months;
- .5 arrangements have been made for carrying out the required verifications under section 19.1.1.1;

- .6 the master, the ship's security officer and other ship's personnel with specific security duties are familiar with their duties and responsibilities as specified in this Part of the Code; and with the relevant provisions of the ship security plan placed on board; and have been provided such information in the working language of the ship's personnel or languages understood by them; and
 - .7 the ship security officer meets the requirements of this Part of the Code.
- 19.4.3 An Interim International Ship Security Certificate may be issued by the Administration or by a recognized security organization authorized to act on its behalf.
- 19.4.4 An Interim International Ship Security Certificate shall be valid for 6 months, or until the certificate required by section 19.2 is issued, whichever comes first, and may not be extended.
- 19.4.5 No Contracting Government shall cause a subsequent, consecutive Interim International Ship Security Certificate to be issued to a ship if, in the judgment of the Administration or the recognized security organization, one of the purposes of the ship or a Company in requesting such certificate is to avoid full compliance with chapter XI-2 and this Part of the Code beyond the period of the initial interim certificate as specified in section 19.4.4.
- 19.4.6 For the purposes of regulation XI-2/9, Contracting Governments may, prior to accepting an Interim International Ship Security Certificate as a valid certificate, ensure that the requirements of sections 19.4.2.4 to 19.4.2.6 have been met.

APPENDIX TO PART A

APPENDIX 1

Form of the International Ship Security Certificate

INTERNATIONAL SHIP SECURITY CERTIFICATE

(official seal) (State)

Certificate No.

Issued under the provisions of the INTERNATIONAL CODE FOR THE SECURITY OF SHIPS AND OF PORT FACILITIES (ISPS CODE)

Under the authority of the Government of _____

by _____
(persons or organization authorized)

Name of ship: _____
 Distinctive number or letters: _____
 Port of registry: _____
 Type of ship: _____
 Gross tonnage: _____
 IMO Number: _____
 Name and address of the Company: _____

THIS IS TO CERTIFY:

- 1 that the security system and any associated security equipment of the ship has been verified in accordance with section 19.1 of part A of the ISPS Code;

- 2 that the verification showed that the security system and any associated security equipment of the ship is in all respects satisfactory and that the ship complies with the applicable requirements of chapter XI-2 of the Convention and part A of the ISPS Code;
- 3 that the ship is provided with an approved Ship Security Plan.

Date of initial / renewal verification on which this certificate is based _____

This Certificate is valid until _____

subject to verifications in accordance with section 19.1.1 of part A of the ISPS Code.

Issued at _____
(place of issue of the Certificate)

Date of issue _____

(signature of the duly authorized official issuing the Certificate)
(Seal or stamp of issuing authority, as appropriate)

* This part of the certificate shall be adapted by the Administration to indicate whether it has established additional verifications as provided for in section 19.1.1.4.

ADDITIONAL VERIFICATION IN ACCORDANCE WITH SECTION A/19.3.7.2 OF THE ISPS CODE

THIS IS TO CERTIFY that at an additional verification required by section 19.3.7.2 of part A of the ISPS Code the ship was found to comply with the relevant provisions of chapter XI-2 of the Convention and part A of the ISPS Code.

Signed _____

(Signature of authorized official)

Place _____

Date _____

(Seal or stamp of the authority, as appropriate)

ENDORSEMENT TO EXTEND THE CERTIFICATE IF VALID FOR LESS THAN 5 YEARS WHERE SECTION A/19.3.3 OF THE ISPS CODE APPLIES

The ship complies with the relevant provisions of part A of the ISPS Code, and the Certificate shall, in accordance with section 19.3.3 of part A of the ISPS Code, be accepted as valid until _____

Signed _____

(Signature of authorized official)

Place _____

Date _____

(Seal or stamp of the authority, as appropriate)

ENDORSEMENT WHERE THE RENEWAL VERIFICATION HAS BEEN COMPLETED AND SECTION A/19.3.4 OF THE ISPS CODE APPLIES

The ship complies with the relevant provisions of part A of the ISPS Code, and the Certificate shall, in accordance with section 19.3.4 of part A of the ISPS Code, be accepted as valid until _____

Signed _____

(Signature of authorized official)

Place _____

Date _____

(Seal or stamp of the authority, as appropriate)

ENDORSEMENT TO EXTEND THE VALIDITY OF THE CERTIFICATE UNTIL REACHING THE PORT OF VERIFICATION WHERE SECTION A/19.3.5 OF THE ISPS CODE APPLIES OR FOR A PERIOD OF GRACE WHERE SECTION A/19.3.6 OF THE ISPS CODE APPLIES

This Certificate shall, in accordance with section 19.3.5 / 19.3.6* of part A of the ISPS Code, be accepted as valid until _____

Signed _____
(Signature of authorized official)

Place _____

Date _____

(Seal or stamp of the authority, as appropriate)

ENDORSEMENT FOR ADVANCEMENT OF EXPIRY DATE WHERE SECTION A/19.3.7.1 OF THE ISPS CODE APPLIES

In accordance with section 19.3.7.1 of part A of the ISPS Code, the new expiry date** is

Signed _____
(Signature of authorized official)

Place _____

Date _____

(Seal or stamp of the authority, as appropriate)

APPENDIX 2

Form of the Interim International Ship Security Certificate

INTERIM INTERNATIONAL SHIP SECURITY CERTIFICATE

(official seal)

Certificate No.

* Delete as appropriate.

** In case of completion of this part of the certificate the expiry date shown on the front of the certificate shall also be amended accordingly.

**Issued under the provision of the
INTERNATIONAL CODE FOR THE SECURITY OF SHIPS
AND OF PORT FACILITIES (ISPS CODE)**

Under the authority of the Government of _____
(name of State)

by _____
(persons or organization authorised)

Name of ship:
Distinctive number or letters:
Port of registry:
Type of ship:
Gross tonnage:
IMO Number:
Name and address of company:
Is this a subsequent, consecutive interim certificate.? Yes/ No*
If Yes, date of issue of initial interim certificate

THIS IS TO CERTIFY THAT the requirements of section A/19.4.2 of the ISPS Code have been complied with.

This Certificate is issued pursuant to section A/19.4* of the ISPS Code.

This Certificate is valid until

Issued at
(place of issue of the certificate)

Date of issue
(signature of the duly authorized
official issuing the Certificate)

(Seal or stamp of issuing authority, as appropriate)

Author's note: Part B of the ISPS Code is omitted.

Part III:
The Memoranda of Understanding (MOUs)
on Port State Control

by
Dr. Iliana Christodoulou-Varotsi

1. General overview

1.1. Concept and legal foundations

Port State Control (PSC) signifies the competence of the port State to legislate and /or seek to enforce its jurisdiction over vessels calling at its ports¹. It deserves a special mention that there is no general right of access to ports under international law and that, implicitly, States are entitled to regulate and deny access to their ports².

PSC reflects a complementary type of control of vessels, which is aimed particularly at substandard vessels; ideally, major deficiencies should have been and ought to be prevented by the flag State³. PSC is confined within certain limits, since the flag State is empowered to “exercise its jurisdiction and control in administrative, technical and *social* matters over ships flying its flag”⁴. While PSC has traditionally revolved around technical matters, noteworthy developments took place which took into consideration the human element⁵; in other words, the most advanced version of PSC also includes the living and working conditions of crews in its scope. At this level, two considerations are noteworthy: firstly, the inclusion of ILO Convention 147 among the legal foundations of the PSC (described as “pertinent instruments”)⁶; secondly, the effective use of this tool in combination with the extent of detention of ships on the sole basis of human element deficiencies. While the existing legal framework⁷, discussed below, provides for the possibility of port State authorities detaining a ship if anomalies are observed that present a clear risk for safety, the health of the crew or the environ-

¹ G.P. Pamborides, *International Shipping Law*, Kluwer Law International/Ant. N. Sakkoulas, Athens, 1999, 47.

² See Alan Boyle, *EU Unilateralism and the Law of the Sea*, Marius (Scandinavian Institute of Maritime Law) no 330, 245 (2004).

³ For a comprehensive analysis see G.C. Kasoulides, *Port State Control and Jurisdiction: Evolution of the Port State Regime*, Martinus Nijhoff, The Netherlands, 1993, and Dr. Z. Oya Ozcayir, *Port State Control*, Informa Publishing, UK, 2004.

⁴ Article 5 of the Convention on the High Seas (1958). Emphasis added.

⁵ See Iliana Christodoulou-Varotsi, *Port State Control of Labour and Social Conditions: Measures which can be Taken by Port States in Keeping with International Law* (a study commissioned by the ILO), *Annuaire de Droit Maritime et Océanique*, Tome XXI, 2003, 251-285.

⁶ The Vina del Mar MOU (see *infra*) does not include however any reference to ILO Convention 147.

⁷ See Paris MOU, *infra* note 10, ILO Convention 147 and Directive 95/21/EC, *infra* note 18.

ment, nevertheless, in practice, detention is decided on in the context of technical standards, which constitutes a limitation of the social dimension of PSC⁸.

The legal foundations of PSC are to be found in a number of instruments which are primarily international. A number of regional agreements, known as Memoranda of Understanding, which have been concluded among national maritime Administrations but which are deprived, however, of binding force, contribute to the realization of PSC. The international conventions constituting the basis of PSC are referred to as 'pertinent instruments' and they are the following: the international Convention on Load Lines 1966 (LOAD LINES 66); the Protocol of 1988 relating to the International Convention on Load Lines, 1966 (LL PROT 88); the International Convention for the Safety of Life at Sea, 1974 as amended (SOLAS 74); the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974 (SOLAS PROT 78); the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974 (SOLAS PROT 88); the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocols of 1978 and 1997 (MARPOL 73/78); the International Convention on Standards for Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW 1978); the Convention on the International Regulations for Preventing Collision at Sea, 1972 (COLREG 1972); the International Convention on Tonnage Measurement of Ships, 1969 (TONNAGE 69); the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO 147); and the International Convention on Civil Liability for Oil Pollution Damage, 1992.

It should be noted that the UNCLOS 1982 contains provisions on PSC⁹.

As far as regional agreements are concerned, the following should be mentioned: with regard to Europe and the North Atlantic region, the Paris Memorandum of Understanding (Paris MOU)¹⁰; with regard to the Latin American region, the Latin America Agreement on Port State Control of Vessels (Viña del Mar Agreement)¹¹; with regard to the Asia-Pacific region, the Tokyo Memorandum of Understanding (Tokyo MOU)¹²; with regard to the Caribbean region, the Caribbean Memorandum of Understanding (Caribbean MOU)¹³; with regard to the Mediterranean region, the Mediterranean Memorandum of Understanding (Mediterranean MOU)¹⁴; with regard to the Indian Ocean region, the Indian Ocean Memorandum of Understanding (Indian Ocean MOU)¹⁵; with regard to the Black Sea region, the Black Sea Memorandum of Understanding (Black Sea MOU)¹⁶; with regard to the West and Central African region, the Abuja Memorandum of

⁸ See Extracts from the opinion on "Merchant Seafarers' Working and Employment Conditions", presented by Catherine Battut, in *The Impact on Seafarers' Living and Working Conditions of Changes in the Structure of the Shipping Industry*, ILO Geneva 2001, 117.

⁹ See Articles 218, 219, 220(1) and 226 of the UNCLOS 1982.

¹⁰ See <http://www.parismou.org/> (last visit 4 March 2007).

¹¹ See <http://200.45.69.62/> (last visit 4 March 2007).

¹² See <http://www.tokyo-mou.org/> (last visit 4 March 2007).

¹³ See <http://www.caribbeanmou.org/> (last visit 4 March 2007).

¹⁴ See <http://www.medmou.org/> (last visit 4 March 2007).

¹⁵ See <http://www.iomou.org/> (last visit 4 March 2007).

¹⁶ See <http://www.bsmou.org/> (last visit 4 March 2007).

Understanding (Abuja MOU)¹⁷ and with regard to the Gulf region, the Riyadh Memorandum of Understanding (Riyadh MOU).

1.2. Port State Control in the EU and the US

PSC in the EU is provided for in Directive 95/21/EC¹⁸, as amended. Member States are held to incorporate the provisions in question in their domestic legal order and to ensure their effective application within a specific time frame. Council Directive 95/21/EC was subject to amendments by Directives 98/25/EC¹⁹, 98/42/EC²⁰, 1999/97/EC²¹, 2001/106/EC²² and 2002/84/EC²³.

The EU has adopted a harmonized approach to the international standards on PSC, which has allowed its taking advantage of the experience gained on the basis of the Paris MOU, while at the same time strengthening some of the requirements stemming from the MOU in question²⁴; it should be noted that the vast majority of Member States was already party to the Paris MOU, or under associated status²⁵. Consequently, the PSC regime is to be applied by Member States as mandatory EC law, subject to the control of the European Commission and the European Court of Justice²⁶.

¹⁷ See <http://www.marineafic.com/work1/mou/default.htm> (last visit 4 March 2007).

¹⁸ Council Directive 95/21/EC of 19 June 1995 on port State control of shipping, OJ L 157, 7.7.1995, 1.

¹⁹ Council Directive 98/25/EC of 27 April 1998 on port State control, OJ L 133, 7.5.1998, 19.

²⁰ Commission Directive 98/42/EC of 19 June 1998 on port State control (Text with EEA relevance), OJ L 184, 27.6.1998, 40.

²¹ Commission Directive 1999/97/EC of 13 December 1999 on port State control (Text with EEA relevance), OJ L 331, 23.12.1999, 67.

²² Directive 2001/106/EC of the European Parliament and of the Council of 19 December 2001 on port State control, OJ L 19, 22.1.2002, 17.

²³ Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002, amending the Directives on maritime safety and the prevention of pollution from ships (Text with EEA relevance), OJ L 324, 29.11.2002, 53.

²⁴ It is significant in this regard that in Directive 95/21/EC, it is mentioned that “.....Whereas the inspection by each Member State of at least 25 % of the number of individual foreign ships which enter its ports in a given year in practice means that a large number of ships, operating within the Community area at any given time, have undergone an inspection; Whereas further efforts should be made to develop a better targeting system; Whereas the rules and procedures for port-State inspections, including criteria for the detention of ships, must be harmonized to ensure consistent effectiveness in all ports, which would also drastically reduce the selective use of certain ports of destination to avoid the net of proper control.....”.

²⁵ Maritime Administrations of Cyprus, Estonia, Latvia, Lithuania and Malta joined the Paris MOU in recent years, bringing the number of full members to 25 (including Maritime administrations of Canada and the Russian Federation); prior to full membership, Cyprus, Estonia, Latvia, Lithuania and Malta were under co-operating status). Bulgaria and Romania are under co-operating status.

²⁶ See e.g. cases: ECJ, 22.6.04, *European Commission v. France*, C-439/02, not yet published and ECJ, 11.11.1999, *European Commission v. Italy*, C-315/98, *European Court Reports*, 1999, I-8001.

The US participates neither in the Paris MOU nor in any other regional agreement²⁷. The US Coast Guard (USCG), which conducts the control in question, is associated with the Tokyo MOU and the Black Sea MOU as observer²⁸. In the US there is no agreement or memorandum of understanding which is specifically dedicated to port State control. Boarding and inspection procedures are laid down in the USCG Port State Control Program, which aims to ban substandard ships from US waters²⁹. A system of ship points rating determines its categorization as Priority I, II or III, based on the performance records of the ship's owners, classification societies and flag States³⁰.

Human element requirements, including those stipulated in ILO Convention 147 and the STCW Convention, are taken into consideration by the PSC regimes followed in the EU and US³¹.

²⁷ See Dr. Z. Oya Özçayır, *The Role of Port State Control*, 8 Int'l Mar. L. 5, 147-159 (2001).

²⁸ See <http://www.tokyo-mou.org/> (last visit 4 March 2007) and <http://www.bsmou.org/default2.htm> (last visit 20 May 2007).

²⁹ See <http://homeport.uscg.mil/mycg/portal/ep/browse.do?channelId=-18371> (last visit 19 February 2007).

³⁰ *Id.*

³¹ See respectively Directive 95/21/EC, *supra* note 18 and *supra* note 29.

2. Regional instruments in Europe and the Asia-Pacific Region

2.1. Content and practical application

In the developments that follow, three regional MOUs are presented, i.e. the Paris MOU, the Tokyo MOU and the Black Sea MOU.

2.1.1. The Paris MOU

In 1982³², the Paris MOU established a comprehensive system of regional co-operation for the exercising of PSC in the region of Europe and the North-Atlantic (East coast of Canada)³³. The Paris MOU sets an annual target limit of inspections corresponding to 25% of the average number of individual foreign merchant ships entering the ports of the State concerned during the last three calendar years³⁴.

A secretariat, based in The Hague, The Netherlands,³⁵ and a central database called SIRENAC, located in St Malo, France,³⁶ are available within this system in an effort to achieve better coordination and effectiveness.

A Committee, composed of a representative of each of the Authorities and of the Commission of the European Community, is also provided for, and this acts as the executive body of the MOU³⁷.

As mentioned above, the EC has used the framework provided by the Paris MOU extensively with a view to the harmonization of PSC for its Members. This

³² The Paris MOU took effect on 1 July 1982; it superseded the MOU between Certain Maritime Authorities on the Maintenance of Standards on Merchant Shipping, signed at The Hague on 2 March 1978.

³³ The Maritime Authority of Canada adhered to the Memorandum on 3 May 1994, extending the scope of the Paris MOU to the North-Atlantic region. At the present stage, 25 national administrations participate in the Paris MOU. These are Belgium, Canada, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Lithuania, Malta, The Netherlands, Norway, Poland, Portugal, The Russian Federation, Slovenia, Spain, Sweden and The United Kingdom. See <http://www.parismou.org> (last visit 4 March 2007).

³⁴ See Section 1.3 of the Paris MOU.

³⁵ See Section 6.4 of the Paris MOU.

³⁶ Notably see Annex 4 of the Paris MOU.

³⁷ See Section 6.1 to 6.3 of the Paris MOU.

was realized by means of the above-mentioned Directives³⁸, which are binding in EC law upon their result, while leaving Member States free to choose adequate transposition measures. This approach aimed at rendering obligatory, while at the same time enhancing, the control provided for in the Paris MOU³⁹.

In practice, the mechanism of PSC consists of a visit on board a ship by a PSC officer with a view to verifying the ship's certificates and documents⁴⁰. During inspections, the crew and the overall conditions of the ship, including accommodation and hygienic conditions, are subject to the attention of the PSC officer⁴¹. Any type of inspection which reveals a number of deficiencies will necessitate the rectification of the deficiencies in question⁴². In the case of deficiencies which are clearly hazardous to safety, *health* or the environment, the hazard must be removed before the ship is allowed to proceed to sea⁴³. In the case of a detention, the Authority will immediately notify the flag State Administration⁴⁴.

2.1.1.1. Human element requirements

With regard to the control imposed for manning requirements to be respected by a foreign ship which is subject to PSC, the latter will seek to verify conformity with the flag State's safe manning requirement and, when in doubt, the flag State will be consulted⁴⁵. The control of conformity will also extend to SOLAS 74, STCW 78, IMO Resolution A.890(21) and the provisions of ILO Convention 147⁴⁶.

As far as PSC on the basis of the provisions of STCW 1978 is concerned, this aspect includes verification of certificates, valid dispensations and/or applications for endorsement; the manning of the ship and the ability of the seafarers of the ship to maintain watchkeeping standards as prescribed by the Convention are also subject to verification and assessment⁴⁷.

Inspections on board ships under ILO Convention 147, 1976 and ILO 147 Protocol, 1996 relate to minimum age, medical examination, prevention of accidents, accommodation of crews, food and catering, hours of work, manning and competency certificates⁴⁸.

³⁸ See *supra* note 18 *seq.* Also see consolidated text 1995 L 0021, EN 29.11.02, 004.001-1, available at <http://www.europa.eu.int/> (under Bibliographic Notice of Directive 95/21/EC)(last visit 18 February 2006).

³⁹ See Martin Ndende and Bertrand Vende, *La transposition par les États de la Directive portant Communautarisation du Mémorandum de Paris*, 603 DMF 307 (2000) and R. Salvarini, *The EC Directive on Port State Control: a Policy Statement*, 11 I.J.M.C.L. 2, 225 (1996).

⁴⁰ See Section 3.1 of the Paris MOU.

⁴¹ *Id.*

⁴² See Section 3.9.1 of the Paris MOU.

⁴³ See Section 3.10.1 of the Paris MOU. Emphasis added.

⁴⁴ See Section 3.10.2 of the Paris MOU.

⁴⁵ See Section 6.1 of Annex 1 of the Paris MOU.

⁴⁶ *Id.*

⁴⁷ See Section 6.3 of Annex 1 of the Paris MOU.

⁴⁸ The authorities concerned take into account the procedures prescribed by the ILO in its publication entitled "Inspection of Labour Conditions on Board Ship: Guide-lines for Procedure". See section 7.2 of Annex 1 of the Paris MOU.

It is noteworthy that in the Annual report of the Paris MOU for the year 2005, deficiencies related to working and living conditions (crew and accommodation, food and catering, workplaces and accident prevention) decreased by 8%, from 7,607 in 2004 to 6,964 in 2005. Compliance with the standards for training, certification and watchkeeping for seafarers indicated a decrease of 19%, from 3,127 in 2004 to 2,529 in 2005⁴⁹.

2.1.1.2. Appeal and other procedures

When a notice of detention is issued to the master by a PSC officer in the context of a detention procedure, in practice, the master is informed that the ship's owner/operator has the right of appeal⁵⁰; appeal notice details can be found on the reverse side of the notice of detention form. A right of appeal may also concern refusal of access⁵¹. An appeal will not cause the detention or refusal of access to be suspended⁵². Appeal procedures in the Paris MOU Members are referred to under <http://www.parismou.org/> (under Appeal Procedure).

In the event of the owner or operator declining to make use of the national appeal procedure as mentioned above, yet still wishing to complain about a detention order, it is possible for such a complaint to be addressed to the flag State or the classification society, if authorized to act for the flag State⁵³. The flag State or classification society may then ask the port State to reconsider its decision to detain the ship. If the port State does not reverse its decision in this context, the flag State or the classification society may address a request for review to the Paris MOU Secretariat. The latter will set up a Review Panel with a view to examining the case. Even though the findings of the Review Panel are not binding, in the event of the Review Panel supporting the flag State or classification society's complaint, the port State may be provided justification to reconsider its decision. The full details of the review procedure are provided under <http://www.parismou.org/> [under Appeal (Review) Procedure].

2.1.2. The Tokyo MOU

The Tokyo MOU was established in December 1993 and came into operation in April 1994. It sought to provide a framework for the exercising of PSC in the Asia-Pacific region. The Tokyo MOU consists of the following member Authorities, namely Australia, Canada, Chile, China, Fiji, Hong Kong (China), Indonesia, Japan, The Republic of Korea, Malaysia, New Zealand, Papua New Guinea, The Philippines, The Russian Federation, Singapore, Thailand, Vanuatu and Viet-

⁴⁹ See Annual Report 2005, 25. Available at <http://www.parismou.org/> (last visit 4 March 2007).

⁵⁰ See Section 3.16 of the Paris MOU. See <http://www.parismou.org/> (last visit 4 March 2007) under Appeal (Review) Procedure.

⁵¹ See Section 3.16 of the Paris MOU.

⁵² *Id.*

⁵³ See <http://www.parismou.org/> (last visit 4 March 2007) under Appeal (review) procedure.

nam⁵⁴. While the Memorandum states that it does not constitute “a legally binding document and is not intended to impose any legal obligation on any of the Authorities”⁵⁵, it recognizes, nevertheless, that “effective action by port States is required to prevent the operation of substandard ships”⁵⁶.

Under the coordination of the Committee mentioned below, each Authority determines an “appropriate” annual percentage of individual foreign merchant ships to be inspected⁵⁷; the Committee, composed of representatives of each of the Member Authorities⁵⁸, “will endeavour to attain a regional annual inspection rate of 75% of the total number of ships operating in the region”⁵⁹.

The Memorandum is supported by a secretariat located in Tokyo which is independent of maritime administrations⁶⁰. For the purpose of exchanging information on port State inspection, the Asia-Pacific Computerized Information System (AP-CIS) has been established in The Russian Federation⁶¹.

In practice, the mechanism of PSC within the framework of the Tokyo MOU resembles the mechanism established by the Paris MOU. The control in question consists of a visit on board a ship by a PSC officer with a view to verifying the ship’s certificates and documents⁶². During inspections, the crew and the overall conditions of the ship, including accommodation and hygienic conditions, are subject to the attention of the PSC officer⁶³. Any type of inspection which reveals a number of deficiencies will necessitate the rectification of the deficiencies in question⁶⁴. In the case of deficiencies which are clearly hazardous to safety, *health* or the environment, the hazard must be removed before the ship is allowed to proceed to sea⁶⁵. In the case of a detention, the Authority will immediately notify the flag State administration⁶⁶.

In the event of an inspection being initiated based on a report or complaint, particularly from a crew member, the source of the information must not be disclosed⁶⁷.

⁵⁴ The Authorities of The Democratic People’s Republic of Korea, Macao (China), The Solomon Islands, the United States Coast Guard, the IMO, the ILO and the Secretariats of the Paris, the Indian Ocean and Black Sea MOUs and the Viña del mar Agreement are associated with the Tokyo MOU as observers.

⁵⁵ See the Preamble of the Tokyo MOU.

⁵⁶ *Id.*

⁵⁷ See Section 1.4 of the Tokyo MOU.

⁵⁸ See Section 6.1 of the Tokyo MOU.

⁵⁹ See Section 1.4 of the Tokyo MOU.

⁶⁰ See Section 6.4 of the Tokyo MOU.

⁶¹ See Section 6.6 of the Tokyo MOU.

⁶² See Section 3.1 of the Tokyo MOU.

⁶³ *Id.*

⁶⁴ See Section 3.6 of the Tokyo MOU.

⁶⁵ See Section 3.7 of the Tokyo MOU. Emphasis added.

⁶⁶ *Id.*

⁶⁷ See Section 3.14 of the Tokyo MOU.

2.1.2.1. Human element requirements

ILO Convention 147, SOLAS 74, as amended, and the Protocols of 1978 and 1988 and STCW 1978, as amended,⁶⁸ figure among the relevant instruments which are taken into consideration by PSC officers for the purposes of the Memorandum.

With respect to ILO Convention 147, its implementation will not require any alterations to structures or facilities involving accommodation for ships whose keels were laid down before April 1, 1994⁶⁹.

Of a total of 74,668 deficiencies reported in the Tokyo MOU annual report for the year 2005, 1,825 deficiencies related to certification and watchkeeping of seafarers, 362 deficiencies related to ILO 147 crew and accommodation requirements, 173 deficiencies related to ILO 147 food and catering requirements, 550 deficiencies related to ILO 147 working space requirements and 580 deficiencies related to ILO 147 accident prevention requirements⁷⁰.

2.1.2.2. Appeal and other procedures

In the event of detention, the shipping company or its representative has a right of appeal⁷¹; an appeal does not, however, cause the detention to be suspended⁷². The appeal procedures with regard to the Tokyo MOU in the States concerned are referred to under <http://www.tokyo-mou.org/> (under Detention review).

In the event of the owner or operator declining to make use of the national appeal procedure as mentioned above, yet still wishing to complain about a detention order, it is possible for such a complaint to be addressed to the flag State or the classification society, acting on behalf the flag State⁷³. The flag State or classification society may then ask the port State to reconsider its decision to detain the ship. If the port State does not reverse its decision in this context, the flag State or the classification society may address a request for review to the Tokyo MOU Secretariat. The latter will set up a Detention Review Panel with a view to examining the case. Even though the findings of the Review Panel are not binding, should the Review Panel support the flag State or classification society's complaint, the port State will again be requested to reconsider its decision. The full details of the review procedure are provided under <http://www.tokyo-mou.org/> (under Detention review).

⁶⁸ See Section 2.1 of the Tokyo MOU.

⁶⁹ See Section 2.2 of the Tokyo MOU.

⁷⁰ See Annual report 2005 of the Tokyo MOU, 28. Available at <http://www.tokyo-mou.org/> (last visit 4 March 07).

⁷¹ See Section 3.15 of the Tokyo MOU. See <http://www.tokyo-mou.org/>. Under Detention review.

⁷² *Id.*

⁷³ See <http://www.tokyo-mou.org/>. Under Detention review.

2.1.3.The Black Sea MOU

The Black Sea MOU was established in 2000 and came into operation the same year. It constitutes an administrative framework of cooperation for the exercise of PSC in the Black Sea region. The Black Sea MOU consists of 6 member Authorities, namely the maritime authorities of Bulgaria, Georgia, Romania, The Russian Federation, Turkey and Ukraine. The MOU recognizes that “effective action by port States is required to prevent the operation of substandard ships”⁷⁴.

Within a period of 3 years from the enforcement of the MOU, each Authority will achieve an annual total of inspections corresponding to at least 15% of the number of individual foreign merchant ships which entered the ports of its State during a recent representative period of 12 months⁷⁵.

The Memorandum is supported by a secretariat located in Istanbul, Turkey, which, according to the Agreement, is independent of any maritime administration or organization⁷⁶. The PSC Committee, which is composed of a representative of each of the Authorities that are party to the MOU, is the executive body of the latter; it deals with matters of policy, finance and administration⁷⁷. For the purpose of exchanging information on port State inspection, the Black Sea Information System (BSIS) has been established in Novorossiysk (The Russian Federation)⁷⁸.

In practice, the mechanism of PSC within the framework of the Black Sea MOU resembles the mechanism established by the other MOUs. The control in question consists of a visit on board a ship by a PSC officer with a view to verifying the ship’s certificates and documents⁷⁹. During inspections, working and living conditions are subject to control⁸⁰. The Authority shall be satisfied that any deficiencies confirmed or revealed by the inspection are rectified⁸¹. In the case of deficiencies which are clearly hazardous to safety, *health* or the environment, the hazard must be removed before the ship is allowed to proceed to sea⁸². In the case of a detention, the Authority will immediately notify the flag State administration⁸³.

⁷⁴ See the preamble of the Memorandum.

⁷⁵ See Section 1.3 of the Memorandum.

⁷⁶ See Section 7.5.2 of Black Sea MOU.

⁷⁷ See Section 7 of Black Sea MOU.

⁷⁸ See Section 4.3 of Black Sea MOU.

⁷⁹ See Section 3.1.1 of the Black Sea MOU.

⁸⁰ *Id.*

⁸¹ See Section 3.6.2 of the Black Sea MOU.

⁸² See Section 3.6.3 of the Black Sea MOU. Emphasis added.

⁸³ See 3.7 of the Black Sea MOU.

2.1.3.1. Human element requirements

ILO Convention 147, SOLAS 74, as amended, and STCW 1978, as amended,⁸⁴ figure among the relevant instruments which are taken into consideration by PSC officers for the purposes of the Memorandum.

For the year 2005, ILO 147 Convention deficiencies were reported to correspond to 3,52% with regard to crew and accommodation and 2,03% with regard to working spaces, while certification and watchkeeping for seafarers corresponded to 2,14% of deficiencies⁸⁵.

2.1.3.2. Appeal procedures

In the event of detention of the ship, the owner or the operator of the ship has a right of appeal⁸⁶; this does not, however, cause the detention to be suspended⁸⁷.

2.2. Texts

2.2.1. Paris Memorandum of Understanding on Port State Control

Author's note: Only selected extracts from the Paris MOU are incorporated below, including the 28th Amendment (adopted on 12 May 2006 with effect on 1 July 2006), which have been reproduced from the electronic version of the MOU in question, subject to the usual disclaimers (see <http://www.parismou.org>). **Annexes have been omitted.** Readers should be cautioned about possible amendments.

⁸⁴ See Section 2 of the Black Sea MOU.

⁸⁵ See the Black Sea MOU Annual Report 2005, available at <http://www.bsmou.org> (last visit 4 March 2007).

⁸⁶ See Section 3.12 of the Black Sea MOU.

⁸⁷ *Id.*

The Maritime Authorities of

Belgium

Canada¹Croatia²Cyprus³

Denmark

Estonia⁴

Finland

France

Germany (Federal Republic of)

Greece

Iceland⁵

Ireland

Italy

Latvia⁶Lithuania⁷Malta⁸

Netherlands

Norway

Poland⁹

Portugal

Russian Federation¹⁰Slovenia¹¹

Spain

Sweden

United Kingdom of Great Britain and Northern Ireland

hereinafter referred to as 'the Authorities'

¹ The Maritime Authority of Canada adhered to the Memorandum on 3 May 1994; for the Maritime Authority of Canada the Memorandum took effect on 3 May 1994.

² The Maritime Authority of Croatia adhered to the Memorandum on 8 November 1996; for the Maritime Authority of Croatia the Memorandum took effect on 1 January 1997.

³ The Maritime Authority of Cyprus adhered to the Memorandum on 12 May 2006; for the Maritime Authority of Cyprus the Memorandum took effect on 1 July 2006.

⁴ The Maritime Authority of Estonia adhered to the Memorandum on 12 May 2005; for the Maritime Authority of Estonia the Memorandum took effect on 1 July 2005.

⁵ The Maritime Authority of Iceland adhered to the Memorandum on 11 May 2000; for the Maritime Authority of Iceland the Memorandum took effect on 1 July 2000.

⁶ The Maritime Authority of Latvia adhered to the Memorandum on 12 May 2005; for the Maritime Authority of Latvia the Memorandum took effect on 1 July 2005.

⁷ The Maritime Authority of Lithuania adhered to the Memorandum on 12 May 2006; for the Maritime Authority of Lithuania the Memorandum took effect on 1 July 2006.

⁸ The Maritime Authority of Malta adhered to the Memorandum on 12 May 2006; for the Maritime Authority of Malta the Memorandum took effect on 1 July 2006.

⁹ The Maritime Authority of Poland adhered to the Memorandum on 27 November 1991; for the Maritime Authority of Poland the Memorandum took effect on 1 January 1992.

¹⁰ The Maritime Authority of the Russian Federation adhered to the Memorandum on 10 November 1995; for the Maritime Authority of the Russian Federation the Memorandum took effect on 1 January 1996

¹¹ The Maritime Authority of Slovenia adhered to the Memorandum on 15 May 2003; for the Maritime Authority of Slovenia the Memorandum took effect on 22 July 2003.

Recalling the Final Declaration adopted on 2 December 1980 by the Regional European Conference on Maritime Safety which underlined the need to increase maritime safety and the protection of the marine environment and the importance of improving living and working conditions on board ship;

Noting with appreciation the progress achieved in these fields by the International Maritime Organization and the International Labour Organization;

Noting also the contribution of the European Union towards meeting the above mentioned objectives;

Mindful that the principal responsibility for the effective application of standards laid down in international instruments rests upon the authorities of the State whose flag a ship is entitled to fly;

Recognizing nevertheless that effective action by port States is required to prevent the operation of substandard ships;

Recognizing also the need to avoid distorting competition between ports;

Convinced of the necessity, for these purposes, of an improved and harmonized system of port State control and of strengthening co-operation and the exchange of information; have reached the following understanding:

Section 1 Commitments

- 1.1 Each Authority will give effect to the provisions of the present Memorandum and the Annexes thereto, which constitute an integral part of the Memorandum.
- 1.2 Each Authority will maintain an effective system of port State control with a view to ensuring that, without discrimination as to flag, foreign merchant ships calling at a port of its State, or anchored off such a port, comply with the standards laid down in the relevant instruments as defined in section 2. Each Authority may also carry out controls on ships at off-shore installations.
- 1.3 Each Authority will achieve an annual total of inspections corresponding to 25% of the average number of individual foreign merchant ships, hereinafter referred to as 'ships', which entered the ports of its State during the three last calendar years for which statistics are available.
- 1.4 Each Authority will consult, cooperate and exchange information with the other Authorities in order to further the aims of the Memorandum.
- 1.5 Each Authority, or any other body, as the case may be, will establish an appropriate procedure for pilot services and port authorities to immediately inform the competent Authority of the port State, whenever they learn in the course of their normal duties that there are deficiencies which may prejudice the safety of the ship, or which may pose a threat of harm to the marine environment.

Section 2 Relevant instruments

- 2.1 For the purposes of the Memorandum 'relevant instruments' are the following instruments:
 1. the International Convention on Load Lines, 1966 (LOAD LINES 66);
 2. the Protocol of 1988 relating to the International Convention on Load Lines, 1966 (LL PROT 88);
 3. the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);
 4. the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974 (SOLAS PROT 78);

- .5 the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974 (SOLAS PROT 88);
 - .6 the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocols of 1978 and 1997 relating thereto (MARPOL 73/78);
 - .7 the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers, 1978 (STCW 78);
 - .8 the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREG 72);
 - .9 the International Convention on Tonnage Measurement of Ships, 1969 (TONNAGE 69);
 - .10 the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147) (ILO 147);
 - .11 the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147) (ILO147 PROT 96);
 - .12 the International Convention on Civil Liability for Oil Pollution Damage, 1992.
- 2.2 With respect to ILO 147 and the ILO Protocol 1996, each Authority will apply the procedures referred to in section 7 of Annex 1 for the application of ILO publication "Inspection of Labour Conditions on board Ship: Guide-lines for procedure".
- 2.3 Each Authority will apply those relevant instruments which are in force and to which its State is a Party. In the case of amendments to a relevant instrument each Authority will apply those amendments which are in force and which its State has accepted. An instrument so amended will then be deemed to be the 'relevant instrument' for that Authority.
- 2.4 In applying a relevant instrument, the Authorities will ensure that no more favourable treatment is given to ships of non-Parties or to ships below convention size. The Authorities will thereby apply the procedures specified in section 3 of Annex 1.

Section 3 Inspection Procedures, Rectification and Detention

- 3.1 In fulfilling their commitments the Authorities will carry out inspections, which will consist of a visit on board a ship in order to check the certificates and documents as referred to in section 2 of Annex 1. Furthermore the Authorities will satisfy themselves that the crew and the overall condition of the ship, including the engine room and accommodation and including hygienic conditions, meets generally accepted international rules and standards.

In the absence of valid certificates or documents or if there are clear grounds for believing that the condition of a ship or of its equipment, or its crew does not substantially meet the requirements of a relevant instrument, a more detailed inspection will be carried out, as referred to in section 5 of Annex 1. Examples of clear grounds are given in section 4 of Annex 1.

The Authorities will include control on compliance with on board operational requirements in their inspections.

- 3.2 The Authorities will ensure that an inspection in accordance with the provisions of section 3.1 is carried out on any ship not subject to expanded inspection with a target factor greater than 50 in the SIRENaC information system, provided that a period of at least one month has elapsed since the last inspection carried out in the region of the Memorandum.
- 3.3 A ship in one of the categories in section 8.2 of Annex 1, is liable to an expanded inspection after a period of twelve months since the last expanded inspection carried out in a port within the region of the Memorandum.

If such a ship is selected for inspection in accordance with section 3.6, an expanded inspection shall be carried out. However an inspection in accordance with section 3.1 may be carried out in the period between two expanded inspections.

The Authorities will ensure that an expanded inspection is carried out on a ship for which the inspection is indicated as mandatory by the SIRENaC system at its first port visited after a period of 12 months since the last expanded inspection.

- 3.4** In cases where, for operational reasons, an Authority is unable to carry out an inspection or an expanded inspection as referred to in sections 3.2 and 3.3 respectively, the Authority will, without delay, inform the SIRENaC system that such inspection did not take place.
- 3.5** Nothing in these procedures will be construed as restricting the powers of the Authorities to take measures within its jurisdiction in respect of any matter to which the relevant instruments relate.
- 3.6** In selecting for inspection ships other than those referred to in sections 3.2 and 3.3, the Authorities will determine the order of priority on the basis of the criteria indicated in section 1 of Annex 1.
- 3.7** The Authorities will seek to avoid inspecting ships which have been inspected by any of the other Authorities within the previous six months, unless they have clear grounds for inspection. The frequency of inspection does not apply to the ships referred to in 3.6 and in 3.2 in which case the Authorities will seek satisfaction whenever they will deem this appropriate.
- 3.8** Inspections will be carried out by properly qualified persons authorized for that purpose by the Authority concerned and acting under its responsibility, having regard in particular to Annex 7.

When the required professional expertise cannot be provided by the Authority, the port State control officer of that Authority may be assisted by any person with the required expertise. Port State control officers and the persons assisting them will have no commercial interest, either in the port of inspection or in the ships inspected, nor will port State control officers be employed by or undertake work on behalf of non-governmental organizations which issue statutory and classification certificates or which carry out the surveys necessary for the issue of those certificates to ships.

Each port State control officer will carry a personal document in the form of an identity card issued by his Authority in accordance with the national legislation, indicating that the port State control officer is authorized to carry out inspections.

- 3.9.1** Each Authority will endeavour to secure the rectification of all deficiencies detected. On the condition that all possible efforts have been made to rectify all deficiencies, other than those referred to in 3.10.1, the ship may be allowed to proceed to a port where any such deficiencies can be rectified.
- 3.9.2** In exceptional circumstances where, as a result of the initial control and a more detailed inspection, the overall condition of a ship and its equipment, also taking the crew and its living and working conditions into account, is found to be sub-standard, the Authority may suspend an inspection.

The suspension of the inspection may continue until the responsible parties have taken the steps necessary to ensure that the ship complies with the requirements of the relevant instruments.

Prior to suspending an inspection, the Authority must have recorded detainable deficiencies in the areas set out in 9.3.3 and 9.3.4 of Annex 1, as appropriate.

In cases where the ship is detained and an inspection is suspended, the Authority will as soon as possible notify the responsible parties. The notification will include information about the detention. Furthermore it will state that the inspection is suspended until the Authority has been informed that the ship complies with all relevant requirements.

3.10.1 In the case of deficiencies which are clearly hazardous to safety, health or the environment, the Authority will, except as provided in 3.11, ensure that the hazard is removed before the ship is allowed to proceed to sea. For this purpose appropriate action will be taken, which may include detention or a formal prohibition of a ship to continue an operation due to established deficiencies which, individually or together, would render the continued operation hazardous.

3.10.2 In the case of a detention, the Authority will immediately notify the flag State Administration* in writing, which includes the report of inspection. Like wise, the classification society which has issued the class certificates and the recognized organization that has issued the relevant certificates on behalf of the flag State Administration will be notified, where appropriate. The parties above will also be notified in writing of the release of detention.

3.10.3 Where the ground for a detention is the result of accidental damage suffered on the ship's voyage to a port or during cargo operations, no detention order will be issued, provided that:

- .1 due account has been given to the requirements contained in Regulation I/11(c) of SOLAS 74 regarding notification to the flag State Administration, the nominated surveyor or the recognized organization responsible for issuing the relevant certificate;
- .2 prior to entering a port or immediately after a damage has occurred, the master or ship owner has submitted to the port State control authority details on the circumstances of the accident and the damage suffered and information about the required notification of the flag State Administration;
- .3 appropriate remedial action, to the satisfaction of the Authority, is being taken by the ship, and
- .4 the Authority has ensured, having been notified of the completion of the remedial action, that deficiencies which were clearly hazardous to safety, health or the environment have been rectified.

3.10.4 The following procedure is applicable in the absence of ISM certificates:

- .1 Where the inspection reveals that the copy of the Document of Compliance or the Safety Management Certificate issued in accordance with the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code) are missing on board a vessel to which the ISM Code is applicable at the date of the inspection, the Authority will ensure that the vessel is detained.
- .2 Notwithstanding the absence of the documentation referred to in 3.10.4.1, if the inspection finds no other deficiencies warranting detention the Authority may lift the detention order in order to avoid port congestion. Whenever such a decision is taken, the Authority will immediately inform all other Authorities thereof.
- .3 The Authorities will take the measures necessary to ensure that all ships authorised to leave a port of their State under the circumstances referred to in 3.10.4.2 will be refused access to any port within the States, the Authorities of which are signatories to the Memorandum, except in the situations referred to in 3.12.3, until the owner or operator of the vessel has demonstrated, to the satisfaction of the Authority in whose

* Refer to MSC/Circ. 781 and MEPC 6/Circ 2 "National contact points of Members for safety and pollution prevention" (annexes 1 and 2). When a valid contact point is not available the nearest diplomatic representative should be informed.

State detention was ordered, that the ship has valid certificates issued in accordance with the ISM Code.

3.10.5 Access refusal measures concerning certain ships

1. The Authorities will ensure that a ship in one of the categories of Annex 3, section A, is refused access to any port within the region of the Memorandum, except in the situations described in section 3.12.3 if the ship:
 - either flies the flag of a State appearing in the black list as published in the annual report of the MOU, and has been detained more than twice in the course of the preceding 24 months in ports within the region of the Memorandum;
 - or flies the flag of a State described as "very high risk" or "high risk" in the black list as published in the annual report of the MOU, and has been detained more than once in the course of the preceding 36 months in ports within the region of the Memorandum.

The refusal of access shall become applicable immediately the ship has been authorised to leave the port where it has been subject of a second or third detention as appropriate.

2. For the purpose of paragraph 1, the Authorities will comply with the procedures laid down in Annex 3 section B.

3.11 Where deficiencies which caused a detention as referred to in 3.10.1 cannot be remedied in the port of inspection, the Authority may allow the ship concerned to proceed to the nearest appropriate repair yard available, as chosen by the master and the Authority, provided that the conditions determined by the competent authority of the flag State and agreed by the Authority are complied with. Such conditions, which may include discharging of cargo and/or temporary repairs, will ensure that the ship can proceed without risk to the safety and health of the passengers or crew, or risk to other ships, or without being an unreasonable threat of harm to the marine environment.

Where the decision to send a ship to a repair yard is due to a lack of compliance with IMO Resolution A. 744(18), either with respect to ship's documentation or with respect to ship's structural failures and deficiencies, the Authority may require that the necessary thickness measurements are carried out in the port of detention before the ship is allowed to sail.

If the vessel is detained because it is not equipped with a functioning voyage data recorder system, when its use is compulsory, and this deficiency cannot be readily rectified in the port of detention, the competent authority may allow the ship to proceed to the nearest appropriate port where it shall be readily rectified or require that the deficiency is rectified within a maximum period of 30 days.

In such circumstances the Authority will notify the competent authority of the region State where the next port of call of the ship is situated, the parties mentioned in 3.10.2 and any other authority as appropriate. Notification to Authorities shall include the final report of inspection and the estimated place and time of arrival. Additional notification will be made by means of the SIRENaC system. The Authority receiving such notification will inform the notifying Authority of action taken.

3.12.1 The Authorities will take measures to ensure that:

1. ships referred to in 3.10.1 or 3.11 which proceed to sea without complying with the conditions determined by the Authority in the port of inspection; or
2. ships referred to in 3.11 which refuse to comply with the applicable requirements of the relevant instruments by not calling into the indicated repair yard;

will be refused access to any port within the States, the Authorities of which are signatories to the Memorandum, until the owner or operator has provided evidence to the satisfaction of the Authority where the ship was found defective, that the ship fully complies with all applicable requirements of the relevant instruments.

3.12.2 In the circumstances referred to in 3.12.1.1, the Authority where the ship was found defective will immediately alert all other Authorities.

In the circumstances referred to in 3.12.1.2, the Authority in whose State the repair yard lies will immediately alert all other Authorities.

Before denying entry, the Authority may request consultations with the flag State Administration of the ship concerned.

3.12.3 Notwithstanding the provisions of 3.12.1, access to a specific port may be permitted by the relevant authority of that port State in the event of force majeure or overriding safety considerations, or to reduce or minimize the risk of pollution, provided that adequate measures to the satisfaction of the competent authority of such State have been implemented by the owner, the operator or the master of the ship to ensure safe entry.

3.13 The provisions of 3.10.2 and 3.11 are without prejudice to the requirements of relevant instruments or procedures established by international organizations concerning notification and reporting procedures related to port State control.

3.14 The Authorities will ensure that, on the conclusion of an inspection, the master of the ship is provided with a report of inspection, giving the results of the inspection and details of any action taken.

3.15 Should any inspection referred to in 3.1 confirm or reveal deficiencies in relation to the requirements of a relevant instrument warranting the detention of a ship, all costs relating to the inspections in any normal accounting period will be covered by the shipowner or the operator or by his representative in the port State.

All costs relating to inspections carried out by the Authority under the provisions of 3.12.1 will be charged to the owner or the operator of the ship.

The detention will not be lifted until full payment has been made or a sufficient guarantee has been given for the reimbursement of the costs.

3.16 The owner or the operator of a ship or his representative in the State concerned will have a right of appeal against a detention decision or refusal of access taken by the Authority of that State. An appeal will not cause the detention or refusal of access to be suspended. The Authority will properly inform the master of a ship of the right of appeal.

3.17 Each Authority will take necessary measure in order to ensure that information listed in Annex 5 on ships inspected and ships detained is published at least every month.

3.18 When exercising control under the Memorandum, the Authorities will make all possible efforts to avoid unduly detaining or delaying a ship. Nothing in the Memorandum affects rights created by provisions of relevant instruments relating to compensation for undue detention or delay. In any instance of alleged undue detention or delay the burden of proof lies with the owner or operator of the ship.

Section 4 Provision of information

- 4.1 Each Authority will report on its inspections under the Memorandum and their results, in accordance with the procedures specified in Annex 4.
- 4.2 Information provided in accordance with the previous paragraph may be made available for publication in printed form or by electronic means in order to assist Authorities with the publications mentioned in section 3.17 as well as for other purposes in accordance with decisions of the Committee mentioned in section 6.
- 4.3 DSI, mentioned in Annex 4 and the Secretariat, mentioned in section 6.4 may facilitate the publication of data by providing data in any electronic or printed format derived unaltered from the information system mentioned in Annex 4.
- 4.4 When inspection or detention data contain information concerning private persons the Authorities undertake to ensure protection of the privacy of those persons in accordance with applicable international, European Community and national laws and regulations. This protection shall however not prevent the publication of the company of ships inspected or publication of the names of charterers involved.

Section 5 Operational violations

The Authorities will upon the request of another Authority, endeavour to secure evidence relating to suspected violations of the requirements on operational matters of Rule 10 of COLREG 72 and MARPOL 73/78. In case of suspected violations involving the discharge of harmful substances, an Authority will, upon the request of another Authority, visit in port the ship suspected of such a violation in order to obtain information and where appropriate to take a sample of any alleged pollutant. Procedures for investigations into contravention of discharge provisions are listed in Annex 2.

Section 6 Organization

- 6.1 A Committee will be established, composed of a representative of each of the Authorities and of the Commission of the European Communities. An advisor from each of the International Governmental Organizations, Observers and Associates will be invited to participate in the work of the Committee and any other meetings.
- 6.2 The Committee will meet once a year and at such other times as it may decide.
- 6.3 The Committee will:
 - .1 carry out the specific tasks assigned to it under the Memorandum;
 - .2 promote by all means necessary, including seminars for port State control officers, the harmonization of procedures and practices relating to the inspection, rectification, detention and the application of 2.4;
 - .3 develop and review guidelines and procedures for carrying out inspections under the Memorandum;
 - .4 develop and review procedures for the exchange of information;
 - .5 keep under review other matters relating to the operation and the effectiveness of the Memorandum.
- 6.4 A secretariat provided by the Netherlands' Ministry of Transport, Public Works and Water Management will be set up and will have its office in The Hague.
- 6.5 The secretariat, acting under the guidance of the Committee and within the limits of the resources made available to it, will:
 - .1 prepare meetings, circulate papers and provide such assistance as may be required to enable the Committee to carry out its functions;

- .2 facilitate the exchange of information, carry out the procedures outlined in Annex 4 and prepare reports as may be necessary for the purposes of the Memorandum;
- .3 carry out such other work as may be necessary to ensure the effective operation of the Memorandum.

Section 7 Amendments

7.1 Any Authority may propose amendments to the Memorandum.

7.2 In the case of proposed amendments to sections of the Memorandum the following procedure will apply:

- .1 the proposed amendment will be submitted through the secretariat for consideration by the Committee;
- .2 amendments will be adopted by a two-thirds majority of the representatives of the Authorities present and voting in the Committee. If so adopted an amendment will be communicated by the secretariat to the Authorities for acceptance;
- .3 an amendment will be deemed to have been accepted either at the end of a period of six months after adoption by the representatives of the Authorities in the Committee or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption, unless within the relevant period an objection is communicated to the secretariat by an Authority;
- .4 an amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee.

7.3 In the case of proposed amendments to Annexes of the Memorandum the following procedure will apply:

- .1 the proposed amendment will be submitted through the secretariat for consideration by the Authorities;
- .2 the amendment will be deemed to have been accepted at the end of a period of three months from the date on which it has been communicated by the secretariat unless an Authority requests in writing that the amendment should be considered by the Committee. In the latter case the procedure specified in 7.2 will apply;
- .3 the amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the Authorities.

Section 8

8.1 The Memorandum is without prejudice to rights and obligations under any international Agreement.

8.2 A Maritime Authority of a European coastal State and a coastal State of the North Atlantic basin from North America to Europe, which complies with the criteria specified in Annex 6, may adhere to the Memorandum with the consent of all Authorities participating in the Memorandum.

8.3 When the Memorandum takes effect, it will supersede the 'Memorandum of Understanding between Certain Maritime Authorities on the Maintenance of Standards on Merchant Ships', signed at The Hague on 2 March 1978.

8.4 The Memorandum will take effect on 1 July 1982.

8.5 The English and French versions of the text of the Memorandum are equally authentic.

Signed at Paris in the English and French languages, this twenty-sixth day of January one thousand nine hundred and eighty-two.

2.2.2. Memorandum of Understanding on Port State Control in the Asia-Pacific Region

Author's note: Only selected extracts from the Tokyo MOU are incorporated below, including the 9th amendment (adopted on 8 November 2005 with effect on 1 January 2006), which have been reproduced from the electronic version of the MOU in question, subject to the usual disclaimers (*see* http://www.tokyo_mou.org). **Annexes have been omitted.** Readers should be cautioned about possible amendments.

The Maritime Authorities of

Australia¹

Canada²

Chile³

China¹

Fiji⁴

Hong Kong, China

Indonesia⁵

Japan⁶

Republic of Korea⁷

Malaysia⁶

New Zealand⁶

Papua New Guinea⁶

Philippines⁸

Russian Federation⁹

Singapore¹⁰

Solomon Islands¹¹

Thailand¹²

Vanuatu¹³

Viet Nam¹⁴

hereinafter referred to as "the Authorities"

¹ Accepted the Memorandum on 11 April 1994.

² Accepted the Memorandum on 15 April 1994.

³ Became member Authority on 10 June 2002 in accordance with paragraph 8.2 of the Memorandum.

⁴ Accepted the Memorandum on 1 June 1996.

⁵ Accepted the Memorandum on 1 April 1996.

⁶ Accepted the Memorandum on 1 April 1994.

⁷ Accepted the Memorandum on 7 April 1994.

⁸ Accepted the Memorandum on 9 September 1997.

⁹ Accepted the Memorandum on 1 April 1995.

¹⁰ Accepted the Memorandum on 9 April 1994.

¹¹ Not yet accepted the Memorandum.

¹² Accepted the Memorandum on 1 May 1996.

¹³ Accepted the Memorandum on 26 April 1994.

¹⁴ Accepted the Memorandum on 1 January 1999.

Recognizing the importance of the safety of life at sea and in ports and the growing urgency of protecting the marine environment and its resources;

Recalling the importance of the requirements set out in the relevant maritime conventions for ensuring maritime safety and marine environment protection;

Recalling also the importance of the requirements for improving the living and working conditions at sea;

Noting the resolutions adopted by the International Maritime Organization (IMO), and especially Resolution A.682(17) adopted at its 17th Assembly, concerning regional co-operation in the control of ships and discharges;

Noting also that the Memorandum is not a legally binding document and is not intended to impose any legal obligation on any of the Authorities;

Mindful that the principal responsibility for the effective application of standards laid down in international instruments rests upon the administrations whose flag a ship is entitled to fly;

Recognizing nevertheless that effective action by port States is required to prevent the operation of substandard ships;

Recognizing also the need to avoid distorting competition between ports;

Convinced of the necessity, for these purposes, of an improved and harmonized system of port State control and of strengthening cooperation and the exchange of information; have reached the following understanding:

Section 1 General

- 1.1 Each Authority that has accepted the Memorandum will give effect to the provisions of the present Memorandum.
- 1.2 For the purposes of the Memorandum, references to the "region", to "regional", to "regional ports" or to "regional port State control" mean the Asia-Pacific region, and references to "port State" means the States, and the territories recognized as Associate Members of IMO in which the ports are located.
- 1.3 Each Authority will establish and maintain an effective system of port State control with a view to ensuring that, without discrimination, foreign merchant ships calling at a port of its Authority, or anchored off such a port comply with the standards laid down in the relevant instruments as defined in section 2.
- 1.4 Each Authority, under the coordination of the Committee established pursuant to paragraph 6.1, will determine an appropriate annual percentage of individual foreign merchant ships, hereinafter referred to as "ships", to be inspected. The Committee will monitor the overall inspection activity and its effectiveness throughout the region. As the target, subject to subsequent review, the Committee will endeavour to attain a regional annual inspection rate of 75% of the total number of ships operating in the region. The percentage is based on the number of ships which entered regional ports during a recent base period to be decided by the Committee.
- 1.5 Each Authority will consult, cooperate and exchange information with the other Authorities in order to further the aims of the Memorandum.

Section 2 Relevant Instruments

- 2.1 For the purposes of the Memorandum, the following are the relevant instruments on which regional port State control is based:
 - .1 the International Convention on Load Lines 1966;
 - .2 the Protocol of 1988 relating to the International Convention on Load Lines, 1966;
 - .3 the International Convention for the Safety of Life at Sea, 1974 as amended;
 - .4 the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974;

- .5 the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974;
 - .6 the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 relating thereto;
 - .7 the International Convention on Standards for Training, Certification and Watch-keeping for Seafarers, 1978, as amended;
 - .8 the Convention on the International Regulations for Preventing Collisions at Sea, 1972;
 - .9 the International Convention on Tonnage Measurement of Ships, 1969; and
 - .10 the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147).
- 2.2** With respect to the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147), each Authority will be guided by the instructions in Section 1-4* of the Asia-Pacific Port State Control Manual (hereinafter referred to as the "Manual"). The implementation of ILO Convention No. 147 will not require any alterations to structure or facilities involving accommodation for ships whose keels were laid down before April 1, 1994.
- 2.3** In the application of the other relevant instruments, each Authority will be guided by the standards specified in Section 1-3** of the Manual.
- 2.4** Each Authority will apply those relevant instruments which are in force and are binding upon it. In the case of amendments to a relevant instrument each Authority will apply those amendments which are in force and which are binding upon it. An instrument so amended will then be deemed to be the 'relevant instrument' for that Authority.
- 2.5** In applying a relevant instrument for the purpose of port State control, the Authorities will ensure that no more favourable treatment is given to ships entitled to fly the flag of a non-party to that instrument.
- 2.6** When inspecting ships for provisions of the relevant instruments to which it is a Party, the Authority as the port State will not impose standards on foreign ships that are in excess of standards applicable to ships flying the flag of that port State.

Section 3 Inspection Procedures, Rectification and Detention

- 3.1** In implementing this Memorandum, the Authorities will carry out inspections, which will consist of at least a visit on board a ship in order to check the certificates and documents, and furthermore satisfy themselves that the crew and the overall condition of the ship, its equipment, machinery spaces and accommodation, and hygienic conditions on board, meets the provisions of the relevant instruments. In the absence of valid certificates, or if there are clear grounds for believing that the crew or the condition of the ship or its equipment does not substantially meet the requirements of a relevant instrument, or the master or crew are not familiar with essential shipboard procedure relating to the safety of ships or the prevention of pollution, a more detailed inspection will be carried out. Inspections will be carried out in accordance with the Manual.
- 3.2 Clear Grounds**
- 3.2.1** For the purpose of control, specific 'clear grounds' include those as prescribed in paragraph 2.3 of IMO resolution A.787(19) as amended and in Section 6-7* of the Manual.
- 3.2.2** Nothing in these procedures should be construed as restricting the powers of the Authorities to take measures within their jurisdiction in respect of any matter to which the relevant instruments relate.

* ILO publication of "Inspection of Labour Conditions on Board Ship: Guide-lines for Procedure".

** IMO Port State Control Procedures (Resolution A.787(19) as amended by Resolution A.882(21)).

* Guidelines for PSC additional to Resolution A.787(19) and ILO control procedures.

3.3 Selection of ships for inspection

3.3.1 In selecting ships for inspection, the Authorities will determine the order of priority based on, in principle, the ship targeting system adopted by the Committee and give higher priority to ships with higher targeting factor value.

3.3.2 Regardless of the targeting factor value, as referred to in paragraph 3.3.1, the following ships will be considered to have overriding priority for inspection:

- .1 ships which have been subject of report or notification by another Authority;
- .2 ships which have been the subject of a report or complaint by the master, a crew member, or any other person or organization with a legitimate interest in the safe operation of the ship, shipboard living and working conditions or the prevention of the pollution, unless the Authority concerned deems the report or complaint to be manifestly unfounded;
- .3 ships which have been permitted to leave the port of a State, the Authority of which is a signatory to the Memorandum, on the condition that the deficiencies noted must be rectified within a specified period, upon expiry of such period;
- .4 ships which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation;
- .5 ships carrying dangerous or polluting goods, which have failed to report all relevant information concerning the ships' particulars, the ships movements and concerning the dangerous or polluting goods being carried to the competent authority of the port and coastal State;
- .6 ships referred to in paragraph 3.9; and
- .7 category of ships identified by the Committee from time to time as warranting priority inspections.

3.4 The Authorities will seek to avoid inspecting ships which have been inspected by any of the other Authorities within the previous six months. The frequency of inspection does not apply to the ships of high targeting factor or ships referred to in paragraph 3.3.2, in which case the Authorities will inspect as appropriate.

3.5 Inspections will be carried out by properly qualified persons authorized for that purpose by the Authority concerned and acting under its responsibility having regard to sections 2.4 and 2.5 of IMO resolution A.787(19) contained in Section 1-3 of the Manual.

3.6 Each Authority will endeavour to secure the rectification of all deficiencies detected. On the condition that all possible efforts have been made to rectify all deficiencies, other than those referred to in 3.7, the ship may be allowed to proceed to a port where any such deficiencies can be rectified. The provisions of 3.8 apply accordingly.

In exceptional circumstances where, as a result of the initial control and a more detailed inspection, the overall condition of a ship and its equipment, also taking the crew and its living and working conditions into account, are found to be substandard, the Authority may suspend an inspection.

The suspension of the inspection may continue until the responsible parties have taken the steps necessary to ensure that the ship complies with the requirements of the relevant instruments.

Prior to suspending an inspection, the Authority will have recorded detainable deficiencies in the areas set out in Appendix 1 of IMO resolution A.787(19) and ILO Convention deficiencies*, as appropriate.

In cases where the ship is detained and an inspection is suspended, the Authority will, as soon as possible, notify the responsible parties. The notification will include information about the detention. Furthermore it shall state that the inspection is suspended until the Authority has been informed that the ship complies with all relevant requirements.

* Examples of detainable deficiencies are set out in Section 6-7 of the Manual.

- 3.7** In the case of deficiencies which are clearly hazardous to safety, health or the environment, the Authority will, except as provided in 3.8, ensure that the hazard is removed before the ship is allowed to proceed to sea. For this purpose appropriate action will be taken, which may include detention or a formal prohibition of a ship to continue an operation due to established deficiencies which, individually or together, would render the continued operation hazardous. In the event of a detention, the Authority will as soon as possible, notify in writing the flag State or its consul or, in his absence, its nearest diplomatic representative of all the circumstances in which intervention was deemed necessary. Where the certifying Authority is an organization other than a maritime administration, the former will also be advised.
- 3.8** Where deficiencies which caused a detention as referred to in paragraph 3.7 cannot be remedied in the port of inspection, the Authority may allow the ship concerned to proceed to the nearest appropriate repair port available, as chosen by the master and agreed to by the Authority, provided that the conditions determined by the Authority and agreed by the competent authority of the flag State are complied with. Such conditions will ensure that the ship shall not sail until it can proceed without risk to the safety and health of the passengers or crew, or risk to other ships, or without being an unreasonable threat of harm to the marine environment. Such conditions may include discharging of cargo, temporary repairs and/or confirmation from the flag State that remedial action has been taken on the ship in question. In such circumstances the Authority will notify the Authority of the ship's next port of call, the parties mentioned in paragraph 3.7 and any other authority as appropriate. Notification to Authorities will be made in accordance with Section 6-6* of the Manual. The Authority receiving such notification will inform the notifying Authority of action taken in accordance with Section 6-5 of the Manual.
- 3.9** If a ship referred to in paragraph 3.8 proceeds to sea without complying with the conditions agreed to by the Authority of the port of inspection:
- .1 that Authority will immediately alert the next port, if known, the flag State and all other Authorities it considers appropriate; and
 - .2 the ship will be detained at any port of the Authorities which have accepted the Memorandum, until the company has provided evidence to the satisfaction of the Authority of the port State, that the ship fully complies with all applicable requirements of the relevant instruments.
- 3.10** If a ship referred to in paragraph 3.8 does not call at the nominated repair port, the Authority of the repair port will immediately alert the flag State and detaining port State, which may take appropriate action, and notify any other Authorities it considers appropriate.
- 3.11** The provisions of this section are without prejudice to the requirements of relevant instruments or procedures established by international organizations concerning notification and reporting procedures related to port State control.
- 3.12** The Authorities will ensure that, on the conclusion of an inspection, the master of the ship is provided with a document, in the form specified in Section 2-1** of the Manual, giving the results of the inspection and details of any action taken.
- 3.13** When exercising control under the Memorandum, the Authorities will make all possible efforts to avoid unduly detaining or delaying a ship. Nothing in the Memorandum affects rights created by provisions of relevant instruments relating to compensation for undue detention or delay.

* Guidelines for rectifying deficiencies and detentions in accordance with paragraphs of 3.6-3.9 of the Memorandum.

** Inspection report forms A and B.

- 3.14** In the case that an inspection is initiated based on a report or complaint, especially if it is from a crew member, the source of the information must not be disclosed.
- 3.15** The company of a ship or its representative will have a right of appeal against a detention taken by the Authority of the port State. Initiation of the appeal process will not by itself cause the detention to be suspended. The port State control officer should properly inform the master of the right of appeal.

Section 4 Provision of information

- 4.1** Each Authority will report on its inspections under the Memorandum and their results, in accordance with the procedures specified in the Manual.
- 4.2** Arrangements will be made for the exchange of inspection information with other regional organizations working under a similar memorandum of understanding.
- 4.3** The Authorities will, upon the request of another Authority, endeavour to secure evidence relating to suspected violations of the requirements on operational matters of Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972 and the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto. In case of suspected violations involving the discharge of harmful substances, an Authority will, upon the request of another Authority, visit in port the ship suspected of such a violation in order to obtain information and, where appropriate, to take a sample of any alleged pollutant.

Section 5 Training Programs and Seminars

The Authorities will endeavour to establish training programs and seminars for port State control officers.

Section 6 Organization

- 6.1** A Committee composed of representatives of each of the Member Authorities, defined in Annex 1 of the Memorandum, will be established. A representative from each of the Co-operating Member Authorities and Observers, referred to in Annex 1 to the Memorandum, will be invited to participate without vote in the work of the Committee.
- 6.2** The Committee will meet once a year and at such other times as it may decide.
- 6.3** The Committee will:
- .1 carry out the specific tasks assigned to it under the Memorandum;
 - .2 promote by all means necessary, including training and seminars, the harmonization of procedures and practices relating to inspection, rectification and detention whilst having regard to paragraph 2.4;
 - .3 develop and review guidelines for carrying out inspections under the Memorandum;
 - .4 develop and review procedures for the exchange of information; and
 - .5 keep under review other matters relating to the operation and the effectiveness of the Memorandum.
- 6.4** A Secretariat will be established in accordance with the following principles:
- .1 the Secretariat is a non-profit making body located in Tokyo;
 - .2 the Secretariat will be totally independent from any maritime administration or organization;
 - .3 the Secretariat will be governed by and be accountable to the Committee;
 - .4 the Secretariat will have a bank account into which all dues and contributions are made; and
 - .5 the Secretariat will operate from the established bank account in accordance with the budget determined by the Committee.
- 6.5** The Secretariat, acting under the guidance of the Committee and within the limits of the resources made available to it, will:
- .1 prepare meetings, circulate papers and provide such assistance as may be required to enable the Committee to carry out its functions;

- .2 facilitate the exchange of information; and
 - .3 carry out such other work as may be necessary to ensure the effective operation of the Memorandum.
- 6.6** The Asia-Pacific Computerized Information System (APCIS) in the Russian Federation is established for the purpose of exchanging information on port State inspections, in order to:
- .1 make available to Authorities information on inspections of ships in other regional ports to assist them in their selection of foreign flag ships to be inspected and their exercise of port State control on selected ships; and
 - .2 provide effective information exchange facilities regarding port State control in the region.

Section 7 Amendments

7.1 The Memorandum will be amended by the following procedure:

- .1 any Authority that has accepted the Memorandum may propose amendments to the Memorandum;
- .2 the proposed amendment will be submitted through the Secretariat for consideration by the Committee;
- .3 amendments will be adopted by a two-thirds majority of the representatives of the Authorities present and voting in the Committee, each Authority exercising one vote. If so adopted an amendment will be communicated by the Secretariat to the Authorities for acceptance;
- .4 an amendment will be deemed to have been accepted either at the end of a period of six months after adoption by the representatives of the Authorities in the Committee or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption, unless within the relevant period an objection is communicated to the Secretariat by an Authority;
- .5 any such objection will be considered by the Committee at its next meeting, and the amendment will be confirmed if it is accepted by a two-thirds majority of the representatives of the Authorities present and voting in the Committee at such meeting. In these circumstances, a quorum of more than half of the total number of representatives of the Authorities that comprise the Committee is required. In the event that the amendment is confirmed, the date of its deemed acceptance will be either at the end of a period of six months after being confirmed or any different period determined unanimously by the representatives of the Authorities in the Committee at the time of confirmation; and
- .6 an amendment will take effect 60 days after it has been deemed accepted, or at the end of any different period of deemed acceptance as determined unanimously by the representatives of the Authorities in the Committee.

7.2 The Manual will be amended by the following procedure:

- .1 the proposed amendment to the parts other than those factual information/data will be submitted through or by the Secretariat for consideration by the Authorities;
- .2 the amendment will be deemed to have been accepted at the end of a period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption; and
- .3 the amendment will take effect at the end of any period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption.

Section 8 Administrative Provisions

8.1 The Memorandum is without prejudice to rights and obligations under any international instrument.

- 8.2** Any Maritime Authority meeting the criteria established in Annex 1 to the Memorandum may, with the unanimous consent of the Authorities present and voting at the Committee meeting, become a Co-operating Member or a Member Authority of the Memorandum in accordance with the procedure prescribed in Annex 1. For such an Authority, the Memorandum will take effect upon such date as may be mutually determined.
- 8.3** Any Maritime Authority or an intergovernmental organization wishing to participate as an observer as defined in Annex 1 to the Memorandum will submit in writing an application to the Committee and will be accepted as an observer subject to the unanimous consent of the representatives of the Authorities present and voting at the Committee meeting.
- 8.4** Any Authority may withdraw from the Memorandum by providing the Committee with 60 days notice in writing.
- 8.5** The Committee may, with unanimous consent of the member Authorities present and voting at its meeting except the Authority in question, decide to revoke membership of a member Authority or observer status of an observer that does not comply substantially with the provisions set out in Annex 1.
- 8.6** The Memorandum is signed at Tokyo on December 1, 1993 and will remain open for signature until the signing during the first meeting of the Committee to be held in 1994.
- 8.7** The Memorandum will be available for acceptance from April 1, 1994, and will take effect for each Authority, which has signed the Memorandum, on the date its acceptance is duly notified to the Secretariat.
- 8.8** The English text is the official version of the Memorandum.

This Memorandum is signed at Tokyo on December 1, 1993 by the following Authorities:

Australia	New Zealand
Canada	Papua New Guinea
Fiji	Philippines
Hong Kong, China	Russian Federation
Indonesia	Singapore
Japan	Solomon Islands
Republic of Korea	Thailand
Malaysia	Viet Nam

This Memorandum is signed at Beijing on April 11, 1994 by the following Authorities:

China	Vanuatu

2.2.3. Memorandum of Understanding on Port State Control in the Black Sea Region

Author's note: Only selected extracts from the Black Sea MOU are incorporated below, including the 3rd Amendment (with effect on 1 January 2006), which have been reproduced from the electronic version of the MOU in question, subject to the usual disclaimers (see <http://www.bsmou.org/>). **Annexes have been omitted.** Readers should be cautioned about possible amendments.

The Maritime Authorities of
 The Republic of Bulgaria
 Georgia
 Romania
 The Russian Federation
 The Republic of Turkey and
 Ukraine

Hereinafter referred as to “The Authorities”

Recognizing the need to increase maritime safety and the protection of the marine environment and the importance of improving living and working conditions on board ships;

Recalling the Strategic Action Plan for the Rehabilitation and Protection of the Black Sea, in particular paragraph 38;

Noting with appreciation the progress achieved in these fields, in particular by the International Maritime Organization (IMO) and the International Labour Organisation (ILO);

Mindful that the principal responsibility for the effective application of the standards laid down in international instruments rests upon the authorities of the State whose flag a ship is entitled to fly;

Recognizing nevertheless that effective action by port States is required to prevent the operation of substandard ships;

Recognizing also the need to avoid distorting competition between ports;

Convinced of the necessity, for these purposes, of an improved and harmonized system of port State control and of strengthening co-operation and the exchange of information;

Have reached the following understanding:

Section 1 Commitments

- 1.1 Each Authority will give effect to the provisions of the present Memorandum and the Annexes thereto which constitute an integral part of the Memorandum, and take all necessary steps to ratify instruments relevant for the purposes of this Memorandum.
- 1.2 Each Authority will establish and maintain an effective system of port State control with a view to ensure that, without discrimination as to flag, foreign merchant ships calling at the ports of its State comply with the standards laid down in the relevant instruments defined in section 2.
- 1.3 Each Authority will achieve, within a period of 3 years from the coming into effect of the Memorandum an annual total of inspections corresponding to, at least, 15% of the number of individual foreign merchant ships, hereinafter referred to as “ships”, which entered the ports of its State during a recent representative period of 12 months. The Committee established pursuant to section 7.1 will monitor the overall inspection activity and its effectiveness throughout the region. The Committee will also adjust the tar-

get inspection rate based on experience gained and progress made in the implementation of the Memorandum of Understanding.

- 1.4 Each Authority will consult, co-operate and exchange information with the other authorities in order to further the aims of the Memorandum.

Section 2 Relevant Instruments

- 2.1 For the purposes of the Memorandum “relevant instruments” are, together with the Protocols and amendments to these instruments and related codes of mandatory status in force, the following instruments:
 - .1 The International Convention on Load Lines, 1966 (Load Lines 66);
 - .2 The International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);
 - .3 The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78);
 - .4 The International Convention on Standards of Training Certification and Watch-keeping for Seafarers, 1978 (STCW 78);
 - .5 The Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREG 72);
 - .6 The International Convention on Tonnage Measurement of Ships, 1969 (TONNAGE 69);
 - .7 The Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147).
- 2.2 With respect to the Merchant Shipping (Minimum Standards), ILO Convention, 1976 (No. 147), each Authority will apply the instructions in Section B-1 of the Manual for the application of the ILO publication “Inspection of Labour Conditions on board Ship: Guidelines for procedure”.
- 2.3 Each Authority will apply those relevant instruments which are in force and to which its State is a Party. In case of amendments to a relevant instrument, each Authority will apply those amendments which are in force and which its State has accepted. An instrument so amended will then be deemed to be the “relevant instrument” for that Authority.
- 2.4 When inspecting a ship flying the flag of a State not party to a Convention or a “relevant instrument” as amended for the purposes of port State control, the Authorities which are party to such Convention or “relevant instrument” as amended shall ensure that the treatment given to such ship and its crew is not more favourable than that given to ships flying the flag of a State which is party to that Convention or “relevant instrument”.
- 2.5 In the case of ships below 500 gross tonnage, the Authorities will apply those requirements of the relevant instruments which are applicable and will to the extent that a relevant instrument does not apply take such action as may be necessary to ensure that those ships are not clearly hazardous to safety, health or the environment, having regard, in particular to Section 4.2 of the Port State Control Procedures in Section B-1 of the Manual.

Section 3 Inspection Procedures, Rectification and Detention

- 3.1.1 In implementing the Memorandum, the Authorities will carry out inspections which will consist of a visit on board a ship in order to check the validity of the certificates and other documents relevant for the purposes of the Memorandum as well as the condition of the ship, its equipment and crew, as well as the living and working conditions of the crew.
- 3.1.2 The Authority shall ensure that the Port State Control Officer (PSCO) shall, as a minimum, check the certificates and documents referred to in Section 3 of the Port State Control Procedures contained in Section B-1 of the Manual, to the extent ap-

plicable and satisfy himself on the overall condition of the ship including the engine room and the accommodation and the hygienic conditions.

- 3.2.1** Whenever there are clear grounds for believing that the condition of a ship or of its equipment or crew does not substantially meet the requirements of a relevant instrument a more detailed inspection shall be carried out, including further checking of compliance with on-board operational requirements.
- 3.2.2** Clear grounds exist when the PSCO finds evidence, which in his professional judgement warrants a more detailed inspection of the ship, its equipment or crew. The Authorities will regard as clear grounds, inter alia, those set out in Section 5 of the Port State Control Procedures contained in Section B-1 of the Manual.
- 3.2.3** Nothing in these procedures should be construed as restricting the powers of the Authorities to take measures within their jurisdiction in respect of any matter to which the relevant instruments relate.
- 3.2.4** The relevant procedures and guidelines for control of ships specified in the Port State Control Procedures contained in Section B-1 of the Manual shall also be applied.
- 3.3** In selecting ships for inspection, the Authorities shall give priority to the ships referred to Section 2 of the Port State Control Procedures contained in Section B-1 of the Manual.
- 3.4** The authorities will seek to avoid inspecting ships, which have been inspected by any of the other Authorities within the previous six months, unless they have clear grounds for inspection. This procedure is not applicable to ships listed under 3.3 which may be inspected whenever the Authority deems appropriate. The six-months period does not preclude an inspection to be carried out as often as the Authority considers.
- 3.5.1** Inspections will be carried out only by persons, duly authorized by the Authority to carry out port State inspections and responsible to that authority, who will fulfil the requirements of paragraph 3.5.3 and the qualification criteria specified in Annex 1.
- 3.5.2** The PSCO carrying out Port State control may be assisted by a person with the required expertise when such expertise cannot be provided by the Authority.
- 3.5.3** The PSCO carrying out port State control and the person assisting him shall have no commercial interest either in the port of inspection or in the ships inspected, nor shall PSCO be employed by or undertake work on behalf of non-governmental organizations which issue statutory and classification certificates or which carry out the surveys necessary for the issue of those certificates to ships.
- 3.5.4** Each PSCO shall carry a personal document in the form of an identity card issued by his Authority indicating that the inspector is authorized to carry out inspections.
- 3.6.1** On completion of an inspection the master of the ship shall be provided by the PSCO with a document in the form specified in the Black Sea Port State Control Manual (hereinafter referred to as the "Manual"), giving the results of the inspection and the details of any decision taken by the PSCO and of the corrective action to be taken by the master, owner or operator.
- 3.6.2** The Authority shall be satisfied that any deficiencies confirmed or revealed by the inspection are rectified.
- 3.6.3** In the case of deficiencies, which are clearly hazardous to safety, health or the environment the Authority will detain the ship or will stop the operation in the course of which the deficiencies have been revealed. The detention order or the stoppage of the operation shall not be lifted until the hazard is removed, except under the conditions provided for in 3.8.1 below.
- 3.6.4** When exercising his professional judgement as to whether or not a ship should be detained, the PSCO shall be guided by the criteria set out in the Port State Control Procedures contained in Section B-1 of the Manual.

- 3.7** In the event that a ship is detained the Authority will notify Flag State Administration* in writing, which includes report of inspection. Where relevant, the organization responsible for the issue of the certificates shall also be informed. The parties will also be notified in writing of release of detention.
- 3.8.1** Where deficiencies referred to in 3.6.3 cannot be rectified in the port of inspection, the Authority may allow the ship to proceed to another port, or the nearest repair yard subject to any appropriate conditions determined by that Authority with a view to ensuring that the ship can so proceed without risk to safety, health or the environment. In such circumstances the Authority will notify the competent Authority of the region State where the next port of call or the repair yard is situated, the parties mentioned in 3.7 and any other Authority as appropriate. Notification to Authorities shall include the final report of inspection and the estimated place and time of arrival. Additional notification will be made by means of the Black Sea Information System. The Authority receiving such notification will inform the notifying Authority of action taken.
- 3.8.2** The Authorities will take measures to ensure that ships referred to in 3.8.1, which either proceed to sea without complying with the conditions determined by the Authority which detained the ship, or which do not call into the agreed port or yard to undertake repairs, shall be refused access to any port within the region covered by this Memorandum until the owner or operator and the flag State has provided evidence to the satisfaction of the authority of the State where the ship was found sub-standard that the ship complies with all applicable requirements of the relevant instrument. In the latter case, the receiving authority will notify all other authorities of such compliance.
- 3.8.3** In the exceptional event of “force majeure”, access to a specific port may be permitted to minimize the risk of life or of pollution.
- 3.9** The provisions of section 3.7 and 3.8 are without prejudice to the requirements of relevant instruments or procedures established by international organizations concerning notification and reporting procedures related to port State control.
- 3.10** When exercising control under the Memorandum, the Authorities will make all possible efforts to avoid unduly detaining or delaying a ship. Nothing in the Memorandum affects right created by provisions of relevant instruments relating to compensation for undue detention or delay.
- 3.11** In case the master, owner or agent of the ship notifies the port State control authorities prior to or immediately upon arrival of the vessel at the port, of any damage, breakdown or deficiency to the ship, its machinery or equipment, which is intended to be repaired or rectified before the ship sails from that port, detention should be recorded only if deficiencies justifying detention are found after the master has given notification that the ship was ready for inspection. The same procedure applies when the port State control authorities are notified that the ship is scheduled to be surveyed at the port with respect to flag, statutory or class requirements.
- 3.12** The owner or the operator of a ship will have the right of appeal against a detention decision to higher administrative Authority or to the court of competent jurisdiction, according to the law in each country. However, an appeal shall not cause the detention to be suspended.
- 3.13** Should an inspection reveal deficiencies warranting detention of a ship all costs relating to follow up inspections shall be covered by the shipowner or the operator.

* Refer to MSC/Circ. 781 MEPC 6/Circ 2 “National contact points of Members for safety and pollution prevention” (Annex 1 and 2). When a valid contact point is not available the nearest diplomatic representative should be informed.

The detention shall not be lifted until full payment has been made or a sufficient guarantee has been given for the reimbursement of the costs.

Section 4 Provision of Information

4.1 Each Authority will report on its inspections under the Memorandum and their results, in accordance with the procedures specified in the Manual.

4.2 The Authorities will supply the following information to the Memorandum Secretariat established pursuant to Section 7:

- (a) number of Port State Control Officers working on their behalf on port State inspections. Where PSCOs work on a part-time basis, the total is corrected into a number of full-time employed PSCOs.
- (b) number of individual foreign ships entering their ports in a representative year prior to the entering into force of the Memorandum.

This information will be updated at least every three years.

4.3 The Black Sea Information System (BSIS) is established in Novorossiysk, the Russian Federation for the purpose of exchanging information on port State inspections, in order to:

1. make available to Authorities information on inspection of ships in other regional ports to assist them in their selection of foreign flag ships to be inspected and in the exercise of port State control on selected ships; and
2. provide effective information exchange facilities regarding port State control in the region.

Each Authority will report on its inspections under the Memorandum and their results, in accordance with the procedures specified in the Manual.

4.4 The Black Sea Information System shall provide for information exchange with the information system of the other regional agreements.

Section 5 Operational Violations

The authorities will upon the request of another Authority endeavour to secure evidence to suspected violations of the requirements on operational matters of Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972 and the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, relating thereto. In case of suspected violations involving the discharge of harmful substances, an Authority will, upon the request of another Authority, visit in port the ships of such a violation in order to obtain information and, where appropriate, to take a sample of any alleged pollutant. Procedures for investigations into contravention of discharge provisions are listed in Section B-2 of the Manual. In cases referred to in this section the requesting Authority should state that the flag State of the ship has already been notified of the alleged violation.

Section 6 Training Programmes and Seminars

The Authorities will endeavour to establish appropriate training programmes and seminars.

Section 7 Organization

7.1 A Committee composed of a representative of each of the Authorities that are party to the Memorandum will be established. A representative of the International Maritime Organization and of the International Labour Organisation will be invited to participate without vote in the work of the Committee. Representatives of any other Organization or Authority, which the Committee may deem appropriate, may be accorded the status of observer without vote.

7.2 The Committee will meet once a year and at such other times as it may decide.

7.3 The Committee will:

- .1 carry out the specific tasks assigned to it under the Memorandum;
- .2 promote by all means necessary, including seminars for surveyors, the harmonization of procedures and practices relating to the inspection, rectification, detention and the application of section 2.4;
- .3 develop and review guidelines for carrying out inspections under the Memorandum;
- .4 develop and review procedures, including those related to the exchange of information;
- .5 keep under review other matters relating to the operation and the effectiveness of the Memorandum;
- .6 promote by all means necessary the harmonization of the operation and effectiveness of this Memorandum with those of similar agreements for other Regions;
- .7 adopt the budget and establish the contributions of every Party to the Memorandum in accordance with adopted procedure; and
- .8 establish, if necessary, working groups.

7.4 The Committee will take its decisions acting on a two-thirds majority.**7.5** A Secretariat will be established in accordance with the following principles:

- .1 the Secretariat is a non-profit making body located in Istanbul, Turkey;
- .2 the Secretariat will be totally independent from any maritime administration or organization;
- .3 the Secretariat will be governed by and be accountable to the Committee;
- .4 the Secretariat will have a bank account into which all dues and contributions are made;
- .5 the Secretariat will operate from the established bank account in accordance with the budget determined by the Committee.

7.6 The Secretariat, acting under the guidance of the Committee in accordance with the terms of reference defined in Annex 2 and within the limits of the resources made available to it, will:

- .1 prepare meetings, circulate papers and provide such assistance as may be required to enable the Committee to carry out its functions;
- .2 facilitate the exchange of information and prepare reports as may be necessary for the purposes of Memorandum;
- .3 carry out such other work as may be necessary to ensure the effective operation of the Memorandum.

Section 8 Financial Mechanism

8.1 The costs for running the Secretariat and the BSIS are financed by: the financial contribution of every Party to the Memorandum; if possible, gifts and subventions by donor countries or organizations.

8.2 Financial contributions to the costs for running the Secretariat and the BSIS of Parties to the Memorandum are to be settled in conformity with the decisions and procedures adopted by the Committee.

Section 9 Amendments

9.1 Any Authority, which has accepted the Memorandum, may propose amendments to the Memorandum.

9.2 In the case of proposed amendments to sections of the Memorandum the following Procedure will apply: the proposed amendment will be submitted through the Secretariat for consideration by the Committee; amendments will be adopted by a two-thirds majority of the representatives of the Authorities present and voting in the Committee. If so adopted, an amendment will be communicated by the Secretariat to the Authorities for acceptance.

- 9.3 The amendments of section 2.1 are adopted by a two-thirds majority of the representatives of the Authorities present and voting, which are party to the new Convention proposed for inclusion as “relevant instrument”.
- 9.4 An amendment will be deemed to have been accepted either at the end of a period of six months after adoption by the representatives of the Authorities in the Committee or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption, unless within the relevant period an objection is communicated to the Secretariat by an Authority.
- 9.5 An amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee.
- 9.6 In the case of proposed amendments to Annexes of the Memorandum the following procedure will apply: the proposed amendment will be submitted through the Secretariat for consideration by the Authorities; the amendment will be deemed to have been accepted at the end of a period of three months from the date, on which it has been communicated by the Secretariat unless an Authority requests in writing that the amendment should be considered by the Committee. In the latter case the procedure specified in 9.2 will apply; the amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the Authorities.

Section 10 Administrative Provisions

- 10.1 The Memorandum is without prejudice to the rights and obligations under any international agreement.
- 10.2 The Memorandum remains open for signature at the Headquarters of the Secretariat located in Istanbul Turkey from April 7, 2000 till October 7, 2000. Authorities meeting the requirements specified in Annex 3 may become parties to the Memorandum by: signature without any reservations as to acceptance, or signature subject to acceptance, followed by acceptance.
- 10.3 Acceptance or accession will be effected by a written communication by the Authorities to the Secretariat.
- 10.4 This Memorandum will enter into force individually for each Authority on the date duly notified to the Secretariat. The Memorandum is deemed as having entered into force on the date of entry into force for the third individual Authority.
- 10.5 The Secretariat will inform the Authorities who have signed the Memorandum of any signature or written communication, or of accession and of the date, on which such event has taken place.
- 10.6 Any Maritime Authority or Organization wishing to participate as an observer will submit in writing an application to the Committee and will be accepted as an observer subject to the unanimous consent of the representatives of the Authorities present and voting at the Committee meeting.
- 10.7 Any Authority may withdraw from the Memorandum by providing the Committee with 60 days notice in writing.

The official and working language of the Memorandum is the English language.

Signed at Istanbul, this seventh day of April of the year two thousand, in one original in the English language.

Part IV:
The European Union (EU) and the Protection
of Maritime Labour

by
Dr. Iliana Christodoulou-Varotsi

1. General overview

1.1. The maritime dimension of the EU

The European Union (EU)¹ is a *sui generis* organisation which demonstrates a growing interest in the maritime sector, including maritime labour issues².

At present, the EU comprises 27 Member States. The maritime weight of the EU should in no way be neglected. Shipping companies owned by EU nationals control nearly 40% of the world fleet³. Moreover, about 40% of the EU's internal trade and 90% of trade with non-EU countries is carried out by sea⁴. It is worth mentioning that the EU imports 80% of its overall internal needs in oil and nearly all this quantity goes by sea⁵. The maritime sector in the broadest sense, i.e. including shipbuilding, ports, fishing and related industries and services (insurance, banking, etc.), employs around 3 million people in the EU⁶.

The areas of competence of the EU are numerous and they are generally articulated in view of the integration of Member States; some of these competencies are of an exclusive nature, while others are concurrently shared between the Member States and the EU⁷. As far as the maritime sector is concerned, despite some relevant EC instruments adopted at an earlier stage, "common maritime policy" was in actual fact elaborated only in the mid-80s; it focuses mainly on maritime safety and marine environment protection, maritime competition, external relations and maritime labour issues⁸.

¹ For the purposes of the developments below the terms European Union (EU) and European Community (EC) will be used as synonyms. On EC law in general see *inter alia* Catherine Barnard, *The Substantive Law of the EU: The Four Freedoms*, Oxford University Press, 2007, Guy Isaac and Marc Blanquet, *Droit Communautaire Général*, Dalloz Sirey, Paris 2006.

² See Patrick Chaumette, *Droits Maritimes*, J. P. Beurrier (dir.), Dalloz Action, 2006, 163-176, 420-439, Prodromos Mavridis, *La Protection Sociale des Marins dans le Droit Communautaire*, 3 Rev. dr. de l'U.E. (647-685) 2003. Also see <http://www.emsa.europa.eu/end185d007d002.html> (last visit 20 May 2007).

³ See *Communication from the Commission on the Third package of legislative measures on maritime safety in the European Union*, Brussels, 23.11. 2005, COM(2005)585 final, 3.

⁴ *Id.*

⁵ See *Communication from the European Commission to the Council and the European Parliament on the training and recruitment of seafarers*, COM/2001/0188, 1.3.

⁶ See *supra* note 3, 3.

⁷ See *inter alia* Isaac and Blanquet, *supra* note 1.

⁸ See *inter alia* Uwe K. Jenisch, *EU Maritime Transport-Maritime Policy, Legislation and Administration*, 3 WMU J. Mar. Aff. 1, 67-83 (2004), Iliana Christodoulou-Varotsi, *Recent Developments in the EC Legal Framework on Ship-Source Pollution: the Ambivalence of the EC's Penal Approach*, 33 Transp. L. J. 3, 101-116 (2006) and Olagunju G. Anthony, *Criminalization of Seafar-*

It should be noted that the EU is neither a member of the International Maritime Organization nor of the International Labour Organization. The European Commission has the status of an observer in both *fora* and endeavours to coordinate the position of EU Member States during the adoption of international instruments. Once international legislation is adopted, the EU continues its efforts in order to encourage its Member States to ratify and implement it⁹, while, in some cases, it reshapes the requirements in question, i.e. it makes the modifications that it considers necessary in order to satisfy the interests of the EU.

1.2. The legal frame of maritime labour in the EU

EU provisions which are of interest to maritime labour and which have an impact on seafarers and shipowners, can be divided into two main groups:

The first one comprises instruments, i.e. mainly Directives, which are intended for all categories of labour, including maritime labour. With the exception of a small number of instruments which are not applicable to maritime labour, this group of general provisions affects, legally speaking, maritime labour and contributes to its protection. In practice, this means more rights for the seafarers and more obligations for shipowners. It is also synonymous with an additional workload for national Administrations, in view of the transposition and implementation of the measures in question in national legal orders, since, as explained in the developments below, if the requirements in question stem from EC Directives, they need to be transposed in domestic legislation via national measures.

The second group of provisions is specifically related to maritime labour. This is a more limited group of provisions; it notably concerns the minimum level of training and the recognition of seafarers' qualifications (Directive 2001/25/EC, as amended), the hours of work (Commission Recommendation 1999/130/EC, Directives 1999/63/EC and 1999/95/EC) and, medical provisions requirements on board ships (Directive 92/29/EEC).

On the basis of the general provisions of the EC Treaty, seafarers were from early times affected by EC law from the point of view of their right of free movement¹⁰. This right provides for the non-discriminatory engagement and conditions of employment of seafarers with the citizenship of a Member State on the ships

ers for Accidental Discharge of Oil: is There Justification in International Law for Criminal Sanction for Negligent or Accidental Pollution of the Sea?, 37 J.M.L.C. 219, 219-243 (2006). Also see *The Emerging European Maritime Law-Proceedings from the Third European Colloquium on Maritime Law Research*, Ravenna, 17-18 September 2004, in Marius (Scandinavian Institute of Maritime Law) no 330. On EU maritime transport regulatory framework see <http://www.europa.eu/scadplus/leg/en/s13003.htm> (last visit 4 October 2006).

⁹ See for example Commission Recommendation (EC) No 130/1999 of 18 November 1998 on ratification of ILO Convention 180 concerning seafarers' hours of work and the manning of ships, and ratification of the 1996 Protocol to the 1976 Merchant Shipping (Minimum Standards) Convention (Official Journal L 43 of 17.2.1999).

¹⁰ See ECJ, 4.4. 1974, case 167/73 Commission v. France [1974] ECR 359, [1974] 2 CMLR 216.

flying the flag of another Member State¹¹. However, the regime which applies to masters and second mates is more restrictive than the rest of the crew since the former are considered to participate in the exercise of public authority, which brings some limitations to the above-mentioned right of free movement¹².

Maritime labour issues are perceived by the EU as being connected with safety at sea. Even though EU measures on maritime labour constitute a relatively small fraction of the overall 'acquis communautaire', the numerous EU measures on maritime safety which tackle technical aspects of ships and navigation¹³ should also be read in the context of the improvement of the protection of maritime labour.

To confine oneself to the maritime labour regulatory framework, it should be borne in mind that the EU acts in the context of a problematic situation: the number of seafarers from EU Member States, and especially officers, is decreasing, the preference being for the engagement of maritime labour from third (non-EU) countries¹⁴. Moreover, the competitiveness of Community registers is open to question. This has led a number of Member States to envisage the creation of second national registers, which enjoy an autonomous status and provide for more flexible conditions of functioning, especially with regard to seafarers' conditions of remuneration and social protection¹⁵.

¹¹ This right is not, however, specifically provided for maritime labour; in principle it concerns all categories of labour in the EC. See article 39 (former article 48) of the EC Treaty.

¹² See Article 39(4) of the EC Treaty.

¹³ See *inter alia* Iliana Christodoulou-Varotsi, *The Challenge of European Maritime Safety-An Overview of the EC's Policy and Regulatory Framework on Maritime Safety*, Marius (Scandinavian Institute of Maritime Law), no. 311 and Malgorzata Anna Nesterowicz, *European Union Legal Measures in Response to the Oil Pollution of the Sea*, 29 Tul. Mar. L. J. 29, 29-44 (2004).

¹⁴ See Communication from the European Commission to the Council and the European Parliament on the Training and Recruitment of Seafarers, *supra* note 5, 1.

¹⁵ See Patrick Chaumette, *Le Marin Entre le Navire et sa Résidence. Le Registre International Français des Navires (RIF)*, Rev. Crit. D.I.P., 95(2) avril-juin 2006.

2. Substantive law

2.1. Content and practical application

The ‘*acquis communautaire*’ on social maritime law aims to promote qualitative maritime labour, and to subject the latter to uniform and smooth-running procedures of recognition of relevant qualifications in the Member States. Directive 2001/25/EC aims to standardize the levels of training of seafarers, since it is considered that these are not achieved at the EU level by the operation of international instruments as such. More precisely, the Directive seeks to ensure a simultaneous and consistent implementation in all Member States of the STCW provisions, as revised, which is its point of reference¹⁶. In addition to the standards of competence, the Directive provides for the recognition of certificates issued by the competent authority of another Member State and by third countries.

Social maritime law in the EU is equally interested in seafarers’ right to decent working hours. EC Recommendation 130/1999 of 18 November 1998¹⁷ encouraged Member States which had not yet done so to ratify the ILO Convention of reference in this field, i.e. Convention 180. In addition to this, Directive 1999/63/EC put into effect the European Agreement concluded on 30 September 1998 between the European Community Shipowners’ Association (ECSA) and the Federation of Transport Workers Unions (FST) concerning the working time of seafarers¹⁸; Directive 1999/95/EC extended the regime in question to the vessels calling at EC ports regardless of their flag¹⁹.

The social aspects of Port State Control (PSC) within the EU are addressed under the previous Chapter. It bears repetition that PSC constitutes a major tool for the control of acceptable conditions of work on board ships calling at EC ports, regardless of the flag of the vessel. In addition to this, Directive 92/29/EEC, as amended, establishing minimum safety and health requirements for improved medical treatment on board vessels, reflects the concern of the EC legislature for decent conditions of work on board ships.

Applicable law in the EU on maritime labour is usefully supplemented by the contribution of the European Court of Justice (ECJ)²⁰. However, the latter has so

¹⁶ See <http://europa.eu/scadplus/leg/en/lvb/124254.htm> (last visit 17 October 2006).

¹⁷ OJ L 43, 17.2.1999.

¹⁸ OJ L 167, 2.7.1999

¹⁹ OJ L 14, 20.1.2000. See Article 1 and point 5 of the preamble of the Directive.

²⁰ See *inter alia* ECJ, case 167/73, *supra* note 10, ECJ, 4.10.1991, case C-196/90, *Fonds voor Arbeidsongevallen v. Madeleine De Paep*, ECR 1991 I-4815, ECJ, 17.3.1993, case C-72/91 and C-73/91, *Sloman Neptun Schiffahrts AG c. Seebetriebsrat Bodo Ziesermer der Sloman Neptun Schiff-*

far not adopted a comprehensive case-law specifically devoted to maritime labour; its contribution remains fragmented. The ECJ's extensive case-law on labour issues in general, is however, in principle, applicable to seafarers.

Last but not least, from a technical point of view, special mention should be given to the fact that with the exception of Regulations, which are directly implemented in the domestic legal order of each Member State, Directives, which reflect the vast majority of EC law in the area in question, are in principle deprived of such effect²¹; the latter are activated upon adoption of national implementation measures. Consequently, the instruments that follow are to be envisaged in the context of the ensuing domestic provisions²².

With regard to practical application, the first point which will be very briefly explored concerns the technical aspects of the adaptation of domestic legal orders to EC requirements on maritime labour; the second relates to the right of free movement of maritime labour including masters and second mates; the third deals with competence issues; the fourth aspect consists of the hours of work of maritime labour and the last one deals with the protection of maritime labour in the event of insolvency of the shipowner/operator.

2.1.1. The requirements of EC law

Maritime labour issues are addressed in the provisions of the EC Treaty and in secondary EC law, which notably includes Directives and Regulations²³. A number of Communications have also been adopted at the EC level and present an interest for maritime labour issues; the former are deprived of binding force and their purpose is to allow the understanding of future actions envisaged by the EC²⁴.

Since Directives constitute the vast majority of EC measures on maritime labour, the issue of the implementation of EC Directives in the domestic legal order is of prime importance²⁵. Implementation measures may be assessed from the following angles: they notably have to be adopted within the time limits provided for in the Directives and present the capacity to satisfy EC requirements²⁶.

The failure of a Member State to conform to a Directive on maritime labour may imply at least two consequences: firstly, the possibility for the European Commission to take action against the Member State in question for failure to con-

fahrts AG, ECR 1993 I-887, ECJ, 30.11.2003, case C-405/01, Colegio de Oficiales de la Marina Mercante Española c/ Administración del Estado, ECR 2003 I- 10391, ECJ, 30.9.2003, case C-47/02, Albert Anker, Klaas Ras et Albertus Snoek c/ Bundesrepublik Deutschland, ECR 2003 I-10447.

²¹ See Isaac and Blanquet, *supra* note 1.

²² An example of such synergy, the Greek and Cypriot maritime law adopted in the framework of the harmonization process to EU law. See Iliana Christodoulou-Varotsi, *L'Adaptation du Droit Maritime Hellénique et du Droit Maritime Chypriote au Droit Communautaire*, Ant. N. Sakkoulas-Em. Bruylant Publ., Athènes-Bruxelles, 1999.

²³ On Directives and Regulations see Article 249 of the EC Treaty.

²⁴ For example see Communication on the Training and Recruitment of Seafarers, *supra* note 5.

²⁵ See Sacha Prechal, *Directives in EC Law*, Oxford University Press, 2006.

²⁶ See *inter alia* ECJ case C-6/90, *infra* note 28.

form to EC law²⁷, and secondly, the possibility, under strict conditions, for private persons who have sustained damage, to claim compensation because of the failure of the State to ensure the enjoyment of the rights conferred upon them by Directives²⁸. This implies an *ad hoc* examination of the provisions of the Directive which the Member State has failed to implement in time.

Consequently, the impact of EC directives on maritime labour should be assessed in the context of the implementation process in the domestic legal order of each Member State.

2.1.2. The right of free movement of maritime labour, including masters and second mates

With regard to the provisions of the EC Treaty, there has been some litigation which is noteworthy. The very first case in this area was the so called French Seamen's case²⁹, dating back to the mid-seventies where, the ECJ ruled that the general provisions of the EC Treaty, i.e. the provisions which were not included in the Title specifically devoted to Transport, were applicable to maritime transport. The result was the applicability of the provisions on the free movement of workers of the EC Treaty to seafarers from Member States and consequently, the prohibition of discriminations in national legislations with regard to their engagement on board ships flying the flag of another Member State (i.e. different from their own).

In practice, the interest from the point of view of seafarers from EC countries in such developments is that the scope of the potential market of the afore-mentioned has increased since they have the right, upon recognition of their qualifications and appropriate knowledge of the working language used on board³⁰, to work on vessels flying the flag of another Member State. The expansion of the potential market is also the case for shipowners. The impact on Member States, from a legal point of view, is the abolition of discriminations existing in favour of national seafarers from national legislations; this concerns not only the right of access to employment on board, but also the right of affiliation to the social insurance scheme

²⁷ See Articles 226 and 228 of the EC Treaty. Also see Issac and Blanquet, *Droit Communautaire Général*, *supra* note 1.

²⁸ On State liability for breach of EU law *see inter alia* ECJ, 19.11.1991, Francovich et Bonifaci, C-6/90 and C-9/90 ECR I-5403, ECJ, 5.3.1996, Brasserie du Pêcheur/Factorame III, C-46/93 and C-48/93, ECR I-1131, ECJ, 30.9.2003, Köbler, C-224/01, ECR I-10239, ECJ, 13.6.2006, Traghetti del Mediterraneo (TDM), C-173/03 unpublished. Also see Denys Simon, *La Responsabilité des États Membres en cas de Violation du Droit Communautaire par une Juridiction Suprême*, 11 Europe 3-6, 2003, Iliana Christodoulou-Varotsi, *La Responsabilité de l'Etat Membre en Cas de Violation du Droit Communautaire (et son Application en Grèce)*, 2 R.H.D.I. 365-389 (1999) and Tristan Zimmermann, *Responsabilité des États Membres pour Violation du Droit Communautaire par les Juridictions Nationales*, http://www.unige.ch/droit/ceje/actualites.php3?id_article=328 (last visit 2 March 2007).

²⁹ ECJ, case 167/73, *supra* note 10.

³⁰ See Article 17 of the Directive 2001/25/EC on the minimum standards of training of seafarers, OJ L 136, 18.5.2001.

of the Member State involved (i.e. the flag State), as well as the right for equal treatment with regard to conditions of work³¹.

At a subsequent stage, the ECJ proceeded to the extension of the right of free movement of maritime labour when it addressed the issue of masters and second mates. Traditionally, the captain and the second mate were excluded from the scope of application of the free movement, since they were considered as being covered by the exception of Article 39 par. 4 of the EC Treaty. This provision states that employment in the public service is not covered by the right of free movement in the EU. As a result, at least initially, the master and the second mate were excluded from free movement on the grounds of their duties of public law which place them in the position of participants in the exercise of public authority.

Progressively, the development of the integration process in the EU in combination with the favorable attitude of the ECJ in the matter, led to the much disputed cases *Colegio de Oficiales de la Marina Mercante Española* and *Albert Anker*³² which provide for the conditional free movement of masters and second mates. The first case addressed masters and second mates of merchant shipping, while the second dealt with masters of small-scale deep-sea fishing vessels. There is however a common rationale to both cases which allows a global approach to both the masters and second mates, as well as to fishing vessels and vessels of the merchant marine.

Free movement of masters and second mates may be possible, according to the above case-law, if the privileges relating to the exercise of public authority of the employees in question are not exercised on a regular basis and represent only a very minor part of their activities. In practice, this means that the access of masters and second mates to vessels flying the flag of a Member State which is different from theirs is more likely to take place in short sea shipping rather than in ocean-going shipping. Moreover, it deserves special mention that, during litigation, both the European Commission and the vast majority of Member States were skeptical about the protection traditionally provided on grounds of nationality to the master and the second mate³³. It should be noted that the issue of nationality of the master and second mate does not constitute a problem in international registration, where the master and the second mate are engaged regardless of their nationality.

The access of seafarers to jobs on board vessels flying a different flag within the EU from their own country brings about the issue of their right to be affiliated with the corresponding social security institutions. The ensuing consequence of

³¹ Some difficulty was noticed with regard to the respect of the above requirements by a number of Member States, which in turn required the involvement of the ECJ: *See inter alia* ECJ, 1.12.1993, C-37/93, *European Commission vs. Kingdom of Belgium*, ECR I-6295, ECJ, 2.7.1996, *European Commission vs. Hellenic Republic*, C-290/94, ECR 1996 I-3285.

³² *See* ECJ, case C-405/01 and case C-47/02, *supra* note 20. *See* Patrick Chaumette, *Le capitaine du Navire: Statut et Responsabilités*, available at http://www.afcan.org/dossiers_juridiques/statut_cdt.html (last visit 1 February 06), Pierre Bonassies, *La Nationalité des Capitaines de Navires et la CJCE*, DMF 1027-1034, 2003, Malgorzata Anna Nesterowicz, *Sea Captain and Performance of Public Duties in European Law*, L.M.C.L.Q., LLP, London, 19-25, 2004, M. Morin, *La Condition de Nationalité du Capitaine de Navire Français*, *Annuaire de Droit Maritime et Océanique*, Tome XVII, 153-161, 1999.

³³ This skepticism was not however shared by Norway, which is a member of the European Economic Area. *See* paras. 29-36 of the case *Colegio de Oficiales de la Marina Mercante Española*.

the above is the possibility for seafarers, masters and second mates to benefit from EC rules on the coordination of social security systems. The afore-mentioned is dealt by Regulation 1408/71/EC³⁴, which has been subject to a great number of amendments since its adoption and which will be replaced, according to Regulation 883/2004/EC³⁵ upon adoption of an execution Regulation. It bears repetition that Regulations are directly applicable in the legal order of Member States and they do not require implementation measures. However, this does not exclude possible frictions between domestic legislation and practices and EU requirements.

The purpose of Regulation 1408/71/EC is to coordinate the social security systems of EU Member States in order to avoid situations where migrant workers would have been deprived of rights related to their social protection because of having worked in a different Member State from their own³⁶. The principle set down by the Regulation is the affiliation of the seafarer to the social protection scheme of the flag State³⁷. This principle is supplemented by special rules³⁸. In this context, it is possible to affiliate the migrant seafarer to the social protection scheme of the country where the company which remunerates him/her is situated, if the seafarer has his domicile in the same country as the company in question³⁹. On the basis of the Regulation, the migrant seafarer who has worked on a vessel flying the flag of another Member State, is entitled moreover to the aggregation of his employment periods with a view to the calculation of his pension rights.

The cost represented by the social protection of seafarers and the problem of flagging out has encouraged the creation of second national registers. A great number of EU Member States, such as, to name but a few, France (Registre International Français), United Kingdom (Isle of Man), Denmark (Danish International Shipping Register) and Germany (German International Register) have developed such registers in parallel with their conventional register. The EU tolerates this practice in the light of the problems of competitiveness of fleets under EU mem-

³⁴ Regulation 1408/71/EC of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community, OJ L 149, 5.7.1971, p. 2-50. The Regulation was subject to a plethora of amendments. A consolidated text (CONSLEG 1971R1408-28.4.2006-006.001) is made available by the EC as a documentation tool at <http://eur-lex.europa.eu/LexUriServ/site/en/consleg/1971/R/01971R1408-20060428-en.pdf>

³⁵ Regulation 883/2004/EC of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland), OJ L 166, 30.4.2004, p. 1-123.

³⁶ See case C-196/90, *supra* note 20. Also see Mavrides, *supra* note 2, 647.

³⁷ Article 13(2)(c) of the Regulation 1408/71/EC.

³⁸ See Article 14b of the Regulation 1408/71/EC.

³⁹ See Article 14b(4) according to which "A person employed on board a vessel flying the flag of a Member State and remunerated for such employment by an undertaking or a person whose registered office or place of business is in the territory of another Member State shall be subject to the legislation of the latter State if he is resident in the territory of that State; the undertaking or person paying the remuneration shall be considered as the employer for the purposes of the said legislation". Also see Patrick Chaumette, in *Les Marins sont-ils à Bord? - La Séparation de l'Armateur - L'Exemple des Navires de Pêche Dits Franco-espagnols* (Annuaire de Droit Maritime et Océanique, T. XXIII, 179-199, 2005), with regard to French fishing vessels whose maritime labour is of Spanish nationality living in Spain, and the shipmanagement company which employs them is also established in Spain.

ber States' flag. The ECJ, in a decision adopted in the 90s which opposed a private shipping company to a workers' committee on the subject of lower wages and social protection of seafarers from third countries having their domicile abroad and working on ships registered in the second national German register, did not consider the situation illegal from the point of view of EC law⁴⁰.

2.1.3. The legal framework on seafarers' competence

EC legislature has addressed two issues with regard to the very important issue of the competence of seafarers. The first issue is the minimum level of training of seafarers, which reflects the correlation of training with safety at sea. The second issue consists of the recognition of qualifications of seafarers, firstly from the perspective of maritime labour originating from other EC Member States and secondly, from the perspective of maritime labour from third countries. The recognition of qualifications of seafarers from other Member States is part of the wider range of issues relating to free movement of EC workers.

As a result of the above, the EC legal order proceeded to the endorsement of existing international requirements, i.e. the regulatory framework stemming from the STCW Convention, as amended, and made a number of adaptations which take into consideration the specificity of the EC maritime labour market.

2.1.3.1. Minimum level of training of seafarers

Directive 2001/25/EC which has been subject to a number of amendments since its adoption, defines minimum training, certification and watchkeeping standards for seafarers serving on board Community ships by reference to the STCW Convention and the STCW Code⁴¹. Subject to these standards are seafarers from EC Member States and seafarers from third countries employed on board vessels flying the flag of a Member State⁴². It should be noted that all Member States are parties to the STCW Convention⁴³.

The idea on which the Directive is based is the goal of harmonization of levels of training of seafarers among EC Member States⁴⁴. The Directive aims to implement the STCW provisions, as revised, both simultaneously and consistently in all

⁴⁰ See cases C-72/91 and C-73/91, *supra* note 20.

⁴¹ Directive 2001/25/EC of the European Parliament and of the Council on the minimum level of training of seafarers, OJ L 136, 18.5.2001. The Directive has been amended by: Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002, OJ L 324, 29.11.2002, Directive 2003/103/EC of the European Parliament and of the Council of 17 November 2003, OJ L 326, 13.12.2003, Commission Directive 2005/23/EC of 8 March 2005, OJ L 62, 9.3.2005 and Directive 2005/45/EC of the European Parliament and of the Council of 7 September 2005, OJ L 255, 30.9.2005. The consolidated version of the Directive 2001/25/EC, as amended, can be accessed at <http://eur-lex.europa.eu/LexUriServ/site/en/consleg/2001/L/02001L0025-20051020-en.pdf> (last visit 7 February 2006).

⁴² See Article 2 of the Directive 2001/25/EC. The Directive does not apply to warships or other ships owned by a Member State engaged in governmental service, fishing vessels, pleasure yachts not engaged in trade and wooden ships of primitive build.

⁴³ See Status of Conventions at <http://www.imo.org>.

⁴⁴ See points 8 and 17 of the Preamble of the Directive 2001/25/EC.

Member States. Via national implementation measures related to the Directive⁴⁵, Member States are subject to a conformity control by the European Commission and potentially by the ECJ⁴⁶. Moreover, Member States are entitled to adopt more stringent requirements than the minimum ones defined in the STCW Convention and referred to in the Directive⁴⁷.

Directive 2001/25/EC requires Member States to adopt measures necessary to ensure that seafarers employed on board sea-going Community ships are trained as a minimum in accordance with the requirements of the STCW Convention as prescribed in the Directive, and hold appropriate certificates⁴⁸.

More precisely, the Directive sets out the rules on training, and the standards of competence to be met by seafarers who are candidates for the issue or revalidation of certificates that allow them to perform functions for which the relevant certificates of proficiency are required. These rules reflect the STCW Convention. The Directive mandatory minimum requirements for the issue of certificates corresponding to the different categories provide for the various ranks of seafarers.

Under the Directive, Member States' responsibilities⁴⁹ are supplemented by the responsibilities of companies concerned⁵⁰. Companies are rendered responsible for the assignment of seafarers for service in their ships and are notably obliged to ensure that each seafarer assigned to any of their ships holds an appropriate certificate⁵¹. It deserves special mention that these obligations should be transposed into domestic law and that the Directive provides for the obligation of Member States to adapt their legislation accordingly⁵².

In addition to the standards of competence, the Directive tackles the recognition of certificates issued by the competent authority of another Member State and by third countries.

2.1.3.2. Recognition of qualifications of seafarers⁵³

- Recognition of qualifications of Community seafarers

Under Directive 2001/25/EC recognition of qualifications of seafarers from EC Member States is subject to Directives 89/48/EEC and 92/51/EC which provide, respectively, for a first and second general system for the recognition of professional education and training⁵⁴; the instruments in question do not provide for the

⁴⁵ On national implementation measures, see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:72001L0025:EN:NOT>

⁴⁶ See Article 226 of the EC Treaty.

⁴⁷ See point 10 of the Preamble of the Directive 2001/25/EC.

⁴⁸ See Article 3(1) of the Directive 2001/25/EC.

⁴⁹ See Article 16 of the Directive 2001/25/EC.

⁵⁰ See Article 13 of the Directive 2001/25/EC.

⁵¹ *Id.*

⁵² On national transposition measures, see *supra* note 45.

⁵³ See Christina Vartsos-Tzannetakis, *Evaluation of the Quality of Marine Certificates of Competency and EC Legislation*, Observatoire des Droits des Marins, Nantes, 241-243 (2004).

⁵⁴ Directive 89/48/EEC of 21 December 1988 on the general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration, OJ L 19, 24.1.1989, 16. Directive 92/51/EC of 18 June 1992 on a second general

automatic recognition of formal qualifications of seafarers and seafarers may be subject to compensation measures⁵⁵. Not recognizing the qualifications of a migrant worker, including seafarers, may constitute an indirect illegal obstacle to the free movement of workers in the EC, which is one of the cornerstones of the EC Treaty. The area of the recognition of qualifications on the basis of Directives 89/48/EEC and 92/51/EC was not exempted from a number of difficulties which rendered practical application rather difficult⁵⁶.

This regime is due to change on 20 October 2007, i.e. upon expiration of the deadline for the transposition of Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States⁵⁷. The need for a text specifically adapted to seafarers was obvious, especially in the light of the path opened by improvements in the standardization of training levels in the EC.

Upon expiration of the deadline of transposition of Directive 2005/45/EC⁵⁸ (20 October 2007), the mutual recognition among Member States of certificates held by seafarers, whether nationals of a Member State or not, will no longer be subject to Directives 89/48/EC and 92/51/EEC, but will be governed by Directive 2005/45/EC⁵⁹.

In addition to the above, Directive 2005/45/EC provides for the obligation of Member States to adopt measures in view of the prevention and penalization of fraudulent practices associated with certificates of competence⁶⁰.

- Recognition of qualifications of seafarers from third countries

It is of prime importance that seafarers who are holders of certificates of competence issued by third countries and employed on board Community ships have a level of competence equivalent to that required by the STCW Convention; in this respect, Directive 2001/25/EC provided for the recognition by Member States of certificates held by seafarers who are not nationals of Member States on the basis of the above mentioned Directives 89/48/EEC and 92/51/EC⁶¹.

Directive 2003/103/EC generated some important changes by modifying the procedure under which Member States may recognize certification of competence

system for the recognition of professional education and training to supplement Directive 89/48/EEC, L 209, 24.7.1992, 25. Directives 89/48/EEC and 92/51/EC have been amended by Directive 2005/36/EC on the recognition of professional qualifications, L 255, 30.9.2005.

⁵⁵ See point 5 of the Preamble of Directive 2005/45/EC.

⁵⁶ See Brad K. Blitz, *Professional Mobility and the Mutual Recognition of Qualifications in the EU*, 43 C.E.R., 311-331 (1999), N. Bernard, *Discrimination and Free Movement in the EC Law*, 45 Int'l & Comp.L.Q. 1, 82-108 (1996), V.C. Fouassier, *Le Système Général de Reconnaissance des Diplômes: la Confiance Mutuelle et ses Limites*, R.A.E. 2005/1, 31, V.I. Pertek, *L'Europe des Diplômes et des Professions*, Bruylant, 1994.

⁵⁷ Directive 2005/45/EC of 7 September 2005 on the mutual recognition of seafarers' certificates issued by the Member States and amending Directive 2001/25/EC, OJ L 255, 30.9.2005.

⁵⁸ *Id.*

⁵⁹ Article 3 of Directive 2005/45/EC.

⁶⁰ Article 4 of Directive 2005/45/EC.

⁶¹ See Article 18(2) of Directive 2001/25/EC.

issued by third countries⁶². The amendment in question allows for the European Commission, assisted by the European Maritime Safety Agency (EMSA), to undertake the assessment role on behalf of the whole Community⁶³. Member States will, therefore, submit requests to the Commission for the recognition of certificates issued by third countries⁶⁴. The Commission will decide whether recognition is appropriate within three months of a Member State's request; recognition of certificates issued by recognized third countries and published in the Official Journal of the EU may be used by all Member States unless the Commission has subsequently withdrawn them⁶⁵.

2.1.4. The legal framework on seafarers' hours of work

Requirements concerning seafarers' working time aim at the protection of seafarers from excessive working hours which would be prejudicial both to their health and the safe operation of the vessel⁶⁶. In this context, the instruments mentioned below prescribe certain limits on seafarers' hours of work on board ship, while providing at the same time for exceptions when human life or the ship are in danger⁶⁷. The EC dealt with the issue of working time of seafarers on the basis of the current ILO framework which is reflected in ILO Convention 180 on seafarer's hours of work and manning of ships⁶⁸.

EC Recommendation 130/1999 of 18 November 1998⁶⁹ was adopted by the European Commission with a view to encouraging Member States which had not yet done so to ratify ILO Convention 180 as well as the 1996 Protocol on Merchant Shipping (Minimum Standards) Convention 147 of 1976.

In addition to this, the EC adopted Council Directive 1999/63/EC with a view to putting into effect the European Agreement concluded on 30 September 1998 between the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers Unions (FST) concerning the working time of seafarers⁷⁰. According to the EC Treaty, social partners may jointly request that

⁶² See Article 1(3) of Directive 2003/103/EC of the European Parliament and of the Council of 17 November 2003 amending Directive 2001/25/EC, OJ L 326, 13.12.2003.

⁶³ See Article 1(3) of the Directive 2003/103/EC.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ According to the ILO, "Where flag States are less regulated, then the potential for owners to maximize hours is greater.....", in *The Impact on Seafarers' Living and Working Conditions of Change in the Structure of the Shipping Industry*, ILO, JMC/29/2001/3, Geneva 2001, 65.

⁶⁷ See Article 7 of ILO Convention 180 and clause 7 of the Annex of Directive 1999/63/EC, *infra* note 70.

⁶⁸ Notably see point 5 of the Preamble of Directive 1999/95/EC, *infra* note 72.

⁶⁹ Commission Recommendation no 130/1999 of 18 November 1998 on ratification of ILO Convention 180 concerning seafarers' hours of work and the manning of ships, and ratification of the 1996 Protocol to the 1976 Merchant Shipping (Minimum Standards) Convention, OJ L 43, 17.2.1999.

⁷⁰ Council Directive 1999/63/EC of 21 June 1999 concerning the Agreement on the organization of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST), OJ L 167, 2.7.1999.

agreements at Community level be implemented by a Council decision on a proposal from the European Commission⁷¹. The agreement in question, as endorsed by the EC Directive reflects the ILO Convention 180.

Within the realm of Directive 1999/63/EC fall only vessels flying the flag of a Member State. Directive 1999/95/EC extended the regime in question to vessels calling at EC ports, regardless of the flag⁷². However, the obligations prescribed by Directive 1999/95/EC which go beyond the requirements of ILO Convention 180 are not binding for vessels flying the flag of a third country⁷³.

Certain issues which are likely to arise in the context of the current Community regime are the actual application of the requirements on working time, which is a matter of fact dependent on the control mechanisms provided by the Community regime and implemented by Member States, as well as the issue of the applicability of EC requirements to second national registers⁷⁴.

The control mechanisms instituted by Directive 1999/95/EC comprise the preparation of reports by the port State addressed to the government of the flag State⁷⁵, inspections and more detailed inspections⁷⁶, rectification of deficiencies and the right of detention⁷⁷. It also prescribes that undue delays of ships should be avoided⁷⁸. The shipowner or the operator has the right to appeal against a detention decision⁷⁹.

2.1.5. The protection of maritime labour in the event of insolvency of the shipowner

Seafarers are usually abandoned when their ship is under arrest by creditors, or when the ship cannot operate due to collision, repairs, port state detention, etc.⁸⁰. The length and severity of abandonment may vary considerably from case to case; the degree of involvement of competent public authorities and voluntary organiza-

⁷¹ Article 139 para. 2 of the EC Treaty.

⁷² Directive 1999/95/EC of the European Parliament and of the Council of 13 December 1999 concerning the enforcement of provisions in respect of seafarers' hours of work on board ships calling at Community ports, OJ L 14, 20.1.2000.

⁷³ See point 5 of the Preamble.

⁷⁴ With regard to the applicability of Community requirements on working time to second national registers, to name but a few examples, the answer is positive as far as the French International Register of Shipping (fr. RIF) is concerned, instituted by the statute of 3 May 2005.

See Patrick Chaumette, *Le Marin Entre le Navire et sa Résidence- Le Registre International Français des Navires (RIF)*, Rev.crit.D.I.P. 95(2)avril-juin 297 (2006). Also see Henri de Richemont, *Création du Registre International Français*, Rapport, Commission des Affaires économiques-Senat, no 92, 2003-2004, 37. It deserves a special mention that in the case of the French second register for example both the ILO Convention 180 and Directive 99/63/EC are applicable.

⁷⁵ Article 3

⁷⁶ Article 4

⁷⁷ Article 5

⁷⁸ Article 6

⁷⁹ Article 7

⁸⁰ See *The Impact on Seafarers' Living and Working Conditions of Changes in the Structure of the Shipping Industry*, *supra* note 66, 88.

tions, too⁸¹. While European ports are not exempt from cases of abandonment, abandonment is less known in the case of vessels flying the flag of an EC Member State⁸².

Abandonment of seafarers was not addressed by EC legislature with an instrument specifically devoted to abandoned maritime labour⁸³. The problem was envisaged from the angle of the protection of employees from the insolvency of their employer and more precisely on the basis of Directive 80/987/EEC, as amended by Directive 87/164/EEC and Directive 2002/74/EC⁸⁴.

Directive 80/987/EEC provides for guarantees for the payment of outstanding claims by employees in the event of insolvency of their employer. In practice, the Directive has given rise to implementation measures in the Member States such as the creation of funds financed by the employers, while being at the same time, as prescribed by the Directive, independent from them, in order to ensure the payment of wages corresponding to at least three months⁸⁵.

The possibility for the Member States interested firstly, to except certain categories of employees from its provisions because of the special nature of the employment relationship and secondly, to exclude some other categories of employees because of the existence of a regime of equivalent protection, was initially prescribed in favour of specific Member States in the Annex of the Directive. Exceptional regimes on this foundation were provided by Directive 80/987/EEC for crews of fishing vessels in the case of Greece and the United Kingdom, while the “equivalent protection” regime was prescribed for the crews of sea-going vessels of Greece, Italy and the United Kingdom.

Directive 2002/74/EC, which amended the initial instrument, provided the possibility for Member States to provide for the “equivalent regime” in a more generalized manner⁸⁶.

The regime provided for by Directive 80/987/EEC does not seem to envisage the abandonment of seafarers from the point of view of its international interactions and specificities. Consequently, there is room for future law-making inter-

⁸¹ See E. Kahveci, *Neither at Sea Nor Ashore: the Abandoned Crew of the Obo Basak*, *Annuaire de Droit Maritime et Océanique*, Tome XXIV, 279-320 (2006).

⁸² *Id.*

⁸³ This is also largely the case at the international level, where it is admitted by the ILO that “although the protection of seafarers’ wages and repatriation has been the subject of various ILO Conventions, there is no legal instrument to address fully the abandonment situation”. See *The Impact on Seafarers’ Living and Working Conditions of Changes in the Structure of the Shipping Industry*, *supra* note 66, 89. IMO Resolution A 930 (22) which provides for financial guarantees in the event of abandonment of seafarers is worth a special mention.

⁸⁴ Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer, OJ L 66, 11.3.1987, Council Directive 87/164/EEC of 2 March 1987 amending, on account of the accession of Spain, Directive 80/987/EEC, OJ L 66, 11.3.1987, Directive 2002/74/EC of the European Parliament and of the Council of 23 September 2002 amending Directive 80/987/EEC, OJ L 270, 8.10.2002.

⁸⁵ On the implementation measures of Member States see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:72002L0074:EN:NOT> (last visit 13 October 2006).

⁸⁶ See Article 1(2) of the Directive 2002/74/EC.

vention from the EC in this field in order for the problem to be viewed in a more comprehensive manner.

For example, in the specific context of maritime labour, the payment of outstanding wages of the abandoned crew would not be suffice. In the usual context of abandonment, there is a need for repatriation, coverage of medical care and payment of extra expenses related to the fact that the seafarer is away from home (e.g. telephone communications, etc.).

Some indication on how heterogeneous the legal treatment of abandonment is in the Member States is provided below.

In Greece, as mentioned above, crews of fishing vessels, remunerated by a share in the earnings of the vessel and crews of sea-going vessels enjoy a special status under Directive 80/987/EEC. Greek Law 1220/1981⁸⁷ states that in the event of abandonment abroad of seafarers of Greek or EC Member State nationality working on board a ship flying the Greek flag or on board a foreign ship contracted with the Greek Seamen's Pension Fund (Naftiko Apomachiko Tameio-NAT), seafarers are entitled to three months' wages, to repatriation and to the payment of relevant minor expenses related to it⁸⁸. There are however two vulnerable categories of seafarers which are not subject to this protective regime, i.e. Greek and foreign seafarers abandoned in Greece or abroad while they were engaged on a Greek owned ship under a flag of convenience, and Greek and foreign seafarers abandoned in Greece, regardless of the flag of the ship⁸⁹.

In case C-53/88 brought before the European Court of Justice (ECJ) on the grounds of an action for infringement by the European Commission against Greece⁹⁰, the European Commission claimed that Greece had not ensured equivalent protection for crews of fishing and sea-going vessels and consequently had breached Directive 80/987/EEC. For procedural reasons the applicable law in the matter, i.e. the above-mentioned Law 1220/1981 was not subject to conformity examination by the ECJ. On the basis of the regime applicable to Greece prior to Law 1220/1981, Greece was condemned on the grounds of non-conformity to EC law (Directive 80/987/EEC).

Alike Greece, Italy was mentioned in the Directive as a country of equivalent protection regime with regard to seafarers employed on sea-going vessels. The transposition of Directive 80/987/EC was subject to the attention of the European Commission and resulted in a condemning judgment from the ECJ for non-implementation of the Directive in question within prescribed time limits⁹¹. Legislative decree 80 of 27.1.1992 was adopted in view of the transposition of Directive 80/987/EEC⁹². However the protection of seafarers is articulated over the concept

⁸⁷ Article 29. Law 1220 of 5/7.10.1981 on the completion and amendment of provisions on Piraeus Port Organisation and further provisions.

⁸⁸ Article 29.

⁸⁹ See Thanassis Alykatoras and Iliana Christodoulou-Varotsi, *L'abandon des marins en droit hellénique*, L'Observatoire des Droits des Marins, 129-132, Nantes 2004.

⁹⁰ ECJ, 8.11.1990, European Commission vs. Hellenic Republic, C-53/88, ECR I-3917. See Iliana Christodoulou-Varotsi, *The Influence of EC Law on the Protection of Seafarers in the Event of Insolvency of the Shipowner-Employer*, 3 Greek Rev. Mar. L., 30, 236-242 (2002) (in Greek).

⁹¹ ECJ, 2.2.1989, European Commission vs. Italy, C-22/87, ECR 143.

⁹² Decreto Legislativo 27.1.1992, n. 80, in Suppl. Ordinario alla Gazz. Uff. 13 febbraio, no 36.

of repatriation, which is, as mentioned above, more limited, than the protection prescribed by Directive 80/987/EEC. Repatriation is governed by the Italian Navigation Code⁹³. Italian maritime authorities and Italian Consulate authorities abroad are competent to repatriate seafarers if the shipowner fails to do so⁹⁴. The amount paid in advance by the Consulate authority to repatriate seafarers must be returned by the shipowner, and enjoys a preferential ranking⁹⁵.

The United Kingdom was also included among the Member States having the obligation to ensure an equivalent protection regime for seafarers of sea-going vessels. It is worth mentioning that the Employment Rights Act 1996, partially implemented Directive 80/987/EEC and prescribed the competence of the Secretary of State to offer limited guarantee to pay certain sums due to employees from their employers, and to make up unpaid employer pension contributions out of the National Insurance Fund⁹⁶.

The protection of seafarers in the event of insolvency of their employer is ensured on the basis of maritime liens, as prescribed by common law⁹⁷. This solution to the problem did not satisfy the European Commission from the point of view of its capacity to conform with specific requirements of Directive 80/987/EC⁹⁸.

France has not brought the protection of seafarers in the event of insolvency of their employer under any exceptional regime for the purposes of Directive 80/987/EEC. Protection of abandoned seafarers is ensured on the basis of maritime liens, where claims relating to outstanding wages are ranked after legal fees and port dues, and have a priority over other debts⁹⁹. It should be noted however that via the "Assurance Garantie des Salaires" (AGS), which is not specific to maritime labour, outstanding wages are advanced to the seafarers by the institution in question in the framework of collective proceedings and the AGS is then succeeded to the rights of seafarers¹⁰⁰. Such debts are considered preferential and are listed in the second rank of privileges.

⁹³ See Article 363 of the Italian Navigation Code.

⁹⁴ Article 363 para. 3 of the Italian Navigation Code.

⁹⁵ See Article 553 of the Italian Navigation Code.

⁹⁶ See Article 189 of the Employment Rights Act 1996, Chapter 18.

⁹⁷ See *Commission Report on the Transposition of Council Directive 80/987/EEC*, COM(95)164 final, 5-7.

⁹⁸ *Id.*

⁹⁹ See Article 92, L. 143-8, L. 143-10, L. 742-6 and 742 -7 of the Code du Travail. Also see Art. 31, 3 of the Law on the status of vessels of 3.1.1967. On applicable law in the matter, see Patrick Chaumette, *Des Résolutions A 930(22) et A 931(22) de 2001 de l'Assemblée de l'OMI aux Réformes du Droit Français Quant aux Garanties de Paiement des Créances Salariales*, L'Observatoire des Droits des Marins, Nantes, 133-166 (2004).

¹⁰⁰ See Chaumette, *id.* On the AGS see Véronique Bourgninau, *Droit des Entreprises en Difficulté*, 1995. According to Art. L. 143-11-1 of the Code du Travail, " Tout employeur ayant la qualité de commerçant, d'artisan, d'agriculteur ou de personne morale de droit privé et qui occupe un ou plusieurs salariés a l'obligation de les assurer contre le risque de non-paiement en cas de redressement ou liquidation judiciaire, des sommes qui leur sont dues en exécution du contrat de travail ".

2.2. Texts

Author's note: Only European Community legislation printed in the paper edition of the Official Journal of the European Union is deemed authentic.

2.2.1 Directive 2001/25/EC of the European Parliament and of the Council of 4 April 2001 on the minimum level of training of seafarers

(Official Journal of the European Communities L136, 18.5.2001. p.17)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee¹,

Having consulted the Committee of the Regions,

Acting in accordance with the procedure referred to in Article 251 of the Treaty²,

Whereas:

- (1) Council Directive 94/58/EC of 22 November 1994 on the minimum level of training of seafarers³ has been substantially amended⁴. In the interests of clarity and rationality, it should therefore be consolidated.
- (2) Actions to be taken at Community level in the field of maritime safety and pollution prevention at sea should be in line with internationally agreed rules and standards.
- (3) In its conclusions of 25 January 1993 on maritime safety and pollution prevention in the Community, the Council noted the importance of the human element in the safe operation of ships.
- (4) In its resolution of 8 June 1993 on a common policy on safe seas⁵, the Council set the objective of removing substandard crews and gave priority to Community action aiming at enhancing training and education by developing common standards for minimum training levels of key personnel, including the question of a common language on board Community vessels.
- (5) In its resolution of 24 March 1997⁶ on a new strategy to increase the competitiveness of Community shipping the Council sought to promote the employment of Community seafarers and shore-based personnel. To that end the Council agreed that action should be undertaken to help Community shipping to continue striving for high quality and improve its competitiveness by ensuring the continued high-quality training of Community seafarers of all ranks and of shore-based personnel.

¹ OJ C 14, 16.1.2001, p. 41.

² European Parliament opinion of 12 December 2000 (not yet published in the Official Journal) and Council Decision of 12 March 2001.

³ OJ L 319, 12.12.1994, p. 28. Directive as amended by Directive 98/35/EC (OJ L 172, 17.6.1998, p. 1).

⁴ See Annex III, Part B.

⁵ OJ C 271, 7.10.1993, p.1.

⁶ OJ C 109, 8.4.1997, p. 1.

- (6) The standards of training for the award of vocational competency certificates to seafarers vary from one Member State to another. Such a diversity of national laws in the area of training covered by this Directive does not ensure the consistent level of training required in the interests of maritime safety.
- (7) Council Directives 89/48/EEC⁷ and 92/51/EEC⁸ on the general system for the recognition of professional education and training apply to maritime occupations covered by this Directive. They will help promote compliance with the obligations laid down in the Treaty abolishing obstacles to the free movement of persons and services between Member States.
- (8) The mutual recognition of diplomas and certificates provided for under the general system Directives does not always ensure a standardised level of training for all seafarers serving on board vessels flying the flag of a Member State. This is, however, vital from the viewpoint of maritime safety.
- (9) It is therefore essential to define a minimum level of training for seafarers in the Community. It is appropriate that the action in this field should be based on the standards of training already agreed at international level, namely the International Maritime Organisation (IMO) Convention on Standards of Training, Certification and Watch-keeping for Seafarers, 1978 (STCW Convention), as revised in 1995; all Member States are Parties to that Convention.
- (10) Member States may establish standards higher than the minimum standards laid down in the STCW Convention and this Directive.
- (11) The Regulations of the STCW Convention set out in Annex I to this Directive should be supplemented by the mandatory provisions contained in Part A of the STCW Code. Part B of the STCW Code contains recommended guidance intended to assist Parties to the STCW Convention and those involved in implementing, applying or enforcing its measures to give the Convention full and complete effect in uniform manner.
- (12) For the enhancement of maritime safety and pollution prevention at sea provisions on minimum rest periods for watchkeeping personnel should be established in this Directive in accordance with the STCW Convention. Those provisions should be applied without prejudice to the provisions of Council Directive 1999/63/EC of 21 June 1999 concerning the Agreement on the organization of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers's Unions in the European Union (FST)⁹.
- (13) In order to enhance maritime safety and prevent loss of human life and maritime pollution, communication among crew members on board ships sailing in Community waters should be improved.
- (14) Personnel on board passenger ships nominated to assist passengers in emergency situations should be able to communicate with the passengers.
- (15) Crews serving on board tankers carrying noxious or polluting cargo should be capable of coping efficiently with accident prevention and emergency situations. It is paramount that a proper communication link between the master, officers and ratings is established, covering the requirements provided for in Article 17.
- (16) Measures should be taken to ensure that seafarers holding certificates issued by third countries have a level of competence commensurate with that required by the STCW Convention.
- (17) In order to attain this objective, common criteria should be defined for the recognition of foreign certificates in the Community. The establishment of common criteria for

⁷ OJ L19, 24.1.1989, p. 16.

⁸ OJ L 209, 24.7.1992, p. 25. Directive as last amended by Commission Directive 2000/5/EC (OJ L 54, 26.2.2000, p. 42).

⁹ OJ L 167, 2.7.1999, p. 33.

the Member States' recognition of certificates issued by third countries should be based on the training and certification requirements as agreed in the framework of the STCW Convention.

- (18) In the interests of safety at sea, Member States should recognise qualifications providing the required level of training only where these are issued by or on behalf of Parties to the STCW Convention which have been identified by the IMO Maritime Safety Committee (MSC) as having been shown to have given, and still to be giving, full effect to the standards set out in that Convention. To bridge the time gap until the MSC has been able to carry out such identification, a procedure for the preliminary recognition of certificates is needed.
- (19) Where appropriate, maritime institutes, training programmes and courses should be inspected. Criteria for such inspection should therefore be established.
- (20) A committee should be established to assist the Commission in carrying out the tasks related to the exercise of the recognition of certificates issued by training institutes or administrations of third countries.
- (21) Member States, as port authorities, are required to enhance safety and prevention of pollution in Community waters through priority inspection of vessels flying the flag of a third country which has not ratified the STCW Convention, thereby ensuring no more favourable treatment to vessels flying the flag of a third State.
- (22) It is appropriate to include in this Directive provisions on port State control, pending the amendment of Council Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)¹⁰ in order to transfer to that Directive the provisions on port State control which are included in Articles 17(f), 19, 20 and 21 of this Directive.
- (23) It is necessary to provide for procedures for adapting this Directive to changes in international conventions and codes.
- (24) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹¹.
- (25) The Council should review Annex II in the light of the experience gained in applying this Directive, acting on a proposal to be submitted by the Commission within five years of 25 May 2003.
- (26) Until 1 February 2002 Member States should be allowed to accept on their ships seafarers holding certificates issued in accordance with the provisions which applied before 1 February 1997, the date of entry into force of the revised STCW Convention, provided that those seafarers began their service or training before 1 August 1998.
- (27) This Directive should be without prejudice to the obligations of the Member States concerning the time-limits for transposition of the Directives set out in Annex III, Part B,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Definitions

For the purposes of this Directive:

1. 'master' shall mean the person having command of a ship;

¹⁰ OJ L 157, 7.7.1995, p. 1. Directive as last amended by Commission Directive 1999/97/EC (OJ L 331, 23.12.1999, p. 67).

¹¹ OJ L 184, 17.7.1999, p. 23.

2. 'officer' shall mean a member of the crew, other than the master, designated as such by national law or regulations or, in the absence of such designation, by collective agreement or custom;
3. 'deck officer' shall mean an officer qualified in accordance with the provisions of Chapter II of Annex I;
4. 'chief mate' shall mean the officer next in rank to the master upon whom the command of the ship will fall in the event of the incapacity of the master;
5. 'engineer officer' shall mean an officer qualified in accordance with the provisions of Chapter III of Annex I;
6. 'chief engineer officer' shall mean the senior engineer officer responsible for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the ship;
7. 'second engineer officer' shall mean the engineer officer next in rank to the chief engineer officer upon whom the responsibility for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the ship will fall in the event of the incapacity of the chief engineer officer;
8. 'assistant engineer officer' shall mean a person under training to become an engineer officer and designated as such by national law or regulations;
9. 'radio operator' shall mean a person holding an appropriate certificate issued or recognised by the competent authorities under the provisions of the Radio Regulations, as defined in point 18;
10. 'rating' shall mean a member of the ship's crew other than the master or an officer;
11. 'seagoing ship' shall mean a ship other than those which navigate exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;
12. 'ship flying the flag of a Member State' shall mean a ship registered in and flying the flag of a Member State in accordance with its legislation. A ship not corresponding to this definition shall be regarded as a ship flying the flag of a third country;
13. 'near-coastal voyages' shall mean voyages in the vicinity of a Member State as defined by that Member State;
14. 'propulsion power' shall mean the total maximum continuous rated output power in kilowatts of all of a ship's main propulsion machinery which appears on the ship's certificate of registry or other official document;
15. 'oil-tanker' shall mean a ship constructed and used for the carriage of petroleum and petroleum products in bulk;
16. 'chemical tanker' shall mean a ship constructed or adapted and used for the carriage in bulk of any liquid product listed in Chapter 17 of the International Bulk Chemical Code as in force on 25 May 1998;
17. 'liquefied-gas tanker' shall mean a ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in Chapter 19 of the International Gas Carrier Code as in force on 25 May 1998;
18. 'Radio Regulations' shall mean the revised radio regulations, adopted by the World Administrative Radio Conference for the Mobile Service as in force on 25 May 1998;
19. 'passenger ship' shall mean a seagoing ship which carries more than 12 passengers;
20. 'fishing vessel' shall mean a vessel used for catching fish or other living resources of the sea;
21. 'STCW Convention' shall mean the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers as it applies to the matters concerned taking into account the transitional provisions of Article VII and Regulation I/15 of the Convention and including, where appropriate, the applicable provisions of the STCW code, all being applied as in force on 25 May 1998;

22. 'radio duties' shall include, as appropriate, watchkeeping and technical maintenance and repairs conducted in accordance with the Radio Regulations, the International Convention for the Safety of Life at Sea (1974), (SOLAS Convention) as in force on 25 May 1998 and, at the discretion of each Member State, the relevant recommendations of the International Maritime Organisation (IMO);
23. 'ro-ro passenger ship' shall mean a passenger ship with ro-ro cargo spaces or special-category spaces as defined in the SOLAS Convention as in force on 25 May 1998;
24. 'STCW Code' shall mean the Seafarers' Training, Certification and Watchkeeping (STCW) Code as adopted by Resolution 2 of the 1995 STCW Conference of Parties, as in force on 25 May 1998;
25. 'function' shall mean a group of tasks, duties and responsibilities, as specified in the STCW code, necessary for ship operation, safety of life at sea or protection of the marine environment;
26. 'company' shall mean the owner of the ship or any other organisation or person such as the manager or the bareboat charterer who has assumed the responsibility for operation of the ship from the shipowner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by these regulations;
27. 'appropriate certificate' shall mean a certificate issued and endorsed in accordance with this Directive and entitling the lawful holder thereof to serve in the capacity and perform the functions involved at the level of responsibility specified therein on a ship of the type, tonnage, power and means of propulsion concerned while engaged on the particular voyage concerned;
28. 'seagoing service' shall mean service on board a ship relevant to the issue of a certificate or other qualification;
29. 'approved' shall mean approved by a Member State in accordance with this Directive;
30. 'third country' shall mean any country which is not a Member State;
31. 'month' shall mean a calendar month or 30 days made up of periods of less than one month.

Article 2

Scope

This Directive shall apply to the seafarers mentioned in this Directive serving on board seagoing ships flying the flag of a Member State with the exception of:

- warships, naval auxiliaries or other ships owned or operated by a Member State and engaged only on government non-commercial service,
- fishing vessels,
- pleasure yachts not engaged in trade,
- wooden ships of primitive build.

Article 3

Training and certification

1. Member States shall take the measures necessary to ensure that seafarers serving on ships as referred to in Article 2 are trained as a minimum in accordance with the requirements of the STCW Convention, as laid down in Annex I to this Directive, and hold certificates as defined in Article 4 or appropriate certificates as defined in Article 1(27).

2. Member States shall take the measures necessary to ensure that those crew members that must be certified in accordance with Regulation III/10.4 of the SOLAS Convention are trained and certificated in accordance with this Directive.

Article 4

Certificate

A certificate shall be a valid document by whatever name it may be known, issued by or under the authority of the competent authority of a Member State, authorising the holder to serve as stated in that document or as authorised by national regulations.

Article 5

Certificates and endorsements

1. Certificates shall be issued in accordance with Article 10.
2. Certificates for masters, officers and radio operators shall be endorsed by the Member State as prescribed in this Article.
3. Certificates shall be in the official language or languages of the issuing Member State.
4. In respect of radio operators, Member States may:
 - (a) include the additional knowledge required by the relevant regulations in the examination for the issue of a certificate complying with the Radio Regulations; or
 - (b) issue a separate certificate indicating that the holder has the additional knowledge required by the relevant regulations.
5. At the discretion of a Member State endorsements may be incorporated in the format of the certificates being issued as provided for in section A-I/2 of the STCW code. If so incorporated the form used shall be that set out in section A-I/2, paragraph 1. If issued otherwise, the form of endorsements used shall be that set out in paragraph 2 of that section.
6. A Member State which recognises a certificate under the procedure laid down in Article 18(3)(a) shall endorse that certificate to attest its recognition. The form of the endorsement used shall be that set out in paragraph 32 of section A-I/2 of the STCW Code.
7. The endorsements referred to in paragraphs 5 and 6:
 - (a) may be issued as separate documents;
 - (b) shall each be assigned a unique number, except that endorsements attesting the issue of a certificate may be assigned the same number as the certificate concerned, provided that that number is unique; and
 - (c) shall each expire as soon as the certificate endorsed expires or is withdrawn, suspended or cancelled by the Member State or third country which issued it and, in any case, within five years of their date of issue.
8. The capacity in which the holder of a certificate is authorized to serve shall be identified in the form of endorsement in terms identical to those used in the applicable safe-manning requirements of the Member State concerned.
9. A Member State may use a format different from the format laid down in section A-I/2 of the STCW code, provided that, as a minimum, the required information is provided in roman characters and Arabic figures, taking account of the variations permitted under section A-I/2.
10. Subject to Article 18(4) any certificate required by this Directive must be kept available in its original form on board the ship on which the holder is serving.

Article 6

Training requirements

The training required by Article 3 shall be in a form appropriate to the theoretical knowledge and practical skills required by Annex I, in particular the use of life saving and firefighting equipment, and approved by the competent authority or body designated by each Member State.

Article 7

Principles governing near-coastal voyages

1. When defining near-coastal voyages Member States shall not impose training, experience or certification requirements on seafarers serving on board ships entitled to fly the flag of another Member State or another Party to the STCW Convention and engaged on such voyages in a manner resulting in more stringent requirements for such seafarers than for seafarers serving on board ships entitled to fly its own flag. In no case shall a Member State impose requirements in respect of seafarers serving on board ships flying the flag of another Member State or of another Party to the STCW Convention in excess of those of this Directive in respect of ships not engaged on near-coastal voyages.
2. With respect to ships entitled to fly the flag of a Member State regularly engaged on near-coastal voyages off the coast of another Member State or of another Party to the STCW Convention, the Member State the flag of which a ship is entitled to fly shall prescribe training, experience and certification requirements for seafarers serving on such ships at least equal to those of the Member State or the Party to the STCW Convention off the coast of which the ship is engaged, provided that they do not exceed the requirements of this Directive in respect of ships not engaged on near-coastal voyages. Seafarers serving on a ship which extends its voyage beyond what is defined as a near-coastal voyage by a Member State and enters waters not covered by that definition shall fulfil the appropriate requirements of this Directive.
3. A Member State may afford a ship which is entitled to fly its flag the benefits of the near-coastal voyage provisions of this Directive when it is regularly engaged off the coast of a non- Party to the STCW Convention on near-coastal voyages as defined by that Member State.
4. Upon deciding on the definition of near-coastal voyages and the conditions of education and training required thereof in accordance with the requirements of paragraphs 1, 2 and 3, Member States shall communicate to the Commission the details of the provisions they have adopted.

Article 8

Penalties or disciplinary measures

1. Member States shall establish processes and procedures for the impartial investigation of any reported incompetence, act or omission, that may pose a direct threat to safety of life or property at sea or to the marine environment, on the part of the holders of certificates or endorsements issued by that Member State in connection with their performance of duties relating to their certificates and for the withdrawal, suspension and cancellation of such certificates for such cause and for the prevention of fraud.
2. Each Member State shall prescribe penalties or disciplinary measures for cases in which the provisions of this national legislation giving effect to this Directive are not complied with in respect of ships entitled to fly its flag or of seafarers duly certificated by it.
3. In particular, such penalties or disciplinary measures shall be prescribed and enforced in cases in which:
 - (a) a company or a master has engaged a person not holding a certificate as required by this Directive;
 - (b) a master has allowed any function or service in any capacity which under this Directive must be performed by a person holding an appropriate certificate to be performed by a person not holding the required certificate, a valid dispensation or having the documentary proof required by Article 18(4); or (c) a person has obtained by fraud or forged documents an engagement to perform any function or serve in any

capacity which under this Directive must be performed or filled by a person holding a certificate or dispensation.

4. Member States within the jurisdiction of which any company which or any person who is believed on clear grounds to have been responsible for or to have knowledge of any apparent non-compliance with this Directive specified in paragraph 3 is located shall extend cooperation to any Member State or other Party to the STCW Convention which advises them of its intention to initiate proceedings under its jurisdiction.

Article 9

Quality standards

1. Each Member State shall ensure that:
 - (a) all training, assessment of competence, certification, endorsement and revalidation activities carried out by nongovernmental agencies or entities under its authority are continuously monitored through a quality standards system to ensure the achievement of defined objectives, including those concerning the qualifications and experience of instructors and assessors;
 - (b) where governmental agencies or entities perform such activities, there is a quality-standards system;
 - (c) the education and training objectives and related standards of competence to be achieved are clearly defined and identify the levels of knowledge, understanding and skills appropriate to the examinations and assessments required under the STCW Convention. The objectives and related quality standards may be specified separately for different courses and training programmes and shall cover the administration of the certification system;
 - (d) the fields of application of the quality standards cover the administration of the certification systems, all training courses and programmes, examinations and assessments carried out by or under the authority of each Member State and the qualifications and experience required of instructors and assessors, having regard to the policies, systems, controls and internal quality-assurance reviews established to ensure achievement of the defined objectives.
2. Member States shall also ensure that independent evaluations of the knowledge, understanding, skills and competence acquisition and assessment activities, and of the administration of the certification system, are conducted at intervals of not more than five years by qualified persons who are not themselves involved in the activities concerned in order to verify that:
 - (a) all internal management control and monitoring measures and follow-up actions comply with planned arrangements and documental procedures and are effective in ensuring achievement of the defined objectives;
 - (b) the results of each independent evaluation are documented and brought to the attention of those responsible for the area evaluated;
 - (c) timely action is taken to correct deficiencies.
3. A report relating to each evaluation carried out pursuant to paragraph 2 shall be communicated by the Member State concerned to the Commission within six months of the date of the evaluation.

Article 10

Medical standards - Issue and registration of certificates

1. Member States shall establish standards of medical fitness for seafarers, particularly regarding eyesight and hearing.
2. Member States shall ensure that certificates are issued only to candidates who comply with the requirements of this Article.

3. Each candidate for certification shall provide satisfactory proof:
 - (a) of his identity;
 - (b) that his age is not less than that prescribed in the Regulations in Annex I relevant to the certificate applied for;
 - (c) that he meets the standards of medical fitness, particularly regarding eyesight and hearing, established by the Member State and holds a valid document attesting to his medical fitness, issued by a duly qualified medical practitioner recognised by the competent authority of the Member State;
 - (d) of having completed the seagoing service and any related compulsory training prescribed in the Regulations in Annex I for the certificate applied for;
 - (e) that he meets the standards of competence prescribed in the Regulations in Annex I for the capacities, functions and levels that are to be identified in the endorsement to the certificate.
4. Each Member State shall undertake:
 - (a) to maintain a register or registers of all certificates and endorsements for masters and officers and, as appropriate, ratings, which are issued, have expired or have been revalidated, suspended, cancelled or reported lost or destroyed and of dispensations issued;
 - (b) to make available information on the status of such certificates, endorsements and dispensations to other Member States or other Parties to the STCW Convention and companies which request verification of the authenticity and validity of certificates produced to them by seafarers seeking recognition of their certificates or employment on board ship.

Article 11

Revalidation of certificates

1. Every master, officer and radio operator holding a certificate issued or recognised under any chapter of Annex I other than Chapter VI who is serving at sea or intends to return to sea after a period ashore shall, in order to continue to qualify for seagoing service, be required at intervals not exceeding five years;
 - (a) to meet the standards of medical fitness prescribed by Article 10; and
 - (b) to establish continued professional competence in accordance with section A-I/11 of the STCW Code.
2. Every master, officer and radio operator shall, for continuing seagoing service on board ships for which special training requirements have been internationally agreed upon, successfully complete approved relevant training.
3. Each Member State shall compare the standards of competence which is required of candidates for certificates issued before 1 February 2002 with those specified for the appropriate certificate in Part A of the STCW Code, and shall determine the need to require the holders of such certificates to undergo appropriate refresher and updating training or assessment. Refresher and updating courses shall be approved and include changes in relevant national and international regulations concerning the safety of life at sea and the protection of the marine environment and take account of any updating of the standard of competency concerned.
4. Each Member State shall, in consultation with those concerned, formulate or promote the formulation of a structure of refresher and updating courses as provided for in section A-I/11 of the STCW Code.
5. For the purpose of updating the knowledge of masters, officers and radio operators, each Member State shall ensure that the texts of recent changes in national and international regulations concerning the safety of life at sea and the protection of the marine environment are made available to ships entitled to fly its flag.

Article 12

Use of simulators

1. The performance standards and other provisions set out in section A-I/12 of the STCW code and such other requirements as are prescribed in Part A of the STCW Code for any certificate concerned shall be complied with in respect of:
 - (a) all mandatory simulator-based training;
 - (b) any assessment of competence required by Part A of the STCW Code which is carried out by means of a simulator
 - (c) any demonstration, by means of a simulator, of continued proficiency required by Part A of the STCW Code.
2. Simulators installed or brought into use before 1 February 2002 may be exempted from full compliance with the performance standards referred to in paragraph 1 at the discretion of each member State.

Article 13

Responsibilities of companies

1. In accordance with paragraphs 2 and 3 Member States shall hold companies responsible for the assignment of seafarers for service in their ships in accordance with this Directive, and shall require every company to ensure that:
 - (a) each seafarer assigned to any of its ships holds an appropriate certificate in accordance with the provisions of this Directive and as established by the Member State;
 - (b) its ships are manned in accordance with the applicable safe-manning requirements of the Member State;
 - (c) documentation and data relevant to all seafarers employed on its ships are maintained and readily accessible, and include, without being limited to, documentation and data on their experience, training, medical fitness and competence in assigned duties;
 - (d) on being assigned to any of its ships seafarers are familiarized with their specific duties and with all ship arrangements, installations, equipment, procedures, and ship characteristics that are relevant to their routine or emergency duties;
 - (e) the ship's complement can effectively coordinate their activities in an emergency situation and in performing functions vital to safety or to the prevention or mitigation of pollution.
2. Companies, masters and crew members shall each have responsibility for ensuring that the obligations set out in this Article are given full and complete effect and that such other measures as may be necessary are taken to ensure that each crew member can make a knowledgeable and informed contribution to the safe operation of the ship.
3. The company shall provide written instructions to the master of each ship to which this Directive applies, setting out the policies and the procedures to be followed to ensure that all seafarers who are newly employed on board the ship are given a reasonable opportunity to become familiar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of their duties, before being assigned to those duties. Such policies and procedures shall include:
 - (a) the allocation of a reasonable period of time during which each newly employed seafarer will have an opportunity to become acquainted with:
 - (i) the specific equipment the seafarer will be using or operating; and
 - (ii) ship-specific watchkeeping, safety, environmental protection and emergency procedures and arrangements the seafarer needs to know to perform the assigned duties properly;

- (b) the designation of a knowledgeable crew member who will be responsible for ensuring that each newly employed seafarer is given an opportunity to receive essential information in a language the seafarer understands.

Article 14

Fitness for duty

1. For the purpose of preventing fatigue Member States shall establish and enforce rest periods for watchkeeping personnel and require that watch systems are so arranged that the efficiency of watchkeeping personnel is not impaired by fatigue and that duties are so organised that the first watch at the start of a voyage and subsequent relieving watches are sufficiently rested and otherwise fit for duty.
2. All persons who are assigned duty as officer in charge of a watch or as a rating forming part of a watch shall be allowed at least 10 hours of rest in any 24-hour period.
3. The hours of rest may be divided into no more than two periods, one of which shall be at least six hours long.
4. The requirements for rest periods laid down in paragraphs 1 and 2 need not be maintained in the event of an emergency or drill or in other overriding operational conditions.
5. Notwithstanding paragraphs 2 and 3, the minimum period of 10 hours may be reduced to not less than six consecutive hours provided that no such reduction shall extend beyond two days and at least 70 hours of rest are provided each seven-day period.
6. Member States shall require that watch schedules be posted where they are easily accessible.

Article 15

Dispensation

1. In circumstances of exceptional necessity, competent authorities may, if in their opinion this does not cause danger to persons, properly or the environment, issue a dispensation permitting a specified period not exceeding six months in a capacity, other than that of the radio operator, except as provided by the relevant Radio Regulations, for which he does not hold the appropriate certificate, provided that the person to whom the dispensation is issued shall be adequately qualified to fill the vacant post in a safe manner to the satisfaction of the competent authorities. However, dispensations shall not be granted to a master or chief engineer officer, except the circumstances of force majeure and then only for the shortest possible period.
2. Any dispensation granted for a post shall be granted only to a person properly certificated to fill the post immediately below. Where certification of the post below is not required, a dispensation may be issued to a person whose qualification and experience are, in the opinion of the competent authorities, of a clear equivalence to the requirements for the post to be filled, provided that, if such a person holds no appropriate certificate, he or she shall be required to pass a test accepted by the competent authorities as demonstrating that such a dispensation may safely be issued. In addition, competent authorities shall safely be issued. In addition, competent authorities shall ensure that the post in question is filled by the holder of an appropriate certificate as soon as possible.

Article 16

Responsibilities of Member States with regard to training and assessment

1. Member States shall designate the authorities or bodies which shall:
 - give the training referred to in Article 3,
 - organise and/or supervise the examinations where required,

- issue the certificates of competence referred to in Article 10, and
 - grant the dispensations provided for in Article 15.
2. Member States shall ensure that:
- (a) all training and assessment of seafarers is:
 1. structured in accordance with the written programmes, including such methods and media of delivery, procedures and course material as are necessary to achieve the prescribed standard of competence; and
 2. conducted, monitored, evaluated and supported by persons qualified in accordance with paragraphs (d), (e) and (f);
 - (b) persons conducting in-service training or assessment on board ship do so only when such training or assessment will not adversely affect the normal operation of the ship and they can dedicate their time and attention to training or assessment;
 - (c) instructors, supervisors and assessors are appropriately qualified for the particular types and levels of training or assessment of competence of seafarers either on board or ashore;
 - (d) any person conducting in-service training of a seafarer, either on board or ashore, which is intended to be used in qualifying for certification under this Directive:
 1. has an appreciation of the training programme and an understanding of the specific training objectives for the particular type of training being conducted,
 2. is qualified in the task for which training is being conducted, and
 3. if conducting training using a simulator:
 - (i) has received appropriate guidance in instructional techniques involving the use of simulators; and
 - (ii) has gained practical operational experience on the particular type of simulator being used;
 - (e) any person responsible for the supervision of the in-service training of a seafarer intended to be used in qualifying for certification has a full understanding of the training programme and the specific objectives for each type of training being conducted;
 - (f) any person conducting in-service assessment of the competence of a seafarer, either on board or ashore, which is intended to be used in qualifying for certification:
 1. has an appropriate level of knowledge and understanding of the competence to be assessed;
 2. is qualified in the task for which the assessment is being made;
 3. has received appropriate guidance in assessment methods and practice;
 4. has gained practical assessment experience; and
 5. if conducting assessment involving the use of simulators, has gained practical assessment experience on the particular type of simulator under the supervision and to the satisfaction of an experienced assessor;
 - (g) when a Member State recognises a course of training, a training institution, or a qualification granted by a training institution, as part of its requirements for the issue of a certificate, the qualifications and experience of instructors and assessors are covered in the application of the quality standard provisions of Article 9. Such qualification, experience and application of quality standards shall incorporate appropriate training in instructional techniques and training and assessment methods and practice and comply with all applicable requirements of paragraphs (d), (e) and (f).

Article 17

On-board communication

Member States shall ensure that:

- (a) without prejudice to points (b) and (d), there are at all times, on board all ships flying the flag of a Member State, means in place for effective oral communication relating to

safety between all members of the ship's crew, particularly with regard to the correct and timely reception and understanding of messages and instructions;

- (b) on board all passenger ships flying the flag of a Member State and on board all passenger ships starting and/or finishing a voyage in a Member State port, in order to ensure effective crew performance in safety matters, a working language is established and recorded in the ship's log-book. The company or the master, as appropriate, shall determine the appropriate working language. Each seafarer shall be required to understand and, where appropriate, give orders and instructions and report back in that language. If the working language is not an official language of the Member State, all plans and lists that must be posted shall include translations into the working language;
- (c) on board passenger ships, personnel nominated on muster lists to assist passengers in emergency situations are readily identifiable and have communication skills that are sufficient for that purpose, taking into account an appropriate and adequate combination of any of the following factors:
 - (i) the language or languages appropriate to the principal nationalities of passengers carried on a particular route;
 - (ii) the likelihood that an ability to use elementary English vocabulary for basic instructions can provide a means of communicating with a passenger in need of assistance whether or not the passenger and crew member share a common language;
 - (iii) the possible need to communicate during an emergency by some other means (e.g. by demonstration, hand signals, or calling attention to the location of instructions, muster stations, life-saving devices or evacuation routes) when verbal communication is impractical;
 - (iv) the extent to which complete safety instructions have been provided to passengers in their native language or languages;
 - (v) the languages in which emergency announcements may be broadcast during an emergency or drill to convey critical guidance to passengers and to facilitate crew members in assisting passengers;
- (d) on board oil tankers, chemical tankers and liquefied gas tankers flying the flag of a Member State, the master, officers and rating are able to communicate with each other in (a) common working language(s);
- (e) there are adequate means for communication between the ship and the shore-based authorities, either in a common language or in the language of those authorities;
- (f) when carrying out port State control under Directive 95/21/EC, Member States also check that ships flying the flag of a State other than a Member State comply with this Article.

Article 18

Recognition of certificates

1. Mutual recognition among Member States of certificates referred to in Article 4 held by seafarers who are nationals of Member States shall be subject to the provisions of Directives 89/48/EEC and 92/51/EEC.
2. Mutual recognition among Member States of certificates referred to in Article 4 held by seafarers who are not nationals of Member States shall also be subject to the provisions of Directives 89/48/EEC and 92/51/EEC.
3. Seafarers who do not possess the certificates referred to in Article 4 may be allowed to serve on ships flying the flag of a Member State, provided a decision on the recognition of their appropriate certificates has been adopted through the procedure set out below:
 - (a) when recognising, by endorsement, an appropriate certificate issued by a third country, the Member State shall proceed in accordance with the procedures and criteria set out in Annex II;

- (b) Member States shall notify the Commission, which shall inform the other Member States, of the appropriate certificates they have recognised or intend to recognise in accordance with the criteria referred to in point (a);
 - (c) if within three months of Member States having been informed by the Commission in accordance with point (b) an objection is raised by a Member State or the Commission on the basis of the criteria referred to in point (a), the Commission shall subject the matter to the procedure referred to in Article 23(2). The Member State concerned shall take appropriate measures to implement the decisions taken in accordance with the procedure referred to in Article 23(2);
 - (d) when an appropriate certificate issued by a third country has been recognised under the above procedure, and if, after the completion of its evaluation the MSC has not been able to identify the third country as having demonstrated that full and complete effect is given to the provisions of the STCW Convention, the Commission shall subject the matter to the procedure referred to in Article 23(2) in order to reassess the recognition of the certificates issued by that country. The Member State concerned shall take appropriate measures to implement the decisions taken in accordance with the procedure referred to in Article 23(2);
 - (e) the Commission shall draw up and update a list of the appropriate certificates that have been recognised under the above procedure. The list shall be published in the Official Journal of the European Communities, C Series.
4. Notwithstanding Article 5(6), a Member State may, if circumstances require, allow a seafarer to serve in a capacity other than radio officer or radio operator, except as provided by the Radio Regulations, for a period not exceeding three months on board a ship flying its flag, while holding an appropriate and valid certificate issued and endorsed as required by a third country, but not yet endorsed for recognition by the Member State concerned so as to render it appropriate for service on board a ship flying its flag. Documentary proof shall be kept readily available that application for an endorsement has been submitted to the competent authorities.

Article 19

Port State control

1. Irrespective of the flag it flies each ship, with the exception of those types of ships excluded by Article 2, shall, while in the ports of a Member State, be subject to port State control by officers duly authorised by that Member State to verify that all seafarers serving on board who are required to be certificated by the STCW Convention are so certificated or hold appropriate dispensations.
2. When exercising port State control under this Directive, Member States shall ensure that all relevant provisions and procedures laid down in Directive 95/21/EC are applied.

Article 20

Port State control procedures

1. Without prejudice to Directive 95/21/EC, port State control pursuant to Article 19 shall be limited to the following:
 - verification that every seafarer serving on board who must be certificated in accordance with the STCW Convention holds an appropriate certificate or a valid dispensation or provides documentary proof that an application for an endorsement attesting recognition has been submitted to the authorities of the flag State,
 - verification that the numbers and certificates of the seafarers serving on board are in accordance with the safemanning requirements of the authorities of the flag State.

2. The ability of the ship's seafarers to maintain watchkeeping standards as required by the STCW Convention shall be assessed in accordance with Part A of the STCW Code if there are clear grounds for believing that such standards are not being maintained because any of the following has occurred:
 - the ship has been involved in a collision, grounding or stranding,
 - there has been a discharge of substances from the ship when under way, at anchor or at berth which is illegal under any international convention,
 - the ship has been manoeuvred in an erratic or unsafe manner whereby routing measures adopted by the IMO, or safe navigation practices and procedures have not been followed,
 - the ship is otherwise being operated in such a manner as to pose a danger to persons, property or the environment,
 - a certificate has been fraudulently obtained or the holder of a certificate is not the person to whom that certificate was originally issued,
 - the ship is flying the flag of a country which has not ratified the STCW Convention, or has a master, officer or rating holding a certificate issued by a third country which has not ratified the STCW Convention.
3. Notwithstanding verification of the certificate, assessment under paragraph 2 may require the seafarer to demonstrate the relevant competence at the place of duty. Such a demonstration may include verification that operational requirements in respect of watchkeeping standards have been met and that there is a proper response to emergency situations within the seafarer's level of competence.

Article 21

Detention

Without prejudice to Directive 95/21/EC, the following deficiencies, in so far as it has been determined by the officer carrying out the port State control that they pose a danger to persons, property or the environment, shall be the only grounds under this Directive on which a Member State may detain a ship:

- (a) failure of seafarers to hold certificates, to have appropriate certificates, to have valid dispensations or provide documentary proof that an application for an endorsement attesting recognition has been submitted to the authorities of the flag State,
- (b) failure to comply with the applicable safe-manning requirements of the flag State,
- (c) failure of navigational or engineering-watch arrangements to conform to the requirements specified for the ship by the flag State,
- (d) absence in a watch of a person qualified to operate equipment essential to safe navigation, safety radiocommunications or the prevention of marine pollution,
- (e) failure to provide proof of professional proficiency for the duties assigned to seafarers for the safety of the ship and the prevention of pollution,
- (f) inability to provide for the first watch at the commencement of a voyage and for subsequent relieving watches persons who are sufficiently rested and otherwise fit for duty.

Article 22

Amendment

1. This Directive may be amended in accordance with the procedure referred to in Article 23(2), in order to apply, for the purposes of this Directive, subsequent amendments to the international codes referred to in Article 1(16), (17), (18), (23) and (24) which have entered into force.
2. The Council shall decide, in accordance with the conditions of the Treaty, on any amendment of Annex II, acting on a proposal to be submitted by the Commission

within five years of 25 May 2003 in the light of the experience gained in applying this Directive.

3. Following the adoption of new instruments or protocols to the STCW Convention, the Council, acting on a proposal from the Commission, shall decide, taking into account the Member States' parliamentary procedures, as well as the relevant procedures within the IMO on the detailed arrangements for ratifying those new instruments or protocols, while ensuring that they are applied uniformly and simultaneously in the Member States.

Article 23

Committee procedure

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, in compliance with Article 8 thereof. The period provided for in Article 5(6) of Decision 1999/468/EC shall be eight weeks.
3. The committee shall adopt its rules of procedure.

Article 24

Transitional provisions

1. Until 1 February 2002 Member States may continue to issue, recognise and endorse certificates in accordance with the provisions which applied before 1 February 1997 in respect of those seafarers who began approved seagoing service, approved education and training programmes or approved training courses before 1 August 1998.
2. Until 1 February 2002 Member States may continue to renew and revalidate certificates and endorsements in accordance with the provisions which applied before 1 February 1997.
3. Where pursuant to Article 11 a Member State reissues or extends the validity of certificates which it originally issued under the provisions which applied before 1 February 1997, the Member State may, at its discretion, replace tonnage limitations appearing on the original certificates as follows:
 1. '200 gross registered tonnes' may be replaced by '500 gross tonnage';
 2. '1 600 gross registered tonnes' may be replaced by '3 000 gross tonnage'.

Article 25

Penalties

Member States shall lay down systems of penalties for breaching the national provisions adopted pursuant to Articles 1, 3, 5, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, Article 18(3) and (4), Articles 19, 20, 21 and 24, and Annexes I and II, and shall take all the measures necessary to ensure that they are implemented.

The penalties provided for must be effective, proportionate and dissuasive.

Article 26

Communication

Member States shall immediately communicate to the Commission the texts of all the provisions which they adopt in the field governed by this Directive. The Commission shall inform the other Member States thereof.

Article 27

Repeal

1. Directive 94/58/EC, as amended by the directive referred to in Annex III, Part A, is repealed, without prejudice to the obligations of the Member States in concerning the time limits for transposition set out in Annex III, Part B.
2. References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex IV.

Article 28

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Communities.

Article 29

Addressees

This Directive is addressed to the Member States.

Done at Luxembourg, 4 April 2001.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

B. ROSENGREN

2.2.2. Directive 2003/103/EC of the European Parliament and of the Council of 17 November 2003 amending Directive 2001/25/EC on the minimum level of training of seafarers

(Text with EEA relevance)

(Official Journal of the European Communities, L 326, 13.12.2003, p. 28)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee¹,

After consultation of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty²,

Whereas:

- (1) Directive 2001/25/EC of the European Parliament and of the Council of 4 April 2001 on the minimum level of training of seafarers³ defines minimum training, certification and watchkeeping standards for seafarers serving on board Community ships. Those standards are based on the standards agreed in the International Maritime Organisation

¹ OJ C 133, 6.6.2003, p. 23.

² Opinion of the European Parliament of 3 September 2003 (not yet published in the Official Journal) and Council Decision of 6 November 2003.

³ OJ L 136, 18.5.2001, p. 17. Directive as amended by Directive 2002/84/EC (OJ L 324, 29.11.2002, p. 53).

(IMO) Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (the STCW Convention).

- (2) In order to maintain and develop the level of knowledge and skills in the maritime sector in the EU, it is important to pay appropriate attention to maritime training and the status of seafarers in the EU.
 - (3) It is essential to ensure that seafarers holding certificates issued by third countries and serving on board Community ships have a level of competence equivalent to that required by the STCW Convention. Directive 2001/25/EC lays down procedures and common criteria for the recognition by the Member States of certificates issued by third countries.
 - (4) Directive 2001/25/EC provides for the reassessment of the procedures and criteria for the recognition of certificates issued by third countries and the approval of maritime training institutes and maritime education and training programmes and courses, in the light of the experience gained in applying the Directive.
 - (5) The practical implementation of Directive 2001/25/EC has shown that some adjustments to those procedures and criteria could contribute greatly towards the reliability of the system of recognition, while simplifying the monitoring and reporting obligations imposed on Member States.
 - (6) Compliance by third countries that provide training with the provisions of the STCW Convention can be assessed more effectively in a harmonised manner. The Commission should therefore be entrusted with this task on behalf of the whole Community.
 - (7) In order to ensure that a country which is recognised continues to comply fully with the requirements of the STCW Convention, the recognition should be reviewed regularly and extended if appropriate. The recognition of a third country not complying with the requirements of the STCW Convention should be withdrawn until deficiencies are redressed.
 - (8) Decisions to extend or withdraw recognition can be taken more effectively in a harmonised and centralised manner, at Community level. The Commission should therefore be entrusted with these tasks on behalf of the whole Community.
 - (9) The continuous monitoring of the compliance of the recognised third countries can be carried out more effectively in a harmonised and centralised manner.
 - (10) One of the tasks assigned to the European Maritime Safety Agency (the Agency) is to assist the Commission in the performance of any task assigned to it by Community legislation applicable to training, certification and watchkeeping of ships' crews.
 - (11) The Agency should therefore assist the Commission in the performance of its tasks relating to the granting, extension and withdrawal of recognition of third countries. It should also assist the Commission in the monitoring of third countries' compliance with the requirements of the STCW Convention.
 - (12) The STCW Convention specifies language requirements for certificates and endorsements attesting the issue of a certificate. The existing provisions of Directive 2001/25/EC should be brought into line with the relevant requirements of the Convention.
 - (13) The International Convention for the Safety of Life at Sea, 1974, as amended (the SOLAS Convention) lays down language requirements for bridge-to-shore safety communications. Directive 2001/25/EC should be updated in accordance with the recent amendments to the SOLAS Convention, which entered into force on 1 July 2002.
 - (14) It is necessary to provide for procedures for adapting Directive 2001/25/EC to future changes in Community law.
 - (15) Directive 2001/25/EC should be amended accordingly,
- HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2001/25/EC shall be amended as follows:

1. Article 5 shall be amended as follows:

(a) paragraph 3 shall be replaced by the following:

"3. Certificates shall be issued in accordance with Regulation I/2, paragraph 1, of the STCW Convention."

(b) the following sentence shall be added to paragraph 5: "Endorsements shall be issued in accordance with Article VI, paragraph 2, of the STCW Convention."

2. In Article 17, point (e) shall be replaced by the following:

"(e) there are adequate means for communication between the ship and the shore-based authorities. These communications shall be conducted in accordance with Chapter V, Regulation 14, paragraph 4, of the SOLAS Convention."

3. Article 18(3) shall be replaced by the following:

"3. Seafarers who do not possess the certificates referred to in Article 4 may be allowed to serve on ships flying the flag of a Member State, provided that a decision on the recognition of their appropriate certificates has been adopted through the procedure set out below:

(a) A Member State which intends to recognise, by endorsement, appropriate certificates issued by a third country to a master, officer or radio operator, for service on ships flying its flag, shall submit a request for recognition of that third country to the Commission, stating its reasons.

The Commission, assisted by the European Maritime Safety Agency (the Agency), and with the possible involvement of any Member State concerned, shall collect the information referred to in Annex II and shall carry out an assessment of the training and certification systems in the third country for which the request for recognition was submitted, in order to verify whether the country concerned meets all the requirements of the STCW Convention and whether the appropriate measures have been taken to prevent fraud involving certificates.

(b) The decision on the recognition of a third country shall be taken by the Commission in accordance with the procedure referred to in Article 23(2), within three months from the date of the request for recognition. If granted, the recognition shall be valid subject to the provisions of Article 18a.

(c) If no decision is taken on recognition of the third country concerned within the period laid down in subparagraph (b), the Member State submitting the request may decide to recognise the third country unilaterally until a decision is taken in accordance with the procedure referred to in Article 23(2).

(d) A Member State may decide, with respect to ships flying its flag, to endorse certificates issued by the third countries recognised by the Commission, account being taken of the provisions contained in Annex II(4) and (5).

(e) Recognitions of certificates issued by recognised third countries and published in the Official Journal of the European Union, C series, before (...) ⁴ shall remain valid. These recognitions may be used by all Member States unless the Commission has subsequently withdrawn them pursuant to Article 18a.

(f) The Commission shall draw up and update a list of the third countries that have been recognised. The list shall be published in the Official Journal of the European Union, C Series."

4. The following Articles shall be inserted:

⁴ 18 months after the date of entry into force of the Directive.

"Article 18a

1. Notwithstanding the criteria specified in Annex II, when a Member State considers that a recognised third country no longer complies with the requirements of the STCW Convention, it shall notify the Commission immediately, giving substantiated reasons. The Commission shall without delay refer the matter to the Committee referred to in Article 23.

2. Notwithstanding the criteria specified in Annex II, when the Commission considers that a recognised third country no longer complies with the requirements of the STCW Convention, it shall notify the Member States immediately, giving substantiated reasons. The Commission shall without delay refer the matter to the Committee referred to in Article 23.

3. When a Member State intends to withdraw the endorsements of all certificates issued by a third country it shall without delay inform the Commission and the other Member States of its intention, giving substantiated reasons therefor.

4. The Commission, assisted by the Agency, shall reassess the recognition of the third country concerned in order to verify whether that country failed to comply with the requirements of the STCW Convention.

5. Where there are indications that a particular maritime training establishment no longer complies with the requirements of the STCW Convention, the Commission shall notify the country concerned that recognition of that country's certificates will be withdrawn in two months' time unless measures are taken to ensure compliance with all the requirements of the STCW Convention.

6. The decision on the withdrawal of the recognition shall be taken in accordance with the procedure referred to in Article 23(2), within two months from the date of the communication made by the Member State. The Member States concerned shall take appropriate measures to implement the decision.

7. Endorsements attesting recognition of certificates, issued in accordance with Article 5(6) before the date on which the decision to withdraw recognition of the third country is taken, shall remain valid. Seafarers holding such endorsements may not claim an endorsement recognising a higher qualification, however, unless that upgrading is based solely on additional seagoing service experience.

Article 18b

1. The third countries that have been recognised under the procedure referred to in Article 18(3)(b), including those referred to in Article 18(3)(f), shall be reassessed by the Commission, with the assistance of the Agency, on a regular basis and at least every five years to verify that they fulfil the relevant criteria set out in Annex II and whether the appropriate measures have been taken to prevent fraud involving certificates.

2. The Commission shall define the priority criteria for assessment of third countries on the basis of performance data provided by the Port State control pursuant to Article 20, as well as the information relating to the reports of the independent evaluations communicated by third countries pursuant to section A-I/7 of the STCW Code.

3. The Commission shall provide the Member States with a report on the results of the assessment."

5. the following sentence shall be added to Article 22(1): "This Directive may also be amended in accordance with the same procedure in order to apply, for the purposes of this Directive, any relevant amendments to Community legislation."

6. Annex II shall be amended in accordance with the Annex to this Directive.

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 14 May 2005. They shall forthwith inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Not later than 14 December 2008 the Commission shall submit an evaluation report to the European Parliament and the Council, based on a detailed analysis and evaluation of the provisions of the IMO Convention, the implementation thereof and new insights gained with regard to the correlation between safety and the level of training of ships' crews.

Article 3

This Directive shall enter into force on the day following that of its publication in the Official Journal of the European Union.

Article 4

This Directive is addressed to the Member States. Done at Brussels, 17 November 2003.

For the European Parliament

The President

P. Cox

For the Council

The President

G. Alemanno

ANNEX

Annex II to Directive 2001/25/EC is hereby replaced by the Following:

"Annex II

CRITERIA FOR THE RECOGNITION OF THIRD COUNTRIES THAT HAVE ISSUED A CERTIFICATE OR UNDER THE AUTHORITY OF WHICH WAS ISSUED A CERTIFICATE, REFERRED TO IN ARTICLE 18(3)(a)

1. The third country must be a Party to the STCW Convention.
2. The third country must have been identified by the Maritime Safety Committee as having demonstrated that full and complete effect is given to the provisions of the STCW Convention.
3. The Commission, assisted by the Agency and with the possible involvement of any Member State concerned, must have confirmed, through all necessary measures, which may include the inspection of facilities and procedures, that the requirements concerning the standard of competence, the issue and endorsement of certificates and record keeping are fully complied with, and that a quality standards system has been established pursuant to Regulation I/8 of the STCW Convention.
4. The Member State is in the process of agreeing an undertaking with the third country concerned that prompt notification will be given of any significant change in the arrangements for training and certification provided in accordance with the STCW Convention.
5. The Member State has introduced measures to ensure that seafarers who present for recognition certificates for functions at management level have an appropriate knowledge of the maritime legislation of the Member State relevant to the functions they are permitted to perform.

6. If a Member State wishes to supplement assessment of compliance of a third country by evaluating certain maritime training institutes, it shall proceed according to the provisions of section A-I/6 of the STCW Code."

2.2.3. Directive 2005/45/EC of the European Parliament and of the Council of 7 September 2005 on the mutual recognition of seafarers' certificates issued by the Member States and amending Directive 2001/25/EC

(Text with EEA relevance)

(Official Journal of the European Communities L255, 30.9.2005, p. 160)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee¹,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty²,

Whereas:

(1) In its conclusions of 5 June 2003 on improving the image of Community shipping and attracting young people to the seafaring profession, the Council highlighted the necessity of fostering the professional mobility of seafarers within the European Union, with particular emphasis on recognition procedures for seafarers' certificates of competency, while ensuring thorough compliance with the requirements of the International Maritime Organisation (IMO) Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (the STCW Convention) in its up to date version.

(2) Maritime transport is an intensively and rapidly developing sector of a particularly international character. Accordingly, in view of the increasing shortage of Community seafarers, the balance between supply and demand in personnel can be maintained more efficiently at the Community, rather than the national level. It is therefore essential that the common transport policy in the field of maritime transport be extended to facilitate the movement of seafarers within the Community.

(3) As regards seafarers' qualifications, the Community has laid down minimum maritime education, training and certification requirements by way of Directive 2001/25/EC of the European Parliament and of the Council of 4 April 2001 on the minimum level of training of seafarers³. That Directive incorporates into Community law the international training, certification and watchkeeping standards laid down by the STCW Convention.

(4) Directive 2001/25/EC provides that seafarers must hold a certificate of competency issued and endorsed by the competent authority of a Member State in accordance with that Directive and entitling the lawful holder thereof to serve on a ship in the capacity and perform the functions involved at the level of responsibility specified therein.

(5) Under Directive 2001/25/EC, mutual recognition among Member States of certificates held by seafarers, whether or not nationals of a Member State, is subject to Directives

¹ OJ C 157, 28.6.2005, p. 53.

² Opinion of the European Parliament of 23 February 2005 (not yet published in the Official Journal). Decision of the Council of 27 June 2005.

³ OJ L 136, 18.5.2001, p. 17, Directive as last amended by Commission Directive 2005/23/EC (OJ L 62, 9.3.2005, p. 14).

89/48/EEC⁴ and 92/51/EEC⁵ setting up, respectively, a first and a second general system for the recognition of professional education and training. Those Directives do not provide for the automatic recognition of formal qualifications of seafarers, as seafarers may be subject to compensation measures.

(6) Each Member State should recognise any certificate and other evidence of formal qualifications issued by another Member State in accordance with Directive 2001/25/EC. Therefore, each Member State should permit a seafarer having acquired his/her certificate of competency in another Member State, satisfying the requirements of that Directive, to take up or to pursue the maritime profession for which he/she is qualified, without any pre-requisites other than those imposed on its own nationals.

(7) Since this Directive is aimed at facilitating the mutual recognition of certificates, it does not regulate the conditions concerning access to employment.

(8) The STCW Convention specifies language requirements for seafarers. These requirements should be introduced into Community law to ensure effective communication on board ships and facilitate the free movement of seafarers within the Community.

(9) Today, the proliferation of certificates of competency of seafarers obtained by fraud poses a serious danger to safety at sea and the protection of the marine environment. In most cases, holders of fraudulent certificates of competency do not meet the minimum certification requirements of the STCW Convention. These seafarers could easily be involved in maritime accidents.

(10) Member States should therefore take and enforce specific measures to prevent and penalise fraudulent practices associated with certificates of competency as well as pursue their efforts within the IMO to achieve strict and enforceable agreements on the worldwide combating of such practices. The Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) is an appropriate forum for exchanging information, experience and best practices in this respect.

(11) Regulation (EC) No 1406/2002⁶, established a European Maritime Safety Agency (the Agency), for the purpose of ensuring a high, uniform and effective level of maritime safety and prevention of pollution from ships. One of the tasks assigned to the Agency is to assist the Commission in the performance of any task assigned to it by Community legislation applicable to the training, certification and watchkeeping of ships' crews.

(12) The Agency should therefore assist the Commission in verifying that Member States comply with the requirements laid down in this Directive and Directive 2001/25/EC.

(13) The mutual recognition among Member States of certificates held by seafarers, whether or not nationals of a Member State, should no longer be subject to Directives 89/48/EEC and 92/51/EEC, but should be governed by this Directive.

(14) Directive 2001/25/EC should therefore be amended accordingly.

(15) Since the objective of this Directive, namely the mutual recognition of the seafarers' certificates issued by the Member States, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the

⁴ Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration (OJ L 19, 24.1.1989, p. 16). Directive as last amended by Directive 2001/19/EC of the European Parliament and of the Council (OJ L 206, 31.7.2001, p. 1).

⁵ Council Directive 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC (OJ L 209, 24.7.1992, p. 25). Directive as last amended by Commission Decision 2004/108/EC (OJ L 32, 5.2.2004, p. 15).

⁶ Regulation (EC) NO 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p. 1). Regulation as last amended by Regulation (EC) No 724/2004 (OJ L 129, 29.4.2004, p. 1).

Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

(16) In accordance with paragraph 34 of the Interinstitutional Agreement on better law-making⁷, Member States are encouraged to draw up, for themselves and in the interest of the Community, their own tables, which will, as far as possible, illustrate the correlation between this Directive and their transposition measures, and to make those tables public,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Scope

This Directive shall apply to seafarers who are:

- (a) nationals of a Member State;
- (b) non-nationals who hold a certificate issued by a Member State.

Article 2

Definitions

For the purposes of this Directive the following definitions shall apply:

(a) ‘seafarer’ means a person who is trained and who is certificated by a Member State at least in accordance with the requirements laid down in Annex I to Directive 2001/25/EC;

(b) ‘certificate’ means a valid document within the meaning of Article 4 of Directive 2001/25/EC;

(c) ‘appropriate certificate’ means a certificate as defined in Article 1(27) of Directive 2001/25/EC;

(d) ‘endorsement’ means a valid document issued by the competent authority of a Member State in accordance with Article 5(2) and (6) of Directive 2001/25/EC;

(e) ‘recognition’ means the acceptance by the competent authorities of a host Member State of a certificate or appropriate certificate issued by another Member State;

(f) ‘host Member State’ means any Member State in which a seafarer seeks recognition of his/her appropriate certificate(s) or other certificate(s);

(g) ‘STCW Convention’ means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, in its up-to-date version;

(h) ‘STCW Code’ means the Seafarers' Training, Certification and Watchkeeping Code, as adopted by Resolution 2 of the 1995 STCW Conference of Parties, in its up-to-date version;

(i) ‘the Agency’ means the European Maritime Safety Agency, established by Regulation (EC) No 1406/2002.

Article 3

Recognition of certificates

1. Every Member State shall recognise appropriate certificates or other certificates issued by another Member State in accordance with the requirements laid down in Directive 2001/25/EC.

2. The recognition of appropriate certificates shall be limited to the capacities, functions and levels of competency prescribed therein and be accompanied by an endorsement attesting such recognition.

3. Member States shall ensure the right to appeal against any refusal to endorse a valid certificate, or the absence of any response, in accordance with national legislation and procedures.

⁷ OJ C 321, 31.12.2003, p. 1.

4. Notwithstanding paragraph 2, the competent authorities of a host Member State may impose further limitations on capacities, functions and levels of competence relating to nearcoastal voyages, as referred to in Article 7 of Directive 2001/25/EC, or alternative certificates issued under Regulation VII/1 of Annex I to Directive 2001/25/EC.

5. A host Member State shall ensure that seafarers who present for recognition certificates for functions at the management level have an appropriate knowledge of the maritime legislation of that Member State relevant to the functions they are permitted to perform.

Article 4

Amendments to Directive 2001/25/EC

Directive 2001/25/EC is hereby amended as follows:

1. Article 4 shall be replaced by:

‘Article 4

Certificate

A certificate shall be any valid document, by whatever name it may be known, issued by or under the authority of the competent authority of a Member State in accordance with Article 5 and with the requirements laid down in Annex I.;

2. the following Article shall be inserted:

‘Article 7a

Prevention of fraud and other unlawful practices

1. Member States shall take and enforce the appropriate measures to prevent fraud and other unlawful practices involving the certification process or certificates issued and endorsed by their competent authorities, and shall provide for penalties that are effective, proportionate and dissuasive.

2. Member States shall designate the national authorities competent to detect and combat fraud and other unlawful practices and exchange information with the competent authorities of other Member States and of third countries concerning the certification of seafarers.

Member States shall forthwith inform the other Member States and the Commission of the details of such competent national authorities. Member States shall also forthwith inform any third countries with which they have entered into an undertaking in accordance with Regulation I/10, paragraph 1.2 of the STCW Convention of the details of such competent national authorities.

3. At the request of a host Member State, the competent authorities of another Member State shall provide written confirmation or denial of the authenticity of seafarers' certificates, corresponding endorsements or any other documentary evidence of training issued in that other Member State.;

3. Article 18(1) and (2) shall be deleted with effect from 20 October 2007;

4. The following Articles shall be inserted:

‘Article 21a

Regular monitoring of compliance

Without prejudice to the powers of the Commission under Article 226 of the Treaty, the Commission, assisted by the European Maritime Safety Agency, established by Regulation

(EC) No 1406/2002*, shall verify on a regular basis and at least every five years that Member States comply with the minimum requirements laid down by this Directive.

Article 21b

Compliance report

No later than 20 October 2010 the Commission shall submit to the European Parliament and the Council an evaluation report drawn up on the basis of the information obtained pursuant to Article 21a. In the report the Commission shall analyse the Member States' compliance with this Directive and, where necessary, make proposals for additional measures.

5. the following paragraph shall be inserted in Annex I,

Chapter I:

‘1a. Member States shall ensure that seafarers possess adequate language proficiency, as defined in Sections A-II/1, A-III/1, A-IV/2 and A-II/4 of the STCW Code so as to enable them to perform their specific duties on a vessel flying the flag of a host Member State.’

Article 5

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 20 October 2007. They shall forthwith inform the Commission thereof. When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive.

Article 6

Entry into force

This Directive shall enter into force on the 20th day following that of its publication in the Official Journal of the European Union.

Article 7

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 7 September 2005.

For the European Parliament

The President

J. BORRELL FONTELLES

For the Council The President

C. CLARKE

* Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p. 1). Regulation as last amended by Regulation (EC) No 724/2004 (OJ L 129, 29.4.2004, p. 1).

2.2.4. Commission recommendation 1999/130/EC of 18 November 1998 on ratification of International Labour Organisation (ILO) Convention 180 concerning seafarers' hours of work and the manning of ships, and ratification of the 1996 Protocol to the 1976 Merchant Shipping (minimum standards) Convention (notified under document number C(1999) 372)

(Official Journal of the European Communities, L 43, 7.2.1999, p. 9)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 155, second indent, thereof,

Whereas ILO Convention 180 concerning seafarers' hours of work and the manning of ships, adopted at the 84th maritime session of the International Labour Conference of 22 October 1996, prescribes working and resting hours for seamen working on board ships;

Whereas the Convention's aims, promotion of the health and safety of workers, the improvement of maritime safety and the protection of the marine environment, are also objectives of the Community;

Whereas the 1996 Protocol to Convention 147 on Merchant Shipping (minimum standards) of 1976, which was adopted at the same time as Convention 180, includes in its additional annex Convention 180 concerning seafarers' hours of work and the manning of ships of 1996;

Whereas Article 4 of the Merchant Shipping (minimum standards) Convention to which the 1996 Protocol refers back, stipulates that a country that has ratified the Convention may inspect a ship calling in at one of its ports so as to verify that the living, working and safety conditions of the crew conform with the provisions of the Conventions annexed to the Merchant Shipping Convention;

Whereas the Commission has just submitted to the Council a proposal for a Directive, adopted under the Social Protocol, on the Europe Agreement on the organization of working time of seafarers, which is based on Convention 180;

Whereas this proposal only covers seamen working on ships flying Member State flags;

Whereas the provisions on the working time of seafarers can only be applied and enforced in the Community in respect of ships flying third country flags if Convention 180 takes effect and if the 1996 Protocol to the 1976 Merchant Shipping (minimum standards) Convention is ratified by the Member States of the Community;

Whereas the entry into force of Convention 180 and of the 1996 Protocol to the 1976 Merchant Shipping (minimum standards) Convention will enable the Member States which have ratified Convention 180 and the 1996 Protocol to monitor, on the basis of a Council Directive, the application of Convention 180's working time rules on all ships calling in at Community ports;

Whereas compliance with Convention 180 will help improve maritime safety in the European Union and put ships flying Member State flags on an equal footing with those flying the flags of the various third countries;

Whereas it is desirable that the Directive on the application of the working hours of seamen on board ships calling in at Community ports should enter into force at the same time as the Directive on implementation of the Europe Agreement on the organisation of working time of seafarers and, to this end, it is important that the Member States ratify Convention 180 and the 1996 Protocol and deposit the instruments of ratification with the International Labour Office as soon as possible,

HEREBY RECOMMENDS:

1. Member States which have not yet done so be requested to ratify ILO Convention 180 concerning seafarers' hours of work and the manning of ships, adopted on 20 October 1996
2. Member States which have not yet done so be requested to ratify the 1996 Protocol to Convention 147 on Merchant Shipping (minimum standards) of 1976
3. Member States be requested to inform the Commission within one year of publication of this recommendation of the measures taken to implement it.

Done at Brussels, 18 November 1998.
For the Commission
Pádraig FLYNN
Member of the Commission

2.2.5 Council Directive 1999/63/EC of 21 June 1999 concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions (FST) in the European Union

(Official Journal of the European Communities, L 167, 2.7.1999, p. 33)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and, in particular Article 139(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) following the entry into force of the Treaty of Amsterdam, the provisions of the Agreement on social policy annexed to the Protocol 14 on social policy, annexed to the Treaty establishing the European Community, as amended by the Treaty of Maastricht, have been incorporated into Articles 136 to 139 of the Treaty establishing the European Community;

(2) management and labour ("the social partners"), may in accordance with Article 139(2) of the Treaty, request jointly that agreements at Community level be implemented by a Council decision on a proposal from the Commission;

(3) the Council adopted Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time¹; whereas sea transport was one of the sectors of activity excluded from the scope of that Directive;

(4) account should be taken of the relevant Conventions of the International Labour Organisation with regard to the organisation of working time, including in particular those relating to the hours of work of seafarers;

(5) the Commission, in accordance with Article 3(2) of the Agreement on social policy, has consulted management and labour on the possible direction of Community action with regard to the sectors and activities excluded from Directive 93/104/EC;

(6) after that consultation the Commission considered that Community action was desirable in that area, and once again consulted management and labour at Community level on the substance of the envisaged proposal in accordance with Article 3(3) of the said Agreement;

(7) the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST) informed the Commission of their

¹ OJ L 307, 13.12.1993, p. 18.

desire to enter into negotiations in accordance with Article 4 of the Agreement on social policy;

(8) the said organisations concluded, on 30 September 1998, an Agreement on the working time of seafarers; this Agreement contains a joint request to the Commission to implement the Agreement by a Council decision on a proposal from the Commission, in accordance with Article 4(2) of the Agreement on social policy;

(9) the Council, in its resolution of 6 December 1994 on certain aspects for a European Union social policy: a contribution to economic and social convergence in the Union² asked management and labour to make use of the opportunities for concluding agreements, since they are close to social reality and to social problems;

(10) the Agreement applies to seafarers on board every seagoing ship, whether publicly or privately owned, which is registered in the territory of any Member State and is ordinarily engaged in commercial maritime operations;

(11) the proper instrument for implementing the Agreement is a Directive within the meaning of Article 249 of the Treaty; it therefore binds the Member States as to the result to be achieved, whilst leaving national authorities the choice of form and methods;

(12) in accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, the objectives of this Directive cannot be sufficiently achieved by the Member States and can therefore be better achieved by the Community; this Directive does not go beyond what is necessary for the attainment of those objectives;

(13) with regard to terms used in the Agreement which are not specifically defined therein, this Directive leaves Member States free to define those terms in accordance with national law and practice, as is the case for other social policy Directives using similar terms, providing that those definitions respect the content of the Agreement;

(14) the Commission has drafted its proposal for a Directive, in accordance with its communication of 20 May 1998 on adapting and promoting the social dialogue at Community level, taking into account the representative status of the signatory parties and the legality of each clause of the Agreement;

(15) the Commission informed the European Parliament and the Economic and Social Committee, in accordance with its communication of 14 December 1993 concerning the application of the Agreement on social policy, by sending them the text of its proposal for a Directive containing the Agreement;

(16) the implementation of the Agreement contributes to achieving the objectives under Article 136 of the Treaty,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The purpose of this Directive is to put into effect the Agreement on the organisation of working time of seafarers concluded on 30 September 1998 between the organisations representing management and labour in the maritime sector (ECSA and FST) as set out in the Annex hereto.

Article 2

Minimum requirements

1. Member States may maintain or introduce more favourable provisions than those laid down in this Directive.

2. The implementation of this Directive shall under no circumstances constitute sufficient grounds for justifying a reduction in the general level of protection of workers in the fields covered by this Directive. This shall be without prejudice to the rights of Member

² OJ C 368, 23.12.1994, p. 6.

States and/or management and labour to lay down, in the light of changing circumstances, different legislative, regulatory or contractual arrangements to those prevailing at the time of the adoption of this Directive, provided always that the minimum requirements laid down in this Directive are adhered to.

Article 3

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2002, or shall ensure that, by that date at the latest, management and labour have introduced the necessary measures by agreement, the Member States being required to take any necessary measure to enable them at any time to be in a position to guarantee the results imposed by this Directive. They shall forthwith inform the Commission thereof.

2. When Member States adopt the provisions referred to in the first paragraph, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The methods of making such reference shall be laid down by the Member States.

Article 4

Addressees

This Directive is addressed to the Member States.

Done at Luxembourg, 21 June 1999.

For the Council

The President

L. SCHOMERUS

ANNEX EUROPEAN AGREEMENT

on the organisation of working time of seafarers

Having regard to the Agreement on social policy annexed to the Protocol on social policy attached to the Treaty establishing the European Community and in particular Articles 3(4) and 4(2) thereof;

Whereas Article 4(2) of the Agreement on social policy provides that agreements concluded at European level may be implemented at the joint request of the signatory parties by a Council Decision on a proposal from the Commission;

Whereas the signatory parties hereby make such a request,

THE SIGNATORY PARTIES HAVE AGREED THE FOLLOWING:

Clause 1

1. The Agreement applies to seafarers on board every seagoing ship, whether publicly or privately owned, which is registered in the territory of any Member State and is ordinarily engaged in commercial maritime operations. For the purpose of this Agreement a ship that is on the register of two States is deemed to be registered in the territory of the State whose flag it flies.

2. In the event of doubt as to whether or not any ships are to be regarded as seagoing ships or engaged in commercial maritime operations for the purpose of the Agreement, the question shall be determined by the competent authority of the Member State. The organisations of shipowners and seafarers concerned should be consulted.

Clause 2

For the purpose of the Agreement:

- (a) the term 'hours of work' means time during which a seafarer is required to do work on account of the ship;
- (b) the term 'hours of rest' means time outside hours of work; this term does not include short breaks;
- (c) the term 'seafarer' means any person who is employed or engaged in any capacity on board a seagoing ship to which the Agreement applies;
- (d) the term 'shipowner' means the owner of the ship or any other organisation or person, such as the manager or bareboat charterer, who has assumed the responsibility for the operation of the ship from the shipowner and who on assuming such responsibility has agreed to take over all the attendant duties and responsibilities.

Clause 3

Within the limits set out in Clause 5, there shall be fixed 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.

Clause 4

Without prejudice to Clause 5, the normal working hours' standard of seafarer is, in principle, based on an eight-hour day with one day of rest per week and rest on public holidays. Member States may have procedures to authorise or register a collective agreement which determines seafarers' normal working hours on a basis on less favourable than this standard.

Clause 5

1. The limits on hours of work or rest shall be either:
 - (a) maximum hours of work which shall not exceed
 - (i) fourteen hours in any 24 hour period; and
 - (ii) 72 hours in any seven-day period; or
 - (b) minimum hours of rest which shall not be less than:
 - (i) ten hours in any 24 hour period; and
 - (ii) 72 hours in any seven-day period.
2. 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.
3. Musters, fire-fighting and lifeboat drills, and prescribed by national laws and regulations and by international instruments shall be conducted in a manner that minimises the disturbance of rest periods and does not induce fatigue.
4. In respect of situations 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.
5. With regard to paragraphs 3 and 4, where no collective agreement or arbitration award exists or if the competent authority determines that the provisions in the agreement or award are inadequate, it would be for the competent authority to determine such provisions to ensure that the seafarers concerned have sufficient rest.
6. With due regard for the general principles of the protection of the health and safety of workers, Member States may have national laws, regulations or a procedure for the competent authority to authorise or register collective agreements permitting exceptions to the limits set out in paragraphs 1 and 2. Such exceptions shall, as far as possible, follow the

standards set out 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 ship on short voyages.

7. A table shall be posted, in an easily accessible place, 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 States.

8. The table referred to in paragraph 7 shall be established in a standardised format in the working language or languages of the ship and in English.

Clause 6

No seafarer under 18 years of age shall work at night. For the purpose of this Clause, 'night' means a period of at least nine consecutive hours, including the interval from midnight to five a.m. This provision need not be applied when the effective training of young seafarers between the ages of 16 and 18 in accordance with established programmes and schedules would be impaired.

Clause 7

1. The master of a ship shall have the right 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.

2. In accordance with paragraph 1, 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.

3. As soon as practicable after the normal situation has been restored, the master shall ensure that any seafarer who have performed work in a scheduled rest period are provided with an adequate period of rest.

Clause 8

1. Records of seafarers' daily hours of work or of their daily hours of rest shall be maintained to allow monitoring of compliance with the provisions set out in Clause 5. The seafarer shall receive a copy of the records pertaining to him or her which shall be endorsed by the master, or a person authorised by the master, and by the seafarer.

2. Procedures shall be determined for keeping such records on board, including the intervals at which the information shall be recorded. The format of the records of the seafarers' hours of work or of their hours of rest shall be established taking into account any available international guidelines. The format shall be established in the language provided by Clause 5, paragraph 8.

3. A copy of the relevant provisions of the national legislation pertaining to this Agreement and the relevant collective agreements shall be kept on board and be easily accessible to the crew.

Clause 9

The records referred to in Clause 8 shall be examined and endorsed at appropriate intervals, to monitor compliance with the provisions governing hours of work or hours of rest that give effect to this Agreement.

Clause 10

1. When determining, approving or revising manning levels, it is necessary to take into account the need to avoid or minimise, as far as practicable, excessive hours of work, to ensure sufficient rest and to limit fatigue.

2. If the records or other evidence indicate infringement of provisions governing hours of work or hours of rest, measures, including if necessary the revision of the manning of the ship, shall be taken so as to avoid future infringements.

3. All ships to which this Agreement applies shall be sufficiently, safely and efficiently manned, in accordance with the minimum safe manning document or an equivalent issued by the competent authority.

Clause 11

No person under 16 years of age shall work on a ship.

Clause 12

The shipowner shall provide the master with the necessary resources for the purpose of compliance with obligations under this Agreement, including those relating to the appropriate manning of the ship. The master shall take all necessary steps to ensure that the requirements on seafarers' hours of work and rest arising from this Agreement are complied with.

Clause 13

1. All seafarers shall possess a certificate attesting to their fitness for the work or which they are to be employed at sea.

The nature of the health assessment to be made and the particulars to be included in the medical certificate shall be established after consultation with the shipowners and seafarers organisations concerned.

All seafarers shall have regular health assessments. Watchkeepers suffering from health problems certified by a medical practitioner as being due to the fact that they perform night work shall be transferred, wherever possible, to day work to which they are suited.

2. The health assessment referred to in paragraph 1 shall be free and comply with medical confidentiality. Such health assessments may be conducted within the national health system.

Clause 14

Shipowners shall provide information on watchkeepers and other night workers to the national competent authority if they so request.

Clause 15

Seafarers shall have safety and health protection appropriate to the nature of their work. Equivalent protection and prevention services or facilities with regard to the safety and health of seafarers working by day or by night shall be available.

Clause 16

Every seafarer shall be entitled to paid annual leave of at least four weeks, or a proportion thereof for periods of employment of less than one year, in accordance with the conditions for entitlement to, and granting of, such leave laid down by national legislation and or/practice.

The minimum period of paid annual leave may not be replaced by an allowance in lieu, except where the employment relationship is terminated.

Brussels, 30 Septembre 1998.
 Federation of Transport Workers' Unions in the European Union (FST)
 European Community Shipowners' Association (ECSA)

Author's note: See Corrigendum to Council Directive 1999/63/EC in the Official Journal of the European Communities L 244, 16.9.1999, p. 64 (omitted).

2.2.6. Directive 1999/95/EC of the European Parliament and the Council of 13 December 1999 concerning the enforcement of provisions in respect of seafarers' hours of work on board ships calling at Community ports

(Official Journal of the European Communities L14, 20.1.2000, p. 29)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the Economic and Social Committee²,

Acting in accordance with the procedure laid down in Article 251 of the Treaty³,

Whereas:

(1) Community action in the field of social policy aims, *inter alia*, at improving the health and safety of workers in their working environment;

(2) Community action in the field of maritime transport aims, *inter alia*, at improving shipboard living and working conditions of seafarers, safety at sea and the prevention of pollution caused by maritime accidents;

(3) During its eighty-fourth session of 8 to 22 October 1996 the International Labour Organisation Conference (ILO) adopted ILO Convention No 180 concerning Seafarers' Hours of Work and the Manning of Ships, 1996 (hereinafter "ILO Convention No 180" and the Protocol to the Merchant Shipping (Minimum Standards) Convention, 1976 (hereinafter "the Protocol to ILO Convention No 147");

(4) Council Directive 99/63/EC of 21 June 1999 concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST)⁴ adopted under Article 139(2) of the Treaty, aims to put into effect the said Agreement concluded on 30 September 1998 (hereinafter the "Agreement"); the content of the Agreement reflects certain provisions of ILO Convention No 180; the Agreement applies to seafarers on board every seagoing ship, whether publicly or privately owned, which is registered in the territory of any Member State and is ordinarily engaged in commercial maritime operations;

¹ OJ C 43, 17.2.1999, p. 16.

² OJ C 138, 18.5.1999, p. 33.

³ Opinion of the European Parliament of 14 April 1999 (OJ C 219, 30.7.1999, p. 240), Council common position of 12 July 1999 (OJ C 249, 1.9.1999, p. 7) and Decision of the European Parliament of 4 November 1999 (not yet published in the Official Journal).

⁴ OJ L 167, 2.7.1999, p. 37.

(5) The purpose of this Directive is to apply the provisions of Directive 1999/63/EC which reflect the provisions of ILO Convention No 180, to any ship calling at a Community port, irrespective of the flag it flies in order to identify and remedy any situation which is manifestly hazardous for the safety or health of seafarers; however, Directive 1999/63/EC includes requirements which are not to be found in ILO Convention No 180 and which should not therefore be enforced on board ships not flying the flag of a Member State;

(6) Directive 1999/63/EC applies to seafarers on board every seagoing ship registered in the territory of a Member State; Member States should monitor compliance with all the provisions of the said Directive by ships registered in their territory;

(7) In order to protect safety and to avoid distortions of competition, Member States should be allowed to verify compliance with the relevant provisions of Directive 1999/63/EC by all sea-going vessels calling at their ports, irrespective of the State in which they are registered;

(8) In particular, ships flying the flag of a State which is not a party to ILO Convention No 180 or the Protocol to ILO Convention No 147 should not receive more favourable treatment than those flying the flag of a State which is a party to either the Convention or Protocol or to both of them;

(9) For the control of the effective enforcement of Directive 1999/63/EC, it is necessary that Member States carry out inspections on board ships, notably after having received a complaint by the master, a crew member, or any person or organisation with a legitimate interest in the safe operation of the ship, shipboard living and working conditions or the prevention of pollution;

(10) For the purposes of this Directive Member States, on their own initiative, may designate, as appropriate, Port State Control inspectors to carry out inspections on board vessels calling at Community ports;

(11) Evidence that a ship does not comply with the requirements of Directive 1999/63/EC may be obtained after verification of the shipboard working arrangements and seafarers' records of hours of work or hours of rest, or when the inspector has a reasonable belief that seafarers are excessively fatigued;

(12) In order to rectify any conditions on board a ship which are clearly hazardous to safety or health, the competent authority of the Member State in whose port the ship has called may impose a prohibition on leaving the port until the deficiencies found have been rectified or the crew is sufficiently rested;

(13) Since Directive 1999/63/EC reflects the provisions of ILO Convention No 180, verification of compliance with the provisions of that Directive by ships registered in the territory of a third State can take place only when this Convention has entered into force,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Purpose and scope

1. The purpose of this Directive is to provide a mechanism for the verification and enforcement of compliance by ships calling at ports of Member States with Directive 1999/63/EC in order to improve maritime safety, working conditions and the health and safety of seafarers on board ships.

2. Member States shall take appropriate measures to ensure that ships which are not registered in their territory or not flying their flag comply with clauses 1 to 12 of the Agreement annexed to Directive 1999/63/EC.

Article 2

Definitions

For the purposes of this Directive,

- (a) "ship" means any seagoing vessel, whether publicly or privately owned, which is ordinarily engaged in commercial maritime operations. Fishing vessels are not included in this definition,
- (b) "competent authority" means the authorities designated by the Member States to perform functions under this Directive,
- (c) "inspector" means a public-sector employee or other person, duly authorised by the competent authority of a Member State to inspect the working conditions on board, and responsible to that competent authority,
- (d) "complaint" means any information or report submitted by a member of the crew, 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 its crew.

Article 3

Preparation of reports

Without prejudice to Article 1 (2), if a Member State in whose port a ship calls voluntarily in the normal course of its business or for operational reasons receives a complaint which it does not consider manifestly unfounded or obtains evidence that the ship does not conform to the standards referred to in Directive 1999/63/EC, it shall prepare a report addressed to the government of the country in which the ship is registered and, when an inspection carried out pursuant to Article 4 provides relevant evidence, the Member State shall take the measures necessary to ensure that any conditions on board which are clearly hazardous to the safety or the health of the crew are rectified.

The identity of the person lodging the report or the complaint must not be revealed to the master or the owner of the ship concerned.

Article 4

Inspection and more detailed inspection

1. When carrying out an inspection, in order to obtain evidence that a ship does not conform to the requirements of Directive 1999/63/EC, the inspector shall determine whether:

- a table with the shipboard working arrangements has been established in the working language or languages of the ship and in English according to the model format reproduced in Annex I, or in an alternative equivalent format, and is posted on board in an easily accessible place;
- seafarers' records of hours of work or hours of rest have been established in the working language or languages of the ship and in English according to the model format reproduced in Annex II, or in an alternative equivalent format, and are kept on board and there is proof that the records have been endorsed by the competent authority of the State where the ship is registered.

2. If a complaint has been received or the inspector from his own observations on board believes that the seafarers may be unduly fatigued, the inspector shall conduct a more detailed inspection, pursuant to paragraph 1, to determine whether the working hours or rest periods recorded conform to the standards laid down in Directive 1999/63/EC and that they have been duly observed, taking into account other records relating to the operation of the ship.

Article 5

The rectification of deficiencies

1. If the inspection or the more detailed inspection reveals that the ship does not conform to the requirements of Directive 1999/63/EC, the Member State shall take the measures necessary to ensure that any conditions on board which are clearly hazardous to the safety or health of seafarers are rectified. Such measures may include a prohibition on leaving the port until deficiencies have been rectified or the seafarers have been sufficiently rested.

2. If there is clear evidence that watchkeeping personnel for the first watch or subsequent relieving watches are unduly fatigued, the Member State shall ensure that the ship shall not leave port until the deficiencies found have been rectified or the seafarers in question have been sufficiently rested.

Article 6

Follow-up procedures

1. In the event that a ship is prohibited from leaving the port pursuant to Article 5, the competent authority of the Member State shall inform the master, the owner or operator, the administration of the flag State or the State where the ship is registered or the Consul, or in his absence the nearest diplomatic representative of the State, of the results of the inspections referred to in Article 4, of any decisions taken by the inspector and of corrective actions required, if necessary.

2. When carrying out an inspection under this Directive, all possible efforts should be made to avoid a ship being unduly delayed. If a ship is unduly delayed, the owner or operator shall be entitled to compensation for any loss or damage suffered. In any instance of alleged undue delay, the burden of proof shall lie with the owner or operator of the ship.

Article 7

Right of appeal

1. The owner or the operator of the ship or his representative in the Member State shall have a right of appeal against a detention decision taken by the competent authority. An appeal shall not cause the detention to be suspended.

2. Member States shall establish and maintain appropriate procedures for this purpose in accordance with their national legislation.

3. The competent authority shall properly inform the master of a ship referred to in paragraph 1 of the right of appeal.

Article 8

Administrative cooperation

1. Member States shall take the necessary steps to provide, in conditions compatible with those laid down in Article 14 of Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)⁵, for cooperation between their relevant authorities and the relevant competent authorities of other Member States to ensure the effective application of this Directive and shall notify the Commission of the provision made.

⁵ OJ L 157, 7.7.1995, p. 1, Directive as last amended by Directive 98/42/EC (OJ L 184, 27.6.1998, p. 40).

2. Information on the measures taken pursuant to Articles 4 and 5 shall be published in accordance with procedures such as those set out in the first paragraph of Article 15 of Directive 95/21/EC.

Article 9

"No more favourable" treatment clause

When inspecting a ship registered in the territory of or flying the flag of a State which has not signed ILO Convention No 180 or the Protocol to ILO Convention No 147, Member States shall, once the Convention and the Protocol are in force, ensure that the treatment given to such ships and their crew is no more favourable than that given to a ship flying the flag of a State which is a party to either ILO Convention No 180 or the Protocol to ILO Convention No 147 or both of them.

Article 10

Final provisions

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 30 June 2002.

2. When Member States adopt the measures referred to in paragraph 1, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

3. Member States shall immediately notify to the Commission all provisions of domestic law which they adopt in the field governed by this Directive. The Commission shall inform the other Member States thereof.

Article 11

Ships from non-Member States

This Directive shall apply to ships not registered in the territory of, or not flying the flag of, a Member State only on the date of entry into force of ILO Convention No 180 and the date of entry into force of the Protocol to ILO Convention No 147.

Article 12

Entry into force

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

Article 13

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 13 December 1999.

The European Parliament

The President

N. FONTAINE

For the Council

The President

S. HASSI

Author's note: The Annexes of the above Directive have been omitted.

2.2.7. Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer

(Official Journal of the European Communities, L 283, 28.10.1980, p. 23)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the Economic and Social Committee³,

Whereas it is necessary to provide for the protection of employees in the event of the insolvency of their employer, in particular in order to guarantee payment of their outstanding claims, while taking account of the need for balanced economic and social development in the Community;

Whereas differences still remain between the Member States as regards the extent of the protection of employees in this respect; whereas efforts should be directed towards reducing these differences, which can have a direct effect on the functioning of the common market;

Whereas the approximation of laws in this field should, therefore, be promoted while the improvement within the meaning of Article 117 of the Treaty is maintained;

Whereas as a result of the geographical situation and the present job structures in that area, the labour market in Greenland is fundamentally different from that of the other areas of the Community;

Whereas to the extent that the Hellenic Republic is to become a member of the European Economic Community on 1 January 1981 in accordance with the Act concerning the Conditions of Accession of the Hellenic Republic and the Adjustments to the Treaties, it is appropriate to stipulate in the Annex to the Directive under the heading "Greece", those categories of employees whose claims may be excluded in accordance with Article 1 (2) of the Directive,

HAS ADOPTED THIS DIRECTIVE:

SECTION I

Scope and definitions

Article 1

1. This Directive shall apply to employees' claims arising from contracts of employment or employment relationships and existing against employers who are in a state of insolvency within the meaning of Article 2 (1).

2. Member States may, by way of exception, exclude claims by certain categories of employee from the scope of this Directive, by virtue of the special nature of the employee's contract of employment or employment relationship or of the existence of other forms of guarantee offering the employee protection equivalent to that resulting from this Directive.

The categories of employee referred to in the first subparagraph are listed in the Annex.

3. This Directive shall not apply to Greenland. This exception shall be re-examined in the event of any development in the job structures in that region.

¹ OJ No C135, 9.6.1978, p. 2.

² OJ No C39, 12.2.1979, p. 26.

³ OJ No C105, 26.4.1979, p. 15.

Article 2

1. For the purposes of this Directive, an employer shall be deemed to be in a state of insolvency:

- (a) where a request has been made for the opening of proceedings involving the employer's assets, as provided for under the laws, regulations and administrative provisions of the Member State concerned, to satisfy collectively the claims of creditors and which make it possible to take into consideration the claims referred to in Article 1 (1), and
- (b) where the authority which is competent pursuant to the said laws, regulations and administrative provisions has:
 - either decided to open the proceedings,
 - or established that the employer's undertaking or business has been definitively closed down and that the available assets are insufficient to warrant the opening of the proceedings.

2. This Directive is without prejudice to national law as regards the definition of the terms "employee", "employer", "pay", "right conferring immediate entitlement" and "right conferring prospective entitlement".

SECTION II

Provisions concerning guarantee institutions

Article 3

1. Member States shall take the measures necessary to ensure that guarantee institutions guarantee, subject to Article 4, payment of employees' outstanding claims resulting from contracts of employment or employment relationships and relating to pay for the period prior to a given date.

2. At the choice of the Member States, the date referred to in paragraph 1 shall be:

- either that of the onset of the employer's insolvency;
- or that of the notice of dismissal issued to the employee concerned on account of the employer's insolvency;
- or that of the onset of the employer's insolvency or that on which the contract of employment or the employment relationship with the employee concerned was discontinued on account of the employer's insolvency.

Article 4

1. Member States shall have the option to limit the liability of guarantee institutions, referred to in Article 3.

2. When Member States exercise the option referred to in paragraph 1, they shall:

- in the case referred to in Article 3 (2), first indent, ensure the payment of outstanding claims relating to pay for the last three months of the contract of employment or employment relationship occurring within a period of six months preceding the date of the onset of the employer's insolvency;
- in the case referred to in Article 3 (2), second indent, ensure the payment of outstanding claims relating to pay for the last three months of the contract of employment or employment relationship preceding the date of the notice of dismissal issued to the employee on account of the employer's insolvency;
- in the case referred to in Article 3 (2), third indent, ensure the payment of outstanding claims relating to pay for the last 18 months of the contract of employment or employment relationship preceding the date of the onset of the employer's insolvency or the date on which the contract of employment or the employment relationship with the employee was discontinued on account of the employer's insolvency. In this case,

Member States may limit the liability to make payment to pay corresponding to a period of eight weeks or to several shorter periods totalling eight weeks.

3. However, in order to avoid the payment of sums going beyond the social objective of this Directive, Member States may set a ceiling to the liability for employees' outstanding claims.

When Member States exercise this option, they shall inform the Commission of the methods used to set the ceiling.

Article 5

Member States shall lay down detailed rules for the organization, financing and operation of the guarantee institutions, complying with the following principles in particular:

- (a) the assets of the institutions shall be independent of the employers' operating capital and be inaccessible to proceedings for insolvency;
- (b) employers shall contribute to financing, unless it is fully covered by the public authorities;
- (c) the institutions' liabilities shall not depend on whether or not obligations to contribute to financing have been fulfilled.

SECTION III Provisions concerning social security

Article 6

Member States may stipulate that Articles 3, 4 and 5 shall not apply to contributions due under national statutory social security schemes or under supplementary company or inter-company pension schemes outside the national statutory social security schemes.

Article 7

Member States shall take the measures necessary to ensure that non-payment of compulsory contributions due from the employer, before the onset of his insolvency, to their insurance institutions under national statutory social security schemes does not adversely affect employees' benefit entitlement in respect of these insurance institutions inasmuch as the employees' contributions were deducted at source from the remuneration paid.

Article 8

Member States shall ensure that the necessary measures are taken to protect the interests of employees and of persons having already left the employer's undertaking or business at the date of the onset of the employer's insolvency in respect of rights conferring on them immediate or prospective entitlement to old-age benefits, including survivors' benefits, under supplementary company or inter-company pension schemes outside the national statutory social security schemes.

SECTION IV

General and final provisions

Article 9

This Directive shall not affect the option of Member States to apply or introduce laws, regulations or administrative provisions which are more favourable to employees.

Article 10

This Directive shall not affect the option of Member States:

- (a) to take the measures necessary to avoid abuses;

- (b) to refuse or reduce the liability referred to in Article 3 or the guarantee obligation referred to in Article 7 if it appears that fulfilment of the obligation is unjustifiable because of the existence of special links between the employee and the employer and of common interests resulting in collusion between them.

Article 11

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within 36 months of its notification. They shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the texts of the laws, regulations and administrative provisions, which they adopt in the field governed by this Directive.

Article 12

Within 18 months of the expiry of the period of 36 months laid down in Article 11 (1), Member States shall forward all relevant information to the Commission in order to enable it to draw up a report on the application of this Directive for submission to the Council.

Article 13

This Directive is addressed to the Member States.

Done at Luxembourg, 20 October 1980.

For the Council
The President
J. SANTER

ANNEX

Categories of employee whose claims may be excluded from the scope of this Directive, in accordance with Article 1 (2)

- I. Employees having a contract of employment, or an employment relationship, of a special nature

A. GREECE

The master and the members of a crew of a fishing vessel, if and to the extent that they are remunerated by a share in the profits or gross earnings of the vessel.

B. IRELAND

1. Out-workers (i.e. persons doing piece-work in their own homes), unless they have a written contract of employment.

2. Close relatives of the employer, without a written contract of employment, whose work has to do with a private dwelling or farm in, or on, which the employer and the close relatives reside.

3. Persons who normally work for less than 18 hours a week for one or more employers and who do not derive their basic means of subsistence from the pay for this work.

4. Persons engaged in share fishing on a seasonal, casual or part-time basis.

5. The spouse of the employer.

C. NETHERLANDS

Domestic servants employed by a natural person and working less than three days a week for the natural person in question.

D. UNITED KINGDOM

1. The master and the members of the crew of a fishing vessel who are remunerated by a share in the profits or gross earnings of the vessel.

2. The spouse of the employer.

II. Employees covered by other forms of guarantee

A. GREECE

The crews of sea-going vessels.

B. IRELAND

1. Permanent and pensionable employees of local or other public authorities or statutory transport undertakings.

2. Pensionable teachers employed in the following : national schools, secondary schools, comprehensive schools, teachers' training colleges.

3. Permanent and pensionable employees of one of the voluntary hospitals funded by the Exchequer.

C. ITALY

1. Employees covered by benefits laid down by law guaranteeing that their wages will continue to be paid in the event that the undertaking is hit by an economic crisis.

2. The crews of sea-going vessels.

D. UNITED KINGDOM

1. Registered dock workers other than those wholly or mainly engaged in work which is not dock work.

2. The crews of sea-going vessels.

**2.2.8. Directive 2002/74/EC of the European Parliament
and of the Council of 23 September 2002 amending Council
Directive 80/987/EEC on the approximation
of the laws of the Member States relating to the protection of
employees in the event of the insolvency of their employer**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 137(2) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the Economic and Social Committee²,

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty³,

¹ OJ C 154 E, 29.5.2001, p. 109.

² OJ C 221, 7.8.2001, p. 110.

Whereas:

(1) The Community Charter of Fundamental Social Rights for Workers adopted on 9 December 1989 states, in point 7, that the completion of the internal market must lead to an improvement in the living and working conditions of workers in the European Community and that this improvement must cover, where necessary, the development of certain aspects of employment regulations such as procedures for collective redundancies and those regarding bankruptcies.

(2) Directive 80/987/EEC⁴ aims to provide a minimum degree of protection for employees in the event of the insolvency of their employer. To this end, it obliges the Member States to establish a body which guarantees payment of the outstanding claims of the employees concerned.

(3) Changes in insolvency law in the Member States and the development of the internal market mean that certain provisions of that Directive must be adapted.

(4) Legal certainty and transparency also require clarification with regard to the scope and certain definitions of Directive 80/987/EEC. In particular the possible exclusions granted to the Member States should be indicated in the enacting provisions of the Directive and consequently the Annex thereto should be deleted.

(5) In order to ensure equitable protection for the employees concerned, the definition of the state of insolvency should be adapted to new legislative trends in the Member States and should also include within this concept insolvency proceedings other than liquidation. In this context, Member States should, in order to determine the liability of the guarantee institution, be able to lay down that where an insolvency situation results in several insolvency proceedings, the situation be treated as a single insolvency procedure.

(6) It should be ensured that the employees referred to in Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC⁵, Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by the ETUC, UNICE and CEEP⁶ and Council Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship⁷ are not excluded from the scope of this Directive.

(7) In order to ensure legal certainty for employees in the event of insolvency of undertakings pursuing their activities in a number of Member States, and to strengthen workers' rights in line with the established case law of the Court of Justice, provisions should be introduced which expressly state which institution is responsible for meeting pay claims in these cases and establishes as the aim of cooperation between the competent administrative authorities of the Member States the early settlement of employees' outstanding claims. Furthermore it is necessary to ensure that the relevant arrangements are properly implemented by making provision for collaboration between the competent administrative authorities in the Member States.

³ Opinion of the European Parliament of 29 November 2001 (note yet published in the Official Journal), Council Common Position of 18 February 2002 (OJ C 119 E, 22.5.2002, p. 1) (not yet published in the Official Journal) and European Parliament Decision of 14 May 2002 (not yet published in the Official Journal). Council Decision of 27 June 2002.

⁴ OJ L 283, 28.10.1980, p. 23, Directive as last amended by the 1994 Act of Accession.

⁵ OJ L 14, 20.1.1998, p. 9. Directive as last amended by Directive 98/23/EC (OJ L 131, 5.5.1998, p. 10).

⁶ OJ L 175, 10.7.1999, p. 43.

⁷ OJ L 206, 29.7.1991, p. 19.

(8) Member States may set limitations on the responsibility of the guarantee institutions which should be compatible with the social objective of the Directive and may take into account the different levels of claims.

(9) In order to make it easier to identify insolvency proceedings in particular in situations with a cross-border dimension, provision should be made for the Member States to notify the Commission and the other Member States about the types of insolvency proceedings which give rise to intervention by the guarantee institution.

(10) Directive 80/987/EEC should be amended accordingly.

(11) Since the objectives of the proposed action, namely the amendment of certain provisions of Directive 80/987/EEC to take account of changes in the activities of undertakings in the Community, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

(12) The Commission should submit to the European Parliament and the Council a report on the implementation and application of this Directive in particular as regards the new forms of employment emerging in the Member States,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 80/987/EEC is hereby amended as follows:

1. the title shall be replaced by the following: "Council Directive 80/987/EEC of 20 October 1980 on the protection of employees in the event of the insolvency of their employer";
2. Section I shall be replaced by the following:

"SECTION I

Scope and definitions

Article 1

1. This Directive shall apply to employees' claims arising from contracts of employment or employment relationships and existing against employers who are in a state of insolvency within the meaning of Article 2(1).

2. Member States may, by way of exception, exclude claims by certain categories of employee from the scope of this Directive, by virtue of the existence of other forms of guarantee if it is established that these offer the persons concerned a degree of protection equivalent to that resulting from this Directive.

3. Where such provision already applies in their national legislation, Member States may continue to exclude from the scope of this Directive:

- (a) domestic servants employed by a natural person;
- (b) share-fishermen.

Article 2

1. For the purposes of this Directive, an employer shall be deemed to be in a state of insolvency where a request has been made for the opening of collective proceedings based on insolvency of the employer, as provided for under the laws, regulations and administrative provisions of a Member State, and involving the partial or total divestment of the employer's assets and the appointment of a liquidator or a person performing a similar task, and the authority which is competent pursuant to the said provisions has:

(a) either decided to open the proceedings, or
(b) established that the employer's undertaking or business has been definitively closed down and that the available assets are insufficient to warrant the opening of the proceedings.

2. This Directive is without prejudice to national law as regards the definition of the terms 'employee', 'employer', 'pay', 'right conferring immediate entitlement' and 'right conferring prospective entitlement'.

However, the Member States may not exclude from the scope of this Directive:

- (a) part-time employees within the meaning of Directive 97/81/EC;
- (b) workers with a fixed-term contract within the meaning of Directive 1999/70/EC;
- (c) workers with a temporary employment relationship within the meaning of Article 1(2) of Directive 91/383/EEC.

3. Member States may not set a minimum duration for the contract of employment or the employment relationship in order for workers to qualify for claims under this Directive.

4. This Directive does not prevent Member States from extending workers' protection to other situations of insolvency, for example where payments have been de facto stopped on a permanent basis, established by proceedings different from those mentioned in paragraph 1 as provided for under national law.

Such procedures shall not however create a guarantee obligation for the institutions of the other Member States in the cases referred to in Section IIIa.";

3. Articles 3 and 4 shall be replaced by the following:

"Article 3

Member States shall take the measures necessary to ensure that guarantee institutions guarantee, subject to Article 4, payment of employees' outstanding claims resulting from contracts of employment or employment relationships, including, where provided for by national law, severance pay on termination of employment relationships.

The claims taken over by the guarantee institution shall be the outstanding pay claims relating to a period prior to and/or, as applicable, after a given date determined by the Member States.

Article 4

1. Member States shall have the option to limit the liability of the guarantee institutions referred to in Article 3.

2. When Member States exercise the option referred to in paragraph 1, they shall specify the length of the period for which outstanding claims are to be met by the guarantee institution. However, this may not be shorter than a period covering the remuneration of the last three months of the employment relationship prior to and/or after the date referred to in Article 3. Member States may include this minimum period of three months in a reference period with a duration of not less than six months.

Member States having a reference period of not less than 18 months may limit the period for which outstanding claims are met by the guarantee institution to eight weeks. In this case, those periods which are most favourable to the employee are used for the calculation of the minimum period.

3. Furthermore, Member States may set ceilings on the payments made by the guarantee institution. These ceilings must not fall below a level which is socially compatible with the social objective of this Directive.

When Member States exercise this option, they shall inform the Commission of the methods used to set the ceiling.";

4. the following Section shall be inserted:

"SECTION IIIa Provisions concerning transnational situations

Article 8a

1. When an undertaking with activities in the territories of at least two Member States is in a state of insolvency within the meaning of Article 2(1), the institution responsible for meeting employees' outstanding claims shall be that in the Member State in whose territory they work or habitually work.

2. The extent of employees' rights shall be determined by the law governing the competent guarantee institution.

3. Member States shall take the measures necessary to ensure that, in the cases referred to in paragraph 1, decisions taken in the context of insolvency proceedings referred to in Article 2(1), which have been requested in another Member State, are taken into account when determining the employer's state of insolvency within the meaning of this Directive.

Article 8b

1. For the purposes of implementing Article 8a, Member States shall make provision for the sharing of relevant information between their competent administrative authorities and/or the guarantee institutions mentioned in Article 3, making it possible in particular to inform the guarantee institution responsible for meeting the employees' outstanding claims.

2. Member States shall notify the Commission and the other Member States of the contact details of their competent administrative authorities and/or guarantee institutions. The Commission shall make these communications publicly accessible.";

5. in Article 9 the following paragraph shall be added: "Implementation of this Directive shall not under any circumstances be sufficient grounds for a regression in relation to the current situation in the Member States and in relation to the general level of protection of workers in the area covered by it.";

6. in Article 10 the following point shall be added: "(c) to refuse or reduce the liability referred to in Article 3 or the guarantee obligation referred to in Article 7 in cases where the employee, on his or her own or together with his or her close relatives, was the owner of an essential part of the employer's undertaking or business and had a considerable influence on its activities.";

7. the following Article shall be inserted:

"Article 10a

Member States shall notify the Commission and the other Member States of the types of national insolvency proceedings falling within the scope of this Directive, and of any amendments relating thereto. The Commission shall publish these communications in the Official Journal of the European Communities.";

8. the Annex shall be deleted.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 8 October 2005. They shall forthwith inform the Commission thereof.

They shall apply the provisions referred to in the first subparagraph to any state of insolvency of an employer occurring after the date of entry into force of those provisions.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

Article 4

By 8 October 2010 at the latest, the Commission shall submit to the European Parliament and the Council a report on the implementation and application of this Directive in the Member States.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 23 September 2002.

For the European Parliament

The President

P. Cox

For the Council

The President

M. Fischer Boel

Author's note: Also see Directive 87/164/EEC of 2 March 1987 amending, on the account of the accession of Spain, Directive 80/987/EEC (OJ L 66, 11.3.1987, p. 11) and Act of Accession of Austria, Sweden and Finland (adapted by Council Decision 95/1/EC, Euratom, ECSC), (OJ L 1, 1.1.1995, p. 1).

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