International Labour Organization

Information note on maritime labour issues and coronavirus (COVID-19)

Revised version 3.0

Including the General Observation of the Committee of Experts on the Application of Conventions and recommendations

And joint statements of the Officers of the Special Tripartite Committee of the Maritime Labour Convention, 2006, as amended

International Labour Standards Department (NORMES)/
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Contents

Page

1. An urgent call to restore the protection of seafarers' rights 5
2. Extension of seafarers' employment agreements: formal, free and informed consent 6
3. Need to cooperate among Member States 7
4. Measures to be adopted by ratifying States 8
   a. Flag State responsibilities 8
   b. Port State responsibilities 9
   c. Labour-supplying State responsibilities 10
5. Protecting seafarers' safety and health 10
6. Facilitating transit and transfer of seafarers and repatriation 13
7. Urgent call to recognize seafarers as key workers 14
8. Respecting the maximum period of service on board 16
9. Ensuring minimum manning 17
10. Medical certificates 18
11. Certification in respect of training and qualifications 19
12. Maritime labour certificate and inspections 19
13. Social protection: Seafarers' entitlement to paid sick leave in case of infection or quarantine 20
14. Shore leave and welfare facilities during the pandemic 21
15. Abandonment of seafarers 22

1. The coronavirus (COVID-19) pandemic has created a global crisis which has impacted all aspects of life and badly affected the world of work. [1] In the maritime sector, it has severely disrupted the functioning of shipping and affected the work of nearly 2 million seafarers worldwide. [2] In particular, it has been estimated that hundreds of thousands of seafarers presently require immediate repatriation as they are beyond their original tours of duty, in some cases for more than 17 consecutive months and often without access to shore-based leave and/or medical treatment, and that a similar number of seafarers urgently need to join ships to replace them. It has further been noted that seafarer fatigue represents an immense risk for the physical and mental health of individual seafarers and for the safety of navigation, security, and protection of the marine environment. [3]

2. Since the beginning of the pandemic, numerous governments and seafarers' and shipowners' organizations have turned to the International Labour Office (hereinafter the Office) for guidance on how best to address the complexities of the current crisis in light of the provisions of the Maritime Labour Convention, 2006, as amended (MLC, 2006).

3. This information note aims to respond to such requests by referring to the MLC, 2006, the work of the ILO Committee of Experts on the Application of Conventions and Recommendations, (hereafter Committee of Experts), [4] statements of the Officers of the Special Tripartite Committee of the MLC, 2006, (STC) [5] and, when relevant, the

[1] See ILO, COVID-19 and the world of work: Impact and policy responses. For more general information on international labour standards see ILO Standards and COVID-19 (coronavirus), FAQ.

[2] See, among others, ILO Brief on COVID-19 and maritime shipping & fishing.

[3] See ILO Governing Body Resolution concerning maritime labour issues and the COVID-19 pandemic.

[4] The competent body to supervise the application of the MLC, 2006.

[5] The Special Tripartite Committee of the Maritime Labour Convention, 2006, as amended (STC) is the tripartite body established under Article XIII of the MLC, 2006, to keep the working of the Convention under continuous review. The Officers of the STC have been appointed by the ILO Governing Body for a period of three years. They currently are Ms Julie Carlton from the United Kingdom (Chairperson), Mr Martin Marini from Singapore (Government Vice-Chairperson), Mr Mark Dickinson (acting Seafarer Vice-Chairperson) and Mr Max Johns from Germany (Shipowner Vice-Chairperson). On 31 March 2020, the Officers adopted a statement on the

recommendations published by the International Maritime Organization (IMO) and the World Health Organization (WHO). It should be noted that both the International Chamber of Shipping (ICS) and the International Transport Workers' Federation (ITF) have been active since the beginning of this crisis to support seafarers and shipowners worldwide, find concrete solutions to existing challenges and provide advice to their members. [6]

4. On 12 December 2020, the ILO published a General Observation on matters arising from the application of the MLC, 2006 during the COVID-19 pandemic, adopted by the Committee of Experts. The General Observation took into account the observations received from ITF and ICS based on article 23 of the ILO Constitution as well as the replies from a number of governments. It addressed a number of concerns regarding the implementation of the MLC, 2006 during current crisis, which are reflected below.

5. In general, it is recalled that under the MLC, 2006, derogations, exemptions or other clauses allowing for flexible application of the Convention by governments must be decided in consultation with shipowners' and seafarers' organizations, with any determinations that are made reported to the Office by the government concerned. The Committee of Experts has on numerous occasions underlined the importance of these consultations for the implementation of the MLC, 2006. [7] This is seen as a necessary and important approach to ensuring that all countries, irrespective of national circumstances, can engage with the international legal system and that international obligations are respected and implemented, to the extent possible, while efforts continue to be made to improve existing conditions. Governments are

coronavirus disease (COVID-19). On 1 October 2020, they adopted a new Statement on the same subject. On 15 December 2020, they adopted a Statement on the coronavirus disease (COVID-19) regarding the increased collaboration between shipowners and charterers to facilitate crew change.

[6] See the International Chamber of Shipping web page on Covid-19 for the latest up-date and in particular the Coronavirus (COVID-19): Guidance v3 for Ship Operators for the Protection of the Health of Seafarers v3. The International Transport Workers' Federation's web page on Covid-19 provides advice and information for seafarers.

[7] See for example the direct request adopted in 2019 by the CEACR concerning Honduras.

thus strongly encouraged to consult national seafarers' and shipowners' organizations in order to address a number of issues in the current context created by the COVID-19 pandemic in light of the MLC, 2006.

1. An urgent call to restore the protection of seafarers' rights

6. Referring to the ITF's allegation that the notion of force majeure was being used by countries having ratified the MLC, 2006 as a shield for non-compliance with the Convention, the Committee of Experts noted, in its General Observation, that the MLC, 2006, is a comprehensive labour instrument for the maritime industry applicable to all ratifying countries, and not a compilation of labour regulations to be applied selectively, if and to the extent that circumstances so permit.

7. At the beginning of the pandemic, ratifying States, in their different capacities as flag States, port States or labour-supplying States might have been confronted with genuine situations of force majeure, which rendered materially impossible the compliance with some of their obligations under the MLC, 2006.

8. The Committee of Experts was bound to note, however, that more than ten months have elapsed since then, which constitutes realistically sufficient time frame allowing for new modalities to be explored and applied, in conformity with international labour standards. Force majeure may be invoked as a condition precluding wrongfulness for non-observance of a treaty obligation only in the case of unforeseen and unforeseeable event(s) creating an absolute and material impossibility of compliance with that obligation. In contrast, circumstances rendering observance of an international obligation more difficult or burdensome do not constitute a case of force majeure.

9. ***The Committee of Experts stressed that the notion of force majeure may no longer be invoked from the moment that options are available to comply with the provisions of the MLC, 2006, although more difficult or cumbersome, and urged ratifying States which have not yet done so, to adopt all necessary measures without delay to restore the***

protection of seafarers' rights and comply to the fullest extent with their obligations under the MLC, 2006.

2. Extension of seafarers' employment agreements: formal, free and informed consent

10. As a result of the measures taken by governments in the current crisis, hundreds of thousands of seafarers have been requested to stay on board beyond the period originally foreseen in their seafarers' employment agreements. The extension of seafarers' employment agreements must be conducted in accordance with applicable national laws and regulations. It is to be underlined that, in all cases, the seafarer's consent remains a fundamental requirement for any such extension. Regulation 2.1, paragraph 2, of the MLC, 2006, states in this regard that 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*. It is recalled that a valid seafarers' employment agreement must remain in force until the seafarer is duly repatriated in accordance with Regulation 2.5 of the MLC, 2006.

11. In its General Observation, the Committee of Experts noted the ITF's allegation that the failure to arrange the repatriation of seafarers at the end of their contracts effectively induces the forced extension of contracts (or continuation of labour without contract), in circumstances where consent clearly cannot be freely given. The Committee of Experts referred to Article III of the MLC, 2006, according to which each Member shall satisfy itself that the provisions of its laws and regulations respect, in the context of the Convention, the fundamental rights to the elimination of forced or compulsory labour.

12. The Committee of Experts observed that the very inaction of certain Member States of ensuring crew changes or allowing seafarers to go back home, gives seafarers no option but to stay on board and creates conditions for them to languish for months on end in situations that could amount to forced labour. ***The Committee accordingly requested***

all ratifying States, in their various capacities as flag States, port States or labour-supplying States, to adopt the necessary measures or reinforce existing ones without delay to ensure that, in no case, seafarers are forced to continue working on extended contractual arrangements without their formal, free and informed consent.

3. Need to cooperate among Member States

13. The Committee of Experts, in its General Observation, noted that the ITF and the ICS alleged that ratifying States have failed to comply with their obligation under Article I of the MLC, 2006, according to which Members shall cooperate with each other for the purpose of ensuring the effective implementation and enforcement of the Convention. The Committee of Experts acknowledged that numerous governments have undertaken important actions at bilateral, regional and international levels to identify solutions and generate initiatives to overcome the challenges faced by seafarers and shipowners as a result of the pandemic. The Committee observed, however, that based on the information provided by the ITF and ICS and the evidence available at the Office, the provisions of the Convention continue to be disregarded worldwide [8].

14. The Committee considered that these elements constitute sufficient basis to conclude that Members, as a whole, have failed to comply with Article I, paragraph 2 of the MLC, 2006. The Convention does not contain any provisions allowing for the temporary suspension of the implementation of its provisions, in case of crisis, health related or

[8] The Committee of Experts further noted that "hundreds of thousands of seafarers around the world are still on board well beyond the original expiry date of their SEAs and in numerous cases well beyond the default 11 months maximum period of service on board derived from the provisions of the Convention, with reported phenomena of physical and mental exhaustion, anxiety, sickness and even suicides; thousands of seafarers have been disembarked but are not allowed to go back to their countries of origin and find themselves stranded in a foreign country; moreover, hundreds of seafarers have been denied medical care ashore which has resulted in death of seafarers in several cases. In numerous cases, port restrictions are repeatedly introduced with short-term announcements hindering the reasonable planning of the ships' route while the non-coordinated implementation and enforcement of the MLC, 2006, increases the risk of travel prohibition for both ship and crew and, in some cases, leads to the detention of ships due to State failures".

otherwise. To the contrary, the Committee was of the view that it is precisely at times of crisis that the protective coverage of the MLC, 2006, assumes its full significance and needs to be most scrupulously applied. It added that this is even more so as the Convention contains only minimum standards for the protection of seafarers' rights.

15. ***The Committee accordingly urged Governments to adopt the necessary measures, in consultation with relevant seafarers' and shipowners' organizations, to further enhance cooperation with each other to ensure the effective implementation and enforcement of the Convention, a fortiori during the COVID-19 pandemic, where it is mostly needed.***

4. Measures to be adopted by ratifying States

a. Flag State responsibilities

16. ***In its General Observation, the Committee of Experts urged all ratifying countries with responsibilities as flag States to adopt the necessary measures and/or reinforce the existing ones without delay, including through more frequent inspections if necessary, to ensure that the ships that fly their flags fully comply with the provisions of the Convention.***

17. The Committee of Experts stressed that the failure to apply any of the core principles and requirements of the MLC, 2006 (see below) under the pretext of a protracted health crisis risks, may render the Convention meaningless especially at a time and in circumstances where its protective coverage would be most needed. Such has a direct negative impact on navigational safety, thus increasing exponentially the risk of maritime accidents, with unpredictable consequences on human lives and the environment, and immeasurable disturbances on the international supply and distribution of necessity goods.

b. Port State responsibilities

18. In its General Observation, the Committee of Experts recalled that under Regulation 5.2.1, paragraph 1, every foreign ship calling in the port of a Member may be the subject of inspections for the purpose of reviewing compliance with the requirements of the Convention (including seafarers' rights) relating to the working and living conditions of seafarers on the ship.

19. The Committee drew in particular ratifying States' attention to the obligation to take steps to ensure that a ship shall not proceed to sea until any non-conformity has been rectified, or until the authorized officer has accepted a plan of action to rectify such non-conformities, in the situations foreseen under Standard A5.2.1. In this regard, the Committee considered that the extreme fatigue of seafarers who have been on board beyond the default 11 months maximum period of service on board derived from the Convention not only constitutes a situation clearly hazardous for the safety and health of the seafarers concerned, but also profoundly endangers the safety of navigation in general. The Committee referred in this regard to Standard A2.7, paragraph 2, which aims to ensure that seafarers work on board ships with sufficient personnel for the safe, efficient and secure operation of the ship and which highlights the need to avoid or minimize excessive hours of work to ensure sufficient rest and to limit fatigue.

20. ***While noting the challenges faced by port State control authorities to conduct inspections during the pandemic, the Committee of Experts requested ratifying countries with responsibilities as port States which have not yet done so, to adopt the necessary measures without delay to fully comply with their obligations under the Convention.***

21. The Officers of the STC highlighted the crucial role of port State control officers in the current situation to identify where conditions on board are clearly hazardous to the safety, health and well-being, or security, of seafarers, which may result from the disruption caused to normal operations by the COVID-19 pandemic. This should include the port State control officers' professional judgment and private conversations with the seafarers concerned before a ship leaves a port.

c. Labour-supplying State responsibilities

22. In its General Observation, the Committee of Experts noted that labour-supplying States must play a crucial role in cooperating with flag and port States to ensure the respect of seafarers' rights. ***The Committee called upon governments with labour-supplying responsibilities which have not yet done so, to adopt the necessary and immediate measures to ensure that the required facilities are put in place in relation to transport, testing and quarantine in order to receive their seafarers currently abroad and allow others to join their ships.***

5. Protecting seafarers' safety and health

23. Under Article IV, paragraphs 1 and 4, of the MLC, 2006, every seafarer has the right to a safe and secure workplace that complies with safety standards and to health protection, medical care, welfare measures and other forms of social protection.

24. According to Regulation 4.1, paragraph 1, of the MLC, 2006, flag States must ensure, in particular in the context of the COVID-19 pandemic, and bearing in mind current global shortages in some medical equipment, that all seafarers on ships that fly their flag are covered by adequate measures for the protection of their health – including the provision of alcohol-based handrub and personal protective equipment [9] – and that they have access to prompt and adequate medical care whilst working on board, including medical advice by radio or satellite communication free of charge and available 24 hours a day.

25. Pursuant to Regulation 4.1, paragraph 3, of the MLC, 2006, port States must ensure that seafarers on board ships in their territory who are in need of immediate medical care are given access to the Member's medical facilities on shore.

26. ***In its General Observation, the Committee of Experts urged all ratifying countries with responsibilities as flag States to ensure that seafarers on ships that fly their flags are covered by adequate***

[9] On Personal Protective Equipment, see the IMO, Circular Letter No.4204/Add.15, 6 May 2020.

measures for the protection of their health and have access to prompt and adequate medical care whilst working on board, including access to vaccination (Regulation 4.1), and that seafarers on ships that fly their flags are provided with occupational health protection and live, work and train on board ship in a safe and hygienic environment (Regulation 4.3).

27. ***The Committee of Experts further urged ratifying Members with port State responsibilities to ensure that seafarers on board ships in their territory who are in need of immediate medical care are given access to medical facilities on shore (Regulation 4.1).***

28. It is recalled that according to article 28, paragraph 2, of the WHO International Health Regulations (2015), ships shall not be prevented from entering ports due to public health reasons. In particular they shall not be prevented from embarking or disembarking, discharging or loading cargo or stores, or taking on fuel, water, food and supplies. [10]

29. Seafarers, shipowners and maritime authorities are encouraged to refer to the WHO **Operational considerations for managing COVID-19 cases/outbreak on board ships**. This document, among others, contains information on the measures to be adopted prior to boarding a ship and to manage suspected cases on board. [11]

30. In their initial joint statement, on 31 March 2020, the Officers of the STC indicated that "It is imperative that Member States do all that they can to facilitate the delivery of essential medical supplies, fuel, water, spare parts and provisions to ships. It is disturbing that ports in some parts of the world have refused to allow some ships to enter because they had previously called at ports in areas affected by the coronavirus, which has prevented vessels from obtaining such essential supplies. It is also extremely alarming to hear reports that suppliers have been prevented from boarding ships in some parts of the world and from

[10] The same article further states that States Parties may subject the granting of free pratique to inspection and, if a source of infection or contamination is found on board, the carrying out of necessary disinfection, decontamination, disinsection or deratting, or other measures necessary to prevent the spread of the infection or contamination.

[11] See also WHO Infection prevention and control for the safe management of a dead body in the context of COVID-19: interim guidance.

supplying masks, overalls and other personal protective equipment to crews. It is essential that seafarers have access to plentiful supplies and equipment, in line with the *International Medical Guide for Ships*, third edition, and the guidance provided by the International Maritime Health Association, the International Chamber of Shipping and the World Health Organization".

31. In their second statement published on 1 October 2020, the Officers of the STC requested Member States to bring together the appropriate departments and agencies urgently to, among others, "ensure that, as key workers, seafarers have access to a programme of vaccination, once developed, as a matter of priority to enable them to discharge their crucial role". This call has recently been reiterated by ICS and the ITF.

Seafarers' individual claims

The following resources are available to obtain information or raise concerns concerning the impact of the COVID-19 pandemic on seafarers.

ITF Seafarers' support team
Email – seafsupport@itf.org.uk
SMS – +44 7984 356573
WhatsApp/Viber – +44 7523 515097

Facebook
ITF Seafarers' Support page – https://www.facebook.com/itfseafarerssupport
ITF Seafarers' Support group – https://www.facebook.com/groups/191907568040511
ITF Wellbeing page – https://www.facebook.com/ITFWellbeing

Website
ITF Seafarers – www.itfseafarers.org

Mobile phone apps
ITF Seafarers' app – available on iOS and Android
ITF Wellbeing app – available on iOS and Android
ITF Global app – available on iOS and Android

ISWAN – International Seafarers' Welfare and Assistance Network
Phone – +44 (0)3000124279
Email – iswan@iswan.org.uk

Seafarers' help

Website – https://www.seafarerhelp.org/
Phone – +44 207 323 2737 (Free International, confidential, multilingual helpline for seafarers and their families)
Email – help@seafarerhelp.org

The ITF has also developed specific Guidance on the MLC, 2006 on-board and on-shore complaints procedures:
https://www.itfglobal.org/sites/default/files/node/news/files/20260616SeafarersRightsGuidanceInfographic%5B8%5D.pdf

https://www.itfglobal.org/sites/default/files/node/news/files/20200616SeafarersRightsGuidance.pdf

6. Facilitating transit and transfer of seafarers and repatriation

32. Two ILO Conventions deal with the importance of facilitating the transit and transfer of seafarers. [12] In particular, under Article 6, paragraph 7, of the Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185), "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".

[12] The Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185), ratified by 35 countries, and the Seafarers' Identity Documents Convention, 1958 (No. 108), ratified by 64 countries.

33. Under Regulation 2.5 of the MLC, 2006, seafarers have a right to be repatriated at no cost to themselves in the circumstances and under the conditions specified in the Code of the Convention. Pursuant to Standard A2.5.1, paragraph 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.

34. ***In its General Observation, the Committee of Experts urged ratifying countries with responsibilities as flag States to adopt the necessary measures and/or reinforce the existing ones without delay, to ensure that seafarers are repatriated at no cost to themselves in the circumstances specified in the Convention, with strict respect of the default 11 months maximum period of service on board derived from the provisions of the Convention (Regulation 2.5 and Regulation 2.4).***

35. ***The Committee of Experts further called upon governments with port State responsibilities to facilitate the repatriation of seafarers serving on ships which call at their ports or pass through their territorial or internal waters (Standard A2.5.1, paragraph 7); and allow and facilitate the replacement of seafarers who have disembarked and consequently ensure the safe manning of ships, by providing an expeditious and non-discriminatory treatment of new crew members who enter their territory exclusively to join their ships (Standard A2.5.1, paragraph 7).***

7. Urgent call to recognize seafarers as key workers

36. At the early stages of the pandemic, the maritime industry called upon the ILO and the international community to recognize seafarers as key workers and make sure that, in these unprecedented circumstances, member States ensure that the flow of essential goods, energy, food, medicines and many other products is not disrupted by measures that impede the safe and efficient movement of shipping and of the seafarers who operate them. The call for key worker status for seafarers was reiterated in an unprecedented number of statements, declarations and letters issued by international organizations, governments and different actors of the maritime sector.

37. Most recently, resolutions adopted by the United Nations General Assembly [13], the ILO Governing Body [14] and the IMO Maritime Safety Committee [15], urged Member States to designate seafarers as key workers. In particular, the ILO Governing Body resolution urges all Members, in accordance with applicable national laws and regulations to: …designate seafarers as "key workers" for the purpose of facilitation of safe an unhindered movement for embarking or disembarking a vessel, the facilitation of shore leave, and, when necessary, to shore-based medical treatment. According to the information made available by the IMO, as of 12 January 2021, only around 55 countries had designated seafarers as key workers [16].

38. In its General Observation, the Committee of Experts observed that as result of the primarily international character of the maritime sector, it is not possible to comply with a number of obligations under the MLC, 2006, without allowing the movement of seafarers across borders in appropriate conditions. The Committee therefore strongly encouraged ratifying States in their different capacities as flag States, port States or labour-supplying States who have not yet done so, to recognize seafarers as key workers without delay and to draw in practice the consequences of such qualification, in order to restore the respect of their rights as provided for in the MLC, 2006.

39. In their initial joint statement, the Officers of the STC affirmed that: "Seafarers should be officially recognized as key workers, and be granted exemptions from any travel restrictions and special considerations to enable them to join and leave their ships and return home without impediment, while complying with good practice in infection control."

40. In a statement [17] published on 18 December 2020, the Officers of the STC referred to the use of no crew change clauses. They indicated that:

[13] See United Nations General Assembly Resolution A/RES/75/17 on International cooperation to address challenges faced by seafarers as a result of the COVID-19 pandemic to support global supply chains.
[14] See ILO Governing Body Resolution concerning maritime labour issues and the COVID-19 pandemic.
[15] See IMO Maritime Safety Committee Resolution MSC.473(ES.2) on Recommended action to facilitate ship crew change, access to medical care and seafarer travel during the COVID-19 pandemic.
[16] See IMO Circular Letter No.4204/Add.35/Rev.2, of 12 January 2021.
[17] See Statement of the Officers of the STC on the coronavirus disease (COVID-19) regarding increased collaboration between shipowners and charterers to facilitate crew changes.

"Shipowners and charterers should jointly and transparently share relevant information and collaborate to ensure that necessary crew changes can be conducted in a cost effective and prompt manner. (...) No charter contracts should contain clauses preventing necessary crew changes from being conducted, as such clauses could negatively affect the safe operation of maritime trade and the protection of the well-being and contractual rights of seafarers. Meeting the terms of a charter which prevents necessary crew changes may not be possible without putting the shipowner and seafarer in a position of non-compliance with international legislation, including the MLC, 2006."

41. In a joint statement published through an IMO Circular letter [18], the IMO Secretary General and the ILO Director General affirmed that "No crew change" clauses undermined the efforts undertaken to solve the existing crisis. Such clauses exacerbated the mental and physical fatigue among exhausted seafarers, undermined compliance with the provisions of the MLC, 2006 and further threatened the safety of navigation. They called upon all charterers to refrain from requesting to include such clauses in charterparties, and further called upon shipowners and operators to reject them if they are demanded.

42. Finally, on 26 January 2021, more than 300 signatories, including shipping companies, charterers, marine insurers, financial institutions, investors, aviation stakeholders, charities and associations supported the Neptune Declaration on Seafarer Wellbeing and Crew Change. They committed to take action to resolve the crew change crisis.

8. Respecting the maximum period of service on board

43. As stated above, due to prohibitions on crew changes or on travel to and from ships, hundreds of thousands of seafarers have been required to remain on board for periods that go beyond the default

[18] See Circular Letter No.4204/Add.36/Rev.1 of 23 December 2020.

11-month maximum period of service that is derived from the provisions of the MLC, 2006. [19]

44. It is highlighted that, whatever the challenges created by the COVID-19 pandemic, the extension of seafarers' period of service on board beyond 11 months can no longer be considered as a solution to the problem of crew change. Indeed, governments must bear in mind that fatigue and mental health of seafarers may deteriorate to a point that seriously endangers seafarers' health and navigational safety.

45. ***In its General Observation, the Committee of Experts further requested countries with flag State responsibilities to ensure that the prohibition to forgo minimum annual leave with pay is strictly enforced, with the limited exceptions authorized by the competent authority (Regulation 2.4 and Standard A2.4, paragraph 3); and that seafarers are repatriated at no cost to themselves in the circumstances specified in the Convention, with strict respect of the default 11 months maximum period of service on board derived from the provisions of the Convention (Regulation 2.5 and Regulation 2.4).***

9. Ensuring minimum manning

46. Under Standard A2.7, paragraphs 1 and 3, of the MLC, 2006, 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 equivalent issued by the

[19] The CEACR has "consistently considered that, from the combined reading of *Standard A2.4, paragraphs 2 and 3*, on annual leave and *Standard A2.5.1, paragraph 2(b)*, on repatriation, that the maximum continuous period of shipboard service without leave is in principle 11 months. Indeed, as it has clearly been indicated by the Committee, *Standard A2.4, paragraph 3*, of the MLC, 2006, does not lay down an absolute prohibition as exceptions may be authorized by the competent authority. While the Convention is silent about the nature and scope of permissible exceptions, the Committee considers that this provision needs to be read restrictively in order not to defeat the purpose of *Regulation 2.4*. … However, exceptions are indeed permitted on the basis of specific cases provided for by the competent authority taking into account the needs of seafarers and the particularities of sea voyage itself." See ILO, *Report of the Committee of Experts on the Application of Conventions and Recommendations*, ILC.108/III(A) (2019), paras 105–113 (General Report).

competent authority, and taking into account requirements concerning food and catering.

47. In the context of the COVID-19 pandemic, some maritime administrations have envisaged the reduction of the minimum manning levels as a possible solution to the difficulties encountered by shipowners in respect of having the required number of seafarers on board.

48. ***In its General Observation, the Committee of Experts requested ratifying countries with responsibilities as flag States to ensure that ships that fly their flag have a sufficient number of seafarers employed on board to ensure that ships are operated safely, efficiently and with due regard to security under all conditions, taking into account concerns about seafarer fatigue and the particular nature and conditions of the voyage (Regulation2.7).***

10. Medical certificates

49. The current crisis has also interfered with the possibility to renew the medical certificates of seafarers. These certificates are dealt with under Regulation I/9 of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW Convention), and Regulation 1.2 of the MLC, 2006. Under both international treaties, the maximum validity of medical certificates is two years. If the period of validity of a medical certificate expires in the course of a voyage, then the medical certificate shall continue in force until the next port of call, where a medical practitioner recognized by the Party is available, provided that the period shall not exceed three months.

50. While a pragmatic approach was encouraged regarding medical certificates at the beginning of the pandemic, the Office refers in this regard to the urgent call made by the Committee of Experts in its General Observation to all ratifying States to adopt all necessary measures without delay to restore the protection of seafarers' rights and comply to the fullest extent with their obligations under the MLC, 2006.

11. Certification in respect of training and qualifications

51. According to Regulation 1.3 of the MLC, 2006, seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties. Training and certification in accordance with the relevant provisions of the STCW Convention shall be considered as meeting this requirement.

52. It was noted, in previous versions of this Information Note that the actions taken worldwide as a result of the outbreak have posed a serious challenge for maritime administrations in respect of allowing the continued training of seafarers, revalidating certificates and issuing endorsements attesting recognition of certificates in accordance with the STCW Convention.

53. While a pragmatic approach was encouraged regarding certificates in respect of training and qualifications since the beginning of the pandemic, the Office refers in this regard to the urgent call made by the Committee of Experts in its General Observation to all ratifying States to adopt all necessary measures without delay to restore the protection of seafarers' rights and comply to the fullest extent with their obligations under the MLC, 2006.

12. Maritime labour certificate and inspections

54. Since the outbreak of COVID-19 the shipping industry and maritime authorities have faced challenges in respect of conducting the inspections required in accordance with Title 5 of the MLC, 2006.

55. The Office refers in this regard to the General Observation of the Committee of Experts in which it urged all ratifying countries with responsibilities as flag States to adopt the necessary measures and/or reinforce the existing ones without delay, including through more frequent inspections if necessary, to ensure that the ships that fly their flags fully comply with the provisions of the Convention.

56. Moreover, the Committee of Experts, while noting the challenges faced by port State control authorities to conduct inspections during the pandemic, requested ratifying countries with responsibilities as port States which have not yet done so, to adopt the necessary measures without delay to fully comply with their obligations under the Convention.

13. Social protection: Seafarers' entitlement to paid sick leave in case of infection or quarantine

57. According to Standard A4.2.1, paragraph 1(a), of the MLC, 2006, 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. According to paragraph 3 of the same Standard, where the sickness or injury results in incapacity for work the shipowner shall be liable: 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 the Convention; and 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. In this context, seafarers who have contracted COVID-19 should be entitled to paid sick leave or sickness benefits as long as they are incapacitated to work, in order to compensate them for the suspension of earnings that they suffer as a consequence. Quarantine periods on board and ashore for seafarers – whether they have symptoms, have been exposed or are quarantined as a safety precaution – are equally covered by the above-mentioned provisions of the MLC, 2006.

58. Importantly, before or during the process of repatriation, the expense of medical care and board and lodging for periods spent by seafarers in self-isolation or in quarantine – whether the seafarers have symptoms, have been exposed or are quarantined as a safety

precaution – must be covered by the shipowner until the seafarers are considered to be duly repatriated, unless the expense is assumed by public authorities in accordance with the applicable national legislation. [20]

59. ***In its General Observation, the Committee of Experts requested flag States to ensure that no fees or other charges for seafarer recruitment or placement, including the cost of any quarantine obligations before joining the ship, are borne directly or indirectly, in whole or in part, by the seafarer, other than the cost authorized under Standard A1.4, paragraph 5.***

14. Shore leave and welfare facilities during the pandemic

60. Under Regulation 2.4, paragraph 2, of the MLC, 2006, seafarers shall be granted shore leave to benefit their health and well-being and consistent with the operational requirements of their positions.

61. Maritime authorities must continue to respect this obligation, without prejudice to the proportionate and specifically adopted measures to minimize the risk of contagion. Access to port-based welfare services should also be ensured, as far as possible, during the COVID-19 pandemic. Compliance with these obligations is certainly being facilitated by increased access to personal protective equipment and enhanced knowledge about COVID-19.

62. In its General Observation, the Committee of Experts requested flag States to ensure that seafarers are granted shore leave for their health and well-being and consistent with the operational requirement of their

[20] According to Standard A4.2.1, paragraph 1(c), of the MLC, 2006, 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. Also relevant in this context is Standard A4.2.1, paragraph 6, according to which 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.

positions, subject to the strict respect of any public health measures applicable to the local population (Regulation 2.4, paragraph 2). It further called upon governments with port State responsibilities to allow seafarers to enjoy their right to shore leave in accordance with Regulation 2.4, paragraph 2, subject to the strict respect of any public health measures applicable to the local population.

63. The Committee of Experts also requested flag States to ensure that "seafarers have access to shore-based welfare facilities, where they exist, subject to the strict respect of any public health measures applicable to the local population (Regulation 4.4); and that measures are taken to support seafarers' wellbeing on board, in particular during the extended periods of service on board, including arrangements for contacting family and loved ones.

64. In their initial joint statement, the Officers of the STC indicated that: "In recent times, there has been widespread and welcome acknowledgement of the inherent stress, isolation and social pressures that seafarers experience. COVID-19 clearly exacerbates these problems, and has an adverse impact on the mental and physical well-being of seafarers and their families. It is worrying to hear of port-based welfare services being closed or curtailed as a response to the current situation, and it is vital that full support is given to seafarer welfare services."

15. Abandonment of seafarers

65. The measures adopted to contain the pandemic are creating additional challenges with regard to resolving the cases of abandonment that occurred before the outbreak of COVID-19. [21] The IMO/ILO database on reported incidents of abandonment of seafarers shows a drastic

[21] Available at: https://www.ilo.org/dyn/seafarers/seafarersbrowse.home. The joint IMO/ILO database contains a regularly updated list of vessels that have been reported to the ILO as abandoned in various ports of the world by appropriate organizations. It specifically includes information on seafarers and fishers, who have been abandoned and their current status. If and when a case of abandonment is deemed to be related to the COVID-19 pandemic, the organization or government reporting the case can send the relevant information to the ILO through the relevant template.

increase of cases of abandonment in the second part of 2020, with some of those cases linked to COVID-19 related measures. It is recalled that, even against the background of the COVID-19 crisis, flag States, port States and labour-supplying States remain bound by the requirements concerning repatriation set out in Regulation 2.5 of the MLC, 2006, and the relevant provisions of the Code of the Convention. Member States must deploy all necessary efforts to promptly resolve situations of abandonment and ensure that seafarers affected by this plight are repatriated as soon as possible and receive the payment of outstanding wages, in accordance with the relevant provisions of the MLC, 2006.

66. In their initial joint statement, the Officers of the STC indicated that: “The social partners express concern about a potential increase in cases of abandonment due to shipowners not having the financial ability to support their fleet operations. It is essential to monitor the situation and emerging trends and to have effective reporting on abandonment, as this is the only way of understanding the impact and the measurers necessary to assist seafarers in view of the restrictions in place during the COVID-19 crisis.”