



ILO MLC 2006 STC 4 (Part II) Meeting Summary

May 25, 2022

The second part of the fourth meeting of the ILO MLC Special Tripartite Committee (MLC STC 4 (Part II)) was held 5-13 May 2022 in a hybrid form. These approved amendments to the standards and the guidelines will be reviewed by the International Labour Conference scheduled for June 2022 for entry into force in December 2024. The next meeting of STC will be 2025.

PROPOSAL BY SEAFARERS' AND SHIPOWNERS' GROUPS

Personal protective equipment (PPE)

Seafarers' and Shipowners' group proposed to address the size of PPEs provided on board, as PPE were sometimes too big for female and Asian seafarers, which cause hazard. The meeting agreed that PPE shall be an appropriate size.

Food and catering

A few clarifications on the provision of food and water, including provision of "healthy" hood was proposed. The following were agreed:

- Food and drinking water are provided free of charge; and
- Food should be balanced, in addition to being nutritious, varied and adequate.

Repatriation – relief crew

The efforts of the financial security provider to repatriate the stranded crew, were frustrated by the port authorities of the country where the ship is abandoned for safety (ship maintenance) reasons.

There was a proposal to add a new text for arranging national replacement crew.

The meeting agreed that Members shall facilitate repatriation and relief crew recruited locally shall also be protected their right entitled under the MLC 2006.

It should be noted that the IMO's Legal Committee is working on port State guidelines.

Medical care ashore

Even before the outbreak of the Covid-19 pandemic, there were reports of incidences of seafarers were denied disembarkation for urgent medical treatment, which led to considerable suffering by the seafarers, excessive costs for shipowners and considerable disruptions to trade. The situation deteriorated further during the pandemic.

The meeting concluded:

- Prompt disembarkation of seafarers for treatment;
- In case of death, to facilitate the return of the body or ashes in accordance with the wishes of the seafarer or their next of kin, as appropriate; and
- Seafarers are not prevented from disembarking for public health reasons and should have access to stores, fuel, water, food and supplies.

Financial security – definition of shipowner

The Declaration of Maritime Labour Compliance (DMLC) has not been amended since 2006 when the definition of the term "shipowner" was agreed. This definition may have suited the unamended MLC, 2006 by identifying the person or entity responsible for maintaining living and working conditions on board the ship, but it does not work in the context of an insured person and the name of the shipowner on the financial security certificates introduced by the 2014 amendments to the Convention. Some port State control officers (PSCOs) in some jurisdictions issue deficiency notices to ships calling at their ports for alleged non-compliance, arguing that the shipowner named on the financial security certificate must be the party named on the DMLC.

The meeting agreed to add "registered owner", if that is different from the shipowner.

PROPOSAL BY SEAFARERS' GROUP

Communication

This is to require free internet connectivity to seafarers to stay in touch with family and friends.

However, the meeting realized that unlimited 24/7 internet access at sea and at port/terminal poses technical and legal challenges. A compromised proposal were:

- Shipowners, should, so far as is reasonably practicable, provide seafarers onboard their ships with internet access, with charges, if any, being

reasonable in amount; and

- Members should, so far as is reasonably practicable, provide seafarers on board ships in their ports and at their associated anchorages with internet access, with charges for access, if any, being reasonable in amount.

Employer shown on certificates of financial security

Although the MLC, 2006 clarifies the meaning of shipowner and its responsibilities, the ITF has been advised of frequent situations where the employers are not the owner of the ship. This is a common situation in the cruise industry but also for seafarers in the catering department on ferries and/or cargo ships.

The meeting agreed that MLC 2006 was written with that situation in mind and owners involvement of any employment on board was clearly stated. The meeting agreed that this is a matter of proper implementation rather than the lack of legal text.

The meeting adopted a resolution contractual redress for seafarers, which brought the matter to the attention of flag Administrations and the ILO Committee of Expert on the Application of Convention and Recommendation.

Repatriation – destination

It was proposed that repatriation is not to an international airport of the home country but the seafarer's home. This is a significant difference for seafarers of India, Indonesia, Philippines etc.

However, concerns were expressed by shipowners on this fundamental change to the current practices, and repatriation after the international airport was beyond the control of shipowners. Opinions of government representatives were divided, while some governments already incorporated this provision into their national legislation.

The meeting recognized that the non-recognition of seafarers as essential workers caused this problem, which resulted in prolonged detention at a quarantine facility at the expense of seafarers.

However, even After the exhaustive discussion, the meeting could not conclude on this matter. Subsequently, the meeting postponed the discussion to a future meeting.

Information on making claim

During or even before the Covid-19 pandemic, there were cases where a seafarer's employment did not occur even after signing a seafarer employment agreement (SEA) and the seafarer was on the way to the ship.

This left seafarers away from home and with considerable financial losses. Even though the relevant paragraph in

the MLC, 2006 does provide the solution of this occurrence, however, it was difficult for seafarers to activate or even reach the provider of the insurance or an equivalent appropriate measure for the compensation they were entitled to. Providing information on the system of protection was proposed.

The proposal triggered an intense discussion, in particular, if the seafarers should be informed, or should be aware of, when he was recruited in the recruitment agency in his/her home country. In the end, the meeting agreed to ensure seafarers are informed, prior to or in the process of engagement of their rights.

Financial security

The proposed amendments to standard A.2.5.2 for extending the coverage of wages from four months to eight months met resistance, as it does not resolve the fundamental problem, the matter is only for a few non-performing owners as well as the problem associated with P and I club practice.

The proposal was not supported, however, the meeting agreed to develop a resolution addressing the problem instead. Subsequently, the meeting adopted the resolution on financial security, which calls for the establishment of a working group of the STC to discuss the financial security system regarding potential improvements that would make the system more effective and sustainable and ensure a greater degree of protection and assistance for abandoned seafarers.

PROPOSAL BY GOVERNMENTS

Fatality reporting

A group of governments raised that currently, there was no single international data set that appropriately captured and categorized all fatalities that occur at sea. They proposed to submit reports which classified the cause of the death.

The meeting agreed to keep high-level obligation (reporting of "all" deaths of seafarers employed, engaged or working on board ships) only, and removed all death categories, which was left to the International Labour office.

Maximum period of service on board

A group of government proposed clearer provisions on the maximum period onboard.

The MLC, 2006 currently provides seafarers with an entitlement to be repatriated when the maximum duration of service periods on board following which a seafarer is entitled to repatriation – such periods to be less than 12 months (Standard A2.5.1, paragraph 2(b)).

Nevertheless, this provision was not sufficient to protect seafarers and avoid situations where seafarers remained on board beyond this maximum duration of service periods on board, so the maximum uninterrupted period of 11 months was proposed.

However, questions still remained as to:

- whether repatriation is a mandatory obligation or entitlement; and
- treatment of cadets who needs to stay on board for 12 months to meet the requirements of the STCW Convention.

While some governments and owners were close to the agreement, Seafarers did not show any compromise and stuck to the line that, under no circumstance, seafarers should not remain on board beyond 11 months.

Some governments were still concerned about whether leave days on board will be excluded from this 11 month and also saw the need for addressing cadets' training that had to last 12 for months.

The meeting could not conclude the matter and deferred the matter for future discussion.

OTHERS

Harassment and bullying

The meeting adopted a resolution on *Harassment and Bullying, including Sexual Assault and Sexual Harassment, in the Maritime Sector*, which calls for the inclusion of the subject in the agenda of the joint ILO/IMO working group on Human Element.

Seafarers abandonment database

A Member State raised concerns over the inappropriate entry to the seafarers' abandonment database.

In this regard, another member State pointed out that lacking seafarers' identity posed difficulties for the flag Administration to follow up on the case. However, the meeting was reminded that entering personal information would be against the data protection law.

Seafarers' representative clarified that seafarers' abandonments a wider concept, and any case mentioned in the criteria. He stressed that "try to comply with" was still a violation until the problem is resolved.

It was agreed that the government should write a letter to formalize the matter and for the STC office to follow the matter.

The situation in the Northern part of the Black Sea and the Sea of Azov

A group of member governments expressed concerns over the current situation, including the destruction of civil infrastructure.

FURTHER INFORMATION

For further information please contact: imo@lisscr.com

MLC STC 4 (Part II) – Summary of Major Decisions

PROVISIONAL LIST OF RESOLUTIONS AND DRAFT AMENDMENTS TO THE MLC STANDARDS AND GUIDELINES

Resolutions

- Resolution on financial security
- Resolution on contractual redress for seafarers
- resolution on Harassment and Bullying, including Sexual Assault and Sexual Harassment, in the Maritime Sector,

Draft amendments to the Standards (in the order of appearance in this report)

- Standard A4.3 – Health and safety protection and accident prevention
- Standard A3.2 – Food and catering
- Standard A2.5.1 – Repatriation
- Standard A4.1 – Medical care on board ship and ashore
- Standard A3.1 – Accommodation and recreational facilities
- Standard A1.4 – Recruitment and placement
- Standard A4.3 – Health and safety protection and accident prevention

Draft amendments to the appendix

- Appendix A2-I– Evidence of financial security under Regulation 2.5, paragraph 2
- Appendix A4-I– Evidence of financial security under Regulation 4.2

Amendments to the guidelines

- Guideline B4.1.3 – Medical care ashore
- Guideline B3.1.11 – Recreational facilities, mail and ship visit arrangements
- Guideline B4.4.2 – Welfare facilities and services in ports
- Guideline B4.3.5 – Reporting and collection of statistics