



Governing Body

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Legal Issues and International Labour Standards Section
International Labour Standards and Human Rights Segment

LILS

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THIRD ITEM ON THE AGENDA

Report of the first meeting of the Special Tripartite Committee established under Article XIII of the Maritime Labour Convention, 2006 (Geneva, 7–11 April 2014)

Report of the Chairperson to the Governing Body, in accordance with article 16 of the Standing Orders of the Special Tripartite Committee

Purpose of the document

Firstly, to enable the Governing Body to take note of the report of the Chairperson of the first meeting of the Special Tripartite Committee (7–11 April 2014), as required by the Standing Orders of the Special Tripartite Committee, and of the final report of this first meeting; secondly, to appoint the Chairperson of the Special Tripartite Committee for a further two-year term; and thirdly, to consider convening the second meeting of the Special Tripartite Committee in 2016 (see the draft decision in paragraph 17).

Relevant strategic objectives: Promote and realize standards and fundamental principles and rights at work as well as promote social dialogue.

Policy implications: Lessons that could be learnt for future standard setting.

Legal implications: Amendments of 2014 to the Maritime Labour Convention, 2006, adopted by the Special Tripartite Committee and approved by the International Labour Conference at its 103rd Session (2014), will enter into force, subject to prescribed conditions being met, on 18 January 2017.

Financial implications: Financial arrangements relating to a second meeting of the Special Tripartite Committee.

Follow-up action required: Second meeting of the Special Tripartite Committee scheduled for 2016.

Author unit: International Labour Standards Department (NORMES).

Related documents: GB.319/LILS/5; GB.320/INS/2.

Introduction

1. The first meeting of the Special Tripartite Committee established by the Governing Body under Article XIII of the Maritime Labour Convention, 2006 (MLC, 2006), took place from 7 to 11 April 2014 at ILO headquarters in Geneva. The final report¹ of this first meeting is submitted with this report of the Chairperson (see Appendix IV). The meeting was attended by over 400 participants.
2. In accordance with article 16 of the Standing Orders of the Special Tripartite Committee,² the Chairperson of the Committee is to report to the Governing Body "... on the working of the Convention. The report may contain recommendations to the Governing Body on action to be taken to ensure the effective, efficient and, to the extent deemed expedient, uniform implementation of the Convention."
3. The meeting was successful in that all matters on the agenda adopted by the Governing Body at its 319th Session in October 2013³ were dealt with, and the meeting had useful bipartite and tripartite exchanges on many issues related to the working of the Convention and reached tripartite agreement on many important matters. The remainder of this report of the Chairperson sets out the outcome of the meeting with respect to each matter on the agenda.

1. Appointment of the three Vice-Chairpersons of the Committee

4. In accordance with article 6(3) of its Standing Orders, the Committee appointed the following representatives as Vice-Chairpersons for the Committee for a three-year term:
 - Mr Hans Leo Cacdac (Government member, Philippines);
 - Mr Arthur Bowring (Shipowner member, Hong Kong, China);
 - Mr David Heindel (Seafarer member, United States).

2. Consideration of proposals for amendments to the Code of the Maritime Labour Convention, 2006

5. The meeting considered proposed amendments to the Code of the Maritime Labour Convention, 2006 (MLC, 2006), that had been jointly submitted by the Shipowner and Seafarer representatives on the Special Tripartite Committee. These proposals were communicated by the Director-General to all Members of the Organization with an invitation to submit comments or suggestions on the amendments within a six-month period. In accordance with Article XV, paragraph 4, a summary of these observations or

¹ ILO: *Final report*, First meeting of the Special Tripartite Committee established under Article XIII of the MLC, 2006 (Geneva, 7–11 April 2014), STCMLC/2014/6.

² Adopted by the 313th Session (March 2012) of the Governing Body: GB.313/LILS/3. Available on the MLC, 2006, website at: http://www.ilo.org/global/standards/maritime-labour-convention/special-tripartite-committee/WCMS_183944/lang--en/index.htm.

³ GB.319/LILS/5, Appendix, and GB.319/PV, para. 584.

suggestions was transmitted to the Committee for its consideration when it discussed the proposed amendments at its first meeting in April 2014.

6. The amendments to the Code implementing Regulation 2.5 – *Repatriation* are intended to better address the specific problems faced in cases of abandonment of seafarers. The amendments to the Code implementing Regulation 4.2 – *Shipowners' liability* address the details of the obligation for shipowners to 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.⁴
7. In light of the, then ongoing, work of the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers, the details of the financial security and related issues involved were not dealt with in 2006 when the MLC, 2006, was adopted.⁵
8. The Special Tripartite Committee reviewed and revised the proposed amendments to the Code implementing Regulations 2.5 and 4.2 of the MLC, 2006, and voted overwhelmingly⁶ in favour of them, thus meeting the two-thirds majority and other requirements set out in Article XV, paragraph 4, of the MLC, 2006. The Committee also considered it important that provision be made for transitional measures to address the period following entry into force of these amendments, as the amendments would require alterations to documents carried on board ships and time would be needed to revise and reissue the documents. Accordingly, in conjunction with the amendments, the Committee adopted a resolution regarding transitional measures to address this more operational matter.⁷
9. Pursuant to Article XV, paragraph 5, of the MLC, 2006, and article 17 of the Standing Orders of the Special Tripartite Committee, the amendments to the Code, accompanied by a commentary, were communicated by the Chairperson of the Committee to the Governing Body, through its Chairperson, for transmittal to the next session of the International Labour Conference (June 2014). The 103rd Session of the Conference approved them by the

⁴ They were based on the principles agreed at the Ninth Session of the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers and were based upon the texts of the 2001 IMO/ILO *Guidelines on provision of financial security in case of abandonment of seafarers* and the 2001 IMO/ILO *Guidelines on shipowners' responsibilities in respect of contractual claims for personal injury to or death of seafarers*.

⁵ The need for further provisions was reflected in the International Labour Conference's resolution concerning the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers (resolution III). The resolution calls upon Members to develop a standard accompanied by guidelines, which could be included in the MLC, 2006 (or another instrument) at a later date. The resolution can be found at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_088130.pdf.

⁶ Article XIII of the MLC, 2006, provides for weighted voting ensuring that the Shipowners' and Seafarers' groups each have half the voting power of the Government group. There were no votes against the amendments and only two abstentions by the representatives of one Government member of the Committee.

⁷ See the resolution on the transitional measures relating to the entry into force of the amendments to the Maritime Labour Convention, 2006, concerning financial security requirements in respect of abandonment of seafarers and for shipowners' liability, in ILO: *Final report*, op. cit., paras 391–399 and Appendix II.

required two-thirds majority on 11 June 2014.⁸ The text of the amendments of 2014 to the Maritime Labour Convention, 2006, as approved by the Conference, is contained in Appendix I to this report.

10. On 18 July 2014, these amendments were (under Article XV, paragraph 6, of the MLC, 2006) notified to all Members whose ratification of the MLC, 2006, was registered prior to the date of the Conference's approval. These Members have a period of two years from that notification – that is, until 18 July 2016 – to communicate to the Director-General a formal expression of disagreement to the amendments. The amendments will enter into force on 18 January 2017 – that is, six months after the end of the two-year period – unless 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 have communicated to the Director-General their formal expressions of disagreement with the amendments. In accordance with paragraph 8 of Article XV, amendments deemed to have been accepted in accordance with paragraph 7 will come into force (six months after the end of the two-year period) for all the ratifying Members except those which have formally expressed their disagreement in accordance with paragraph 7 of Article XV and have not withdrawn such disagreement in accordance with paragraph 11 or given a notice in accordance with paragraph 8(a) or (b). After the entry into force of an amendment adopted under Article XV, the Convention may only be ratified in its amended form.

3. Exchange of information related to implementation

11. There was an important and very useful exchange of information among governments and on a tripartite basis. Several specific issues for implementation were raised, including matters related to the regulation of seafarer recruitment and placement services and to jurisdiction with respect to seafarers' employment agreements. A concern about the need for uniform implementation of the definition of a seafarer was also noted as a matter that the Committee of Experts on the Application of Conventions and Recommendations might wish to consider when it conducts its review of national reports under article 22 of the Constitution of the International Labour Organisation. A number of other specific issues were also discussed, as set out in the final report of the meeting.⁹
12. In general, it should be noted that participants expressed the view that the first meeting had provided an important forum for a useful exchange of information with respect to approaches to implementation. The meeting adopted a resolution recommending that, at least for an initial period following the entry into force of the MLC, 2006, the Governing Body should convene regular meetings of the Special Tripartite Committee to enable more exchange and international social dialogue in order to ensure more effective working of the Convention.¹⁰

⁸ ILO: *Provisional Record Nos 2, 2A and 16, International Labour Conference, 103rd Session, Geneva, 2014.*

⁹ ILO: *Final report*, op. cit., paras 401–429.

¹⁰ See the resolution concerning regular meetings of the MLC, 2006, Special Tripartite Committee, in ILO: *Final report*, op. cit., para. 400 and Appendix II.