

# Provisional Record

107th Session, Geneva, May–June 2018

# 1C



Date: Thursday, 24 May 2018

## Eighth item on the agenda: Maritime matters

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## Approval of amendments to the Code of the Maritime Labour Convention, 2006, as amended (MLC, 2006), as adopted by the Special Tripartite Committee established under Article XIII of the Convention

1. The Special Tripartite Committee established under Article XIII of the MLC, 2006,<sup>1</sup> met in Geneva from 23 to 27 April 2018 and adopted, in accordance with Article XV, paragraph 4, of the MLC, 2006, amendments to the Code implementing Regulations 2.1, 2.2 and 2.5 of the MLC, 2006. The amendments were adopted by an overwhelming majority.<sup>2</sup> The text of the amendments is reproduced in the appendix.
2. Pursuant to Article XV, paragraph 5, of the MLC, 2006, and article 17 of the Standing Orders of the Special Tripartite Committee, amendments to the Code together with a commentary on the amendments, are to be communicated by the Chairperson of the Committee to the Governing Body for transmittal to the next session of the International Labour Conference. As the third meeting of the Committee took place after the 332nd Session (March 2018) of the Governing Body, the amendments were brought to the attention of the Officers of the Governing Body who decided to transmit them to the 107th Session of the International Labour Conference.
3. The amendments, submitted by the group of Seafarer representatives to the Special Tripartite Committee, relate to the protection of seafarers' wages and entitlements while they are held captives on or off the ship as a result of acts of piracy or armed robbery against ships.<sup>3</sup>
4. The first amendment relates to the Code implementing Regulation 2.1 – Seafarers' employment agreement – and is intended to ensure that a seafarer's employment agreement continues to have effect while a seafarer is held captive as a result of acts of piracy or armed robbery against ships.
5. The second amendment relates to the Code implementing Regulation 2.2 – Wages – and provides that wages and other entitlements under the seafarers' employment agreement, relevant collective bargaining agreement or applicable national laws, including the remittance of any allotments, shall continue to be paid during the entire period of captivity and until the seafarer is released and duly repatriated or, where the seafarer dies while in captivity, until the date of death as determined in accordance with applicable national laws or regulations.

<sup>1</sup> The MLC, 2006, entered into force on 20 August 2013 and, as of 10 May 2018, had been ratified by 86 member States. More information can be found at: [www.ilo.org/mlc](http://www.ilo.org/mlc).

<sup>2</sup> There were no votes against the amendments and only three governments abstained.

<sup>3</sup> For the purpose of the amendments, *piracy* has the same meaning as in the United Nations Convention on the Law of the Sea, 1982, and *armed robbery against ships* means any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters and territorial sea, or any act of inciting or of intentionally facilitating an act described above.

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6. The third amendment relates to the Code implementing Regulation 2.5 – Repatriation – and is intended to ensure that the entitlement to repatriation may not lapse where a seafarer is held captive as a result of acts of piracy or armed robbery against ships.
  7. In accordance with Article XV, paragraph 5, of the Convention, approval by the Conference requires a majority of two-thirds of the votes cast by the delegates present. If these amendments are approved by the Conference, they will be notified to Members whose ratification of the MLC, 2006, was registered prior to the date of the Conference’s approval. These Members will have a period of two years from that notification (unless the Conference decides upon a different period) to express a formal disagreement to the amendments. The amendments will enter into force six months after the end of that period unless more than 40 per cent of ratifying Members, representing not less than 40 per cent of world gross tonnage, have formally expressed their disagreement with the amendments. If such majority is not obtained, the amendments are referred back to the Special Tripartite Committee for reconsideration.
  8. It is recalled that, at its 103rd Session (June 2014), the International Labour Conference approved for the first time amendments adopted by the Special Tripartite Committee.<sup>4</sup> Those amendments related to the issues of abandonment of seafarers and claims for compensation in the event of a seafarer’s death or long-term disability due to an occupational injury, illness or hazard. They entered into force on 17 January 2017. As its 105th Session (June 2016), the International Labour Conference approved two further amendments also adopted by the Special Tripartite Committee,<sup>5</sup> one aimed at eliminating shipboard harassment and bullying and another providing, under specific circumstances, for the possibility of an extension of not more than five months of the validity of the maritime labour certificate. These amendments are expected to enter into force on 8 January 2019.
  9. The Conference is called upon to consider, with a view to their approval, the amendments to the Code of the MLC, 2006, adopted by the Special Tripartite Committee at its third meeting.

<sup>4</sup> International Labour Conference, 103rd Session, Record of Proceedings, *Provisional Record Nos 2 and 16*.

<sup>5</sup> International Labour Conference, 105th Session, Record of Proceedings, *Provisional Record No. 3-1*.

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## Appendix

### Amendments to the Code of the MLC, 2006, relating to Regulation 2.1

#### **Standard A2.1 – Seafarers’ employment agreements**

Insert new paragraph 7:

7. Each Member shall require that a seafarer’s employment agreement shall continue to have effect while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, regardless of whether the date fixed for its expiry has passed or either party has given notice to suspend or terminate it. For the purpose of this paragraph, the term:

- (a) *piracy* shall have the same meaning as in the United Nations Convention on the Law of the Sea, 1982;
- (b) *armed robbery against ships* means any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State’s internal waters, archipelagic waters and territorial sea, or any act of inciting or of intentionally facilitating an act described above.

### Amendments to the Code of the MLC, 2006, relating to Regulation 2.2

#### **Standard A2.2 – Wages**

Insert a new paragraph 7:

7. Where a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, wages and other entitlements under the seafarers’ employment agreement, relevant collective bargaining agreement or applicable national laws, including the remittance of any allotments as provided in paragraph 4 of this Standard, shall continue to be paid during the entire period of captivity and until the seafarer is released and duly repatriated in accordance with Standard A2.5.1 or, where the seafarer dies while in captivity, until the date of death as determined in accordance with applicable national laws or regulations. The terms *piracy* and *armed robbery against ships* shall have the same meaning as in Standard A2.1, paragraph 7.

### Amendments to the Code of the MLC, 2006, relating to Regulation 2.5 – Repatriation

#### **Guideline B2.5.1 – Entitlement**

Replace paragraph 8 by the following:

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, except where they are held captive on or off the ship as a result of acts of piracy or armed robbery against ships. The terms *piracy* and *armed robbery against ships* shall have the same meaning as in Standard A2.1, paragraph 7.