Tripartite Subgroup of the High-level Tripartite Working Group on Maritime Labour Standards (second meeting)

Preliminary draft for a consolidated maritime labour Convention

Geneva, 2003
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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 .. Session on .. … 2005, 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 instruments, in particular –

the Forced Labour Convention, 1930,

the Freedom of Association and Protection of the Right to Organise Convention, 1948,

the Right to Organise and Collective Bargaining Convention, 1949,

the Equal Remuneration Convention, 1951,

the Abolition of Forced Labour Convention, 1957,

the Discrimination (Employment and Occupation) Convention, 1958,

the Minimum Age Convention, 1973, and

the Worst Forms of Child Labour Convention, 1999, 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 updatable and that it should lend itself to effective enforcement, and

Having decided upon the adoption of certain proposals for the realization of such an instrument, which is the … item on the agenda of the session, and

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

adopts this … day of … of the year two thousand and five the following Convention, which may be cited as the Maritime Labour Convention, 2005.

Definitions and scope of application

(See Comment 1 of the Commentary accompanying this draft)

Article I

1. For the purpose of this Convention and unless provided otherwise in particular provisions:

(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 the subject-matter of the provision concerned; (C179, C180, R187)
(b) the term gross tonnage means the measure of the overall size of a ship
determined in accordance with the provisions of the International Convention
on Tonnage Measurement of Ships, 1969; (Tonnage 1969)

(c) the term master includes every person having command and charge of a vessel
except pilots; (C22, C23)

(d) the term officer means a person other than a master who is described in the
ship’s articles as an officer or who is serving in a capacity which by law,
collective agreement or custom is recognized as that of an officer [at the
management or operational level]; (C92)

(e) the term rating means a member of the crew other than a master or officer;
(C92)

(f) the term seafarer means any person who is employed or engaged in any
capacity, or who fulfils the conditions to be employed or engaged in any
capacity, on board a vessel to which this Convention applies; (C164, C166,
C178 + C179)

(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. (C179, C180, ISM Code, SOLAS)

2. Unless provided otherwise in particular provisions, this Convention applies
to all vessels, whether publicly or privately owned, ordinarily engaged in
commercial maritime navigation (C7, C8, C15, C16, C22, C23, C58) other than –

(a) vessels of less than … gross tonnage;

(b) vessels of war;

(c) government vessels, or vessels in the service of a public authority, which are
not engaged in trade;

(d) vessels engaged in fishing or in whaling or in similar pursuits;

(e) wooden vessels of primitive build such as dhows and junk;

(f) pleasure yachts; and

(g) oil rigs and drilling platforms when not engaged in navigation. (C147A1/4)

3. In the event of doubt as to whether, for the purpose of this Convention –

(i) any vessels are to be regarded as vessels engaged in commercial maritime
navigation, or

(ii) any categories of persons are to be regarded as seafarers,

the question shall be determined by the competent authority in each country
after consultation with the shipowners’ and seafarers’ organizations concerned.
(C180A1/3, C178A1/7d)
4. A Member which ratifies this Convention may, after consultation with the shipowners’ and seafarers’ organizations concerned, exclude from the scope of its application vessels which do not navigate outside its territorial waters, provided that the seafarers on those vessels are covered by national laws and regulations embodying the rights set out in Article II of this Convention.

**Fundamental principles and rights**

(See Comment 2 of the Commentary accompanying this draft)

**Article II**

1. Each Member which ratifies this Convention reaffirms its commitment to respect, in the context of this Convention, the fundamental rights to –

   (i) freedom of association and the effective recognition of the right to collective bargaining;

   (ii) the elimination of all forms of forced or compulsory labour;

   (iii) the effective abolition of child labour; and

   (iv) the elimination of discrimination in respect of employment and occupation,

   as referred to in the ILO Declaration on Fundamental Principles and Rights at Work, 1998.

2. Each Member shall ensure, within the limits of its jurisdiction and in accordance with the standards required by the provisions of this Convention –

   (a) that all ships are covered by the safety standards, including standards of competency, hours of work and manning, that are necessary to ensure the safety of life on board ship;

   (b) that all seafarers enjoy –

      (i) fair terms of employment;

      (ii) decent shipboard conditions of employment and shipboard living arrangements; and

      (iii) appropriate social security and welfare measures for themselves and their families,

   in full respect for the fundamental principles and rights referred to in paragraph 1 above.

3. The rights referred to in paragraph 2(b) above shall be secured through laws and regulations in so far as they are not covered by collective agreements or laid down by competent courts in a manner equally binding on the shipowners and seafarers concerned. (C147A2(a))

**Article III**

1. Each Member shall –
(a) 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 its national laws or regulations, except to the extent that the seafarers concerned are covered by at least equivalent measures under the laws or regulations of the foreign country of nationality or domicile; and

(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; (C147A2(b))

(b) 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 organizations and seafarers’ organizations constituted in line with the fundamental principles referred to in paragraph 1(i) of Article II; (C147A2(c))

(c) ensure that adequate procedures --subject to over-all 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; and (C147A2(d)(i))

(d) ensure that seafarers employed on ships registered in its territory are properly qualified or trained for the duties for which they are engaged. (C147A2(e))

2. Each Member shall –

(a) exercise effective jurisdiction or control over contracts for the placement of seafarers and contracts of employment of seafarers that are concluded in its territory;

(b) ensure that adequate procedures exist for the investigation of any complaint made in connection with 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 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; and (C147A2(d)(ii))

(c) in so far as practicable, advise its nationals on the possible problems of signing on a ship registered in a State which does not observe the standards required by this Convention. (C147A3)

**Regulations and Parts A and B of the Code**

*Article IV*

(See Comment 3 of the Commentary accompanying this draft)
1. The Regulations and the Code set out below form an integral part of this Convention. The Regulations and the provisions of Part A of the Code are mandatory for Members ratifying this Convention. The provisions of Part B of the Code are not mandatory.

2. Each Member undertakes to respect the principles and rights set out in the Regulations and to implement each such Regulation in the manner set out in the corresponding provisions of Part A of the Code. In addition, the Member shall give full consideration to implementing the provisions of Part B of the Code.

3. However, a Member which is not in a position to implement the principles and rights in the manner set out in Part A of the Code may –

(a) implement Part A of the Code through provisions in its laws and regulations which can be demonstrated to be substantially equivalent to the provisions of Part A; or

(b) implement an initial lower standard, to the extent expressly permitted in the Code, and make adequate provision for the progressive achievement, in the shortest possible time, of the full standards set out in Part A of the Code.

4. Subject to any directions or guidance that may be given in the Code with respect to particular provisions, a law, regulation or other implementing measure shall, for the purpose of paragraph 3(a) above, be considered to be substantially equivalent to a provision of this Convention if –

(a) it is conducive to the full achievement of the general object or purpose of the provision concerned, and

(b) in all material respects, it complies with the specific requirements of the provision or has effects that are equivalent to those resulting from such compliance.

5. A Member may avail itself of the flexibility provided for in paragraph 3(b) only if the lower standard to be initially applied is specified in a declaration in or accompanying its instrument of ratification of this Convention. Such declaration shall have been made by the Member after consultation with the organizations of shipowners and seafarers concerned, where such exist. In no case may a Member apply a standard lower than any standard of an international labour Convention that was applicable to the Member at the time of ratification of this Convention.

6. Any Member availing itself of the flexibility provided for in paragraph 3(a) shall, in its reports upon the application of this Convention submitted under article 22 of the Constitution of the International Labour Organization, indicate the measures that have been taken or are proposed to be taken to achieve the full standards set out in Part A of the Code.

7. With respect to ships entitled to fly the flag of a State which is not a party to this Convention, each Member shall apply standards that are substantially equivalent to those under the Regulations and Part A of the Code, to the extent necessary to ensure that no more favourable treatment is given to such ships.

Entry into force and denunciation

(See Comment 4 of the Commentary accompanying this draft)
Article V

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, 1974, or any Convention subsequently revising this Convention; 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 Convention on the International Regulations for Preventing Collisions at Sea, 1972, or any Convention subsequently revising this international instrument.

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. (C147A5)

Article VI

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 there have been registered ratifications by at least … Members with a total share in world shipping gross tonnage of … 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. (C147A6)

Article VII

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. (C147A7)

Effect of entry into force

(See Comment 5 of the Commentary accompanying this draft)
Article VIII

1. Identification of international labour Conventions and Recommendations that are revised by the present Convention

2. Question of closure of previous Conventions to further ratification

3. Question of the ipso jure denunciation of previous Conventions by Members ratifying the present Convention

Depositary functions

Article IX

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 to him by the Members of the Organization.

2. When the conditions provided for in Article VI, paragraph 2, 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.

(C180A20)

Article X

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, as well as of ratifications of amendments under Article XII or Article XIII.

(C147A9)

Amendment

(See Comment 6 of the Commentary accompanying this draft)

Article XI

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. The Committee shall consist of representatives nominated by the governments which have ratified this Convention and the representatives of shipowners and seafarers appointed by the Governing Body.

3. The government, shipowner and seafarer groups in the Committee shall have equal voting power, unless otherwise provided in this Convention.

4. The government representatives of Members which have not yet ratified this Convention may participate in the Committee without right of vote. The Governing Body may invite other organizations or entities to be represented on the Committee by observers.
Article XII

1. Amendments to any of the provisions of this Convention may be adopted by the General Conference in accordance with Article 19 of the Constitution of the International Labour Organization and the Organization’s rules and procedures for the adoption of conventions.

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

3. In the case of Members whose ratification of this Convention was registered before the adoption of the amendment, the text of the amendment shall be communicated to them for ratification.

4. 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.

5. The amendments 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 … Members of the Organization with a total share in world shipping gross tonnage of … per cent.

6. For any Member referred to in paragraph 3 above, the amendments shall come into force twelve months after the date of acceptance referred to in paragraph 5 above or twelve months after the date on which its ratification of the amendment has been registered, whichever date is the later.

7. For any other Member of the Organization, the Convention as revised shall come into force twelve months after the date of acceptance referred to in paragraph 5 above or twelve months after the date on which its ratification of the Convention has been registered, whichever date is the later.

8. This Convention shall remain in force in its unamended form and content for those Members whose ratification of the Convention was registered before the adoption of the amendment concerned but which have not ratified the amendment.

9. A Member which subsequently ratifies this Convention shall be bound by all amendments entering into force which were adopted before its ratification of the Convention was registered, unless any such amendment provides otherwise.

Article XIII

1. Except where provided otherwise in this Convention, the Code contained in this Convention may also be amended in accordance with the procedure set out in the following paragraphs.

2. An amendment to the Code may be proposed to the Director-General by the government of any Member of the Organization or by any representative of the shipowners or seafarers who has been appointed to the Committee referred to in Article XI. An amendment proposed by a government must be supported by at least half the governments that have ratified the Convention or by [twelve] of those Governments if this number is lower than half. An amendment proposed by a shipowner or seafarer representative must be supported, respectively, by at least half of the shipowner or the seafarer representatives in the Committee or by
[twelve] of the said shipowner or seafarer representatives if this number is lower than half.

3. Having verified that the proposals for amendment meet the requirements of the preceding paragraph, the Director-General shall promptly communicate such proposals, 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 proposals 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 the preceding paragraph, the proposal, accompanied by a summary of any observations or suggestions made by Members, shall be transmitted to the Committee referred to in Article XI, for consideration. An amendment shall be considered adopted 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 members of the Committee entitled to vote is in favour of the amendment, and

(c) this majority comprises the votes in favour of at least half the governments represented at the meeting concerned.

5. Amendments adopted in accordance with the preceding paragraph shall be submitted to the next session of the General Conference for approval. Such approval shall require a majority of two-thirds of the votes cast by the delegates present [see ILO Constitution, art. 19.2] If such majority is not obtained, the proposed amendment shall be referred back to the Committee for reconsideration should it so wish.

6. Amendments approved by the General Conference shall be notified by the Director-General to each of the Members whose ratification of this Convention was registered before the date of such approval by the General 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 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 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 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 one-third of the ratifying Members.

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 expressed their disagreement in accordance with the preceding paragraph and have not withdrawn such disagreement. However, –

(a) before the end of the prescribed period, any ratifying Member may give notice to the Director-General that the amendment shall enter into force for it 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 exempts itself from giving effect to that amendment for a specified period.

9. Amendments which are the subject of a notice referred to in paragraph 8(a) above shall enter into force for the Member giving such notice six months after the latter 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 the later.

10. The period referred to in paragraph 8(b) above shall not go beyond one year from the date of entry into force of the amendment or beyond such longer period as may have been determined by the General Conference at the time of approval of the amendment.

11. A Member which subsequently ratifies this Convention shall be bound by all amendments entering into force which were adopted before its ratification of the Convention was registered.

Authoritative languages

Article XIV

The English and French versions of the text of this Convention are equally authoritative. (C147A12)
Title 1: Prerequisites for going to sea and related provisions

Regulation 1.1 – Minimum age

(See Comment 7 of the Commentary accompanying this draft)

1. No persons below a minimum age shall be engaged or employed in a vessel. No persons shall perform work on a vessel if they have not reached the age required for the performance of the particular type of work concerned.

2. The minimum age shall be specified in the Code by reference to the following requirements:

(a) the specified age shall correspond to the age at which a person can be deemed to be physically and mentally fit for work on a vessel and to be no longer in need of full-time schooling;

(b) the age at the time of the initial entry into force of this Convention shall be 16 years. (C180A12)

3. The Code shall specify a higher age for particular types of work when required by the nature of that work, especially for –

(i) work at night, or (C180A6)

(ii) 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 seafarers. (C138A3/1)

4. The higher age shall be specified by reference to the age at which a person is generally recognized as attaining full legal capacity. At the time of the initial entry into force of this Convention, it shall be 18 years.

5. The Code may specify ages lower than those referred to in the preceding paragraphs where particular circumstances so justify.

Regulation 1.2 – Medical certification

No persons shall be employed in a vessel unless they are certified to be medically fit. (C73A3/1).

Regulation 1.3 – Certificates of competency and qualification

(See Comment 8 of the Commentary accompanying this draft)

1. No persons shall be engaged on board a vessel to perform any duty unless they are certified to be competent or qualified to perform such duties. (C53A3/1)

2. The Code may provide for the exclusion from the application of its provisions of Members which are bound by equivalent provisions in other international instruments.
Regulation 1.4 – Vocational training
All seafarers shall have the opportunity to benefit from appropriate national provisions and facilities for vocational training.

Regulation 1.5 – Recruitment and placement

1. All seafarers shall have access to an efficient, adequate and regulated system for finding decent employment without charge. (C9A4/1)

2. Basic rules on the conduct of recruitment and placement services shall be set out in the Code to ensure that the action of those services is directed to achieving the objectives of paragraph 1 and that the services are held accountable for deficiencies in this respect.

Regulation 1.6 – Seafarers’ identity document

(See Comment 10 of the Commentary accompanying this draft)

1. All seafarers shall be entitled to a seafarers’ identity document giving them such access to foreign territories as is necessary for the performance of their duties under decent conditions.

2. The related rights and obligations of Members issuing the seafarers’ identity document, as well as those of Members whose territory is visited by seafarers holding such documents, shall be set out in the Code.

3. The Code shall also contain such provisions as are considered necessary or desirable to ensure authenticity and facilitate verification.

Title 1: Code, Part A

Section A1.1 – Minimum age

(See Comment 7 of the Commentary accompanying this draft)

I. General

1. No person under 16 years of age shall be employed or work on vessels other than vessels upon which only members of the same family are employed. (C180A12).

II. Work at night

1. No seafarer under 18 years of age shall work at night. For the purpose of this paragraph, “night” means a period of at least nine consecutive hours, including the interval from midnight to 5 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. (C180A6)

2. In the case of Members availing themselves of paragraph 3(a) of Article IV, a lower minimum age may initially be applied. It shall not be less than .. years.

III. Hazardous work

1. 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 seafarers shall not be less than 18 years. (C138A3/1)

2. The types of employment or work to which paragraph 1 applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of shipowners and seafarers concerned. (C138A3/2)

IV. Enforcement

1. In order to facilitate the effective enforcement of the provisions of this Section –

(a) appropriate penalties shall be provided for; (C138A9/1)

(b) national laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to this Section; (C138A9/2)

(c) national laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the shipowner; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of seafarers whom the shipowner employs or who work for the shipowner and who are less than 18 years of age. (C138A9/3)

Section A1.2 – Medical certification

I. General

1. In accordance with Regulation 1.2, prior to any engagement for employment in a vessel, the persons concerned shall produce a certificate attesting to their fitness for the work for which they are to be employed at sea signed by a medical practitioner or, in the case of a certificate solely concerning their sight, by a person authorized by the competent authority to issue such a certificate. (C73A3/1).

2. Regulation 1.2 does not apply to:

(a) pilots (not members 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. (C73A2/1)

3. The competent authority shall, after consultation with the shipowners’ and seafarers’ organizations concerned, prescribe –

(a) the nature of the medical examination to be made for the purpose of the required certification; and

(b) the particulars to be included in the medical certificate. (C73A4/1)
4. 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. (C73A4/2)

5. In particular, the medical certificate shall attest –

(a) that the hearing and sight of the persons concerned and, in the case of persons 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), their colour vision, are all satisfactory; and (C73A4/3/a)

(b) that they are not suffering from any disease likely to be aggravated by, or to render them unfit for, service at sea or likely to endanger the health of other persons on board. (C73A4/3/b)

6. The medical certificate shall remain in force for a period not exceeding two years from the date on which it was granted. (C73A5/1)

7. 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. (C73A5/2)

8. 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. (C73A5/3)

9. 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 paragraphs. (C73A6/1)

10. 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. (C73A6/2)

11. Employment in virtue of paragraph 9 above shall not be deemed on any subsequent occasion to be previous employment for the purpose of paragraph 1 of Chapter IV below. (C73A6/3)

12. 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. (C73A7)

13. 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. (C73A8)

II. Medical certification of young persons

1. The employment of any child or young person under 18 years of age on any ship, 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. (C16A2)

2. 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. (C16A3)

3. In urgent cases, the competent authority may allow a young person below the age of 18 years to embark without having undergone the examination provided for in paragraphs 1 and 2 above, always provided that such an examination shall be undergone at the first port at which the ship calls. (C16A4)

III. Delegation

1. Any of the functions of the competent authority under this Section may, after consultation with the organizations of shipowners and seafarers concerned be discharged by delegating the work, or part of it, to an organization or authority exercising similar functions in respect of seafarers generally. (C73A9/1)

IV. Transitional provision

1. For a period of two years from the date of the entry into force of this Convention for the territory concerned, a Member which has not ratified the Medical Examination (Seafarers) Convention, 1946, may allow persons to be engaged as a seafarer notwithstanding paragraph 1 of Chapter I above if such persons produce evidence that they have been employed in a seagoing vessel to which this Convention applies for a substantial period during the previous two years. (C73A3/2)

Section A1.3 – Certificates of competency and qualification

(See Comment 8 of the Commentary accompanying this draft)

I. Certificates of competency

With respect to the duties of master, navigating officer in charge of a watch, chief engineer, and engineer officer in charge of a watch, each Member shall implement its obligations under Regulation 1.3 of this Convention by accepting and carrying out the relevant provisions of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended.

II. Certificates of qualification (C74/1946[27])

1. No persons shall be engaged on any vessel as able seamen unless they are persons who by national laws or regulations are 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 they hold a certificate of qualification as an able seaman granted in accordance with paragraph 2 below. (C74A1)

2. The competent authority shall make arrangements for the holding of examinations and for the granting of certificates of qualification. (C74A2/1)

3. No seafarers shall be granted a certificate of qualification unless they have:

(a) reached a minimum age to be prescribed by the competent authority;

(b) served at sea in the deck department for a minimum period to be prescribed by the competent authority; and
(c) passed an examination of proficiency to be prescribed by the competent authority. (C74A2/2)

4. The prescribed minimum age shall not be less than 18 years. (C74A2/3)

5. The prescribed minimum period of service at sea shall not be less than 36 months. The competent authority may, however –

(a) permit seafarers with a period of actual service at sea of not less than 24 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 seafarers trained in approved seagoing training vessels who have served 18 months in such vessels to be certificated as able seamen upon leaving in good standing. (C74A2/4)

6. The prescribed examination shall provide a practical test of the candidate’s knowledge of seamanship and of his or her 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 Chapter III, Regulation 10, of the International Convention for the Safety of Life at Sea, 1974, or in the corresponding provision of any subsequent Convention revising or replacing that Convention for the time being in force for the territory concerned]. (C74A2/5)

7. The competent authority may provide for the recognition of certificates of qualification issued in other territories. (C74A4)

Section A1.4 – Vocational training

1. Each Member shall, after consulting the organizations of shipowners and seafarers concerned, establish clear objectives for the vocational guidance, education and vocational training of seafarers, particularly young seafarers, taking due account of the relevant provisions of Part B of this Code.

Section A1.5 – Recruitment and placement

I. Definition

1. In this Convention, 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. (C179A1/1b)

II. Regulation of recruitment and placement services

1. Each 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 identity document 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. (C179A4/1)

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 the organizations of shipowners and seafarers concerned. Undue proliferation of such private recruitment and placement services shall not be encouraged. (C179A2/2)

III. Supervision and control of recruitment and placement services

1. Each 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 shipowner 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. (C179A4/2)

IV. Obligations of recruitment and placement services

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. (C179A5/1)
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 contract of employment and articles of agreement prior to or in the process of engagement; and

(d) proper arrangements are made for seafarers to examine their contract of employment and articles of agreement before and after they are signed and for them to receive a copy of the contract of employment and articles of agreement. (C179A5/2)

3. Nothing in paragraph 2 above shall be understood as diminishing the obligations and responsibilities of the shipowner or the master. (C179A5/3)

V. Complaints concerning the activities of services

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. (C179A6/1)

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. (C179A6/2)

3. Where complaints concerning working or living conditions on board vessels are brought to the attention of the recruitment and placement services, they shall forward such complaints to the appropriate authority. (C179A6/3)

4. Nothing in Chapter V shall prevent the seafarer from bringing any complaint directly to the appropriate authority. (C179A6/4)

Section A1.6 – Seafarers’ identity document

I. Issue of the seafarers’ identity document

1. The seafarers’ identity document referred to in Regulation 1.6 shall be issued by each Member to each of its nationals who is a seafarer and who applies for such document.

2. The seafarers’ identity document may be issued to seafarers who are not nationals of the Member concerned only where the seafarer:

(a) has been recognized as a refugee by the Member or, in accordance with international arrangements, has sought or been granted asylum on the Member’s territory; or

(b) is a stateless person, or a person whose nationality is in doubt due to the absence of records in the country of apparent nationality, and has been granted permission to reside in the Member’s territory, including permission to return to it.
3. The seafarer’s identity document shall remain in the seafarer’s possession at all times. (C108A3)

II. Model for the seafarers’ identity document

1. The seafarers’ identity document shall conform – in its physical characteristics and in its form and content – to the model set out in Appendix 1.1 below.

2. This model is based on the criteria set forth in Chapter III below. Provided that the provisions of that Chapter are respected, the Appendix may be amended by the General Conference by a majority of two-thirds of the votes cast by the delegates present. In adopting amendments, the Conference shall specify when they 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.

III. Criteria for the model

1. The seafarers’ identity document shall be designed in a simple manner, be made of durable material and shall incorporate the most recent technology which:

(a) will, as far as possible, prevent tampering with the document or falsification and will enable easy detection of alterations; and

(b) is generally accessible to governments at the lowest cost consistent with reliably achieving the purpose set out in 1(a) above.

2. The seafarers’ identity document shall be no larger than a normal passport. It may contain extra pages.

3. The seafarers’ 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 seafarers’ identity document for the purpose of this Convention.

4. The seafarers’ 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) digital photograph;

(f) signature or, if bearer is unable to sign, a thumbprint;

(g) the date when the identity document or its latest renewal will expire; and

(h) reference number.

5. A template or other representation of a biometric of the bearer may also be required 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 or offence against their dignity;

(b) seafarers are given the right to refuse to provide biometric data and, instead, to authenticate their identity by means of a national passport;

(c) the equipment needed for the provision and verification of the biometric is user-friendly and is generally accessible to governments at low cost; and

(d) the equipment can be conveniently operated on board ship, in ports and in other places where verification of identity is normally carried out.

6. The above particulars may be followed by an appropriate heading and space to enable the national issuing authorities to enter such other particulars as may be prescribed by their national laws or regulations, including other international arrangements to which their State is party.

7. All data recorded on the document shall be eye-readable and also, to the maximum extent possible, machine-readable.

IV. Details to be kept in a database

1. Each Member shall ensure that a reference to each seafarers’ identity document issued by it is stored in an electronic database, which shall at all times be immediately accessible to the immigration or other competent authorities of all Members for which this Convention is in force.

2. The information contained in the reference shall be restricted to details which are essential to assist the verification of a seafarers’ identity document or of the status of a seafarer and which are consistent with the seafarer’s right to privacy. They are set out in Appendix 1.2 below, which may be amended by the General Conference as provided for in Chapter II, paragraph 2, above, taking account of the need to give Members sufficient time to make any necessary revisions of their national database systems.

3. Each Member shall designate a permanent focal point for responding to inquiries, from the immigration or other competent authorities of Members for which this Convention is in force, concerning any seafarers’ identity document issued by its competent authorities.

V. Control and evaluation of procedures for the issue of documents

1. The General Conference may by a majority of two-thirds of the votes cast by the delegates present adopt minimum requirements and recommended practices concerning procedures for the issue of seafarers’ identity documents, including quality control procedures.

2. At intervals decided by the Conference or the Governing Body of the International Labour Office, each Member shall carry out an evaluation of the aforementioned procedures in the light of the minimum requirements and recommended practices. It shall include a copy of its national procedures including quality control procedures, and of each evaluation, in its reports submitted in accordance with article 22 of the Constitution of the International Labour Organization. It shall also make such copies available, subject to the removal of any confidential material, to other Members for which this Convention is in force.
3. The recognition of seafarers’ identity documents issued by a Member may be subject to its compliance with the minimum requirements referred to in paragraph 1.

VI. Rights of the holders of seafarers’ identity documents

1. Any seafarer who holds a valid seafarers’ identity document issued in accordance with this Convention by a Member for which the Convention is in force shall, subject to paragraph 3 of Chapter V above, be recognized as a seafarer within the meaning of the Convention unless clear grounds exist for doubting the bona fides of the bearer of the identity document in a particular case.

2. Any seafarer who holds a valid seafarers’ identity document issued by the competent authority of a territory for which this Convention is in force shall be readmitted to that territory. (C108A5/1)

3. The seafarer shall be so readmitted during a period of at least one year after any date of expiry indicated in the said document. (C108A5/2)

4. 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 vessel is in port. (C108A6/1)

5. If the seafarer’s identity document contains space for appropriate entries, the 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 or her vessel or transferring to another vessel;

(b) passing in transit to join his or her vessel in another country or for repatriation; or

(c) any other purpose approved by the authorities of the Member concerned. (C108A6/2)

6. 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 shipowner or agent concerned, or from the appropriate consul, of a seafarer’s intention and of the seafarer’s 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. (C108A6/3)

7. Nothing in Chapter VI shall be construed as restricting the right of a Member to prevent any particular individual from entering or remaining in its territory. (C108A6/4)
Title 1: Code, Part B

Section B1.1 – Minimum age

Section B1.2 – Medical certification

(See Comment 11 of the Commentary accompanying this draft)

The competent authorities, medical examiners, shipowners, seafarers’ representatives and all other persons concerned with the conduct of medical fitness examinations of seafarer candidates and serving seafarers should be required to take due account of the Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers,\textsuperscript{12} including any revised versions that may be approved by the Governing Body of the International Labour Office.

Section B1.3 – Certificates of competency and qualification

Section B1.4 – Vocational training

(See Comment 9 of the Commentary accompanying this draft)

I. Scope and definition

1. This Section applies to all training designed to prepare persons for work on board a publicly or privately owned seagoing vessel 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 vessels are to be regarded as seagoing vessels.

2. This Section 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. (R137P1)

II. Objectives of training

1. 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 vessels, 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 a vessel;

(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. (R137P2)

III. National planning and administration

1. 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 Chapter II above. (R137P3)

2. 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 organizations, in setting up joint maritime training schemes for such seafarers as cannot be covered by national programmes should be considered. (R137P4)

3. The training programmes of all public and private institutions engaged in the training of seafarers should be coordinated and developed in each country on the basis of approved national standards. Such programmes should be drawn up in cooperation 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’ organizations. (R137P5)

4. 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) cooperate in setting up and operating practical maritime training schemes;
(e) participate in establishing the general training standards provided for in Chapter V below;

(f) participate in establishing such national certification standards as are appropriate for the various grades and categories of seafarers;

(g) promote direct cooperation between training institutions and those responsible for recruitment and employment. (R137P6)

5. The competent authorities and bodies, in cooperation with shipowners’ and seafarers’ organizations concerned, where such exist, 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. (R137P7)

6. The competent authorities and bodies should endeavour to ensure that –

(a) the facilities of shipyards, engineering workshops, manufacturers of equipment, naval installations, etc., are utilized 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 recognized training. (R137P8)

7. Training programmes should be regularly reviewed and kept up to date in the light of the developing needs of the industry. (R137P9) In such reviews, account should be taken of the Document for Guidance, 1985, prepared jointly by the International Labour Organization and the Inter-Governmental Maritime Consultative Organization, including any revised versions that may be approved by the Governing Body of the International Labour Office.

IV. Financing

1. Seafarers’ training schemes should be systematically organized 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 vessels.

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. (R137P10)

V. Training standards

1. 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. (R137P11)

VI. Training programmes

1. The various training programmes should be realistically based on the work to be performed on board a vessel. 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 vessels;

(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 vessels 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 vessels;
(f) training in accident prevention on board a vessel, 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 utilization 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 vessel 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. (R137P12)

2. With a view to better organizing welfare and leisure activities and stimulating the use of welfare materials on board a vessel, training courses for officers and ratings should include instruction in the organization of welfare activities on board. Consideration should be given to the periodic assignment to merchant vessels of an officer specially trained in such work. (R138P8)

3. 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 recognized certificates. (R137P13)

4. 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. (R137P14)

VII. General training schemes for seafarers

1. Induction training designed to introduce trainees to the shipboard environment and safe working practices on board a vessel 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. (R137P15)

2. 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. (R137P16)

3. 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. (R137P17)

VIII. Advanced training

1. Retraining, refresher, familiarization and upgrading courses should be 
available as required for suitable officers and ratings to enable them to increase and 
widens their technical skills and knowledge, to keep abreast of technological 
changes, in particular in the development of automated vessels, and to meet the 
requirements of new methods of operations on board a vessel.

2. Such courses may be used, for instance, to complement general courses and 
provide advanced specialized 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 vessels safely. (R137P18)

4. Where training would be facilitated thereby, shipowners should release 
suitable seafarers employed on board their vessels 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 a vessel should take an active part in encouraging such training. 
(R137P19)

IX. Training and retraining

1. 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. (R139P10)

2. 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. (R139P11)

3. There should be consultation with shipowners’ and seafarers’ organizations, 
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. (R139P12)

4. Changes in the duties and functions of the various categories of seafarers 
should be explained clearly and with adequate notice to those involved. (R139P13)

X. Training methods

1. The training methods adopted should be the most effective possible, having 
gard to the nature of the instruction, the trainees’ experience, general education 
and age, and the demonstration equipment and financial resources available. 
(R137P20)
2. 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 vessels for periods of training at sea, to engineering workshops or shipyards or to shipping company offices. (R137P21)

3. 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. (R137P22)

4. 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. (R137P23)

5. 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. (R137P24)

6. Theoretical training and general education given as part of a training course should be related to the theoretical and practical knowledge required by seafarers. (R137P25)

XI. Opportunities for vocational guidance, education and vocational training of young seafarers

1. The competent authority should, in the light of national conditions, give consideration to the application of the various policies and objectives outlined in the present Chapter. (R153P12)

2. Young persons under 18 years of age should be provided with information concerning training and career opportunities and the conditions of entry into the shipping industry, in accordance with paragraph 5 of Chapter III above, as well as regarding shipboard employment and conditions of work, general aspects of collective agreements and seafarers’ rights and obligations under maritime labour legislation. (R153P13)

3. Measures should be taken to give young seafarers education, vocational guidance and vocational training in conformity with the objectives specified in Chapter II above. (R153P14)

4. 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.

5. Such training should combine theoretical instruction with a systematic programme of practical experience designed to prepare for a career within the shipping industry.

6. Training standards for the seagoing profession should, whenever possible, be coordinated with those applying to occupations ashore so that trainees may acquire
nationally recognized qualifications acceptable in both the shipping industry and in other branches of economic activity. (R153P15)

7. 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 Chapter IV above. (R153P16)

8. The general education and vocational training specified in paragraph 1(g) of Chapter VI and paragraph 1 of Chapter VII above should be available for all young persons who have no experience of a seagoing vessel. (R153P17)

9. Young seafarers should be provided with opportunities for continuing their vocational education and training while on board a vessel 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. (R153P18)

10. In addition to the training methods referred to in Chapter X, young seafarers should have opportunities of –

(a) continuing their training on board a vessel 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 a vessel, studies to recognized standards in other fields. (R153P19)

11. Where practicable and possible, training facilities provided for young seafarers on board a vessel should include accommodation suitable for study purposes, a ship’s library, and appropriate training equipment for self-study; young seafarers on board a vessel should receive special help in their studies, if possible by itinerant instructors embarking periodically. (R153P20)

XII. International cooperation

1. Countries should cooperate in promoting the vocational training of seafarers. In some cases it may be of particular value to do so on a regional basis. (R137P26)

2. In so doing they might collaborate with the International Labour Organization and other international institutions, in particular the International Maritime 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 organizing 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. (R137P27)

Section B1.5 – Recruitment and placement

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. (R186P1)

2. The operational standards referred to in paragraph 1(f) above 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. (R186P2)

3. In particular, the operational standards referred to in paragraph 1(f) above 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. (R186P3)

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. (R186P4)  

5. In implementing Article III, paragraph 2(c), of this Convention, 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 organizations of shipowners and seafarers of maritime countries where such agreements and standards are traditionally observed. (R107P1)  

6. Further provisions on recruitment and placement services are contained in Regulation 5.3, paragraph 2(b), and Section B5.3, paragraph 1, of the Code.  

Section B1.6 – Seafarers’ identity document  

Title 1: Code, Appendices  

Appendix 1.1 (see Section A1.6 II, paragraph 1)  

Appendix 1.2 (see Section A1.6 IV, paragraph 2)
Title 2: Conditions of employment and crewing

Regulation 2.1 – Contracts of employment or articles of agreement

(See Comment 12 of the Commentary accompanying this draft)

1. The terms and conditions of employment of all seafarers –
   (a) shall be freely accepted by them in a clear written contract;
   (b) shall conform to the relevant provisions of this Convention; and
   (c) shall incorporate any applicable collective bargaining agreement.

2. The Code shall contain directions and guidance on the essential form and content of such contracts, including on the manner and consequences of their termination.

Regulation 2.2 – Wages

(See Comment 13 of the Commentary accompanying this draft)

1. All seafarers shall have the right to appropriate compensation in the form of wages and other remuneration, with due regard to the principle of equal remuneration for work of equal value in the context of the maritime industry.

2. All seafarers shall on a regular basis be paid their agreed remuneration.

Regulation 2.3 – Hours of work or rest

1. As for other workers, the normal hours of work for all seafarers shall be regulated.

2. Maximum amounts for hours of work or minimum amounts for hours of rest over given periods shall be set out in the Code, with due account being taken of emergency situations.

Regulation 2.4 – Annual leave

All seafarers shall have the right to paid annual leave under appropriate conditions, in addition to pay during public holidays.

Regulation 2.5 – Continuity of employment

(See Comment 16 of the Commentary accompanying this draft)

All seafarers shall benefit from a national policy promoting continuous or regular employment at sea.

Regulation 2.6 – Repatriation

1. All seafarers shall have the right to be repatriated at no cost to themselves.

2. The Code shall specify:
(a) the circumstances in which repatriation is to be carried out, when an engagement or contract of employment comes to an end or is interrupted for necessary or justified reasons;

(b) the means by which seafarers are to be repatriated; and

(c) the respective responsibilities of shipowners and member States.

Regulation 2.7 – Compensation in the case of shipwreck

All seafarers shall have the right to adequate compensation in the case of shipwreck.

Regulation 2.8 – Crewing of vessels

All vessels shall be sufficiently, safely and efficiently crewed.

Title 2: Code, Part A

Section A2.1– Contracts of employment or articles of agreement

(See Comment 12 of the Commentary accompanying this draft)

I. Establishment of articles of agreement

1. In this Convention, the term “articles of agreement” refers to a written contract, as specified in Regulation 2.1, that regulates the seafarers’ working and living conditions on board ship. For Members in which those conditions are regulated as part of a more comprehensive contract of employment, the term “articles of agreement” in this Section of the Code shall also be understood as referring to such a contract.

2. Articles of agreement shall be signed both by the shipowner or the latter’s representative and by the seafarer. Reasonable facilities to examine the articles of agreement before they are signed shall be given to the seafarers concerned and also to their advisers. (C22A3/1)

3. The seafarer shall sign the agreement under conditions which shall be prescribed by national law in order to ensure adequate supervision by the competent authority. (C22A3/2)

4. 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 the latter’s representative and by the seafarer. (C22A3/3)

5. National laws shall make adequate provision to ensure that the seafarer has understood the agreement. (C22A3/4)

6. The agreement shall not contain anything which is contrary to the provisions of national law or inconsistent with the provisions of this Convention. (C22A3/5)

7. 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 seafarer. (C22A3/6)
8. 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. (C22A4/1)

9. Paragraph 8 above shall not be interpreted as excluding a reference to arbitration. (C22A4/2)

II. Content of articles of agreement

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. (C22A6/1)

2. The agreement shall state clearly the respective rights and obligations of each of the parties. (C22A6/2)

3. It shall in all cases contain the following particulars:

(a) the seafarer’s family name and other names, date of birth, age and birthplace;
(b) the place at which and date on which the agreement was completed;
(c) the name of the vessel or vessels on board which the seafarer undertakes to serve;
(d) the number of the crew of the vessel, if required by national law;
(e) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
(f) the capacity in which the seafarer is to be employed;
(g) if possible, the place and date at which the seafarer is required to report on board for service;
(h) the scale of provisions to be supplied to the seafarer, unless some alternative system is provided for by national law;
(i) the amount of the seafarer’s wages;
(j) the termination of the agreement and the conditions thereof, that is to say:
   (i) if the agreement has been made for a definite period, the date fixed for its expiry;
   (ii) 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 shall be discharged;
   (iii) 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 seafarer;
(k) the annual leave with pay granted to the seafarer after one year’s service with the same shipping company, if such leave is provided for by national law;
III. Transparency of conditions of employment

1. In order that seafarers may satisfy themselves as to the nature and extent of their 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. (C22A8)

2. Articles of agreement shall be accompanied by an English-language translation if the original is not in English.

3. 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. (C22A7)

IV. Termination of employment

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 [x] hours. (C22A9/1)

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. (C22A9/2)

3. National law shall determine the exceptional circumstances in which notice even when duly given shall not terminate the agreement. (C22A9/3)

4. 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 seafarer;
   
   (c) loss or total unseaworthiness of the vessel;
   
   (d) any other cause that may be provided in national law or in this Convention. (C22A10).

V. Discharge

1. National law shall determine the circumstances in which the shipowner or master may immediately discharge a seafarer. (C22A11)

2. National law shall also determine the circumstances in which the seafarer may demand his or her immediate discharge. (C22A12)

3. If seafarers show to the satisfaction of the shipowner concerned or the latter’s agent that they can obtain command of a vessel or an appointment as mate or engineer or to any other post of a higher grade than they actually hold, or that any other circumstance has arisen since their engagement which renders it essential to their interests that they should be permitted to take their discharge, they may claim their discharge, provided that without increased expense to the shipowner
and to the satisfaction of the shipowner or the latter’s agent they furnish a competent and reliable seafarer in their place. (C22A13/1)

4. In such case, the seafarers shall be entitled to their wages up to the time of their leaving their employment. (C22A13/2)

5. Whatever the reason for the termination or rescission of the agreement, an entry shall be made in the document issued to the seafarer in accordance with Chapter III of Section A2.5 of this Code and in the list of crew showing that he or she has been discharged, and such entry shall, at the request of either party, be endorsed by the competent public authority. (C22A14/1)

6. Seafarers shall at all times have the right, in addition to the record mentioned in Chapter III of Section A2.5, to obtain from the master concerned a separate certificate as to the quality of their work or, failing that, a certificate indicating whether they have fully discharged their obligations under the agreement. (C22A14/2)

Section A2.2 – Wages

(See Comment 13 of the Commentary accompanying this draft)

1. Seafarers shall receive their wages every month or at more frequent intervals.

2. In the establishment and calculation of the wages and other entitlements of seafarers, full account shall be taken of the guidance contained in Section B2.2 of this Code as well as of amounts or criteria established under procedures recommended in that Section.

Section A2.3 – Hours of work or rest

(See Comment 14 of the Commentary accompanying this draft)

I. Fixing of hours of work or hours of rest

1. Within the limits set out in Chapter III below, 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. (C180A3)

2. In this context –

(a) the term “hours of work” means time during which a seafarer is required to do work on account of the vessel;

(b) the term “hours of rest” means time outside hours of work; this term does not include short breaks. (C180A2)

II. Normal working hours

1. 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. (C180A4)
III. Maximum hours of work and minimum hours of rest

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) 10 hours in any 24-hour period; and

(ii) 77 hours in any seven-day period. (C180A5/1).

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. (C180A5/2)

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. (C180A5/3)

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. (C180A5/4)

5. If no collective agreement or arbitration award exists or if the competent authority determines that the provisions in the collective agreement or arbitration award in respect of paragraph 3 or 4 above are inadequate, the competent authority shall determine such provisions to ensure the seafarers concerned have sufficient rest. (C180A5/5)

6. Nothing in paragraphs 1 and 2 above 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 vessels on short voyages. (C180A5/6)

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. (C180A5/7)
8. The table referred to in paragraph 7 above shall be established in a standardized format in the working language or languages of the vessel and in English. (C180A5/8)

IV. Work necessary for the immediate safety of the vessel

1. Nothing in this Section of the Code shall be deemed to impair the right of the master of a vessel to require a seafarer to perform any hours of work necessary for the immediate safety of the vessel, persons on board or cargo, or for the purpose of giving assistance to other vessels or persons in distress at sea. (C180A7/1)

2. In accordance with paragraph 1 above, 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. (C180A7/2)

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. (C180A7/3)

V. Records of daily hours of work or rest

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 Chapter III above. The seafarers concerned 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 seafarer. (C180A8/1)

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 the model format recommended in Part B of this Code. The format shall be established in the language or languages provided for by paragraph 8 of Chapter III above. (C180A8/2)

3. A copy of the relevant provisions of the national legislation pertaining to this Section of the Code and the relevant collective agreements shall be kept on board and be easily accessible to the crew. (C180A8/3)

VI. Enforcement

1. In the implementation of paragraph 11 of Regulation 5.1 below, the competent authority shall examine and endorse the records referred to in Chapter V above, at appropriate intervals, to monitor compliance with the provisions governing hours of work or hours of rest that give effect to this Section. (C180A9)

2. 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 crewing of the vessel, are taken so as to avoid future infringements. (C180A10)

Section A2.4 – Annual leave

(See Comment 15 of the Commentary accompanying this draft)
I. Minimum period of annual leave

1. Every seafarer shall be entitled to annual leave with pay of a specified minimum length. (C146A3/1)

2. Each Member which has not ratified the Seafarers’ Annual Leave with Pay Convention, 1976, shall specify the length of the annual leave in a declaration appended to its ratification of this Convention. (C146A3/2)

3. For any Member which has ratified the Seafarers’ Annual Leave with Pay Convention, 1976, the minimum length shall be that specified by the Member in accordance with that Convention unless, at the time of ratification of the present Convention, the Member specifies a longer period in accordance with paragraph 2 above.

4. The Member 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. (C146A3/4)

5. The leave shall in no case be less than 30 calendar days for one year of service. (C146A3/3)

6. Seafarers whose length of service in any year is less than that required for the full entitlement prescribed in the preceding paragraph shall be entitled in respect of that year to annual leave with pay proportionate to their length of service during that year. (C146A4/1)

7. Periods of paid vacations in Members which have ratified the Paid Vacations (Seafarers) Convention (Revised), 1949, shall not be less than the periods provided for under that Convention.

II. Calculation of annual leave entitlement

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. (C146A5/1)

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. (C146A5/2)

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. (C146A5/3)

4. The following shall not be counted as part of the minimum annual leave with pay prescribed in paragraph 5 of Chapter I above:

(a) public and customary holidays recognized 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.

(C146A6)

III. Taking of annual leave

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 shipowner after consultation and, as far as possible, in agreement with the seafarers concerned or their representatives. (C146A10/1)

2. Seafarers shall not be required without their consent to take annual leave due to them at a place other than that where they were engaged or recruited, whichever is nearer their home, except under the provisions of a collective agreement or of national laws or regulations. (C146A10/2)

3. If seafarers are required to take their annual leave from a place other than that permitted by paragraph 2 above, they shall 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 in their return there shall be for the account of the shipowner; the travel time involved shall not be deducted from the annual leave with pay due to the seafarer. (C146A10/3)

4. A seafarer taking annual leave shall be recalled only in cases of extreme emergency, with due notice. (C146A12)

IV. Division and accumulation of annual leave

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. (C146A8/1)

2. Subject to paragraph 1 above and unless otherwise provided in an agreement applicable to the employer and the seafarer concerned, the annual leave with pay prescribed by this Section shall consist of an uninterrupted period. (C146A8/2)

V. Pay whilst on annual leave

1. All seafarers taking the annual leave envisaged in this Section of the Code shall receive in respect of the full period of that leave at least their 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. (C146A7/1)

2. The amounts due in pursuance of paragraph 1 above shall be paid to the seafarers concerned in advance of the leave, unless otherwise provided by national laws or regulations or in an agreement applicable to them and the employer. (C146A7/2)

3. Seafarers who leave or are discharged from the service of their employer before they have taken annual leave due to them shall receive in respect of such leave due to them the remuneration provided for in paragraph 1 above. (C146A7/3)
VI. Forgoing of annual leave

1. 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 Section of a cash payment at least equivalent to the remuneration provided for under Chapter V above. (C146A9)

2. Any agreement to relinquish the right to the minimum annual leave with pay prescribed in paragraph 5 of Chapter I above, or – except as provided, exceptionally, in pursuance of paragraph 1 above – to forgo such leave, shall be null and void. (C146A11)

VII. Transitional provision

1. A Member which –

(a) has ratified the Paid Vacations (Seafarers) Convention (Revised), 1949, and

(b) has not ratified the Seafarers’ Annual Leave with Pay Convention, 1976,

may, in a declaration appended to its ratification of this Convention, specify that it wishes to continue to apply the provisions of the Paid Vacations (Seafarers) Convention (Revised), 1949, during a transitional period, which shall not exceed [three] years, beginning from the date when the present Convention comes into force for that Member.

2. During the said transitional period the Member shall be deemed to be in compliance with the provisions of the present Section to the extent that it is in compliance with the Convention referred to under paragraph 1(a) above.
Section A2.5 – Continuity of employment

(See Comment 16 of the Commentary accompanying this draft)

I. Continuity measures

1. Members shall have a 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. (C145A2/1)

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. (C145A2/2)

3. Measures to achieve the objectives set out in paragraphs 1 and 2 above might include:

(a) contracts or agreements providing for continuous or regular employment with a shipowner or an organization of shipowners; or

(b) arrangements for the regularization of employment by means of the establishment and maintenance of registers or lists, by categories, of qualified seafarers. (C145A3)

II. Register of seafarers

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. (C145A4/1)

2. Seafarers on such a register or list shall have priority of engagement for seafaring. (C145A4/2)

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. (C145A4/3)

4. 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. (C145A5/1)

5. When a reduction in the strength of such a register or list becomes necessary, all appropriate measures shall be taken to prevent or minimize detrimental effects on seafarers, account being taken of the economic and social situation of the country concerned. (C145A5/2)

III. Record of employment

1. All seafarers shall be given a document containing a record of their 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. (C22A5/1)
2. The document shall not contain any statement as to the quality of the seafarers’ work or as to their wages. (C22A5/2)

Section A2.6 – Repatriation

(See Comment 17 of the Commentary accompanying this draft)

I. Entitlement to repatriation

1. Seafarers 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 seafarers’ contract of employment and articles of agreement;

(c) in the event of illness or injury or other medical condition which requires their 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 seafarers by reason of bankruptcy, sale of vessel, change of vessel’s registration or any other similar reason;

(f) in the event of a vessel being bound for a war zone, as defined by national laws or regulations or collective agreements, to which the seafarers do 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. (C166A2/1)

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. (C166A2/2)

II. Destinations for repatriation

1. The Member shall prescribe by national laws or regulations the destinations to which seafarers may be repatriated. (C166A3/1)

2. The destinations so prescribed shall include the place at which the seafarers agreed to enter into the engagement, the place stipulated by collective agreement, the seafarers’ country of residence or such other place as may be mutually agreed at the time of engagement. Seafarers shall have the right to choose from among the prescribed destinations the place to which they are to be repatriated. (C166A3/2)

III. Arrangements for repatriation

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. (C166A4/1)

2. Seafarers who are to be repatriated shall be able to obtain their passport and other identity documents for the purpose of repatriation. (C166A6)
3. The cost of repatriation shall be borne by the shipowner. (C166A4/2)

4. 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 the seafarer’s employment obligations, nothing in this Section of the Code 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. (C166A4/3)

5. The cost to be borne by the shipowner shall include:

(a) passage to the destination selected for repatriation in accordance with Chapter II above;

(b) accommodation and food from the moment the seafarers leave the vessel until they reach the repatriation destination;

(c) pay and allowances from the moment they leave the vessel 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;

(e) medical treatment when necessary until the seafarers are medically fit to travel to the repatriation destination. (C166A4/4)

6. Time spent awaiting repatriation and repatriation travel time shall not be deducted from paid leave accrued to the seafarers. (C166A7)

7. Seafarers shall be deemed to have been duly repatriated when they are landed at a destination prescribed pursuant to Chapter II above or when they are provided with suitable employment on board a vessel proceeding to one of those destinations, or when they do not claim their entitlement to repatriation within a reasonable period of time to be defined by national laws or regulations or collective agreements. (C166A8, C55A6/4)

8. The shipowner shall not require seafarers to make an advance payment towards the cost of repatriation at the beginning of their employment, nor shall the shipowner recover the cost of repatriation from the seafarers’ wages or other entitlements except as provided for in paragraph 4 above. (C166A4/5)

9. 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. (C166 A4/6)

IV. Obligations of Members for repatriation

1. 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 in whose territory the vessel is registered shall arrange for and meet the cost of the 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 in whose territory the vessel is registered;
(b) costs incurred in repatriating seafarers shall be recoverable from the shipowner by the Member in whose territory the vessel is registered;

(c) the expenses of repatriation shall in no case be a charge upon the seafarers, except as provided for in paragraph 4 of Chapter III above. (C166A5)

2. Each Member shall facilitate the repatriation of seafarers serving on vessels which call at its ports or pass through its territorial or internal waters, as well as their replacement on board. (C166A10)

V. Enforcement

1. The text of this Section shall be available in an appropriate language to the crew members of every vessel which is registered in the territory of any Member for which this Convention is in force. (C166 A12)

VI. Transitional provision

1. A Member which –

(a) has ratified the Repatriation of Seamen Convention, 1926, and

(b) has not ratified the Repatriation of Seafarers Convention (Revised), 1987, may, in a declaration appended to its ratification of this Convention, specify that it wishes to continue to apply the provisions of the Repatriation of Seamen Convention, 1926, during a transitional period, which shall not exceed [three] years, beginning from the date when the present Convention comes into force for that Member.

2. During the said transitional period the Member shall be deemed to be in compliance with the provisions of the present Section to the extent that it is in compliance with the Convention referred to under paragraph 1(a) above.

Section A2.7 – Compensation in the case of shipwreck

1. In every case of loss or foundering of any vessel, the shipowner or person with whom the seafarer has contracted for service on board the vessel shall pay to each seafarer employed thereon an indemnity against unemployment resulting from such loss or foundering. (C8A2/1)

2. This indemnity shall be paid for the days during which the seafarer remains in fact unemployed at the same rate as the wages payable under the contract/agreement, but the total indemnity payable under paragraph 1 above to any one seafarer may be limited to two months’ wages. (C8A2/2)

3. Seafarers shall have the same remedies for recovering such indemnities as they have for recovering arrears of wages earned during the service. (C8A3)

Section A2.8 – Crewing of vessels

1. Every vessel shall be sufficiently, safely and efficiently crewed, in accordance with the minimum safe manning document or an equivalent issued by the competent authority. (C180A11/1)

2. When determining, approving or revising crew levels, the competent authority shall take into account the need to avoid or minimize, as far as
practicable, excessive hours of work, to ensure sufficient rest and to limit fatigue. (C180A11/2)
Title 2: Code, Part B

Section B2.1 – Contracts of employment or articles of agreement

Section B2.2 – Wages

I. Seafarers’ wages

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; 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. (R187P3)

2. 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 1 above; 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) 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 1(d). (R187P4)

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. (R187P5)
4. National laws and regulations adopted after consulting the representative organizations of shipowners and seafarers 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 therefor 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. (R187P6)

5. The Member should, after consulting with shipowners’ and seafarers’ organizations, have procedures to investigate complaints relating to any matter contained in this Section. (R187P7)

II. Minimum wages

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. (R187P8(1))

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.

III. Minimum monthly basic pay or wage figure for able seamen

1. For the purpose of this Section, 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.

2. 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.

3. Nothing in this Section 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.
Section B2.3 – Hours of work or rest

I. Young seafarers

1. At sea and in port the provisions set out in the following clauses should apply to all young persons under 18 years of age:

(a) the normal working hours of young seafarers should not exceed eight hours per day and 40 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) 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 paragraph 1 above 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. (R153P4)

3. The provisions of paragraphs 1 and 2 above 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. (R153P5)

Section B2.4 – Annual leave

I. Young seafarers

1. If young seafarers under 18 years of age have served six months without leave in a foreign-going vessel which has not returned to their country of residence in that time, and will not so return in the subsequent three months of the voyage, they should be entitled to be repatriated 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. (R153P6(2))

Section B2.5 – Continuity of employment

(See Comment 16 of the Commentary accompanying this draft)

I. Continuous or regular employment

1. In so far as practicable, continuous or regular employment should be provided for all qualified seafarers. (R154P2)
2. 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.

3. In so far as practicable, these systems should preserve the right of seafarers to select the vessel on which they are to be employed and the right of the shipowner to select the seafarer whom the shipowner is to engage. (R154P3)

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. (R154P4)

5. 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.

6. These guarantees might include the following:
   (i) employment for an agreed number of weeks or months per year, or income in lieu thereof;
   (ii) unemployment benefit when no work is available. (R154P5)

7. Appropriate provisions of this Section 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. (R154P11)

II. Registers of seafarers

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. (R154P6(1))

2. Such criteria might include the following:
   (i) residence in the country concerned;
   (ii) age and medical fitness;
   (iii) competence and skill;
   (iv) previous service at sea. (R154P6(2))

3. 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 modernization of the maritime industry and changing trends in trade. (R154P7)

III. Record of employment

1. In determining the particulars to be recorded in the record of employment referred to in Chapter III of Section A2.5, Members should ensure that this document contains sufficient information, with a translation in English, to facilitate
the acquisition of further work. Members might provide a seafarers’ discharge book, which could be combined with the identity document.

IV. 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. (R139P1)

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 organizationally; 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. (R139P2)

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. (R139P3)

4. If they do not formulate the manpower plans themselves, representatives of shipowners’ and seafarers’ organizations should be consulted in connection with their formulation and subsequent adjustment, and the cooperation and participation of these organizations should be sought in the practical application of the plans.

5. There should be regular consultation between shipowners and seafarers and their various organizations on employment problems related to technical change. (R139P4)

V. Reduction of numbers of seafarers

1. If reduction in the overall 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 Chapter IX of Section B1.4 of the Code, and the assistance of the public employment services. (R154P8)

2. 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.
3. In determining the extent of the reduction, regard should be had to such means as –

(i) natural wastage;

(ii) cessation of recruitment;

(iii) exclusion of men who do not derive their main means of livelihood from seafaring work;

(iv) reducing the retirement age or facilitating voluntary early retirement by the grant of pensions, supplements to state pensions, or lump-sum payments. (R154P9)

4. Termination of employment should be envisaged only after due regard has been had to the means referred to in paragraph 3 above 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 –

(i) unemployment insurance or other forms of social security;

(ii) severance allowance or other types of separation benefits;

(iii) such combination of benefits as may be provided for by national laws or regulations, or collective agreements. (R154P10)

VI. Employment in the maritime industry

1. Recruitment of seafarers into the maritime industry should take account of existing manpower plans and of the forecasts contained therein. (R139P5)

2. Mobility within the maritime labour force should be facilitated by the operation of an effective employment service.

3. Where the placement of seafarers is the concern of specialized 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. (R139P6)

4. Having regard to natural wastage, positive steps should be taken by those responsible to avert or minimize 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.

5. 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. (R139P7)

6. 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. (R139P8)
VII. Regularity of employment and income

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. (R139P14)

3. 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. (R139P15)

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

5. Amongst possible measures, consideration should be given to –

(i) retraining for other industries through government and other schemes that are available; and

(ii) 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. (R139P16)

VIII. International cooperation

1. 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’ organizations concerned should undertake early consultation and should cooperate 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) minimizing the effects of redundancy by the joint application of relevant provisions of this Section. (R139P17)

Section B2.6 – Repatriation

(See Comment 17 of the Commentary accompanying this draft)

I. General

1. In determining the maximum duration of service periods on board following which a seafarer is entitled to repatriation, in accordance with paragraph 2 of Section A2.6 I of this Code, account should be taken of factors affecting the seafarers’ working environment. Members 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. (C166A2/2)

2. Whenever seafarers are entitled to be repatriated pursuant to the provisions of Section A2.6 of this Code, but both the shipowner and the Member in whose territory the ship is registered fail to meet their obligations under this Convention to arrange for and meet the cost of repatriation, the State from which the seafarers are to be repatriated or the State of which they are a national should arrange for
their repatriation, and recover the cost from the Member in whose territory the ship is registered in accordance with paragraph 1(a) of Section A2.6 IV of the Code. (R174)

3. A Member which has paid the cost of repatriation pursuant to Section A2.6 IV of the Code may detain, or request the detention of, the vessels of the shipowner concerned until reimbursement has been made in accordance with that Section.

4. Every possible practical assistance should be given to seafarers stranded in foreign ports pending their repatriation.

5. 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. (R173P21)

6. In particular, each Member should have regard to whether proper provision is made –

(a) for the return of seafarers employed on a vessel registered in a foreign country who are put ashore in a foreign port for reasons for which they are not responsible to –

(i) the port at which they were engaged; or

(ii) a port in their own country or the country to which they belong; 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. (R107P2)

II. Young seafarers

1. If, after young seafarers under 18 years of age have served in a vessel 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 country either of the flag of the vessel or of the nationality of the young seafarer. Notification of any such repatriation, with the reasons therefor, should be given to the authority which issued the papers enabling the young seafarers concerned to take up seagoing employment. (R153P6(1))

Section B2.7 – Compensation in the case of shipwreck

Section B2.8 – Crewing of vessels

I. Complaints or disputes

1. Each Member should maintain, or satisfy itself that there is maintained, efficient machinery for the investigation and settlement of any complaint or dispute concerning the manning of a vessel. (R109P11)
2. Representatives of the bona fide organizations of shipowners and seafarers should participate, with or without other persons or authorities, in the operation of such machinery. (R109P12)

3. When determining, approving or revising crew levels in accordance with paragraph 2 of Section A2.8 of this Code, the competent authority should also take into account 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 Watchkeeping 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. (C180A11/2+preamble)

Title 3: Working and living conditions

Regulation 3.1 – Accommodation

1. All seafarers shall be entitled to decent accommodation and such other facilities as may be necessary for their health and wellbeing.

2. The Code shall set out specifications or recommendations concerning:

(a) the location, means of access, structure and arrangement in relation to other spaces of crew accommodation so as to ensure adequate security, protection against weather and sea, and insulation from heat or cold, undue noise or effluvia from other spaces; (C92A6/1)

(b) the provision of adequate space, ventilation, lighting and heating and other necessary facilities; and

(c) the supervision and approval of plans for the construction or modification of crew accommodation.

Regulation 3.2 – Food and catering

1. All seafarers shall have, free of charge, a supply of sufficient food of good quality, and catering arrangements designed to secure their health and well-being.

2. The directions or guidance in the Code shall include such aspects of food supply and catering arrangements as training and certification, information-gathering and research and publication.

Regulation 3.3 – Health and safety and accident prevention

1. All seafarers shall live, work and train in a safe and hygienic environment and be appropriately represented in activities carried out in implementation of this right.

2. The Code shall prescribe the measures to be taken for the prevention of occupational accidents at sea, including –

(a) the training and instruction of seafarers;
(b) the reporting and investigation of accidents occurring within the jurisdiction of the Member or on ships registered in its territory; and

(c) the gathering and dissemination of relevant information as well as research and analysis.

Regulation 3.4 – Medical care on board ship and ashore

1. All seafarers shall be provided with occupational health protection and prompt medical and emergency dental care at no cost to the seafarer whilst engaged on a ship.

2. The Code shall specify measures aimed at providing seafarers with rights and benefits as comparable as possible to those which are generally available to workers ashore. They shall include –

(a) prompt access of seafarers to the necessary medicines, to the necessary medical equipment and facilities for diagnosis and treatment and to medical information and expertise, particularly the right to visit a doctor without delay;

(b) measures of a preventive character, with particular attention to programmes enabling the seafarers themselves to play an active part in reducing the incidence of ill-health among their number; and

(c) medical assistance between vessels and international cooperation.

Regulation 3.5 – Welfare on board and ashore

1. All seafarers shall be provided with adequate welfare facilities and services both on board and in port and shall have the right to shore leave.

2. The Code shall cover such matters as –

(a) the respective responsibilities of shipowners and member States; and

(b) international cooperation in the implementation of paragraph 1.

Regulation 3.6 – Shipowners’ liability for sick and injured seafarers

1. Seafarers shall have the right to material assistance and support from the shipowners concerned to cover the consequences of sickness, injury and similar events occurring when the seafarers are under contract.

2. The Code shall cover the shipowners’ obligations –

(a) with respect to such matters as –

(i) the provision of medical care;

(ii) support for board and lodging; and

(iii) the continued payment of wages,

during the seafarers’ confinement to the ship or other place on account of the sickness, injury or similar event and during the process of any repatriation required by this Convention; and
(b) with respect to short-term indemnities in the case of death.

Title 3: Code, Part A

Section A3.1 – Accommodation

I. Approval of crew accommodation

1. Before the construction of a vessel is begun a plan of the vessel, showing on a prescribed scale the location and general arrangement of the crew accommodation, shall be submitted for approval to the competent authority. (C92A4/1)

2. Before the construction of the crew accommodation is begun and before the crew accommodation in an existing vessel 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. (C92A4/2)

II. Inspection of crew accommodation

1. The inspection required under Chapter III, paragraph 4, of Section A5.1 of this Convention shall be carried out when –

(a) a vessel is registered or re-registered;

(b) the crew accommodation of a vessel has been substantially altered or reconstructed; or

(c) a 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 vessel that the crew accommodation is not in compliance with the terms of Regulation 3.1 or the present Code. (C92A5)

2. In the case referred to in paragraph 1(b) above, the inspection shall be carried out within three months of the changes concerned. (C178A3/3)

III. Crew accommodation requirements

1. 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. (C133A10)

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 storerooms, 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. (C92A6/2)

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. (C92A6/3)

4. Internal bulkheads shall be of approved material which is not likely to harbour vermin. (C92A6/4)

5. Sleeping rooms, mess rooms, recreation rooms and alley-ways in the crew accommodation space shall be adequately insulated to prevent condensation or overheating. (C92A6/5)

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. (C92A6/6)

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. (C92A6/7)

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. (C92A6/8)

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. (C92A6/9)

10. The wall surfaces shall be renewed or restored as necessary. (C92A6/10)

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. (C92A6/11)

12. Where the floorings are of composition the joinings with sides shall be rounded to avoid crevices. (C92A6/12)

13. Sufficient drainage shall be provided. (C92A6/13)

IV. Ventilation

1. Sleeping rooms and mess rooms shall be adequately ventilated. (C92A7/1)

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. (C92A7/2)

3. Vessels regularly engaged on voyages in hot climates 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. (C92A7/3)
4. Vessels engaged outside hot climates shall be equipped with either mechanical means of ventilation or electric fans. The competent authority may exempt vessels normally employed in the cold waters of the northern or southern hemispheres from this requirement. (C92A7/4)

5. Power for the operation of the aids to ventilation required by paragraphs 3 and 4 above shall, when practicable, be available at all times when the crew is living or working on board and conditions so require. (C92A7/5)

V. Heating

1. An adequate system of heating the crew accommodation shall be provided except in vessels engaged exclusively in voyages in hot climates. (C92A8/1)

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. (C92A8/2)

3. In all vessels in which a heating system is required, the heating shall be by means of steam, hot water, warm air or electricity. (C92A8/3)

4. In any vessels 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. (C92A8/4)

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. (C92A8/5)

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. (C92A8/6)

VI. Lighting

1. Crew accommodation shall be properly lighted. (C133A11/1)

2. Subject to such special arrangements as may be permitted in passenger vessels, sleeping rooms and mess rooms shall be lighted by natural light and shall be provided with adequate artificial light. (C133A11/2)

3. In all vessels 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. (C133A11/3)

4. In sleeping rooms an electric reading lamp shall be installed at the head of each berth. (C133A11/4)

5. Suitable standards of natural and artificial lighting shall be fixed by the competent authority. (C133A11/5)

VII. Sleeping rooms

1. Sleeping rooms shall be situated above the load line amidships or aft. (C92A10/1)
2. In exceptional cases the competent authority may, if the size, type or intended service of the vessel render any other location unreasonable or impracticable, permit the location of sleeping rooms in the fore part of the vessel, but in no case forward of the collision bulkhead. (C92A10/2)

3. In passenger vessels 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. (C92A10/3)

4. 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 vessels of 1,000 tons or over but less than 3,000 tons;

(b) 4.25 square metres (45.75 square feet) in vessels of 3,000 tons or over but less than 10,000 tons;

(c) 4.75 square metres (51.13 square feet) in vessels of 10,000 tons or over. (C133A5/1)

5. 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 vessels of 1,000 tons or over but less than 3,000 tons;

(b) 3.25 square metres (34.98 square feet) in vessels of 3,000 tons or over but less than 10,000 tons;

(c) 3.75 square metres (40.36 square feet) in vessels of 10,000 tons or over. (C133A5/2)

6. Provided also that the floor area of sleeping rooms intended for ratings in passenger vessels shall be not less than –

(a) 2.35 square metres (25.30 square feet) per person in vessels of 1,000 tons or over but less than 3,000 tons;

(b) in vessels 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. (C133A5/3)

7. The number of ratings occupying sleeping rooms shall not exceed two persons per room, except in passenger vessels where the maximum number permissible shall be four. (C133A5/4)
8. The number of petty officers occupying sleeping rooms shall not exceed one or two persons per room. (C133A5/5)

9. 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 vessels of less than 3,000 tons, and not less than 7.50 square metres (80.73 square feet) in vessels of 3,000 tons or over. (C133A5/6)

10. In vessels other than passenger vessels an individual sleeping room shall be provided for each adult member of the crew, where the size of the vessel, the activity in which it is to be engaged, and its layout make this reasonable and practicable. (C133A5/7)

11. Where practicable in vessels 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. (C133A5/8)

12. 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. (C133A5/9)

13. Members of the crew shall be provided with individual berths. (C92A10/12)

14. Berths shall not be arranged in tiers of more than two; in the case of berths placed along the vessel’s side, there shall be only a single tier where a sidelight is situated above a berth. (C92A10/14)

15. The lower berth in a double tier shall be not less than 12 inches (30 centimetres) 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. (C92A10/15)

16. The minimum inside dimensions of a berth shall be 198 centimetres by 80 centimetres (6 feet 6 inches by 2 feet 7.50 inches). (C133A5/10)

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. (C92A10/17)

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. (C92A10/18)

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. (C92A10/19)

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. (C92A10/20)

21. Sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness. (C92A10/21)
22. The furniture shall include a clothes locker for each occupant. The clothes lockers shall be not less than 5 feet (152 centimetres) in height and of a cross-section area of 300 square inches (19.30 square decimetres) and shall be fitted with a shelf and a hasp for a padlock. The padlock shall be provided by the occupant. (C92A10/22)

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. (C92A10/23)

24. The furniture shall be of smooth, hard material not liable to warp or corrode. (C92A10/24)

25. The drawer or equivalent space for each occupant shall be not less than 2 cubic feet (.056 cubic metres). (C92A10/25)

26. Sleeping rooms shall be fitted with curtains for the sidelights. (C92A10/26)

27. Sleeping rooms shall be fitted with a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks. (C92A10/27)

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. (C92A10/28)

VIII. Mess rooms

1. Sufficient mess room accommodation shall be provided in all vessels. (C92A11/1)

2. In vessels of less than 1,000 tons separate mess room accommodation shall be provided for:

(a) master and officers;

(b) petty officers and other ratings. (C92A11/2)

3. In vessels 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 organizations of shipowners and seafarers concerned, where such exist, have expressed a preference for such an arrangement. (C92A11/3)
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 vessels 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. (C92A11/4)

5. 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. (C133A6/1)

6. 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. (C133A6/2)

7. 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. (C133A6/3)

8. The competent authority may permit such exceptions to the provisions of paragraphs 5 and 6 above concerning mess room accommodation as may be necessary to meet the special conditions in passenger vessels. (C133A6/4)

9. Mess rooms shall be located apart from the sleeping rooms and as close as practicable to the galley. (C92A11/8)

10. Where available pantries are not accessible to mess rooms, adequate lockers for mess utensils and proper facilities for washing utensils shall be provided. (C92A11/9)

11. The tops of tables and seats shall be of damp-resisting material, without cracks and capable of being easily cleaned. (C92A11/10)

IX. Recreation accommodation

1. In all vessels 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 vessel and the crew. (C92A12/1)

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. (C133A7/1)

3. Furnishing for recreation accommodation shall as a minimum include a bookcase and facilities for reading, writing and, where practicable, for games. (C133A7/2)

4. In respect of vessels 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. (C133A7/3)
5. In connection with the planning of recreation accommodation, the competent authority shall give consideration to the provision of a canteen. (C133A7/4)

X. Sanitary accommodation

1. Sufficient sanitary accommodation, including washbasins and tub and/or shower baths, shall be provided in all vessels. (C92A13/1)

2. In all vessels 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 3 to 5 below shall be provided at a convenient location for officers and for ratings. When women are employed in a vessel, separate sanitary facilities shall be provided for them. (C133A8/1)

3. In vessels 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 washbasin having hot and cold running fresh water; the washbasin may be situated in the sleeping room. In addition, in vessels 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. (C133A8/2)

4. In vessels 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 washbasin having hot and cold running fresh water; the washbasin may be situated in the sleeping room. (C133A8/3)

5. In vessels of 25,000 tons or over, other than passenger vessels, 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 washbasin having hot and cold running fresh water. (C133A8/4)

6. In vessels of 5,000 tons or over, other than passenger vessels, each sleeping room, whether for officers or ratings, shall be provided with a washbasin having hot and cold running fresh water, except where such washbasin is situated in a bathroom provided in conformity with paragraph 3, 4 or 5 above. (C133A8/5)

7. 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. (C92A13/5)

8. 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 organizations of shipowners and seafarers concerned, where such exist, may fix the maximum amount of fresh water which the shipowner may be required to supply per person per day. (C92A13/6)

9. Washbasins and tub baths shall be of adequate size and constructed of approved material with a smooth surface not liable to crack, flake or corrode. (C92A13/7)

10. All water closets shall have ventilation to the open air, independently of any other part of the accommodation. (C92A13/8)
11. All water closets shall be of an approved pattern and provided with an ample flush of water, available at all times and independently controllable. (C92A13/9)

12. Soil pipes and waste pipes shall be of adequate dimensions and shall be so constructed as to minimize the risk of obstruction and to facilitate cleaning. (C92A13/10)

13. 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 inches (23 centimetres) 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. (C92A13/11)

14. In all vessels, 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. (C133A8/6)

15. 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. (C133A8/7)

XI. Other facilities

1. In vessels of 1,600 tons or over there shall be provided –

(a) a separate compartment containing a water closet and a washbasin 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 washbasin having hot and cold running fresh water, within easy access of the machinery space if not fitted near the engine room control centre. (C133A9/1)

2. In vessels of 1,600 tons or over, other than vessels 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 washbasin having hot and cold running fresh water. (C133A9/2)

3. Sufficiently and adequately ventilated accommodation for the hanging of oilskins shall be provided outside but convenient to the sleeping rooms. (C92A15/1)

4. In vessels 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. (C92A15/2)

5. In vessels regularly trading to mosquito-infested ports provision shall be made to protect the crews’ quarters against the entry of mosquitoes by the fitting of suitable screens to side scuttles, ventilators and doors to the open deck. (C92A15/3)

6. All vessels trading regularly to or in hot climates shall be equipped with awnings for use over exposed decks above crew accommodation and over recreation deck space or spaces. (C92A15/4)

XII. Crews with differing and distinctive religious and social practices

1. In the case of vessels 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 organizations of shipowners and seafarers concerned, where such exist, and provided that these two sides are in agreement, permit variations in respect of the provisions of paragraphs 4 to 7 and 10 of Chapter VII above and paragraphs 2 and 5 of Chapter X above 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 this Section. 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 Organization. (C133A12)

XIII. Maintenance and inspection

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. (C92A17/1)

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. (C92A17/2)

XIV. Transitional provision

1. A Member which –

(a) has ratified the Accommodation of Crews Convention (Revised), 1949, and
may, in a declaration appended to its ratification of this Convention, specify that it wishes to continue to apply the provisions of the Accommodation of Crews Convention (Revised), 1949, during a transitional period, which shall not exceed [three] years, beginning from the date when the present Convention comes into force for that Member.

2. During the said transitional period the Member shall be deemed to be in compliance with the provisions of this Section to the extent that it is in compliance with the Convention referred to under paragraph 1(a) above.

Section A3.2 – Food and catering

I. Responsibilities of the competent authority

1. 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 a vessel, including store rooms and refrigerated chambers;

(b) the inspection of food and water supplies and of the accommodation, arrangements and equipment on board a vessel 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. (C68A2)

2. The competent authority shall work in close cooperation with the organizations of shipowners and seafarers concerned and with national or local authorities concerned with questions of food and health, and may where necessary utilize the services of such authorities. (C68A3/1)

II. Certification of ships’ cooks

1. No persons shall be engaged as ships’ cooks on board any vessel to which this Convention applies unless they hold a certificate of qualification as ship’s cook granted in accordance with paragraphs 3 to 6 below. (C69A3/1)

2. The competent authority may grant exemptions from paragraph 1 if in its opinion there is an inadequate supply of certificated ships’ cooks. (C69A3/2)

3. The competent authority shall make arrangements for the holding of examinations and for the granting of certificates of qualification. (C69A4/1)

4. No seafarers shall be granted a certificate of qualification unless they have –

(a) reached a minimum age to be prescribed by the competent authority;
(b) served at sea for a minimum period to be prescribed by the competent authority; and

(c) passed an examination to be prescribed by the competent authority. (C69A4/2)

5. The prescribed examination shall provide a practical test of the candidates’ ability to prepare meals; it shall also include a test of their knowledge of food values, the drawing up of varied and properly balanced menus, and the handling and storage of food on board a vessel. (C69A4/3)

6. 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. (C69A4/4)

III. Food supply and catering arrangements

1. Each Member shall have laws or regulations concerning food supply and catering arrangements, requiring –

(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. (C68A5/2)

IV. Inspection and enforcement

1. The inspection required under Chapter III, paragraph 4, of Section A5.1 of this Convention shall cover –

(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. (C68A6)

2. National laws or regulations or, in the absence of such laws or regulations, collective agreements between shipowners and seafarers shall provide for inspection at sea at prescribed intervals by the master, or an officer specially deputed for the purpose by him or her, 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.

3. The results of each such inspection shall be recorded. (C68A7/1,2)

4. 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 the organizations of shipowners or seafarers concerned. In order to avoid delay in sailing, such complaints should be submitted as soon as possible and at least 24 hours before the scheduled time of departure from port. (C68A/8)

5. In accordance with Chapter VII of Section A5.1 of this Convention –

(a) national laws or regulations shall prescribe penalties for –

(i) failure by a shipowner, master, member of the crew, or other person responsible to comply with the requirements of the national laws or regulations in force; and

(ii) any attempt to obstruct an inspector in the discharge of his or her duties. (C68A9/2)

(b) Inspectors shall have authority to make recommendations to the shipowner, or to the master or other person responsible, with a view to the improvement of the standard of catering. (C68A9/1)

V. Annual report

1. For the purposes of the quality control referred to in paragraph 12 of Regulation 5.1, the competent authority shall prepare an annual report. (C68A10/1)

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. (C68A10/2)

3. Copies of the annual report shall be transmitted to the International Labour Office. (C68A10/3)

VI. Training courses

1. Courses of training for employment in the catering department of seagoing vessels shall be organized either in approved schools or by means of other arrangements acceptable to organizations of shipowners and seafarers concerned, where such exist. (C68A11/1)

2. Facilities shall be provided for refresher courses to enable persons already trained to bring their knowledge and skill up to date. (C68A11/2)

VII. Research and publication

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 a vessel. (C68A12/1)

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, masters, stewards and cooks, and to organizations of shipowners and seafarers concerned, where such exist, generally; appropriate forms of publicity, such as manuals, brochures, posters, charts or advertisements in trade journals, shall be used for this purpose. (C68A12/2)
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. (C68A12/3)

Section A3.3 – Health and safety and accident prevention

I. General

1. Special attention shall be paid to the health and safety of young seafarers under 18 years of age.

2. Provisions concerning the prevention of occupational accidents shall be laid down by laws or regulations, codes of practice or other appropriate means. (C134A4/1)

3. 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. (C134A4/2)

II. Reporting, statistics and research on occupational accidents

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. (C134A2/1)

2. All occupational accidents shall be reported and statistics shall not be limited to fatalities or to accidents involving the vessel. (C134A2/2)

3. The statistics shall record the numbers, nature, causes and effects of occupational accidents, with a clear indication of the department on board a vessel – for instance, deck, engine or catering – and of the area – for instance, at sea or in port – where the accident occurred. (C134A2/3)

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. (C134A2/4)

5. 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. (C134A3)

III. Provisions on occupational accidents

1. The provisions required under Chapter I, paragraph 2, above shall cover the following matters, in particular:

   (a) general and basic provisions;

   (b) structural features of the vessel;

   (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. (C134A4/3)

2. The provisions shall clearly specify the obligation of shipowners, seafarers and others concerned to comply with them. (C134A5/1)

3. 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. (C134A5/2)

IV. Programmes for the prevention of occupational accidents

1. Programmes for the prevention of occupational accidents shall be established by the competent authority with the cooperation of organizations of shipowners and seafarers concerned, where such exist. (C134A8/1)

2. Implementation of such programmes shall be so organized that the competent authority, shipowners and seafarers or their representatives and other appropriate bodies may play an active part, (C134A8/2) including the representation of seafarers on any safety committee on board.

3. In particular, national or local joint accident prevention committees or ad hoc working parties, on which both organizations of shipowners and seafarers concerned are represented, shall be established. (C134A8/3)

V. Training and instruction in the prevention of occupational accidents

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. (C134A9/1)

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. (C134A9/2)

VI. Enforcement

1. All necessary steps shall be taken to ensure that inspection and enforcement authorities are familiar with maritime employment and its practices. (C134A6/3)

2. 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 a vessel. (C134A6/4)

3. Provision shall be made for the appointment, from amongst the crew of the vessel, of a suitable person or suitable persons or of a suitable committee responsible, under the master, for accident prevention. (C134A7)
VII. International cooperation

1. Members, with the assistance as appropriate of intergovernmental and other international organizations, shall endeavour, in cooperation with each other, to achieve the greatest possible measure of uniformity of other action for the prevention of occupational accidents. (C134A10)

Section A3.4 – Medical care on board ship and ashore

(See Comment 20 of the Commentary accompanying this draft)

I. General

1. The action required under Regulation 3.4 shall, inter alia –

   (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; (C164A4/a)

   (b) aim at providing seafarers with 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, to the necessary medical equipment and facilities for diagnosis and treatment and to medical information and expertise; (C164A4/b)

   (c) guarantee seafarers the right to visit a doctor without delay in ports of call where practicable; (C164A4/c)

   (d) ensure that, in accordance with national law and practice, medical care and health protection while a seafarer is serving onarticles are provided free of charge to seafarers; and (C164A4/d)

   (e) not be 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. (C164A4/e)

II. Medicine chests

1. Every vessel shall be required to carry a medicine chest. (C164A5/1)

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. (C164A5/2)

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 Model List of Essential Drugs published by the World Health Organization, as well as advances in medical knowledge and approved methods of treatment. (C164A5/3)

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. (C164A5/4)

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. (C164A5/5)

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. (C164A5/6)

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. (C164A5/7)

III. Ship’s medical guide

1. Every vessel to which this Convention applies shall be required to carry a ship’s medical guide adopted by the competent authority. (C164A6/1)

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. (C164A6/2)

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. (C164A6/3)

IV. Medical advice by radio

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. (C164A7/1)

2. Such medical advice, including the onward transmission of medical messages by radio or satellite communication between a vessel and those ashore giving the advice, shall be available free of charge to all vessels irrespective of the territory in which they are registered. (C164A7/2)

3. With a view to ensuring that optimum use is made of facilities available for medical advice by radio or satellite communication – (C164A7/3)
(a) all vessels which are equipped with radio installations shall carry a complete list of radio stations through which medical advice can be obtained; (C164A7/3a)

(b) all vessels 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; (C164A7/3b)

(c) the lists shall be kept up to date and in the custody of the person on board responsible for communication duties. (C164A7/3c)

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. (C164A7/4)

5. The competent authority shall ensure that doctors providing medical advice in accordance with this Chapter receive appropriate training and are aware of shipboard conditions. (C164A7/5)

V. Medical doctor

1. All vessels 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. (C164A8/1)

2. National laws or regulations shall determine which other vessels 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. (C164A8/2).

VI. Persons in charge of medical care

1. All vessels 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. (C164A9/1)

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 vessels 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 a vessel and to make use of medical advice by radio or satellite communication;

(b) for all other vessels, 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 coordinated schemes for medical assistance to vessels 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. (C164A9/2)

3. The courses referred to in this Chapter 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. (C164A9/3)

4. Persons referred to in paragraph 2 above 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. (C164A9/4)

VII. Hospital accommodation aboard ship

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. (C164A11/1)

2. In any ship of between 200 and 500 gross tonnage and in tugs this Chapter shall be applied where reasonable and practicable. (C164A11/2)

3. 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. (C164A11/4)

4. The hospital accommodation shall be so designed as to facilitate consultation and the giving of medical first aid. (C164A11/5)

5. 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. (C164A11/6)

6. The number of hospital berths required shall be prescribed by the competent authority. (C164A11/7)

7. 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 there to. (C164A11/8)

8. Hospital accommodation shall not be used for other than medical purposes. (C164A11/9)

VIII. Medical report form

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. (C164A12/1)
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. (C164A12/2)

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. (C164A12/3)

IX. Medical emergency training

1. 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. (C164A9/5)

2. 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, her or them to take immediate effective action in case of accidents or illnesses likely to occur on board a vessel. (C164A9/6)

X. Medical assistance to other vessels and international cooperation

1. Each Member shall 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 the following matters:

(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 vessel 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 on Maritime Search and Rescue, 1979, and the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual developed by the International Maritime Organization and the International Civil Aviation Organization;

(b) making optimum use of fishing vessels carrying a doctor and stationing vessels 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 in port 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;

(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 harmonizing them with any existing national system of statistics on occupational accidents, diseases and fatalities 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;

(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.

2. International cooperation in the field of health protection and medical care for seafarers shall be based on bilateral or multilateral agreements or consultations among Members.

Section A3.5 – Welfare on board and ashore

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 vessel on which they are employed is registered.

2. Each Member shall determine, after consultation with the organizations of shipowners and seafarers concerned, where such exist, which ports are to be regarded as appropriate for the purposes of paragraph 1 above.

3. Each Member undertakes to ensure that the welfare facilities and services on every seagoing vessel, whether publicly or privately owned, which is registered in its territory, are provided for the benefit of all seafarers on board.

4. Due consideration shall be given to providing facilities and services of the kind indicated in the relevant provisions of Part B of this Code. Decisions as to the facilities and services, including recreation amenities, that are to be maintained on a particular vessel shall be taken only after consultation of the crew.

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.

Section A3.6 – Shipowners’ liability for sick and injured seafarers

(See Comment 21 of the Commentary accompanying this draft)

I. Medical care and maintenance

1. Shipowners shall be liable to seafarers on their vessels in respect of –

(a) sickness and injury of the seafarer 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. (C55A2/1)

2. 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. (C55A3)

3. The shipowner shall be liable to defray the expense of medical care and board and lodging until the sick or injured person has been cured, or until the sickness or incapacity has been declared of a permanent character.

4. National laws or regulations may, however, 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. (C55A4/2)

5. National laws or regulations may make exceptions in respect of –

(a) injury incurred otherwise than in the service of the vessel;

(b) injury or sickness due to the wilful act, default or misbehaviour of the sick, injured or deceased seafarer;

(c) sickness or infirmity intentionally concealed when the engagement is entered into. (C55A2/2)

6. 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 seafarer employed refused to be medically examined. (C55A2/3)

7. In so far as such liability is assumed by the public authorities, national laws or regulations may exempt the shipowner from liability to defray –

(a) the expense of medical care and board and lodging referred to in paragraph 2 above;

(b) the expenses of repatriation referred to in paragraph 1 of Chapter I of Section A2.6; and

(c) burial expenses referred to in Chapter III below. (C55A2/10)

8. National laws or regulations may also provide –

(a) that a shipowner shall cease to be liable in respect 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 workmen’s compensation for accidents;

(b) that the shipowner shall cease to be liable from the time prescribed by law for the grant of medical benefits under the said insurance or compensation scheme to the beneficiaries of such schemes, even when the sick or injured seafarers are not covered by the scheme in question, unless they are excluded from the scheme by reason of any restriction which affects particularly foreign seafarers
or seafarers not resident in the territory in which the benefit can be claimed. (C55A4/3)

II. Payment of wages to seafarers requiring medical care

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 seafarer remains on board;

(b) if the sick or injured seafarer has dependants, to pay wages in whole or in part as prescribed by national laws or regulations from the time when he or she is landed until he or she has been cured or the sickness or incapacity has been declared of a permanent character. (C55A5/1)

2. However, 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. (C55A5/2)

3. Moreover, if there is in force in the territory in which the vessel is registered a scheme applying to seafarers 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 seafarer from the time at which that seafarer 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 seafarer is not covered by the scheme in question, unless he or she is excluded from the scheme by reason of any restriction which affects particularly foreign seafarers or seafarers not resident in the territory in which the vessel is registered. (C55A5/3)

4. 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. (C165A14)

5. 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 paragraph 4 above 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. (C165A15)

III. Burial expenses in the case of death

1. The shipowner shall be liable to defray burial expenses in the case of death occurring on board, or in the case of death occurring on shore if the seafarer concerned was, at the time of death, entitled to medical care and maintenance at the shipowner’s expense. (C55A7/1)

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 seafarer under laws or regulations relating to social insurance or workmen’s compensation. (C55A7/2)

IV. Seafarers’ property

1. National laws or regulations shall require shipowners or their representatives to take measures for safeguarding property left on board by sick, injured or deceased seafarers to whom the present Section applies. (C55A8)

Title 3: Code, Part B

(See Comment 18 of the Commentary accompanying this draft)

Section B3.1 – Accommodation

I. Air conditioning

1. All vessels of 1,000 gross tonnage or over, except those regularly engaged in trades where temperate climatic conditions do not require this, should be equipped with air conditioning of crew accommodation. Whenever possible such vessels should also have air conditioning of the radio room and any centralized machinery control room. (R140P1)

2. The competent authority should –

(a) investigate the possibility of installing air conditioning in vessels of less than 1,000 tons;

(b) consider the possibility of providing existing vessels 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. (R140P2)

3. The air-conditioning system, whether of a centralized 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. (R140P3)
II. Noise control

1. The competent authority in each maritime country, in conjunction with the competent international bodies and with representatives of organizations of shipowners and seafarers concerned, should review research into the problem of noise on board vessels 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. (R141P1)

3. 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 a vessel as soon as this becomes reasonably possible. (R141P2)

4. 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 soundproof centralized 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. (R141P3)
III. Bedding, mess utensils and miscellaneous provisions

1. Each Member 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:

(a) 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 vessel, and such members should be responsible for their return at times specified by the master and on completion of service in the vessel. 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. (R78P1)

(b) 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. (R78P2)

(c) Towels, soap and toilet paper for the members of the crew should be provided by the shipowner. (R78P3)

Section B3.2 – Food and catering

(See Comment 19 of the Commentary accompanying this draft)

Section B3.3 – Health and safety and accident prevention

I. Investigation of occupational accidents

1. In giving effect to paragraph 3 of Chapter II of Section A3.3 of this Code, Members should have due regard to any international system of recording accidents to seafarers which may have been established by the International Labour Organization. (R142P2)

2. Subjects to be investigated in pursuance of paragraph 5 of Chapter II of Section A3.3 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 a vessel, 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;

(f) problems arising from any human failures such as carelessness. (R142P3)

II. Prevention of occupational accidents

1. In formulating the accident prevention provisions called for by paragraph 2 of Chapter I of Section A3.3, 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. (R142P4)

III. Obligations of parties

1. In giving effect to paragraphs 2 and 3 of Chapter III of Section A3.3, 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. (R142P5)

IV. Programmes for the prevention of occupational accidents

1. The functions of the committees and other bodies referred to in paragraph 3 of Chapter IV of Section A3.3 might include –

(a) the preparation of accident prevention provisions, rules and manuals;

(b) the organization of accident prevention training and programmes;

(c) the organization 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 a vessel.

2. Relevant provisions or recommendations adopted by the appropriate national authorities or organizations or responsible international maritime organizations should be taken into account by those preparing texts of accident prevention measures and/or recommended practices. (R142P6)

V. Instruction in the prevention of occupational accidents

1. The syllabuses of the instruction referred to in Chapter V of Section A3.3 should be reviewed periodically and brought up to date in the light of development in types and sizes of vessels and in their equipment, as well as changes in crewing practices, nationality, language and the organization of work on board a vessel. (R142P7)

2. There should be continuous accident prevention publicity. 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 a vessel;

(b) display of safety posters on board a vessel;

(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 a vessel. (R142P8)

VI. Uniformity with other preventive actions

1. In giving effect to Chapter VII of Section A3.3, Members should have due regard to relevant codes of practice published by the International Labour Office and the appropriate standards of international organizations for standardization.

2. Members should further have regard to the need for international cooperation in the continuous promotion of action for the prevention of occupational accidents; such cooperation 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 vessel;

(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. (R142P9)

VII. 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; they should specify measures which will minimize occupational dangers to young seafarers in the course of their duties. (R153P8)

2. Except where a young seafarer is recognized 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. 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 ionizing radiations;

(k) the cleaning of catering machinery;

(l) the handling or taking charge of ships’ boats. (R153P9)

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 in work on board a vessel, 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 2 of Chapter V above, and by ensuring the professional instruction and supervision of young seafarers in their work in vessels. (R153P10)

4. Education and training of young seafarers both ashore and on board a vessel should include instruction appropriate to their needs in the matters referred to in paragraph 1(f) of Chapter VI of Section B1.4 of this Code, 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. (R153P11)

Section B3.4 – Health protection and medical care on board and ashore

1. Members of the Organization 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 concerning the measures taken for this purpose.

Section B3.5 – Welfare on board and ashore

I. Role of Members

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 a vessel, 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. (R173P3)

3. Arrangements for the supervision of welfare facilities and services should include participation by representative organizations of seafarers and shipowners concerned, where such exist. (R173P4)

4. The welfare facilities and services provided pursuant to this Section 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 vessel on which they are employed is registered. (R173P5)

5. Governments should take measures designed to overcome restrictions on and to expedite the free circulation among vessels, central supply agencies and welfare establishments of welfare materials such as films, books, newspapers and sports equipment for use by seafarers on board their vessels and in welfare centres ashore. (R138P14)

6. 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 between the competent authorities aimed at the provision and improvement of seafarers’ welfare facilities and services, both in port and on board a vessel;

(b) agreements on the pooling of resources and the joint provision of welfare facilities in major ports so as to avoid unnecessary duplication;

(c) organizing international sports competitions and encouraging the participation of seafarers in sports activities;

(d) organizing international seminars on the subject of welfare of seafarers at sea and in port. (R173P6)

II. Welfare facilities and services in ports

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 organizations 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. (R173P7)

4. 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 organizations of shipowners and seafarers concerned, where such exist, under collective agreements or other agreed arrangements;

(c) voluntary organizations. (R173P8/1)

5. 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.

6. These facilities may be provided by making available to seafarers in
accordance with their needs facilities designed for more general use. (R173P12)

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, 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. (R173P13)

8. 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. (R138P9, R173P11)

9. 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. (R138P10)

10. 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. (R173P8/2)

III. Regulations for protection

1. There should be laws or regulations to protect seafarers, 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 seafarers without distinction of nationality;

(d) the prohibition of the entry into the docks and port 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. (R48P3)
2. In order to ensure the strict enforcement of the measures indicated in paragraph 1 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 vessels, including boatmen plying between vessels 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 port area of adequate police forces, specially trained and equipped, which should keep in touch with the other supervising bodies. (R48P4)

IV. Welfare boards

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 underutilized facilities;

(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 organizations of shipowners and seafarers, 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 be associated with the work of port, regional and national welfare boards in accordance with national laws and regulations. (R173P9)

4. It is desirable, in order to enable the International Labour Office to inform the Governments of the maritime States and to assist them to coordinate their action, that each of the welfare boards 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 seafarers’ welfare in ports and on the progress made in this field. (R48P2)

V. Financing of welfare facilities

1. In accordance with national conditions and practice, 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 organizations;
(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. (R173P10)

VI. 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. The means of disseminating such information might include –

(a) the distribution on shore and, subject to the consent of the master, on board a vessel, 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 vessel 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; (R173P14)

(c) the inclusion of some useful information for the physical well-being and general protection of seafarers in seafarers’ books, discharge books or other documents habitually carried by seafarers, 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 seafarers in periodicals read by seafarers, both of specialized and general interest, and also the use of the cinema for this purpose;

(e) the distribution of information concerning the prices of local transport and of local places of interest and entertainment. (R48P12)

3. 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. (R173P15)

4. 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. (R173P16)

5. 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;
(c) facilities for dental treatment, especially in cases of emergency. (R173P17)

6. The treatment of seafarers 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;

(b) the admission of seafarers to clinics and hospitals in ports, without difficulty and irrespective of nationality or religious belief;

(c) as wide application as possible to foreign seafarers 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 seafarers. (R48P8)

7. 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. (R173P18)

8. 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. (R173P19)

9. Soliciting and enticing, whether directly or indirectly, in the neighbourhood of the port and in districts frequented by seafarers should be energetically repressed. (R48P6)

VII. Foreign seafarers in port

1. For the protection of foreign seafarers, measures should be taken to facilitate –

(a) access to their consuls;

(b) effective cooperation 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 or she 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. (R173P20)

4. Every possible practical assistance should be given to seafarers stranded in foreign ports pending their repatriation.
5. 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. (R173P21)

6. Members should take measures, whenever necessary, to ensure the safety of seafarers from aggression and other unlawful acts while vessels are in their territorial waters and especially in approaches to ports. (R173P22)

VIII. Welfare facilities and services at sea

1. Welfare facilities and amenities should be provided on board a vessel 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 a vessel for seafarers should be considered, unless this is contrary to national, religious or social customs. (R173P23)

3. 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.

4. 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. (R173P25)

5. 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 vessel when in port.

6. 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. (R173P26)

7. Every effort should be made by those responsible in port and on board a vessel to facilitate shore leave for seafarers as soon as possible after a vessel’s arrival in port. (R173P27)
8. 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. (R138P18)

IX. Savings and remittance of wages

1. 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 vessel 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. (R173P28)

Section B3.6 – Shipowners’ liability for sick and injured seafarers
Title 4: Social security

(See Comment 22 of the Commentary accompanying this draft)

Regulation 4.1 – General principles

1. All seafarers and, where applicable, their dependants, shall have the right to social security, including social insurance. (International Covenant on Economic, Social and Cultural Rights, Art. 9)

2. Each Member undertakes to take steps, individually and through international cooperation, to the maximum of its available resources, with a view to achieving progressively the full realization of this right. (Covenant, Art. 2.1)

3. The Code shall set out the steps to be progressively taken or considered by each Member with a view to the full coverage of seafarers in all branches of social security, including –
   
   (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; and
   
   (i) survivors’ benefit.

Title 4: Code, Part A

Section A4.1 – General principles

I. Basic responsibilities

1. In principle, the social security protection afforded to seafarers shall not be less favourable than that enjoyed by shoreworkers in respect the branch of social security concerned. (C165A7)

2. 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 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, 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 –

(iii) the legislation of the Member whose flag the ship is flying; or

(iv) the legislation of the Member in whose territory the seafarer is resident;

(c) the Members concerned may, however, determine, by mutual agreement, other rules concerning the legislation applicable to seafarers, in the interest of the persons concerned; (C165A17+A16)

(d) 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. Subject to the provisions in Chapter VI below, they shall enjoy equality of treatment without any condition of residence on the territory of the first Member. This requirement shall also apply, where appropriate, as regards the right to benefit of seafarers’ dependants and survivors irrespective of their nationality; (C165A18)

(e) members shall cooperate, as appropriate, in schemes for the maintenance of social security rights in course of acquisition; (C165A21)

(f) fair and effective procedures shall be established for the settlement of disputes;

(g) members shall accept general responsibility for the proper administration of the institutions and services concerned in the application of this Section. (C165A34)

II. Branches of social security

1. Members shall provide protection in accordance with the rules set out in the Sections below in respect of at least three of the branches of social security specified in paragraph 3 of Regulation 4.1.

2. The branches in which protection is to be provided under paragraph 1 above shall include at least one of the branches specified in subparagraphs (c), (d), (e), (h) and (i) of paragraph 3 of Regulation 4.1. (C165A3)

III. Standard of protection

1. At the time it ratifies this Convention, each Member shall specify in respect of which of the branches of social security referred to in paragraph 3 of Regulation 4.1 it undertakes to provide protection under this Title, and shall indicate separately in respect of each of the branches specified whether it undertakes to apply the minimum standards or the superior standards as set out respectively in subparagraph (a) or subparagraph (b) of paragraph 1 of Section A4.2 to Section A4.10 below. (C165A4)

2. Each Member may subsequently notify the Director-General of the International Labour Office that it undertakes, with effect from the date of the notification, to provide protection under this Title in respect of one or more of the branches mentioned in paragraph 1 above 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 aforesaid minimum or superior standards. (C165A5)

3. 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 undertake to apply, in place of the minimum standards, the superior standards in respect of any branch accepted. (C165A6)

IV. Relationship with the rights of shoreworkers

1. 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 paragraph 3 of Regulation 4.1 for which it has legislation in force. (C165A7)

2. 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. (C165A8)

V. Non-compulsory insurance

1. In the implementation of its obligations under this Chapter, 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 –

(i) with the relevant provisions of the Social Security (Minimum Standards) Convention, 1952, where the minimum standards of protection are applied; or (C165A10)

(ii) with the provisions of the Conventions referred to in connection with the application of the superior standards of protection. (C165A12)

VI. Protection of foreign or migrant seafarers

1. Seafarers referred to in paragraph 2(d) of Chapter I above shall enjoy the equality of treatment provided for in that paragraph without any condition of residence on the territory of the Member concerned 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. (C165A18)

2. The award of non-contributory benefits may however be made conditional on the beneficiary having resided in the territory of the Member concerned 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. (C165A19)

3. 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 paragraph 3 of Regulation 4.1,
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. (C165A21)

4. The schemes for the maintenance of rights in course of acquisition referred
to in paragraph 3 above 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. (C165A22)

5. The schemes for the maintenance of rights in course of acquisition referred
to in paragraph 3 above shall determine the formula for awarding invalidity, old-
age and survivors’ benefits, as well as the apportionment, where appropriate, of the
costs involved. (C165A23)

6. 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. (C165A24)

7. Notwithstanding the provisions of paragraph 6 above, 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. (C165A25)

8. 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 paragraph 6 above, 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 paragraph 6 and apply in its place the provisions of Article 5 of
that Convention. (C165A26)

9. 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. (C165A27)

10. The provisions of this Chapter do not apply to social and medical assistance. (C165A28)

11. Members may derogate from the provisions of paragraphs 1 to 7 and 9 of this Chapter 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 paragraphs. (C165A29)

VII. Legal and administrative safeguards

1. 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. (C165A30)

2. 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 paragraph 1 above, to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority. (C165A31)

3. Members shall accept general responsibility for the due provision of the benefits provided in compliance with Title 4 of this Convention and shall take all measures required for this purpose. (C165A33)

4. Members shall accept general responsibility for the proper administration of the institutions and services concerned in the application of Title 4 of this Convention. (C165A34)

5. 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. (C165A35)

Section A4.2 – Medical care

1. When a Member has undertaken to provide protection in accordance with this Section, seafarers and, where applicable, their dependants who are protected by the legislation of that Member shall be entitled to medical care not less favourable in respect of contingencies covered, conditions of award, level and duration than those specified in –

(a) Articles 8, 10 (paragraphs 1, 2 and 3), 11 and 12 (paragraph 1) of the Social Security (Minimum Standards) Convention, 1952, where the minimum standards of protection are applied; or
(b) Articles 7(a), 8, 9, 13, 15, 16 and 17 of the Medical Care and Sickness Benefits Convention, 1969, where the superior standards of protection are applied.

2. Account may be taken of the protection effected by means of non-compulsory insurance to the extent specified under Chapter V of Section A4.1 above.

Section A4.3 – Sickness benefit

1. When a Member has undertaken to provide protection in accordance with this Section, seafarers shall be entitled to a sickness benefit not less favourable in respect of contingencies covered, conditions of award, level and duration than those specified in –

(a) Articles 14, 16 (in conjunction with Article 65 or 66 or 67), 17 and 18 (paragraph 1) of the Social Security (Minimum Standards) Convention, 1952, where the minimum standards of protection are applied; or

(b) 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, where the superior standards of protection are applied.

2. Account may be taken of the protection effected by means of non-compulsory insurance to the extent specified under Chapter V of Section A4.1 above.

3. A Member which –

(a) has ratified the Sickness Insurance (Sea) Convention, 1936, and

(b) has not ratified the Social Security (Seafarers) Convention (Revised), 1987,

may, in a declaration appended to its ratification of this Convention, specify that it wishes to continue to apply the provisions of the Sickness Insurance (Sea) Convention, 1936, during a transitional period, which shall not exceed [three] years, beginning from the date when the present Convention comes into force for that Member.

4. During the said transitional period the Member shall be deemed to be in compliance with the provisions of this Section to the extent that it is in compliance with the Convention referred to under paragraph 3(a) above.

Section A4.4 – Unemployment benefit

1. When a Member has undertaken to provide protection in accordance with this Section, seafarers shall be entitled to an unemployment benefit not less favourable in respect of contingencies covered, conditions of award, level and duration than those specified in –

(a) Articles 20, 22 (in conjunction with Article 65 or 66 or 67), 23 and 24 of the Social Security (Minimum Standards) Convention, 1952, where the minimum standards of protection are applied; or

(b) the Articles specified under (a) above and any superior standards in a future Convention which the General Conference of the International Labour Organization has, after its coming into force, recognized as applicable for the purpose of this section by means of a Protocol adopted in the framework of a
special maritime question included in its agenda, where the superior standards of protection under the present Convention are applied.

2. Account may be taken of the protection effected by means of non-compulsory insurance to the extent specified under Chapter V of Section A4.1 above.

Section A4.5 – Old-age benefit

1. When a Member has undertaken to provide protection in accordance with this Section, seafarers shall be entitled to an old-age benefit not less favourable in respect of contingencies covered, conditions of award, level and duration than those specified in –

(a) Articles 26, 28 (in conjunction with Article 65 or 66 or 67), 29 and 30 of the Social Security (Minimum Standards) Convention, 1952, where the minimum standards of protection are applied; or

(b) 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, where the superior standards of protection are applied.

2. Account may be taken of the protection effected by means of non-compulsory insurance to the extent specified under Chapter V of Section A4.1 above.

3. A Member which –

(a) has ratified the Seafarers’ Pensions Convention, 1946, and

(b) has not ratified the Social Security (Seafarers) Convention (Revised), 1987,

may, in a declaration appended to its ratification of this Convention, specify that it wishes to continue to apply the provisions of the Seafarers’ Pensions Convention, 1946, during a transitional period, which shall not exceed [three] years, beginning from the date when the present Convention comes into force for that Member.

4. During the said transitional period the Member shall be deemed to be in compliance with the provisions of this Section to the extent that it is in compliance with the Convention referred to under paragraph 3(a) above.

Section A4.6 – Employment injury benefit

1. When a Member has undertaken to provide protection in accordance with this Section, seafarers and, where applicable, their dependants and survivors who are protected by the legislation of that Member shall be entitled to an employment injury benefit not less favourable in respect of contingencies covered, conditions of award, level and duration than those specified in –

(a) Articles 32, 34 (paragraphs 1, 2 and 4), 35, 36 (in conjunction with Article 65 or 66) and 38 of the Social Security (Minimum Standards) Convention, 1952, where the minimum standards of protection are applied; or

(b) 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 Article
19 or 20) and 21 (paragraph 1) of the Employment Injury Benefits Convention, 1964, where the superior standards of protection are applied.

Section A4.7 – Family benefit

1. When a Member has undertaken to provide protection in accordance with this Section, seafarers shall be entitled to a family benefit not less favourable in respect of contingencies covered, conditions of award, level and duration than those specified in –

(a) Articles 40, 42, 43, 44 (in conjunction with Article 66, where applicable) and 45 of the Social Security (Minimum Standards) Convention, 1952, where the minimum standards of protection are applied; or

(b) the Articles specified under (a) above and any superior standards in a future Convention which the General Conference of the International Labour Organization has, after its coming into force, recognized as applicable for the purpose of this Section by means of a Protocol adopted in the framework of a special maritime question included in its agenda, where the superior standards of protection under the present Convention are applied.

Section A4.8 – Maternity benefit

1. When a Member has undertaken to provide protection in accordance with this Section, seafarers and, where applicable, their dependants and survivors who are protected by the legislation of that Member shall be entitled to a maternity benefit not less favourable in respect of contingencies covered, conditions of award, level and duration than those specified in –

(a) Articles 47, 49 (paragraphs 1, 2 and 3), 50 (in conjunction with Article 65 or 66), 51 and 52 of the Social Security (Minimum Standards) Convention, 1952, where the minimum standards of protection are applied; or

(b) Articles 4 to 7 of the Maternity Protection Convention, 2000, where the superior standards of protection are applied.

2. As regards medical care, account may be taken of the protection effected by means of non-compulsory insurance to the extent specified under Chapter V of Section A4.1 above.

Section A4.9 – Invalidity benefit

1. When a Member has undertaken to provide protection in accordance with this Section, seafarers shall be entitled to an invalidity benefit not less favourable in respect of contingencies covered, conditions of award, level and duration than those specified in –

(a) Articles 54, 56 (in conjunction with Article 65 or 66 or 67), 57 and 58 of the Social Security (Minimum Standards) Convention, 1952, where the minimum standards of protection are applied; or

(b) 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, where the superior standards of protection are applied.
2. Account may be taken of the protection effected by means of non-compulsory insurance to the extent specified under Chapter V of Section A4.1 above.

Section A4.10 – Survivors’ benefit

1. When a Member has undertaken to provide protection in accordance with this Section, seafarers’ dependants and survivors who are protected by the legislation of that Member shall be entitled to a survivors’ benefit not less favourable in respect of contingencies covered, conditions of award, level and duration than those specified in –

(a) Articles 60, 62 (in conjunction with Article 65 or 66 or 67), 63 and 64 of the Social Security (Minimum Standards) Convention, 1952, where the minimum standards of protection are applied; or

(b) 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, where the superior standards of protection are applied.

2. Account may be taken of the protection effected by means of non-compulsory insurance to the extent specified under Chapter V of Section A4.1 above.

Title 4: Code, Part B

Section B4.1 – General principles

1. Members should apply the following principles and inform the International Labour Office concerning the measures taken to give effect to these principles:

(a) 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. (R75P1)

(b) 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. (R75P2)

(c) 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. (R75P3)

(d) 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. (R75P4)

Section B4.2 – Medical care
Section B4.3 – Sickness benefit
Section B4.4 – Unemployment benefit

1. Members should establish for seafarers 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 organizations whose rules provide for the payment of benefits to their unemployed members. (R10)

Section B4.5 – Old-age benefit
Section B4.6 – Employment injury benefit
Section B4.7 – Family benefit
Section B4.8 – Maternity benefit
Section B4.9 – Invalidity benefit
Section B4.10 – Survivors’ benefit
Title 5: Enforcement

(See Comment 23 of the Commentary accompanying this draft)

The provisions of Part A of the Code that implement this Title of the Convention may be amended only in accordance with the procedure set out in Article XII. Part B and the Appendices to Part A may also be amended in accordance with Article XIII.

Regulation 5.1 – Flag state responsibilities

General

1. In principle, responsibility for the implementation of the provisions of this Convention that relate to ships or to the working or living conditions of seafarers on board ship shall lie with the State in whose territory the ship is registered.

Policies and procedures for compliance

(See Comment 24 of the Commentary accompanying this draft)

2. The laws and regulations referred to in Article II, paragraph 3, of this Convention shall require all vessels registered in the territory of the Member concerned to be covered by effective policies and procedures designed to ensure full compliance with each of the requirements in the areas set out under (a), (b) and (d) of Article III, paragraph 1, of this Convention.

3. Directions or guidance concerning such policies and procedures shall be set out in the Code.

Inspection and control

4. Each Member shall verify, through an effective and coordinated system of inspection and control –

(a) that every vessel registered in its territory is covered by effective policies and procedures as required by paragraph 2 above;

(b) that such policies and procedures are being properly followed on the ship; and

(c) that the ship is in compliance with the laws and regulations referred to in Article II, paragraph 3, of this Convention and, as may be appropriate under national law, with applicable collective agreements. (C147A2(f))

5. The Member shall appoint a sufficient number of inspectors for this purpose. Adequate provisions 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 above. Compensation shall be payable for any loss or damage suffered as a result of the wrongful or unjustified exercise of the inspectors’ powers.

6. The Member’s laws and regulations shall provide for such penalties as may be necessary to prevent obstruction of the verification or to ensure the compliance referred to above.
7. Subject to any exceptions that may be provided for in the Code –

(a) a publicly accessible record shall be kept of each inspection;

(b) inspectors shall submit to the competent authority reports on their inspections, which shall be accessible to the public.

Certification

(See Comment 26 of the Commentary accompanying this draft)

8. The Member’s laws and regulations shall require every ship registered in its territory to maintain documentation of compliance meeting the objectives established by the Code.

9. Such documentation shall evidence the policies and procedures referred to in paragraph 2 above and carry the certification of the Member’s competent authority that –

(a) the ship has been inspected at the times or on the occasions required by the Code; and

(b) that the policies and procedures –

(i) are adequate to ensure compliance with the requirements of this Convention; and

(ii) are, to the best of the Member’s knowledge, being continuously followed.

10. A Member shall not permit ships registered in its territory to put to sea without the above documentation and certification, copies of which shall at all times be available to any person having an interest in verifying that the requirements of this Convention are being complied with.

Record-keeping

11. Wherever practicable, and necessary or desirable to facilitate inspection and control, the Member’s laws and regulations shall require appropriate records to be kept and made public with respect to situations covered or measures required by this Convention.

Quality control

(See Comment 27 of the Commentary accompanying this draft)

12. The laws and regulations of each Member shall establish clear objectives and quality standards covering the administration of the inspection and certification systems referred to above, as well as adequate procedures for the quality control of such systems, including an independent evaluation.

13. Information on such objectives, standards and procedures, as well as on such evaluations, shall be included in reports to the International Labour Office pursuant to article 22 of the Constitution of the International Labour Organization.

Internal resolution of grievances

(See Comment 28 of the Commentary accompanying this draft)
14. Each Member shall ensure that ships registered in its territory have adequate on-board procedures for the hearing and documentation of grievances. Under such procedures, each seafarer shall, inter alia, have –

(a) a right of direct access to the master of the ship concerned;

(b) adequate safeguards of confidentiality;

(c) adequate protection from any kind of victimization for lodging the grievance; and

(d) a right of external recourse if the procedures are not followed or the person lodging the grievance is not satisfied with the outcome.

Marine casualties

15. Each Member shall 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. (C147 A.2(g))

Regulation 5.2 – Port state responsibilities

General

1. Subject to the provisions of this Convention, States may take such action as may be necessary to verify and ensure that the provisions of this Convention relating to ships or to the working or living conditions of seafarers on board ship are being implemented on ships calling at its ports.

Inspection and control

(See Comment 29 of the Commentary accompanying this draft)

2. Every ship calling, in the normal course of its business or for operational reasons, in the port of a Member which has ratified this Convention shall be subject to inspection and control by authorized officers of the Member (C147 A.4) –

(a) for the purpose of verifying the documentation of compliance required by paragraphs 8 and 9 of Regulation 5.1; or

(b) for the purpose of ascertaining that the shipboard conditions of employment and shipboard living arrangements conform to standards that are substantially equivalent to the standards of this Convention –

(i) where the required documentation is not produced or the documentation produced is found not to contain the information and certifications required by this Convention; or

(ii) where there are clear grounds for believing that the shipboard conditions of employment and shipboard living arrangements do not conform to the standards of this Convention; or

(c) for the purpose of investigating any complaint, as defined in the Code, alleging that specific shipboard conditions of employment or living arrangements do not conform to the aforementioned standards.
3. Where, following an inspection under the previous paragraph, the ship is found not to conform to the standards of this Convention –

(a) the deficiencies and the measures needed to rectify them shall be brought to the attention of the master of the ship and notified to the nearest maritime, consular or diplomatic representative of the flag State; the flag State shall be invited to discuss the matter (C147A4/2) and requested to reply to the notification within a prescribed deadline;

(b) the competent authorities of the next port of call shall be provided with relevant information;

(c) the Member in which the inspection is carried out shall have the right to transmit a copy of the inspector’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.

4. Where –

(a) the conditions on board are clearly hazardous to safety or health; (C147A4/1)

or

(b) the non-conformity with the standard concerned could, in all likelihood, cause serious material hardship to seafarers or their families; or

(c) the non-conformity constitutes a serious violation of any principle or right laid down in this Convention, and there is clear evidence that the ship concerned has on several recent occasions been in serious violation of principles or rights laid down in this Convention,

the inspector carrying out the control shall take steps to ensure that the ship shall not sail except as provided for in the Code. (SOLAS, Reg. 19).

5. When exercising control under this Regulation, 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. (SOLAS, Reg. 19(f)).

6. The competent authorities of the Member shall take all possible steps to safeguard the confidentiality of complaints made by crew members in accordance with the preceding paragraphs.

7. All seafarers on ships calling at a port in the territory shall be provided with facilities enabling them to conveniently obtain advice on appropriate recourse procedures, where they allege circumstances amounting to a violation of their rights relating to working or living conditions.

Regulation 5.3 – Labour-supplying responsibilities

(See Comment 30 of the Commentary accompanying this draft)
General

1. In principle and without prejudice to paragraph 1 of Regulation 5.1 –

(a) responsibility for the implementation of the provisions of this Convention that relate to the social protection and welfare of seafarers shall lie with the State in which the seafarer is a national or ordinarily resident, to the extent that such responsibility is provided for under Title 4 of this Convention;

(b) responsibility for the implementation of the provisions of this Convention that relate to the contractual conditions of seafarers shall lie with the State in which the contract is concluded or in which any or the parties thereto, or their representatives, are domiciled to the extent that the State concerned has the necessary jurisdiction.

Enforcement through contracts of employment

2. In the implementation of paragraph 2 of Article III of this Convention, the laws and regulations of each Member shall, in particular, ensure that –

(a) the standards on working and living conditions under this Convention are adequately reflected in all seafarers’ contracts of employment and articles of agreement concluded in its territory, irrespective of the country in which the ships concerned were registered or of which the parties are resident or nationals; and

(b) private recruitment and placement agencies, coming within the scope of Regulation 1.5, established in the Member’s territory and procuring the services of a seafarer for a shipowner, wherever located, assume appropriate responsibility with the shipowner, or other party for whom the said services are procured, for the fulfilment of the terms of the said contracts of employment and articles of agreement.

Follow-up

3. The laws and regulations of each Member shall also establish adequate procedures for monitoring the implementation on its territory of Article III, paragraph 2, including an independent evaluation.

4. Information on such procedures, as well as on such evaluations, shall be included in reports to the International Labour Office pursuant to article 22 of the Constitution of the International Labour Organization.
Title 5: Code, Part A

Section A5.1 – Flag state responsibilities

I. Policies and procedures for compliance

(See Comment 24 of the Commentary accompanying this draft)

1. The policies and procedures referred to in paragraph 2 of Regulation 5.1 shall take one or more of the forms indicated in Part B of this Code or take any other form that fully achieves the objective of that paragraph. Their general content shall be established by each Member after consultation of the most representative shipowners’ and seafarers’ organizations on its territory.

2. The term “procedures” comprises not merely the methods of implementing the provisions of this Convention, but also the maintenance of records, wherever feasible, documenting such implementation.

3. The policies and procedures shall be set out in documentation of compliance, which shall be subject to certification from time to time in accordance with this Code. An up-to-date copy of the documentation, including the certifications referred to in Chapter V below, shall be posted on the notice board of the vessel concerned for the information of the seafarers. Persons with an interest in reviewing such documentation (see Regulation 5.1, paragraph 10) shall include inspectors of the State of registration and of port States, members of the crew of the vessel concerned and shipowners’ and seafarers’ representatives.

4. The general form of the documentation of compliance shall be the same for all ships registered in the territory of the Member concerned.

5. The documentation of compliance shall in principle comprise all the requirements of this Convention relevant to on-board living and working conditions. At least the general areas set out in Appendix 5.1 below shall be covered.

6. Provided that the requirements of this Convention are met as far as on-board living and working conditions are concerned, the documentation of compliance may be part of more comprehensive documentation covering policies and procedures relating to other aspects of the maritime sector.

II. Inspection and verification

1. Each Member shall maintain a system of inspection of seafarers’ working and living conditions (C178A2/1), including verification that the policies and procedures referred to in Chapter I above are being properly followed.

2. The central coordinating authority, as defined in Section A5.4 below, shall coordinate inspections wholly or partly concerned with seafarers’ working and living conditions and shall establish principles to be observed. (C178A2/2)

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. (C178A2/3)
III. Schedule of inspections

(See Comment 25 of the Commentary accompanying this draft)

1. Each Member shall ensure that all vessels registered in its territory are inspected at intervals not exceeding three years to verify that the seafarers’ working and living conditions on board a vessel conform to national laws and regulations. (C178A3/1)

2. A spot check shall be carried out on each vessel, at intervals of different lengths, ranging from six to 18 months, to verify that the policies and procedures referred to in paragraph 2 of Regulation 5.1 are still being properly followed.

3. If a Member receives a complaint or obtains evidence that a vessel registered in its territory does not conform to national laws and regulations in respect of seafarers’ working and living conditions or that there are serious deficiencies in the implementation of the policies and procedures referred to above, the Member shall take measures to inspect the vessel as soon as practicable. (C178A3/2)

4. With respect to construction or accommodation arrangements, the vessel shall be inspected according to the schedule set out in Section A3.1 II, paragraph 2, of this Convention. (C178A3/3)

IV. Status, functions and powers of inspectors

1. 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 Section of the Convention. (C178A4)

2. Inspectors shall have the status and conditions of service to ensure that they are independent of changes of government and of improper external influences. (C178A5/1)

3. Inspectors, issued with clear guidelines as to the tasks to be performed and provided with proper credentials, shall be empowered:

(a) to board a vessel 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 vessel from leaving port until necessary measures are taken, the vessel not being unreasonably detained or delayed. (C178A5/2)

4. When an inspection is conducted or when measures are taken under this Title, all reasonable efforts shall be made to avoid a vessel being unreasonably detained or delayed. (C178A6/1)
5. If a vessel is unreasonably detained or delayed, the shipowner or operator of the vessel 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 vessel. (C178A6/2)

V. Certification

(See Comment 26 of the Commentary accompanying this draft)

1. When the documentation of compliance is first drawn up for a particular vessel, it shall be submitted to the central coordinating authority for its certification:

(a) that the living and working conditions on board the vessel to which the documentation relates have been inspected and have been found to correspond to the terms of the policies and procedures set out in the documentation; and

(b) that the policies and procedures are adequate to ensure compliance with the requirements of this Convention.

2. In any case in which the policies and procedures do not correspond to the precise requirements of the Convention, the certification referred to under paragraph 1(b) above shall contain an explanation concerning the aspects that are considered to be substantially equivalent to the requirements of the Convention, within the meaning of paragraph 4 of Article IV of this Convention.

3. New certifications shall record the results of all subsequent inspections and spot checks on the vessel concerned, mentioned in Chapter III above. Any significant deficiencies found during any such inspection or check shall be mentioned in the certification, together with the date when the deficiencies were found to have been remedied.

4. All the above certifications shall, in accordance with national laws or regulations, be inscribed upon or appended to the documentation of compliance.

VI. Records and reports

1. The central coordinating authority shall maintain records of inspections of seafarers' working and living conditions. (C178A8/1)

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. (C178A8/2)

3. 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 vessel shall be furnished to the master of the vessel and another copy shall be posted on the vessel’s notice board for the information of the seafarers or sent to their representatives. (C178A9/1)

4. 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. (C178A9/2)
VII. Penalties

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. (C178A7/1)

2. Inspectors shall have the discretion to give warnings and advice instead of instituting or recommending proceedings. (C178A7/2)

VIII. Quality control

(See Comment 27 of the Commentary accompanying this draft)

1. The first quality control referred to in paragraph 12 of Regulation 5.1 shall be carried out during the third year after this Convention enters into force for the Member concerned. A new quality control shall be carried out at intervals of not more than [five] years.

2. The quality control procedures shall place due emphasis on the quality of inspections, whether on vessels registered in the territory of the Member concerned or on vessels calling at the Member’s ports.

3. Particular attention shall be given to:

(a) notifications by port States under paragraph 3(a) of Regulation 5.2 that may indicate that the Member’s flag state inspections were inadequate; and

(b) complaints alleging that inspections were carried out unnecessarily or that vessels were unnecessarily detained.

IX. Internal resolution of grievances

(See Comment 28 of the Commentary accompanying this draft)

1. Without prejudice to any wider scope that may be given in national laws or regulations or collective agreements, grievances under paragraph 14 of Regulation 5.1 may relate to any matter that is alleged to constitute an infringement of any principle or right set out in this Convention.

2. The national laws or regulations of each Member shall establish appropriate procedures meeting the requirements of paragraph 14 referred to above. The right of external recourse specified under (d) of that paragraph shall include the right of direct access to the shipowner or other employer as well as the availability of convenient, rapid and cheap recourse procedures before the courts of the Member concerned if the grievance cannot be resolved at the level of the ship or of the shipowner.

3. All seafarers must, together with a copy of their articles of agreement, be provided with:

(a) a copy of the grievance procedures applicable on the vessel concerned;

(b) the name of a person or persons on board the vessel who can, on a basis of strict confidentiality, provide seafarers with impartial advice on their grievances and on action to protect them from victimization;
(c) the address, telephone number and other contact details for lodging a grievance with the shipowner;

(d) the address, telephone number and other contact details of persons able to provide advice to seafarers wishing to take legal proceedings; and

(e) information on the right of complaint to the authorities in ports, provided for under paragraph 2(c) of Regulation 5.2.

Section A5.2 – Port state responsibilities

(See Comment 29 of the Commentary accompanying this draft)

1. An inspection carried out in the circumstances set out in paragraph 2(b) of Regulation 5.2 shall in principle be limited to the general areas set out in Appendix 5.1 below.

2. An inspection carried out pursuant to a complaint under paragraph 2(c) of Regulation 5.2 shall be limited to the subject-matter of the complaint. For the purpose of that paragraph, “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. (C147A4/3)

3. The ship may be required to remain in port until the inspection has been completed.

4. Where the ship is found not to conform to standards that are substantially equivalent to the standards under the Regulations of this Convention and Part A of the Code –

(a) the inspector shall forthwith send a report to the master of the ship, stating the deficiencies found as well as the measures needed to rectify them;

(b) the inspector shall at the same time notify the nearest maritime, consular or diplomatic representative of the flag State –

(i) inviting the competent authority of that State to send a representative to discuss the matter (C147A4/2);

(ii) referring to Regulation 5.2 of this Convention and to the provisions in this Section, and drawing attention to the possibility that the inspector’s report, accompanied by the flag State’s reply, may be sent to the Director-General of the International Labour Office with a view to appropriate action;

(iii) requesting the maritime, consular or diplomatic representative of the flag State, inter alia, to outline the measures taken by the flag State to verify or to require the correction of the reported deficiencies; and

(iv) setting a deadline for the reply from the competent authority; the deadline, which shall be at least three weeks, shall take account of the time that may reasonably be needed for the ship to remedy all the reported deficiencies;

(c) a copy of the inspector’s report shall be sent to the competent authorities of the next port of call, together with information on any undertakings that the ship may have made to remedy the defects found.
5. Where the conditions on board are clearly hazardous to safety or health, (C147A4/1) the inspector carrying out the control shall take steps to ensure that the ship shall not sail until it can proceed to sea or leave the port for the purpose of proceeding to the appropriate repair yard without danger to the ship or persons on board. (SOLAS, Reg. 19(c)).

6. Where the non-conformity with the standard concerned –

(a) could, in all likelihood, cause serious material hardship to seafarers or their families, or

(b) constitutes a serious violation of any principle or right laid down in this Convention, and there is clear evidence that the ship concerned has on several recent occasions been in serious violation of principles or rights laid down in this Convention,

the inspector carrying out the control shall take steps to ensure that the standard concerned is properly observed before the ship leaves the port.

7. Each Member shall ensure that its inspectors are given guidance, of the kind indicated in Part B of the Code, as to the kinds of circumstances justifying detention of a vessel under paragraph 6(a) or (b) above.

Section A5.3 – Labour-supplying responsibilities

... 

Section A5.4 – Definitions and scope of application

For the purpose of this Title:

(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 Section A5.1 II, 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 “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 the principles of freedom of association and the effective recognition of the right to collective bargaining, referred to in Article II, paragraph 1(i) of this Convention. (C178A1/7)
Title 5: Code, Part B

Section B5.1 – Flag state responsibilities

I. Policies and procedures for compliance

(See Comment 24 of the Commentary accompanying this draft)

1. The policies and procedures for compliance may take the form that is best suited to the national law or regulations or practice of the member concerned. They could, for example, be embodied in an ongoing commitment in the “Declaration” referred to below. They could also take the form of a system for the achievement of the objectives of the requirements. Such a system could be part of a more comprehensive system designed to implement the Member’s obligations under several international instruments, including this Convention.

2. The following main features should be borne in mind:

(a) the policies and procedures should be comprehensive, covering the essential requirements of national laws and regulations in each of the general areas listed in Appendix 5.1;

(b) they should also be specific to the vessel or vessels covered by them, stating what precisely needs to be achieved to fulfil the requirements in those general areas; wherever relevant and possible, quantities should be specified;

(c) they should, above all, be drafted in clear terms designed to help all persons concerned – such as national inspectors, port State inspectors and members of the crew – to check that they are being properly implemented; the documentation containing them should be drafted in the language of the majority of the crew;

(d) the documentation should in addition give the references of the provisions of national laws and regulations relevant to each of the general areas referred to above; these references could be followed by any necessary explanations concerning substantial equivalence (see paragraph 2 of Chapter V of Section A5.1).

3. An illustration outlining policies and procedures in the form of a “Declaration”, accompanied by examples of possible certifications required in Chapter V of Section A5.1 is given in Appendix 5.2 to this Code.

II. 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. (R185P1)

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. (R185P2)
III. Organization of inspection

1. 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. (R185P3)

2. 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. (R185P4)

3. 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. (R185P5)

4. 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. (R185P6)

IV. Duties and powers of inspectors

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. (R185P7)

3. Measures should be taken to provide inspectors with appropriate further training during their employment. (R185P8)
4. In particular, all inspectors should have a common and 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 inspections. Recommended criteria for inspections are set out in Appendix 5.1.

5. 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. (R185P9)

6. 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. (R185P10)

7. All inspectors should be provided with conveniently situated premises, equipment and means of transport adequate for the efficient performance of their duties. (R185P11)

8. 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.

9. 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 paragraph 8(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. (R185P12)

10. 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. (R185P13)

11. 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. (R185P14)

12. 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 grievance or 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. (R185P15)

V. Reports

1. The annual report published by the central coordinating authority in accordance with paragraph 2 of Section A5.1 VI 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 Chapter II of Section A5.1;

(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. (R185P16)

2. The reports referred to in paragraphs 3 and 4 of Section A5.1 VI should be drawn up in such manner and should deal with such subject matter as may be prescribed by the central coordinating authority. (R185P17)

VI. Internal resolution of grievances

(See Comment 28 of the Commentary accompanying this draft)

1. Grievances under paragraph 14 of Regulation 5.1 should first be addressed to the head of the department of the seafarer lodging the grievance or to the seafarer’s superior officer.

2. 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.

3. If the head of department or superior officer cannot resolve the grievance to the satisfaction of the seafarer, the latter may refer it to the master, who shall handle the matter personally.
4. Seafarers should at all times have the right to be accompanied and to be represented by any person of their choice on board the vessel concerned.

5. All grievances and the decisions on them should be recorded and a copy provided to the seafarers concerned.

6. If a grievance cannot be resolved on board, it should be referred ashore to the employer, 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 representatives.

Section B5.2 – Port state responsibilities

(See Comment 29 of the Commentary accompanying this draft)

I. Inspection and control

1. Recommended criteria for inspections under paragraph 2 of Regulation 5.2 are set out in Appendix 5.1.

2. Where a complaint is received under paragraph 2(c) of Regulation 5.2 (see Section A5.2 2), the inspector should first examine the results of any internal procedure for the resolution of the grievance concerned (see Section A5.1 IX). If such a procedure has not been invoked or is not yet exhausted, the inspector should not, without a good reason, deal with the complaint but rather suggest that the complainant take advantage of the internal procedures available. Good reasons for considering a complaint in such circumstances would include the inadequacy or dilatoriness of the internal procedures or the complainant’s legitimate fear of victimization for lodging a grievance.

3. If a complaint appears to be well-founded, the inspector, before arriving at any conclusions, should give the master, the employer and any other person criticized in the complaint a proper opportunity to make known their positions.

4. The term “serious material hardship”, in Regulation 5.2, paragraph 4(b), would normally be of a financial nature and threaten the livelihood of the seafarers concerned or their families. A typical example of a deficiency giving rise to such hardship would be the non-payment of wages over several months. In such cases, the inspectors should consider the normal effect of such a situation on seafarers or their families, in general. They should not, for example, be required to look into any other means of support that may be available to the persons concerned or the precise situation in the countries where the seafarers and families reside.

5. With respect to the term “serious violation” in Regulation 5.2, paragraph 4(c), the seriousness could be due to the nature of the deficiency concerned. This would be particularly relevant in the case of the violation of rights considered as fundamental (see Article II, paragraph 1). The employment of a person who is more than six months under age, for example, should be considered as a serious violation even if there is only one such person on board. In other cases, the number of 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 violation.
II. Facilities available to seafarers

1. Seafarers on ships calling at a port in the territory of a Member ratifying this Convention who allege circumstances amounting to a violation of their rights relating to their working or living conditions should, especially where such circumstances are causing them or are likely to cause them severe hardship –

(a) have prompt access to the competent judicial or administrative authorities, and to effective measures of execution, including interim measures of execution; and

(b) benefit from legal aid on the same conditions as that which may be available to the Member’s citizens resident in its territory.

Section B5.3 – Labour-supplying responsibilities

(See Comment 30 of the Commentary accompanying this draft)

1. In accordance with paragraph 2(b) of Regulation 5.3, private recruitment and placement agencies established in the Member’s territory and procuring the services of a seafarer for a shipowner, wherever located, should be made jointly and severally liable with the shipowner, or other party for whom those services are procured, for the fulfilment of the terms of the contracts of employment and articles of agreement.

Title 5: Code, Appendices

Appendix 5.1 (see Section A5.1 I, paragraph 5)

(See Comment 24 of the Commentary accompanying this draft)

General areas of shipboard working and living conditions

Minimum age
Medical certification
Certification of competency
Identity documents
Articles of agreement/contracts
Hours of work
Crewing of vessels
Accommodation
Food and catering
Health and safety and accident prevention
Medical care on board
Welfare on board
On-board grievance procedures

Recommended criteria for inspections

[to be completed]
Appendix 5.2 (see Section B5.1 I, paragraph 3)

DECLARATION OF COMPLIANCE TO BE MAINTAINED BY ALL SHIPS REGISTERED IN [Name of country]

This document, which addresses the rights and principles set out in the Maritime Labour Convention, 2005 (“the Convention”) is maintained in accordance with [reference to the relevant law or regulation].

Reference Number
Vessel Name
Vessel IMO Number
Name and address of the Shipowner or other Employer [including a Company as defined in the International Safety Management (ISM) Code]
Date of first certification (see under “CERTIFICATIONS” below)
Certifying authority

1. No one employed on the ship shall be less than 16 years old. No one under the age of 18 shall work at night or engage in hazardous work of the types set out in Schedule I hereto.
2. All persons employed or engaged on the ship shall be certified as medically fit and have a valid certificate on board.
3. All persons employed or engaged on board the ship shall have valid and appropriate certificates of competency or other appropriate qualifications.
4. All persons employed or engaged on board the ship shall have been issued with a valid seafarers’ identity document, at their request.
5. On board the vessel there shall be up-to-date articles of agreement between each person employed or engaged on board the ship and the employer, corresponding to the model set out in Schedule II. Payment under the articles shall be made on or before the [day or days] of each month.
6. The hours of work or rest shall be in accordance with Schedule III and the relevant records shall be maintained.
7. The ship shall at all times be crewed in accordance with the safe crewing document, appended as Schedule IV [delete this statement if it is not applicable].
8. The approved accommodation detailed in Schedule V shall be maintained.
9. The basic food and catering standards set out in Schedule VI shall be observed.
10. All persons employed or engaged on the ship, particularly young persons, shall have received training in health and safety and accident prevention.
11. The medical facilities and trained personnel shall be in accordance with Schedule VII.
12. The welfare facilities on board shall be as specified in Schedule VIII.
13. Any person employed or engaged on the ship may lodge a grievance with the master concerning working and living conditions on board. If such a grievance cannot be addressed or resolved on board the ship or with the employer/company, the complainant may contact [contact details for the appropriate office of the country]. Records shall be kept of each grievance made and of the action taken on it.
CERTIFICATIONS OF DECLARATION OF COMPLIANCE

**First certification** (see Convention, Section A5.1 V, para. 1)

1. The vessel which is the subject of the Declaration of Compliance numbered [reference number] was inspected by [name and title of inspector(s)] on [date] at [place] for the purpose of checking conformity with the requirements of the Maritime Labour Convention, 2005.
2. The living and working conditions on board the vessel were found to correspond to the commitments made in the abovementioned Declaration.
3. Those commitments were found to be adequate to ensure compliance with the requirements of that Convention.

Explanations (see Convention, Section A5.1 V, para. 2)

[Signature and title of competent official] [date]

**Subsequent certifications** (see Convention, Section A5.1 V, para. 3)

The vessel which is the subject of the Declaration of Compliance numbered [reference number] was inspected on [date] at [place]:

on a routine inspection (see Convention, Section A5.1 III, para. 1)*
for the purpose of checking respect for the commitments in the Declaration of Compliance (see Convention, Section A5.1 III, para. 2)*
as a result of a complaint (see Convention, Section A5.1 III, para. 3)*
to verify changes to construction (see Convention, Section A5.1 III, para. 4)*

The living and working conditions on board the vessel were found to continue to correspond to the commitments made in the Declaration

except in the following significant respects:* 

All the above deficiencies were found to have been fully remedied at a later inspection by [name and title of inspector(s)] on [date] at [place].*

[Signature and title of competent official] [date]

*Please strike out the statements which do not apply.