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Maritime Labour Convention, 2006, as amended (MLC, 2006)

Convention du travail maritime, 2006, telle qu'amendée (MLC, 2006)

Convenio sobre el trabajo marítimo, 2006, en su versión enmendada (MLC, 2006)

Informations écrites communiquées par le gouvernement

Le gouvernement a communiqué les informations écrites ci-après.

Le gouvernement du Gabon réitère tout d'abord sa disponibilité ainsi que sa volonté à fournir le premier rapport attendu sur la convention du travail maritime, 2006, telle qu'amendée (MLC, 2006). Il précise à cet effet que le retard accusé dans la rédaction dudit rapport procède principalement de deux facteurs: la procédure juridique ayant conduit à la ratification de ladite convention, d'une part, et la méconnaissance de la convention par les professionnels du secteur maritime du Gabon, d'autre part. De cette situation résulte la nécessité pour le gouvernement de se conformer à la procédure interne en vigueur, relative à la ratification des conventions internationales, procédure qui n'a pas été suivie lors du dépôt de l'instrument de ratification de la MLC, 2006, en 2014, mais aussi de pallier l'insuffisance, voire l'absence d'informations pouvant permettre de réaliser le premier rapport attendu.

Le gouvernement sollicite à cet effet l'assistance technique et financière du Bureau aux fins d'assurer la vulgarisation de la convention auprès des professionnels du secteur concerné, de renforcer les capacités techniques des agents, l'administration du travail et de la marine marchande en charge de la confection dudit rapport et de renforcer les capacités des agents en charge du suivi et de la mise en œuvre de ladite convention, notamment les inspecteurs et contrôleurs en charge du secteur maritime.

Le gouvernement réaffirme son attachement aux normes de l'OIT, notamment à l'ensemble des mécanismes du contrôle normatif, et s'engage à fournir toute information utile pouvant permettre de donner suite aux recommandations de la commission. Le gouvernement souligne enfin que, grâce à la participation de deux de ses agents à une formation organisée au cours du premier semestre de 2023 par le Centre international de formation de l'OIT à Turin en vue de renforcer les capacités des mandants sur la confection des rapports relatifs à la mise en œuvre de la MLC, 2006, et en dépit du fait que la période officielle prévue pour la mise à disposition de la commission d'experts des rapports dus au titre de l'article 22 de la Constitution, le gouvernement rassure la commission de la transmission effective du premier rapport relatif à la mise en œuvre par le Gabon de la MLC, 2006. Il sollicite par ailleurs de cette dernière la possibilité d'y apporter des éléments complémentaires ultérieurement.

Discussion par la commission

Chairperson –We now turn to the first case on our agenda, and that is Gabon on the application of the Maritime Labour Convention, 2006, as amended (MLC, 2006).

Représentante gouvernementale – À la suite de l'inscription du Gabon sur la liste définitive des cas individuels soumis à l'examen de la commission pour manquement à l'envoi du premier rapport après la ratification de la MLC, 2006, en 2014, je voudrais vous remercier pour l'occasion que vous accordez à la délégation de mon pays de vous fournir des informations actualisées et détaillées sur les actions et mesures prises au niveau national pour porter effet aux dispositions de la convention.

Avant de poursuivre mon propos, il me plaît de présenter les compliments de mon pays à la commission d'experts pour l'important travail qu'elle ne cesse de réaliser depuis sa création dans le suivi de la mise en œuvre des normes internationales du travail.

Le gouvernement du Gabon voudrait, par ma voix, réaffirmer son engagement à respecter ses obligations en matière de rapports sur les conventions ratifiées et non ratifiées, tel que prévu par les dispositions des articles 19 et 22 de la Constitution de l'OIT, y compris pour la convention maritime dont le premier rapport, quoi que tardivement, a été transmis au Bureau.

L'interpellation du gouvernement de mon pays, quant au retard accusé dans la transmission du premier rapport relatif à la mise en œuvre de la MLC, 2006, me donne l'opportunité de faire un bref historique de la situation, aux fins d'apporter des informations détaillées et précises aux membres de la commission sur les raisons qui ont occasionné ledit retard. Pour rappel, le ministre des Affaires étrangères du Gabon a signé l'instrument de ratification le 29 mars 2011, lequel a été transmis au BIT via la mission permanente du Gabon à Genève, le 27 avril 2011. Cependant, le BIT n'a pas été en mesure d'enregistrer la ratification, car elle n'était pas accompagnée de la déclaration obligatoire concernant les branches de la sécurité sociale applicables. Le 25 septembre 2014, le BIT a reçu la déclaration manquante et par conséquent, pour ce dernier, la ratification a pu être enregistrée le même jour, à savoir le 25 septembre 2014.

Toutefois, pour le gouvernement du Gabon, des procédures internes relatives à la ratification des instruments internationaux et conformes à sa Constitution devaient être observées pour rendre effective la procédure de ratification. Dès lors, entre 2014 et 2019, soit durant cinq ans, vont subsister des divergences d'interprétation juridiques relatives à l'effectivité ou non de la ratification de la MLC, 2006, entre les experts des deux parties, avec pour conséquence l'impossibilité de faire rapport sur ledit instrument. Fort heureusement, à la faveur d'une réunion conjointe en marge de la Conférence internationale du Travail (CIT) en 2019, les deux parties ont convenu de ce que la ratification de la MLC, 2006, par le Gabon, devait définitivement être considérée comme effective en dépit de ce que la régularisation des mécanismes internes relatifs aux procédures de ratification des normes internationales devait se poursuivre.

De 2019 à 2022, des difficultés supplémentaires vont survenir avec la dissolution de l'Assemblée nationale (une des principales chambres du Parlement), la survenue de la pandémie de COVID-19, un déficit de communication autour de l'instrument qui est resté méconnu des principaux praticiens, une insuffisance des capacités des administrations en charge de la préparation du premier rapport relatif à la MLC, 2006, et l'absence d'une assistance technique conséquente, en raison notamment de la mutation sans remplacement

immédiat du spécialiste en charge des normes au sein du bureau basé à Yaoundé au Cameroun.

Fort de ce qui précède, le retard observé dans la soumission de son premier rapport par le Gabon sur l'application de la MLC, 2006, est imputable à une combinaison des facteurs précités.

À titre d'exemple, la méconnaissance dudit instrument par bon nombre d'acteurs du secteur maritime, l'insuffisance de capacités des administrations en charge de la préparation du rapport ainsi que sa non-vulgarisation depuis sa ratification ont effectivement constitué des facteurs bloquants, car les informations sollicitées auprès des praticiens au quotidien que sont les gens de mer n'ont jamais été disponibles, rendant ainsi difficile la soumission du premier rapport faute d'informations conséquentes.

Au-delà de ces éléments explicatifs, nous sommes conscients que, par la ratification de la MLC, 2006, le Gabon est tenu de respecter les obligations qui en découlent, en tant qu'État côtier, État du pavillon et État du port, de manière à accorder aux gens de mer l'accès à un travail décent. De ce fait, la MLC, 2006, s'applique aux gens de mer.

À cet effet, nous tenons à relever qu'en dépit de la méconnaissance de cet instrument à ce jour par les principaux acteurs concernés, il est à noter que ce secteur est fort heureusement couvert par une solide législation conforme aux exigences de la MLC, 2006.

J'en veux pour preuve, au plan juridique et en rapport avec les exigences de la MLC, 2006, l'application des dispositions du règlement n° 08/12-UEAC-088-CM-23 portant adoption du Code communautaire de la marine marchande, mention doit être faite sur les documents qui doivent être à bord des navires battant pavillon gabonais et des navires étrangers opérant dans les eaux territoriales gabonaises.

En outre, il y a lieu d'indiquer que par l'adhésion au Code communautaire de la Communauté économique et monétaire de l'Afrique centrale (CEMAC), les parties reconnaissent contribuer à l'amélioration de la sécurité des navires, des biens en mer ainsi que la sauvegarde de la vie humaine à bord des navires, de sorte à donner plein et entier effet aux dispositions de ce code.

Par ailleurs, avant l'adhésion du Gabon à la MLC, 2006, le Gabon appliquait à la fois la loi n° 10/63 du 12 janvier 1963 portant «Code de la marine marchande gabonaise» et le Code communautaire CEMAC pour traiter les questions des gens de mer. En vertu de la loi n° 10/63, les dispositions du code communautaire sont applicables à tous les navires immatriculés au Gabon, aux états-majors et équipages qui y sont embarqués. La loi n° 10/63 ne fait pas de restriction quant aux navires qui sont exemptés de l'application. S'agissant de la sécurité sociale, par exemple, la loi n° 10/63 à l'article 98 prévoit que «le marin est soigné aux frais de l'armateur s'il est blessé au service du navire ou s'il tombe malade pendant son embarquement. En cas de décès, les frais funéraires sont à la charge de l'armateur.»

Nous sommes cependant engagés à prendre des mesures spécifiques pour donner davantage effet aux dispositions de la convention, et ce pour le bien-être des marins.

Parmi les dispositions prises pour donner effet à la MLC, 2006, pour en assurer la rédaction des rapports et le suivi de la mise en œuvre, nous avons entrepris de renforcer les capacités des personnels en charge de ce dossier. Nous saisissons à cet effet l'opportunité qui nous est offerte pour remercier le BIT pour son assistance, qui a permis à quelques agents du ministère en charge du travail et du transport de participer aux formations organisées en ligne

par le Centre de formation de Turin, en vue du renforcement de leurs capacités en 2020 et 2021.

Plus récemment au premier semestre de 2023, deux fonctionnaires, dont l'un de l'administration de la marine marchand et l'autre de l'administration du travail, suivent cette année le cours du Centre de formation de Turin sur la présentation des rapports.

Les résultats desdites formations viennent de nous permettre de pouvoir transmettre au BIT le premier rapport relatif à la mise en œuvre de la MLC, 2006.

Au regard des difficultés que le gouvernement de mon pays a pu rencontrer dans l'élaboration de ce premier rapport, nous sollicitons du BIT une assistance technique et financière en vue de nous accompagner dans la soumission effective et régulière des rapports conformément aux dispositions de l'article 22 de la Constitution de l'OIT, de renforcer les capacités techniques des personnels des administrations du travail et des transports permettant de fournir régulièrement les rapports relatifs audit instrument, de bénéficier d'un appui pour le suivi et la mise en œuvre de la convention.

En considération de ce qui précède, je voudrais réitérer l'engagement du gouvernement de mon pays à continuer de fournir régulièrement l'ensemble de ses rapports comme cela a généralement été le cas, mais aussi, et surtout, de prendre des mesures en vue de la mise en œuvre effective des normes internationales du travail en général et de la MLC, 2006, en particulier, pour le bien de nos travailleurs.

Worker members – This is the third time that this Committee examines the application of a Convention by Gabon. This is also just the second time we examine the application of the MLC, 2006.

As the Committee of Experts highlighted in a dedicated section of the General Report, seafarers around the world faced tremendous challenges during the COVID-19 pandemic. Hundreds of thousands of seafarers were stranded away from home for many months. Many were not paid; many were refused medical treatment and the rates of abandonment climbed to never-before-seen levels. In this regard, the Committee of Experts has indicated that it is precisely at times of crisis that the protective coverage of the MLC, 2006 assumes its full significance and needs to be most scrupulously applied. Indeed, the MLC, 2006 is a pioneering instrument designed to confront the many issues faced by workers in the most globalized of sectors – the shipping industry. The MLC, 2006 is unique in that it truly reflects the reality of the shipping industry and uses original approaches to gain widespread ratification. To date, 103 Member States responsible for regulating conditions for seafarers on more than 96.6 per cent of the world's gross tonnage of ships have ratified the Convention. This is truly remarkable. However, ratification is just the first step. Effective implementation is critical.

This needs to be the starting point for our discussion of Gabon's application of the Convention in law and practice. Gabon ratified the MLC, 2006 in 2014 and has also accepted the amendments adopted by the International Labour Conference in 2016 and 2018. While we do not know the number of seafarers working in the Gabonese merchant marine, from the public data available, we understand that there are around 146 ships that fly the Gabonese flag, which are made up of crude oil tankers, chemical/oil products tankers and general cargo ships. It has been reported that in terms of percentage growth, the Gabon flag is now the fastest growing in the world. It is therefore extremely concerning that the Government has still not sent its first report on the MLC, 2006 to the Committee of Experts six years after it was due. As the Committee of Experts has highlighted, the provisions of the Convention are mainly implemented through a Regulation of the Central African Economic and Monetary Community

(CEMAC) issuing the Community Merchant Shipping Code of 22 July 2012, which is directly applicable to Gabon and is one of the documents that must be carried on board ships flying the Gabonese flag and foreign ships operating in Gabonese territorial waters.

We note positively that section 1 of the Labour Code does not exclude seafarers from its scope of application. However, we are unable to say whether Gabonese unions and shipowners were consulted in the ratification process or in relation to any determinations made under the Convention. The Government needs to clarify this as a matter of priority.

We also note that in accordance with Standard A4.5(2) and (10), the Government has specified the following branches of social security: old-age benefit; employment injury benefit; family benefit; invalidity benefit and survivors' benefit. However, without an Article 22 Report, we do not have information regarding steps taken in accordance with Regulation 4.5, paragraph 2 of the Convention, to extend protection to other branches.

Therefore, it is with regret that we note that the Committee of Experts was unable to make any observations on the application of several provisions of the Convention due to the Government's failure to respond.

Despite the many innovative features of the MLC, 2006 including an elaborate inspection regime by Port States, the usual oversight role taken by the Committee of Experts in reviewing Member States' national implementation of the Convention remains a critical and essential part of effective application.

We recall that the very essence of the ILO supervisory system is the dialogue between its constituents at the national and international level. This dialogue is based on information provided on the application of conventions in law and practice. Failure to submit reports, comments or replies severely undermine the supervisory system and the very functioning of the ILO. The Government must, as a matter of urgency, seek ILO technical assistance to ensure that it complies with its reporting obligations.

Ships of ratifying Member States, including Gabonese-flagged vessels, are required to carry a Maritime Labour Certificate and a Declaration of Maritime Labour Compliance (DMLC) on board. The DMLC must not only "identify the national requirements embodying the relevant provisions of this Convention by providing a reference to the relevant national legal provisions", but also provide "to the extent necessary, concise information on the main content of the national requirements". Flag States are also expected to ensure that national laws and regulations implementing the Convention's standards are respected on smaller ships, including those that do not go on international voyages that are not covered by the certification system.

This provision is especially important in the Gabonese context as a major coastal State and its reliance on maritime transport.

Also, without adequate national implementation of the Convention, it is unclear how Gabonese Port State inspectors can carry out effective ship inspections in line with the MLC, 2006.

It is evident that the need for the proper transposition of international labour standards at the national level is even more important when it comes to the MLC, 2006. It is therefore imperative that the Government urgently put in place a process to ensure the adequate national implementation of the Convention in consultation with the social partners.

Finally, although the MLC, 2006, is a technical Convention, the life and wellbeing of the world's 1.6 million seafarers depend on its proper application. Indeed, the MLC, 2006 sets out

seafarers' rights to decent conditions of work on pretty much every aspect of their working and living conditions including minimum wage, employment agreements, hours of work and social security. The Convention also provides that every foreign ship calling, in the normal course of its business or for operational reasons, into the port of an ILO Member State may be the subject of inspection in accordance with paragraph 4 of Article V for the purpose of reviewing compliance with the Convention.

Therefore, it is no surprise that the application of this Convention has significantly improved the lives of the world's seafarers – a group of workers who are often out of sight, out of mind.

The MLC, 2006 is a vital instrument for the world's seafarers. This Committee needs to send a strong message that its effective implementation requires ratifying Member States to comply with their obligations, including those related to reporting and national implementation. We urge the Government to comply with its reporting obligations and submit its first report to the Committee of Experts before its next session.

Employer members – The Employer members thank the Government of Gabon for the written and oral information provided. We take note of Gabon's expressed intent to rectify the issue under consideration. This case concerns Gabon's compliance with the MLC, 2006. The MLC, 2006 is the product of five years of tripartite work by governments, seafarers trade unions as well as shipowners. Not only is it a landmark legal instrument for the ILO, but it also plays a crucial role in safeguarding seafarers' working conditions and welfare and contributes to sustainable shipping based on a level playing field. The MLC, 2006 represents one of the most up-to-date and dynamic ILO legal instruments: it has been amended four times since the adoption, and two more ratifications added up to an already long list this year.

It is therefore of the outmost importance that this legal instrument is not undermined. Gabon has ratified all fundamental Conventions except the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), as well as 41 other ILO Conventions. In particular, Gabon's ratification of the MLC, 2006 dates September 2014.

It is not the first time the Committee of Experts has raised concerns regarding Gabon's compliance with its commitments under the MLC, 2006. The Committee of Experts has provided three observations since 2020, which were repeated twice due to the Government's failure to submit its first report, despite an urgent appeal was made. This is however, the first time the case is discussed in this Committee. The Employer members also take note that Gabon has asked for technical and financial assistance for the implementation of this Convention. There are two main issues in this case, namely:

- the timely reporting on the implementation of the MLC, 2006 by Gabon.
- the adoption of measures implementing, both in law and practice, the obligations set forth under the MLC, 2006 to secure the right of all seafarers to decent employment.

On the first issue, the Employer members regret that the Government of Gabon has not submitted its first report on the implementation of MLC, 2006 for four consecutive years. We would like to stress that, with ratification of any legal instrument, come legal obligations. In particular, according to article 22 of the ILO constitution, not only does ratification of ILO Conventions entail compliance with the substantial obligations set forth therein, but also with procedural ones, notably obligations to report on the implementation of the ratified Conventions both in law and practice. In this regard, submitting timely and detailed first reports is of vital importance as it represents the precondition for the effective functioning of the supervisory system that this Committee embodies. The Employer members stress that

States should not ratify comprehensive ILO Conventions, such as the MLC, 2006, unless the ratifying States are assured that they have the ability to implement the Conventions' obligations, and the capacity to report on its application in law and practice.

The Employer members further take note of the information provided by the Government on this matter, notably that the failure to submit the first report is due, first, to the legal procedure leading to the ratification of the Convention and, second, to the lack of knowledge of the Convention among Gabonese maritime professionals.

We also appreciate the effort undertaken by the Government to fill such gaps, including taking part in ILO training courses. Stressing that failure to report strongly impacts on the proper functioning and work of this Committee, we call on the Government to fill this reporting gap and send its first report on the application of the MLC, 2006 without any further delay. We take note of the Government's request for financial and technical assistance from the Office, and we request it to avail itself of such assistance as soon as possible to be able to fulfil its reporting obligations.

On the second issue, the Employer members take note that the provisions of the Convention are mainly implemented through a Regulation of the Central African Economic and Monetary Community issuing the Community Merchant Shipping Code of 22 July 2012, which is directly applicable to Gabon. We further take note that section 1 of the Labour Code does not exclude seafarers from its scope of application. With this in mind, the Employer members request the Government to adopt without delay the necessary measures to implement the Convention, taking into account the matters raised in the request addressed directly to the Government by the Committee of Experts. In this regard, the Employer members remind the Government that it may avail itself of the technical assistance of the Office. Based on the information provided by the Government of Gabon, the Employer members trust that the Government will make all the necessary efforts to comply with its obligations.

Membre gouvernementale, Cameroun – C'est pour moi un réel plaisir de prendre la parole au nom du gouvernement du Cameroun.

Venant au point à l'ordre du jour, le gouvernement du Cameroun remercie celui du Gabon pour les informations préliminaires soumises à notre commission, d'abord orales, et puis que nous venons d'entendre sur la mise en œuvre en droit et en pratique de la convention du travail maritime, 2006 (MLC, 2006). Il ressort de toutes ces informations que le Gabon n'a lésiné sur aucun effort pour se conformer aux obligations constitutionnelles qui découlent de la ratification de la MLC, 2006. Nous encourageons par conséquent le gouvernement du Gabon en sa qualité d'État du pavillon et État du port à poursuivre toutes les démarches engagées en vue du respect des obligations sus-évoquées. Stanislaw Jerzy a dit: «la méconnaissance du droit ne dispense pas du devoir de rendre compte». Fondé sur cette citation, le gouvernement du Cameroun se réjouit de l'engagement pris par le gouvernement du Gabon à respecter les obligations constitutionnelles.

Dans le même ordre d'idée, tout en remerciant le Bureau qui, à travers le Centre international de formation de Turin, a procédé au renforcement des capacités des agents de la république du Gabon sur la rédaction des rapports, nous appuyons la demande d'assistance technique et financière formulée par la République du Gabon et prions le Bureau de bien vouloir donner suite favorable à cette demande, afin d'aider le gouvernement du Gabon à assurer la vulgarisation de la convention auprès des professionnels du secteur concerné, tout en renforçant les capacités techniques de tous les mandants tripartites en charge de la confection du rapport demandé ainsi que du suivi et de la mise en œuvre de ladite convention.

Pour conclure, le gouvernement du Cameroun encourage le Gabon à mettre à profit l'expertise du Bureau sollicitée, afin de se conformer désormais à toutes ses obligations constitutionnelles.

Worker member, Eswatini – I take the floor on behalf of the workers of the Kingdom of Eswatini. The Worker delegates of the Commonwealth countries align themselves with this statement. We at the outset, congratulate the Government of Gabon for having taken the necessary steps to ratify the MLC, 2006 in 2014. The necessary implication of the ratification is that Gabon should give complete effect to the provisions of the Convention in order to secure the right of all seafarers to decent employment as dictated by Article I of the Convention, which includes the periodic reporting on its application.

The failure of the Government to report on the application of the Convention is of great concern to us. We want to remind the Government of Gabon that it is in breach of its obligation under the ILO Constitution, which respectively provides in Articles 22 and 23 as follows: "Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request. ... Each Member shall communicate to the representative organizations recognized for the purpose of Article 3 copies of the information and reports communicated to the Director-General in pursuance of Articles 19 and 22."

Gabon must consult the social partners on the development and compilation of these reports and any other reforms designed to give effect to the application of the MLC, 2006, in the framework of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) to which it is already a party. In this respect, we urge the Government of Gabon in consultation with the stakeholders to, without further delay, submit the report as requested by the Committee of Experts and put in place necessary measures including through legislative reforms for the full implementation of the Convention.

Worker member, Australia – I am speaking on behalf of the Australian Unions and the Commonwealth Trade Union Group. We would like to raise examples of good practices of countries implementing the MLC, 2006. I would like to provide the example of my country, Australia, in this regard. The Australian Maritime Safety Authority (AMSA) is the competent authority responsible for regulation of the Convention and its requirements in Australia. As Australia is a large user of international ships and only has a small domestic shipping fleet its port state control function is the key mechanism through which it practically implements the MLC, 2006, in Australia. AMSA ensures compliance with MLC, 2006, conditions and the welfare of seafarers by processing all MLC, 2006, complaints in relation to vessels in or coming into Australian ports; conducting port and flag state control inspection of vessels coming into Australian ports; ensuring registered Australian vessels are certified in accordance with the MLC, 2006; and taking a leading role in supporting the Australian Seafarers' Welfare Council (ASWC) which promotes seafarer welfare services in Australian ports to support and protect seafarers. The International Transport Workers' Federation (ITF) and its Australian affiliated unions are members of the ASWC. Within Australia, all foreign flag vessels will be subject to port state inspections detailed in regulation 5.2 of the Convention irrespective of whether their flag state has ratified the Convention. Where the flag state has not ratified the MLC, 2006 such vessels must be able to provide documentary evidence of compliance with its regulations and standards. Seafarers have a right to make a complaint to MSA regarding breaches of the requirements of the MLC, 2006. Marine Order 11 provides that a seafarer may report such a breach to AMSA to facilitate a prompt and practical means of redress.

AMSA works closely with the shipping inspectorate of the ITF in the implementation of its port state control functions and maintains a memorandum of understanding with the Fair Work Ombudsman to help ensure compliance with the seafarer's labour rights under the MLC, 2006. The majority of complaints received by AMSA are related to conditions of employment, Title 2 of the MLC, 2006. This includes seafarer employment agreements, wages, hours of work and rest, entitlement to leave, repatriation, seafarer compensation, crewing levels and career development. AMSA actively follows up complaints and seeks a resolution. Some are referred back to the flag state, many are resolved on the ship, but a significant number result in deficiency notices being issued which are followed up to ensure deficiencies are rectified.

The AMSA inspections include an examination of seafarer employment agreements to ensure they reference a collective bargaining agreement, to ensure the seafarers wages and entitlements are specified and that seafarers are being repatriated to their home port at the expiry of the contracted duration of employment. AMSA provides occupational health and safety inspectorate functions for Australian seafarers and applies the same principles to international seafarers under the MLC, 2006. AMSA has a strong risk-based ship safety inspection programme to address ship deficiencies that are hazards to safe work and require rectification before a ship can leave port and works closely with the Maritime Union of Australia dockworkers occupational safety and health (OSH) representative to ensure onboard OSH issues are resolved. Regarding skills development, AMSA consistently checks on seafarers' occupational certificates to ensure seafarers are qualified and certified to safely perform functions on ships and be able to respond to emergencies at sea.

Observer, International Transport Workers' Federation (ITF) – As stated by the Worker spokesperson, this is only the second time in the history of this Committee that we are examining the application of the MLC, 2006 in law and practice.

It took over five years of international tripartite consultation to develop an instrument designed to achieve near universal ratification. We managed to embed in international law strong labour standards for seafarers and a unique enforcement mechanism in an industry that is notorious for poor employment practices, including abandonment and forced labour.

Despite the Convention's innovations and the role of the Special Tripartite Committee of the MLC, 2006, the review of national implementation of the MLC, 2006 by the Committee of Experts, and indeed this Committee, remains fundamental to its proper application in law and practice. Therefore, it is very disappointing that the Government of Gabon has not submitted a first report on the MLC, 2006 six years after the original deadline. It is also concerning that there appear to be limited national implementation measures almost a decade after ratification. Nevertheless, we have already heard this morning some information on national provisions which is encouraging. Indeed, the Committee of Experts has noted that provisions of the Convention are mainly implemented through a Regulation of the Central African Economic and Monetary Community and certainly we would like to learn more on national implementation. We would note that a serious failure to report is not only a procedural issue, but something that can have an adverse impact on seafarers working on board Gabonese-flagged vessels and seafarers that call at its ports every year.

Since 2021 the ITF's maritime inspectorate has inspected 14 different currently Gabonese-flagged vessels. They have identified several problem types reported on the vessels, including abandonment (once), breach of contract (ten instances), international standards non-compliance (twice), medical concerns (twice), and owed wages (once), among others. Regarding flag State and port State inspections, however, it is unclear whether there are any national procedures that would ensure effective enforcement. We would need to see details in

the Article 22 report. We are heartened by the Government's request for ILO technical assistance and its stated commitment to furnish the Committee of Experts with the first Article 22 report. In addition to training at the International Training Centre of the ILO in Turin (ITCILO), the Office of course has an excellent suite of guidelines, FAQs and literature on the MLC, 2006. Peer learning on best practice is also a major part of "getting it right" when it comes to the MLC, 2006. And of course, global unions and shipowner groups will also be happy to assist the Gabonese Government.

Finally, we trust that the Government will indeed transmit the report to the Committee of Experts before its next session.

Représentante gouvernementale – Le gouvernement de mon pays, par ma voix, remercie les différents intervenants et leur riche contribution à ce débat. Comme cela a été souligné dans mon intervention préliminaire, le Gabon est engagé à continuer de coopérer avec les organes de contrôle de l'OIT en fournissant régulièrement l'ensemble de ses rapports, comme cela a généralement été le cas.

Au cours de cette année, le gouvernement avait 16 rapports sur les conventions ratifiées à fournir au BIT. Sur les 16 rapports, 15 ont été transmis au Bureau, ce qui témoigne de l'engagement et de la volonté de mon pays à souscrire à ses engagements internationaux. Seul le premier rapport sur la MLC, 2006, pour les raisons évoquées tout à l'heure, pour lequel nous sommes devant la commission ce matin, n'a pas été fourni dans les délais requis.

S'agissant de la mise en œuvre effective, le gouvernement prendra progressivement les mesures nécessaires pour le bien des gens de mer. C'est pourquoi il saisit cette occasion pour solliciter l'appui du BIT de manière à lui permettre de donner effet à certaines préoccupations qui ont été soulevées par les intervenants.

Nous nous appuierons aussi sur les bonnes pratiques qui ont été partagées dans la salle.

Employer members – We thank the various speakers who took the floor, and most notably the Government of Gabon. Once again, the Employer members wish to stress the essential duty of any ratifying State to implement ratified legal instruments both in law and practice. We reiterate that the MLC, 2006 provides for fundamental international legal standards in the maritime sector – an industry that has been subjected to ILO standards for a long period of time.

The Employer members repeat that first reports are vital to provide the basis to start a timely dialogue between the Committee of Experts and the ILO Member States on the application of a ratified Convention.

In light of the above, we request the Government of Gabon to:

- fill the serious reporting gap and send its first report on the application of the MLC, 2006 without any further delay;
- take all the necessary measures to ensure it complies in law and practice with the MLC, 2006;
- provide full information regarding the application in law and in practice of the MLC, 2006 in Gabon, notably:
 - (i) a copy of any legislative texts or other regulatory instruments, once adopted;
 - (ii) full information on the implementation of the Convention;
 - (iii) updated statistics on the number of seafarers who are nationals or residents of Gabon or who work on ships that fly the Gabonese flag.

Finally, the Employer members request the Government to avail itself of the technical assistance of the Office for the implementation of the abovementioned.

Worker members – We thank the Government of Gabon for its comments, including provisions of national laws implementing certain elements of the Convention. We also thank the speakers who took the floor for their contributions to the discussion.

As we have heard today, the effective application of the MLC, 2006 requires thorough national implementation in consultation with the social partners. To this end, the Government must meaningfully engage with the social partners without delay.

We note that the Convention seeks to be firm on rights and flexible on implementation, meaning that the MLC, 2006 sets out the basic rights of seafarers to decent work, but leaves a large measure of flexibility to ratifying countries as to how they will implement these standards for decent work in their national laws. This flexibility should allow the Government to implement the Convention as relevant to its shipping sector. Of course, any such flexibility must be exercised in consultation with the social partners, with any determinations that are made reported to the ILO.

We also recall the importance of Article III of the Convention on fundamental principles and rights at work. The governments must satisfy themselves that the provisions of their national legislation respect fundamental rights, in the context of the MLC, 2006 and report to the Committee of Experts accordingly.

We support the Government's request for ILO technical assistance and hope that this can be arranged before the next Conference. We are also encouraged by the Government's indication that two of its officials recently participated in a training course organized by the ITCILO with a view to building the capacity of constituents in the preparation of reports on the implementation of the MLC, 2006. We trust that the Government will also assist maritime trade union representatives to attend similar training sessions. As we have heard from our benches today, there are also some great examples of effective implementation of the MLC, 2006 in law and practice – peer learning is a critical part of the process.

We further expect the Government to submit its report on the MLC, 2006 to the Committee of Experts before its next session. Should a declaration of acceptance of the amendments to the Convention that have not already been accepted be submitted shortly, the report should also take these into account. In this regard, we note that the report form for the MLC, 2006 has helpfully been modified to take into account the amendments to the Code of the Convention.

Finally, it was also again suggested that Governments should conduct an analysis before ratification. We want to assure everyone, as we have previously done in the Committee that to our knowledge no government proceeds with ratification lightly, including in relation to technical Conventions. It is often the result of a long process that includes social dialogue with constituents at the national level with the assistance of the ILO when requested. The Office remains available to continue to provide technical assistance to support the implementation of the obligations. We ask the Government to take advantage of this.

Chairperson – I wish to inform the Committee members that the Government of Gabon has sent the first report on the application of the MLC, 2006, which has been received by the Office yesterday. With this, we conclude the discussion on this case.

Conclusions de la commission

La commission a pris note des informations que le gouvernement a fournies par écrit et oralement et de la discussion qui a suivi.

La commission a insisté sur la nécessité d'appliquer efficacement la convention du travail maritime, 2006, telle qu'amendée (MLC, 2006), au niveau national, et de s'assurer que le gouvernement remplit ses obligations de faire régulièrement rapport dans les délais prévus.

Prenant en compte la discussion qui a eu lieu, la commission prie le gouvernement de:

- prendre toutes les mesures nécessaires afin d'assurer la conformité de sa législation et de sa pratique avec la convention, en consultation avec les partenaires sociaux;
- fournir des informations complètes à la commission d'experts concernant l'application de la convention en droit et dans la pratique, comprenant:
 - i) une copie de tous les textes législatifs ou autres instruments de réglementation une fois adoptés; et
 - ii) des statistiques actualisées sur le nombre de gens de mer qui sont des nationaux, des résidents au Gabon ou qui travaillent à bord des navires battant pavillon gabonais.

La commission prie instamment le gouvernement de fournir les informations indiquées avant le 1^{er} septembre 2023.

La commission prie également le gouvernement de solliciter l'assistance technique du BIT pour la mise en œuvre des recommandations susmentionnées.

Représentante gouvernementale – Le gouvernement de la République gabonaise remercie la commission pour l'important travail réalisé avant et pendant son passage devant cette dernière.

En vue de fournir des informations relatives aux difficultés rencontrées autour de la transmission de son premier rapport sur la convention du travail maritime, MLC, 2006, il prend acte des conclusions et recommandations de ladite commission visant à lui permettre de mieux s'acquitter dans l'avenir de ses obligations constitutionnelles et réaffirme sa disponibilité ainsi que sa volonté à coopérer avec l'ensemble des organes de contrôle de l'OIT, dans le cadre du suivi et de la mise en œuvre des conventions ratifiées et non ratifiées en la matière, et ce conformément à son ancrage au multilatéralisme.

En concertation avec les partenaires sociaux du secteur maritime, le gouvernement s'engage à fournir les informations complémentaires sollicitées dans les délais indiqués par la commission. De même, il s'engage à formuler la demande d'assistance technique pour soutenir et concrétiser ses efforts visant à donner effet aux dispositions de la convention du travail maritime, MLC, 2006, aux fins d'assurer une protection plus efficiente aux gens de mer.