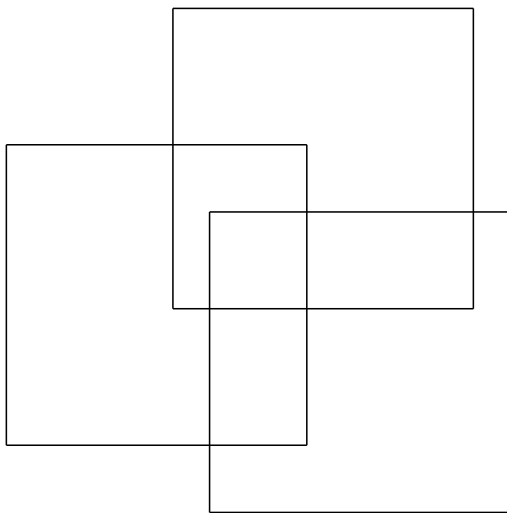




International
Labour
Office

Geneva

**Background paper for discussion at the
first meeting of the Special Tripartite Committee
established under Article XIII of the Maritime
Labour Convention, 2006**
(Geneva, 7–11 April 2014)



Geneva, 2014

International
Labour
Standards
Department

Sectoral
Activities
Department

STCMLC/2014

INTERNATIONAL LABOUR ORGANIZATION

**International Labour Standards Department
Sectoral Activities Department**

**Background paper for discussion at the
first meeting of the Special Tripartite Committee
established under Article XIII of the Maritime
Labour Convention, 2006**
(Geneva, 7–11 April 2014)

Geneva, 2014

INTERNATIONAL LABOUR OFFICE, GENEVA

Copyright © International Labour Organization 2014
First edition 2014

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with reproduction rights organizations may make copies in accordance with the licences issued to them for this purpose. Visit www.ifro.org to find the reproduction rights organization in your country.

ISBN 978-92-2-128419-2 (print)
ISBN 978-92-2-128420-8 (Web pdf)

ILO Cataloguing in Publication Data

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and electronic products can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. Catalogues or lists of new publications are available free of charge from the above address, or by email: pubvente@ilo.org.

Visit our website: www.ilo.org/publns.

Contents

	<i>Page</i>
A. Introduction.....	1
B. Tasks for the first meeting of the Article XIII Special Tripartite Committee.....	3
B1. Appointment of the three Vice-Chairpersons (to be nominated by the MLC Committee).....	3
B2. Consideration and possible adoption of proposals for amendment of the Code of the MLC, 2006.....	3
B2.1. First set of joint proposals – Proposal for amendments to the Code relating to Regulation 2.5 of the MLC, 2006.....	5
B2.2. Second set of joint proposals – Proposal for amendments to the Code relating to Regulation 4.2 of the MLC, 2006.....	7
B3. Exchange of information related to implementation: Keeping the working of the Convention under continuous review.....	9
B4. Tripartite consultations under Article VII.....	10
Appendix A List of ratifications of the Maritime Labour Convention, 2006 (as at 31 January 2014).....	13
Appendix B Relevant provisions in the MLC, 2006.....	15
Appendix C Proposal for amendments to the Code relating to Regulation 2.5 of the MLC, 2006.....	18
Appendix D Proposal for amendments to the Code relating to Regulation 4.2 of the MLC, 2006.....	21

A. Introduction

1. The Maritime Labour Convention, 2006 (MLC, 2006) entered into force on 20 August 2013 and became binding international law for the first 30 Members whose ratification of the Convention had been registered by 20 August 2012. As of 1 February 2014, 56 Members have ratified the MLC, 2006, with entry into force, in accordance with Article VIII, paragraph 4 of the MLC, 2006, for each Member 12 months after the date of registered ratification. A list of ratifications and the expected date for entry into force for each ratifying Member as of 1 February 2014 is set out in Appendix A to this paper.¹
2. Article XIII (entitled “Special Tripartite Committee”) of the MLC, 2006, provides in paragraph 1 that “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 In addition, under Article XV, this Committee has a central role with respect to the more rapid process for amendment of the Code of the Convention – the Standards and the Guidelines – containing the more detailed, technical provisions. This more rapid amendment process was developed to allow the Convention to respond to changes and important needs in the sector. The Committee also has an important function under Article VII with respect to consultation with shipowners’ and seafarers’ organizations, for Members where representative organizations do not exist.
3. The Governing Body has taken a number of steps to prepare for entry into force of the MLC, 2006, including establishing a Preparatory Tripartite MLC, 2006, Committee (Preparatory Committee) with a mandate “to keep under review the preparations by Members for implementing the MLC, 2006, identify any common issues and prepare the work for the future special tripartite committee on any questions that might need to be dealt with as a matter of urgency after entry into force of the Convention, including the rules of procedure of the Committee”.³ These rules of procedure, the Standing Orders, were prepared by the Preparatory Committee and adopted by the Governing Body at its 313th Session in March 2012.⁴
4. The Governing Body at its 318th Session in June 2013,⁵ in accordance with Article XIII, established the Special Tripartite Committee (also referred to as the “MLC Committee”); at its 319th Session in October 2013⁶ it convened the first meeting for April 2014 and adopted the agenda for the first meeting, taking account of the advice from the Preparatory

¹ An updated list is available on the ILO’s dedicated MLC, 2006, website at: <http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:80001:0::NO:::>

² The text of Articles VII, XIII and XV of the MLC, 2006, is set out in Appendix B.

³ The Preparatory Tripartite MLC, 2006, Committee met in September 2010 and December 2011. For reports of these meetings see: http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_228789/lang--en/index.htm.

⁴ The Standing Orders of the Special Tripartite Committee established for the Maritime Labour Convention, 2006, are to be found at: <http://www.ilo.org/public/english/bureau/leg/download/so-mlc-2012-en.pdf>.

⁵ GB.318/PV, para. 84.

⁶ GB.319/PV/Draft, para. 584.

Committee with respect to urgent matters⁷ to be placed on the agenda. In accordance with Article XIII and the Standing Orders of the Special Tripartite Committee, decisions were also taken on appointments of the Seafarers' and Shipowners' representatives to the MLC Committee and on other matters related to convening the first meeting, including the appointment of the first Chair and invitations to other organizations and observers.

5. In accordance with paragraph 2 of Article XIII of the MLC, 2006, the Committee consists of "two representatives nominated by the Government of each Member which has ratified this Convention, and the representatives of Shipowners and Seafarers appointed by the Governing Body after consultation with the Joint Maritime Commission." In addition, as provided for in paragraph 3, "Government representatives of Members which have not yet ratified the MLC, 2006, may participate in the Committee" but have no right to vote on any matter dealt with in accordance with the Convention.⁸ As provided for in article 9, paragraph 2, of the Standing Orders, however, they would have the right to vote on any other matter that may be assigned to the MLC Committee by the Governing Body.
6. Section B of this paper provides an overview of the tasks of the MLC Committee at its first meeting, to be held in Geneva from 7 to 11 April 2014. Section B is organized in accordance with the agenda adopted by the Governing Body and transmitted by the Director-General in the letter of invitation to the meeting.⁹

**Agenda for the meeting of the MLC, 2006, Special Tripartite Committee (MLC Committee),
Geneva, 7–11 April 2014**

1. Appointment of the three Vice-Chairpersons (to be nominated by the MLC Committee)
2. Consideration of proposals for amendment of the Code of the Maritime Labour Convention, 2006 (MLC, 2006)
3. Exchange of information related to implementation
4. Consideration of any request for consultation under Article VII of the MLC, 2006
5. Adoption of the arrangements for consultation under Article VII of the MLC, 2006
6. Any other business

⁷ Including the review of the principles agreed in the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers, referred to below (see para. 11 and footnote 12 below).

⁸ Article XIII of the MLC, 2006, sets out a formula for voting:

4. The votes of each Shipowner and Seafarer representative in the Committee shall be weighted so as to ensure that the Shipowners' group and the Seafarers' group each have half the voting power of the total number of governments which are represented at the meeting concerned and entitled to vote.

See also the provisions set out in Articles 12 and 13 of the Standing Orders of the Special Tripartite Committee.

⁹ In accordance with article 3 of the Standing Orders.

B. Tasks for the first meeting of the Article XIII Special Tripartite Committee

7. As indicated earlier and set out in the Standing Orders,¹⁰ the mandate of the Committee is threefold and involves three different provisions in the Convention (Articles VII, XIII and XV). As noted above in paragraph 4, the agenda has been organized to give priority to addressing matters identified by the Preparatory Committee as urgent, including the consideration (with a view to adoption) of proposals for amendments to the Code of the MLC, 2006, a task mandated under Article XV of the MLC, 2006.

B1. Appointment of the three Vice-Chairpersons (to be nominated by the MLC Committee)

8. Article 6 of the Standing Orders of the Special Tripartite Committee addresses the selection process and terms of office of the three Vice-Chairpersons, while article 7 sets out the duties of the Officers of the Committee. Under article 6, the three Vice-Chairpersons are appointed by the Committee for a term of up to three years. Accordingly, these appointments will be made by the Committee at its first meeting.

9. Also under article 6, the Chairperson is proposed by the Government members of the Committee and appointed by the Governing Body, for a term of up to three years. However, as with the case of the Governing Body adopting the agenda for the first meeting, in the absence of a proposal under article 6, paragraph 2, of the Standing Orders, and in view of the necessary decisions to convene the first meeting of this Committee, the Governing Body decided to appoint a Chairperson for the first meeting for an initial term of one year.¹¹

B2. Consideration and possible adoption of proposals for amendment of the Code of the MLC, 2006

10. The function of the MLC Committee with respect to the consideration of amendments to the Code of the MLC, 2006, is set out in Article XV of the Convention. This article provides for more rapid amendment procedures for the Standards in Part A of the Code and the Guidelines in Part B of the Code (including their Appendices). Under these procedures, proposals for amendments to the Code must be submitted to the Director-General, who then communicates the proposals to all Members of the Organization with an invitation to

¹⁰ Article 2 of the Standing Orders sets out the mandate as follows:

“The MLC Committee shall:

- (a) keep the working of the Convention under continuous review and provide advice on this subject to the Governing Body, or through the Governing Body, to the International Labour Conference;
- (b) consider proposals for amendments to the Code of the Convention in accordance with Article XV of the Convention;
- (c) carry out the consultation referred to in Article VII of the Convention.”

¹¹ GB.319/PV/Draft, para. 584.

submit comments or suggestions on them during a specified period (normally six months). The proposals for amendments and any comments made during this period are then considered by the MLC Committee at a meeting and, if adopted, are submitted to the International Labour Conference at its next session for approval and, if approved, are notified to Members that have ratified the Convention. Members are given a period (between one and two years) to consider them. The Convention as amended enters into force six months after the end of that period, unless more than 40 per cent of ratifying Members, representing not less than 40 per cent of world gross tonnage, have formally expressed their disagreement with the amendments.

11. Pursuant to Article XV, paragraphs 2 and 5, two proposals for amendments have been jointly submitted by the Shipowners' and Seafarers' representatives and were promptly communicated to all Members for comment. The two proposals as provided to all Members are set out in Appendices C and D to this paper.
12. The proposals are based on the principles agreed at the Ninth Session of the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers (the Joint IMO/ILO Working Group) in March 2009.¹² These elements had been proposed, on the recommendation of the 94th (Maritime) Session of the ILC, in order to develop "a standard accompanied by guidelines, which could be included in the MLC, 2006, or another existing instrument, at a later date."¹³ The Joint IMO/ILO Working Group recommended that:
 - (a) the principles embodied in the draft texts, contained in Appendices I and II to the Joint IMO/ILO Working Group report, should be considered as a basis for finalizing a mandatory instrument or instruments;
 - (b) an amendment to the MLC, 2006, was the best way to create such a mandatory instrument or instruments;
 - (c) the IMO Legal Committee should remain seized of the issue and keep it under consideration in the event that amendment to the MLC, 2006, proved not to be feasible or timely.
13. As noted above at paragraph 3, in September 2010 the tripartite Preparatory Committee identified these issues as urgent matters to be considered by the first meeting of the MLC Committee. Since that time, it has become even clearer that urgent action to adopt mandatory provisions on these issues is expected. The principles were the subject of nearly a decade of meetings of the Joint IMO/ILO Working Group before agreement was reached on their substance and on the desirability of their being given effect by way of amendments to the MLC, 2006. The following sections B2.1 and B2.2 refer respectively to the first and second of the two sets of joint proposals and summarize the comments on them that have been communicated to the Office as of the date of finalization of this paper. Comments or

¹² See *Final report, Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers, Geneva, 2–6 March 2009*, ILO, 2009 http://www.ilo.org/sector/activities/sectoral-meetings/WCMS_161446/lang-en/index.htm (accessed 27 Jan. 2014).

¹³ See Resolution concerning the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers, in *Resolutions adopted by the International Labour Conference at its 94th (Maritime) Session*, ILO, 2006, http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_088130/lang-en/index.htm (accessed 27 Jan. 2014).

suggestions received by the Office after publication of the present paper will be made available to participants before the meeting in April 2014, if time permits.

14. In addition to the provisions in Article XV of the Convention relating to the process for amendment of the Convention, article 11 and, in part, article 10 of the Standing Orders of the Special Tripartite Committee address the procedures for consideration of proposals for amendments, while articles 12 and 13 address the procedure for voting. The order in which the particular proposals set out in each set of joint proposals will be considered and will be determined by the Officers at the first meeting.

B2.1. First set of joint proposals – Proposal for amendments to the Code relating to Regulation 2.5 of the MLC, 2006¹⁴

15. The first set of proposals, submitted jointly by the Shipowners' and Seafarers' representatives, is intended to better address the specific problems faced in cases of abandonment of seafarers. Although all seafarers are entitled to coverage for repatriation, which is secured by the requirement in the MLC, 2006, for financial security (a matter that must be included in the seafarers' employment agreement and also verified on flag State inspections), there is a concern that, in practice, the needs of seafarers who are abandoned are not adequately covered under existing mechanisms and provisions.
16. As noted above, the draft text set out in this first set of joint proposals is based on the principles agreed at the Ninth Session (2–6 March 2009) of the Joint IMO/ILO Working Group.¹⁵ The principles and the current proposal also build upon the 2001 IMO/ILO Guidelines on Provision of Financial Security in Case of Abandonment of Seafarers.¹⁶ If the proposals are adopted, the principles that are reflected in provisions in Part A (Standards) of the MLC, 2006, would be mandatory. The provisions proposed for Guidelines in Part B of the Code, although not mandatory, must, in accordance with Article VI, paragraph 2, be given due consideration by a Member when implementing the relevant Regulations and Part A of the Code.
17. The first set of joint proposals is to amend the Code relating to Regulation 2.5, Repatriation. In addition to consequential changes and the addition of an item to the areas listed in Appendices A5-I, A5-II and A5-III, reflecting the Ad Hoc Working Group's agreement that this topic would also be a matter for ship certification,¹⁷ it proposes the adoption of a new Standard A2.5.2 that would be titled "Financial security" and a new Guideline B2.5.3 also titled "Financial security". It also proposes a new Appendix A2-1, titled "Evidence of financial security under Regulation 2, paragraph 2", that sets out a list of information to be included in a certificate, or other documentary evidence, that would be available on board ships.
18. This proposed text provides the details for national implementation, in the context of abandonment, of the requirement in paragraph 2 of Regulation 2.5 that "Each Member

¹⁴ This first set of joint proposals is set out in Appendix C to this paper.

¹⁵ See footnotes 12 and 14 above.

¹⁶ IMO Resolution A.930 (22).

¹⁷ The Joint IMO/ILO Working Group agreed that this item should be added to the list of areas subject to port State control and would accordingly be a matter to be certified for ships that must be both inspected and certified. See the report cited in footnote 12 above, paragraph 106.

shall require ships that fly its flag to provide financial security to ensure that seafarers are duly repatriated in accordance with the Code”. The footnotes in the first set of joint proposals are for information only and are not part of the text of the proposed amendments.

Section A – Proposals relating to Standard A2.5

- 19. Proposal 1** is a consequential numbering adjustment.
- 20. Proposal 2** proposes the text for a new Standard A2.5.2 – “Financial security”. The new Standard would comprise 13 paragraphs.
- 21. Paragraph 1** is, essentially, a statement of the purpose of the proposed Standard.
- 22. Paragraph 2** delimits the concept of abandonment. Following the approach in the Guidelines attached to IMO Resolution A.930(22), it indicates in subparagraphs (a), (b) and (c) the kinds of cases in which support from a financial security system would be provided:
 - (a) failure to meet the repatriation obligations under Regulation 2.5 and Standard A2.5 paragraphs 1, 2 and 5 of the MLC, 2006, giving due consideration to the provisions in Guideline B2.5.1;
 - (b) lack of maintenance and support (clarified in the proposed paragraph 5);
 - (c) any other situation involving a unilateral severance by the shipowner of ties with a seafarer, including the failure to pay contractual wages for a period of at least two months.
- 23. Paragraph 3** sets out the obligation on a Member, as a flag State, to ensure that a financial security system is in place for ships flying its flag, which may take various forms to be determined by the Member after consultation with the shipowners’ and seafarers’ organizations concerned.
- 24. Paragraph 4** sets out criteria for the financial security system adopted by the flag State, including the need to provide abandoned seafarers with direct access, sufficient coverage and expedited financial assistance.
- 25. Paragraph 5** sets out the details of content of the concept of “necessary maintenance and support” referred to in the proposed subparagraph 2(b).
- 26. Paragraphs 6 and 7** set out the requirement related to documentary evidence of financial security.
- 27. Paragraph 8** sets out the requirement related to paragraph 4 above regarding expedited financial assistance, namely that the assistance provided by the financial security system is to be granted promptly upon a request made by or on behalf of the seafarer concerned when that request is supported by the necessary justification of entitlement in accordance with proposed paragraph 2.
- 28. Paragraphs 9 and 10**, in relation to the criteria of “sufficient coverage” proposed in paragraph 4, set out the details and scope of the assistance to be provided under the financial security system. Paragraph 9 refers to Regulation 2.2 with respect to wages and Regulation 2.5 with respect to repatriation. Paragraph 10 provides details with respect to repatriation coverage in cases of abandonment.

-
29. *Paragraphs 11 and 12* provide for subrogation of rights for a provider of insurance or other financial security.
30. *Paragraph 13* indicates that the rights under the Standard are without prejudice to any other rights, claims or remedies of the seafarer and allows for the adoption of provisions for offsetting amounts received under this proposed Standard from other sources such as compensation with respect to rights, claims or remedies under the proposed Standard.

Section B – Proposal relating to Guideline B2.5

31. This proposal would add a new Guideline B2.5.3 that would be titled “Financial security”. The proposed Guideline contains one paragraph that provides guidance with respect to the implementation of paragraph 8 of the proposed Standard.

Section C – Proposal relating to a new Appendix A2-I

32. This proposal would add a new Appendix A2-I that would be titled “Evidence of financial security under Regulation 2.5, paragraph 2”. The proposed appendix lists the information to be included in the documentary evidence referred to in paragraph 7 of the proposed Standard.

Section D – Proposals relating to Appendices A5-I, A5-II and A5-III

33. This is a proposal to add a new item to the lists of subject areas set out in the current Appendices A5-I, A5-II and A5-III relating to ship inspection and certification.

B2.2. Second set of joint proposals – Proposal for amendments to the Code relating to Regulation 4.2 of the MLC, 2006¹⁸

34. The second set of proposals, submitted jointly by the Shipowners’ and Seafarers’ representatives, *inter alia* elaborates the existing requirement in Standard A4.2, paragraph 1(b) for shipowners to provide financial security to assure compensation in the event of death or long-term disability of a seafarer due to occupational injury, illness or hazard. In light of the then ongoing work of the Joint IMO/ILO Working Group, the details of this financial security and related issues were not dealt with in 2006 when the MLC, 2006, was adopted.
35. As noted above, the draft text set out in this second set of proposals is based on the principles agreed at the Ninth Session (2–6 March 2009) of the Joint IMO/ILO Working Group.¹⁹ The principles and the current proposal also build on the 2001 IMO/ILO Guidelines on Shipowners’ Responsibilities in Respect of Contractual Claims for Personal Injury or Death of Seafarers.²⁰ If the proposals are adopted, the principles that are reflected in provisions in Part A (Standards) of the MLC, 2006, would be mandatory. The provisions proposed for Guidelines in Part B of the Code, although not mandatory, must, in

¹⁸ This second set of joint proposals is set out in Appendix D to this paper.

¹⁹ See footnote 12 above.

²⁰ IMO Resolution A.931(22).

accordance with Article VI, paragraph 2, be given due consideration by a Member when implementing the relevant Regulations and Part A of the Code.

- 36.** The second joint proposal is to amend the Code relating to Regulation 4.2, Shipowners' liability. In addition to consequential changes and the addition of an item to the areas listed in Appendices A5-I, A5-II and A5-III, reflecting the Joint IMO/ILO Working Group's agreement that this topic would also be a matter for ship certification,²¹ it proposes the adoption of additional paragraphs in the existing Standard A4.2 (to be renumbered Standard A4.2.1) and a new Standard A4.2.2 with the title "Treatment of contractual claims" and related Guideline B4.2.2. A new Appendix A4.2-I would set out a list of information to be included in a certificate, or other documentary evidence, that would be available on board ships. A new Guideline B4.2.1 proposes a model receipt and release form as referred to in the proposed Guideline B4.2.2.
- 37.** The footnotes in the second set of joint proposals are for information only and are not part of the text of the proposed amendments.

Section A – Proposals relating to Standard A4.2

- 38.** Section A proposes a consequential amendment to the current numbering of Standard A4.2 to become Standard A4.2.1 and the addition of six new paragraphs to renumbered Standard A4.2.1, numbered 8 to 13.
- 39.** *Paragraph 8* sets out in subparagraphs (a) to (e) minimum requirements to be contained in national laws and regulations for the system of financial security to assure compensation under paragraph 1(b) (of the existing Standard A4.2) for contractual claims (as defined in paragraph 1 of the proposed new Standard A4.2.2). They include the requirement of payment in full without delay, with interim payments where full compensation is difficult to assess.
- 40.** *Paragraphs 9 and 10* address the requirements for notification to seafarers and to flag States in the event that a shipowner's financial security is cancelled or not renewed.
- 41.** *Paragraph 11* requires ships to provide documentary evidence of financial security issued by the financial security provider. This evidence must be posted in a prominent position in the seafarers' accommodation.
- 42.** *Paragraph 12* sets out the requirement that the security must provide for the payment of all contractual claims covered by it which arise during the period for which the document is valid.
- 43.** *Paragraph 13* refers to a proposed new Appendix A4-I that lists the information required in the documentary evidence of financial security. It also sets out English language requirements for the document.
- 44.** Section A also proposes a new Standard A4.2.2 with the title "Treatment of contractual claims" that comprises two paragraphs.
- 45.** *Paragraph 1* clarifies the meaning of the term "contractual claims" as referred to in proposed paragraph 8 in Standard A4.2 (renumbered as A4.2.1).

²¹ See the report cited in footnote 12 above, at para. 126.

-
46. *Paragraph 2* requires arrangements to be in place to receive, deal with and impartially settle contractual claims relating to compensation referred to in Standard A4.2 (renumbered as A4.2.1) through rapid and fair procedures.

Section B – Proposals relating to Guideline B4.2

47. Section B contains two consequential amendments to renumber the existing Guideline B4.2 to reflect the renumbering proposed for Standard A4.2. It also contains a proposal for a new Guideline B4.2.2 titled “Treatment of contractual claims” to provide guidance on the proposed new Standard A4.2.2, which would provide a model for a receipt and release form for use when compensation is paid.

Section C – Proposals for new appendices

48. Section C would add two new appendices to the MLC, 2006,: one would be Appendix A4-I that would presumably²² be titled “Evidence of financial security under Standard A4.2.1, paragraph 13”. This Appendix would list the information to be included in the documentary evidence referred to in proposed paragraph 13 of the Standard A4.2 (renumbered as A4.2.1). The other Appendix, B4-I, would contain the model form mentioned in paragraph 47 above.

Section D – Proposals relating to Appendices A5-I, A5-II and A5-III

49. This is a proposal to add a new item to the lists of subject areas set out in the current Appendices A5-I, A5-II and A5-III relating to ship inspection and certification.

B3. Exchange of information related to implementation: Keeping the working of the Convention under continuous review

50. One of the primary tasks of the MLC Committee will be to consider a wide range of questions relating to the working of the Convention. Where significant gaps or other difficulties are identified, this may lead to recommendations to the Governing Body on action to be taken to ensure the effective, efficient and, to the extent deemed expedient, uniform implementation of the Convention,²³ or to proposals for amendments in the future. The Committee also provides an opportunity for a useful intergovernmental and tripartite exchange of information regarding implementation experiences. In this context, the constituents are encouraged to provide information in the meeting on the status of implementation, as well as identifying any particularly difficult issues they have encountered.

²² The present reference to Regulation 2.5, para. 2, appears to be an obvious editorial error.

²³ The Standing Orders provide in article 16, Reports to the Governing Body:
“Following its meetings referred to in article 3 above, the MLC Committee, through its Chairperson, shall report to the Governing Body on the working of the Convention. The report may contain recommendations to the Governing Body on action to be taken to ensure the effective, efficient and, to the extent deemed expedient, uniform implementation of the Convention.”

B4. Tripartite consultations under Article VII

- 51.** The MLC, 2006, is a convention that is founded on encouraging tripartism at the national level. A number of its provisions, particularly with respect to national “determinations” in specific cases of application and exemptions under Title 3, require tripartite consultation by the Government with the shipowners’ and seafarers’ organizations concerned, as part of the process of implementation. However, some Members do not yet have such organizations. Article VII of the MLC, 2006, therefore provides that in such cases the Government is to consult the Special Tripartite Committee.
- 52.** The Committee will need to consider any requests that are submitted to it in time for consideration at its first meeting. So far, no such requests have been made.
- 53.** The procedure to be followed by the MLC Committee in the case of requests was discussed by the Preparatory Committee in September 2010 and again in December 2011. Although some parameters for the process were developed, the Preparatory Committee did not develop a detailed approach as to how the MLC Committee should carry out this function. It was, however, agreed that the Standing Orders should provide some flexibility as to the arrangements, and that this would be a matter to be discussed at the first meeting of the MLC Committee.²⁴
- 54.** Procedures for consultation under Article VII of the Convention are therefore provided for in article 14 of the Standing Orders; requests for consultation are to be addressed to the Chairperson of the MLC Committee through the International Labour Office. It is up to the MLC Committee to make arrangements enabling it to provide the advice that it may be required to give in the performance of this consultation function.
- 55.** Under paragraph 3 of article 14, these arrangements “shall be made, and updated when appropriate, by the MLC Committee or by its Officers acting in accordance with the authority delegated to them by the MLC Committee” and “shall ensure that the advice provided by the MLC Committee fulfils the following criteria:
- (a) the advice must be provided by or on behalf of the MLC Committee in an expeditious manner following the conclusion of a proper dialogue between the ratifying Member and the MLC Committee or persons acting on its behalf in accordance with subparagraph (d) below;
 - (b) account must be taken of the languages needed to communicate with the ratifying Members concerned and of the expertise needed for the request for consultation;
 - (c) all advice provided by the MLC Committee or on its behalf should be consistent with the Convention as well as with advice previously given by the MLC Committee in the framework of Article VII of the Convention;
 - (d) to the extent that the arrangements include a delegation of authority to the Officers or to a tripartite subcommittee or a tripartite working group composed of MLC Committee members to provide the requested advice on the MLC Committee’s behalf in appropriate cases, the advice so provided will be reported to the MLC Committee;
 - (e) information about the arrangements and any advice provided under them must be made available to the MLC Committee and to all Members.”

²⁴ See GB.313/LILS/INF/1, paras 140–180.

-
- 56.** In view of the guidance provided in article 14 of the Standing Orders as to how the consultation procedure is to be carried out, the Committee may consider that the draft proposal for detailed arrangements could be developed by the Office under the guidance of the Officers of the Committee and taking account of the Committee's discussions at its first meeting, and submitted to the Committee for consideration at its second meeting.
- 57.** It is suggested, however, that one aspect of the arrangements should be the subject of a decision at the Committee's first meeting. Since requests for consultation may be made at any time and must be dealt with as expeditiously as possible, it would appear impracticable for the Committee itself to meet to consider such requests. In this connection, the timing for the second meeting is a question for wider ILO planning and resource considerations, including taking account of the ILO budgetary planning process. Unless financial support for a second meeting in 2015 is made available, a second meeting would be unlikely to occur before 2016 [or 2017]. The Committee would therefore need to take a decision:
- (a) providing, as envisaged in subparagraph (d) quoted in paragraph 55 above, a delegation of authority to its Officers or to a tripartite subcommittee or working group to provide the requested advice on the MLC Committee's behalf in appropriate cases;
 - (b) indicating clear criteria as to the "appropriate cases" in which advice could be given under the delegated authority (subject to the required reporting to the Committee); and
 - (c) either delegating this authority to the Officers or establishing the subcommittee or working group to which the authority would be delegated.

Appendix A

List of ratifications of the Maritime Labour Convention, 2006 (as at 31 January 2014)

	Ratification	Entry into force
Antigua and Barbuda	11.08.2011	20.08.2013
Australia	21.12.2011	20.08.2013
Bahamas	11.02.2008	20.08.2013
Barbados	20.06.2013	20.06.2014
Belgium	20.08.2013	20.08.2014
Benin	13.06.2011	20.08.2013
Bosnia and Herzegovina	18.01.2010	20.08.2013
Bulgaria	12.04.2010	20.08.2013
Canada	15.06.2010	20.08.2013
Croatia	12.02.2010	20.08.2013
Cyprus	20.07.2012	20.08.2013
Denmark	23.06.2011	20.08.2013
Fiji	21.01.2013	
<i>* Instrument of ratification received but not registered pending information under Standard A4.5 §10</i>		
Finland	09.01.2013	09.01.2014
France	28.02.2013	28.02.2014
Gabon	12.05.2011	
<i>* Instrument of ratification received but not registered pending information under Standard A4.5 §10</i>		
Germany	16.08.2013	16.08.2014
Ghana	16.08.2013	16.08.2014
Greece	04.01.2013	04.01.2014
Hungary	31.07.2013	31.07.2014
Italy	19.11.2013	19.11.2014
Japan	05.08.2013	05.08.2014
Kiribati	24.10.2011	20.08.2013
Korea, Republic of	09.01.2014	09.01.2015
Latvia	12.08.2011	20.08.2013
Lebanon	18.02.2013	
<i>* Instrument of ratification received but not registered pending information under Standard A4.5 §10</i>		

	Ratification	Entry into force
Liberia	07.06.2006	20.08.2013
Lithuania	20.08.2013	20.08.2014
Luxembourg	20.09.2011	20.08.2013
Malaysia	20.08.2013	20.08.2014
Malta	22.01.2013	22.01.2014
Marshall Islands	25.09.2007	20.08.2013
Morocco	10.09.2012	10.09.2013
Netherlands	13.12.2011	20.08.2013
Nicaragua	20.12.2013	20.12.2014
Nigeria	18.06.2013	18.06.2014
Norway	10.02.2009	20.08.2013
Palau	29.05.2012	20.08.2013
Panama	06.02.2009	20.08.2013
Philippines	20.08.2012	20.08.2013
Poland	03.05.2012	20.08.2013
Russian Federation	20.08.2012	20.08.2013
Saint Kitts and Nevis	21.02.2012	20.08.2013
Saint Vincent and the Grenadines	09.11.2010	20.08.2013
Samoa	21.11.2013	21.11.2014
Serbia	15.03.2013	15.03.2014
Seychelles	07.01.2014	07.01.2015
Singapore	15.06.2011	20.08.2013
South Africa	20.06.2013	20.06.2014
Spain	04.02.2010	20.08.2013
Sweden	12.06.2012	20.08.2013
Switzerland	21.02.2011	20.08.2013
Togo	14.03.2012	20.08.2013
Tuvalu	16.02.2012	20.08.2013
United Kingdom	07.08.2013	07.08.2014
Viet Nam	08.05.2013	08.05.2014

Appendix B

Relevant provisions in the MLC, 2006

Consultation with shipowners' and seafarers' organizations

Article VII

Any derogation, exemption or other flexible application of this Convention for which the Convention requires consultation with shipowners' and seafarers' organizations may, in cases where representative organizations of shipowners or of seafarers do not exist within a Member, only be decided by that Member through consultation with the Committee referred to in Article XIII.

Special Tripartite Committee

Article XIII

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. For matters dealt with in accordance with this Convention, the Committee shall consist of two representatives nominated by the Government of each Member which has ratified this Convention, and the representatives of Shipowners and Seafarers appointed by the Governing Body after consultation with the Joint Maritime Commission.

3. The Government representatives of Members which have not yet ratified this Convention may participate in the Committee but shall have no right to vote on any matter dealt with in accordance with this Convention. The Governing Body may invite other organizations or entities to be represented on the Committee by observers.

4. The votes of each Shipowner and Seafarer representative in the Committee shall be weighted so as to ensure that the Shipowners' group and the Seafarers' group each have half the voting power of the total number of governments which are represented at the meeting concerned and entitled to vote.

Amendments to the Code

Article XV

1. The Code may be amended either by the procedure set out in Article XIV or, unless expressly provided otherwise, in accordance with the procedure set out in the present Article.

2. An amendment to the Code may be proposed to the Director-General of the International Labour Office by the government of any Member of the Organization or by the group of Shipowner representatives or the group of Seafarer representatives who have been appointed to the Committee referred to in Article XIII. An amendment proposed by a government must have been proposed by, or be supported by, at least five governments of Members that have ratified the Convention or by the group of Shipowner or Seafarer representatives referred to in this paragraph.

3. Having verified that the proposal for amendment meets the requirements of paragraph 2 of this Article, the Director-General shall promptly communicate the proposal, 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 proposal 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 paragraph 3 of this Article, the proposal, accompanied by a summary of any observations or suggestions made under that paragraph, shall be transmitted to the Committee for consideration at a meeting. An amendment shall be considered adopted by the Committee 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 Committee members vote in favour of the amendment; and
- (c) this majority comprises the votes in favour of at least half the government voting power, half the Shipowner voting power and half the Seafarer voting power of the Committee members registered at the meeting when the proposal is put to the vote.

5. Amendments adopted in accordance with paragraph 4 of this Article shall be submitted to the next session of the Conference for approval. Such approval shall require a majority of two-thirds of the votes cast by the delegates present. If such majority is not obtained, the proposed amendment shall be referred back to the Committee for reconsideration should the Committee so wish.

6. Amendments approved by the Conference shall be notified by the Director-General to each of the Members whose ratifications of this Convention were registered before the date of such approval by the 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 formal 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 a period 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 approved by the Conference 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 40 per cent of the Members which have ratified the Convention and which represent not less than 40 per cent of the gross tonnage of the ships of the Members which have ratified the Convention.

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 formally expressed their disagreement in accordance with paragraph 7 of this Article and have not withdrawn such disagreement in accordance with paragraph 11. However:

- (a) before the end of the prescribed period, any ratifying Member may give notice to the Director-General that it shall be bound by the amendment 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 will not give effect to that amendment for a specified period.

9. An amendment which is the subject of a notice referred to in paragraph 8(a) of this Article shall enter into force for the Member giving such notice six months after the Member 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 later.

10. The period referred to in paragraph 8(b) of this Article shall not go beyond one year from the date of entry into force of the amendment or beyond any longer period determined by the Conference at the time of approval of the amendment.

11. A Member that has formally expressed disagreement with an amendment may withdraw its disagreement at any time. If notice of such withdrawal is received by the Director-General after the amendment has entered into force, the amendment shall enter into force for the Member six months after the date on which the notice was registered.

12. After entry into force of an amendment, the Convention may only be ratified in its amended form.

13. To the extent that a maritime labour certificate relates to matters covered by an amendment to the Convention which has entered into force:

-
- (a) a Member that has accepted that amendment shall not be obliged to extend the benefit of the Convention in respect of the maritime labour certificates issued to ships flying the flag of another Member which:
 - (i) pursuant to paragraph 7 of this Article, has formally expressed disagreement to the amendment and has not withdrawn such disagreement; or
 - (ii) pursuant to paragraph 8(a) of this Article, has given notice that its acceptance is subject to its subsequent express notification and has not accepted the amendment; and
 - (b) a Member that has accepted the amendment shall extend the benefit of the Convention in respect of the maritime labour certificates issued to ships flying the flag of another Member that has given notice, pursuant to paragraph 8(b) of this Article, that it will not give effect to that amendment for the period specified in accordance with paragraph 10 of this Article.

Appendix C

Proposal for amendments to the Code relating to Regulation 2.5 of the MLC, 2006

First set of joint proposals

Proposal for the text of amendments to the Code of the Maritime Labour Convention, 2006, submitted to the Director-General of the ILO for consideration by ILO Members and by the Special Tripartite Committee established under Article XIII with a view to adoption in accordance with Article XV of the Maritime Labour Convention, 2006.

This proposal reflects the principles that were adopted at the Ninth Session (2–6 March 2009) of the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers.¹ The footnotes in this proposal are for information only and are not part of this proposal for the text of the amendments.

A. *Proposals relating to Standard A2.5*

In the present heading, “Standard A2.5 – Repatriation”, replace “A2.5” by “A2.5.1”.

Following paragraph 9 of the present Standard A2.5, add the following heading and text:

Standard A2.5.2 – Financial security²

1. In implementation of Regulation 2.5, paragraph 2, this Standard establishes requirements to ensure the provision of a rapid and effective financial security system to assist seafarers in the event of abandonment of seafarers.

2. For the purposes of this Standard, a seafarer shall be deemed to have been abandoned where, in violation of the requirements of this Convention or the terms of the seafarers’ employment agreement, the shipowner:

- (a) fails to cover the cost of the seafarer’s repatriation; or
- (b) has left the seafarer without the necessary maintenance and support; or
- (c) has otherwise unilaterally severed their ties with the seafarer including failure to pay contractual wages for a period of at least two months.

3. Each Member shall ensure that a financial security system meeting the requirements of this Standard is in place for ships flying its flag. The financial security system may be in the form of a social security scheme or insurance or a national fund or other similar arrangements. Its form shall be determined by the Member after consultation with the shipowners’ and seafarers’ organizations concerned.

¹ See *Final report, Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers, Geneva, 2–6 March 2009*, ILO, 2009 http://www.ilo.org/sector/activities/sectoral-meetings/WCMS_161446/lang--en/index.htm (accessed 27 January 2014). See also Resolution concerning the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers, in *Resolutions adopted by the International Labour Conference at its 94th (Maritime) Session*, ILO, 2006, http://www.ilo.org/global/standards/maritimelabour-convention/WCMS_088130/lang--en/index.htm (accessed 27 Jan. 2014).

² The proposed title establishes the relationship between the provision of financial security for repatriation in Regulation 2.5, paragraph 2 and the concept of abandonment, as defined in the proposed new Standard A2.5.2, paragraph 2 (formerly paragraph 5 of the Joint IMO/ILO Expert Working Group “principles”).

4. The financial security system shall provide direct access, sufficient coverage and expedited financial assistance, in accordance with this Standard, to any abandoned seafarer who was employed or engaged or working in any capacity on a ship flying the flag of the Member.

5. For the purposes of this Standard, necessary maintenance and support of seafarers shall include: adequate food, clothing, accommodation, necessary medical care and other reasonable costs or charges arising from the abandonment.

6. Each Member shall require that ships that fly its flag, and to which paragraph 1 or 2 of Regulation 5.1.3 applies, provide documentary evidence of financial security issued by the financial security provider.³ The documentary evidence shall be posted in a prominent position in the seafarers' accommodation. Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.

7. The documentary evidence of financial security shall contain the information required in Appendix A2-I. It shall be in English or accompanied by an English translation.

8. Assistance provided by the financial security system shall be granted promptly upon request made by or on behalf of the seafarer concerned and supported by the necessary justification of entitlement in accordance with paragraph 2 above.

9. Having regard to Regulations 2.2 and 2.5, assistance provided by the financial security system shall be sufficient to cover the following:

- (a) outstanding wages and other entitlements due from the shipowner to the seafarer under their employment agreement, the relevant collective bargaining agreement or the national law of the flag State, limited to four months of any such outstanding wages and four months of any such outstanding entitlements;
- (b) all expenses reasonably incurred by the seafarer, including the cost of repatriation referred to in paragraph 10; and
- (c) the cost of necessary maintenance and support from the act or omission constituting abandonment until the seafarer's arrival at home.

10. The cost of repatriation shall cover travel by appropriate and expeditious means, normally by air, and include provision for food and accommodation of the seafarers from the time of leaving the ship until arrival at the seafarer's home, necessary medical care, passage and transport of personal effects and any other reasonable costs or charges arising from the abandonment.

11. If the provider of insurance or other financial security has made any payment to any seafarer in accordance with this Standard, such provider shall, up to the amount it has paid, acquire by subrogation, assignment or otherwise, the rights which the seafarer would have enjoyed.

12. Nothing in this Standard shall prejudice any right of recourse of the insurer or provider of financial security against third parties.

13. The provisions in this Standard are not intended to be exclusive or to prejudice any other rights, claims or remedies that may also be available to compensate seafarers who are abandoned. National laws and regulations may provide that any amounts payable under this Standard can be offset against amounts received from other sources arising from any rights, claims or remedies that may be the subject of compensation under the present Standard.

B. Proposal relating to Guideline B2.5

At the end of the present Guideline B2.5, add the following heading and text:

³ The Joint IMO/ILO Working Group agreed in 2009 that this item should be added to the list of areas subject to port State control and would accordingly be a matter to be certified for ships that must be both inspected and certified. See the Final report referred to in note 1 above, at para. 106. The term "documentary evidence" was used to address a difference in views as to the precise format of this documentation to provide evidence of financial security. This wording is also consistent with the approach adopted in the *ILO Guidelines on flag State inspection* that were prepared in 2008 by an international tripartite meeting of experts.

Guideline B2.5.3 – Financial security

1. In implementation of paragraph 8 of Standard A2.5.2, if time is needed to check the validity of certain aspects of the seafarer's request, this should not prevent the seafarer or a representative from immediately receiving such part of the assistance requested as is recognized as justified.

C. Proposal for a new appendix

Before Appendix A5-I, add the following Appendix:

APPENDIX A2-I

Evidence of financial security under Regulation 2.5, paragraph 2

The certificate or ⁴ other documentary evidence referred to in Standard A2.5.2, paragraph 7 shall include the following information:

- (a) name of the ship;
- (b) port of registry of the ship;
- (c) call sign of the ship;
- (d) IMO number of the ship;
- (e) name and address of the provider of the financial security;
- (f) contact details of the persons or entity responsible for handling seafarers' requests for relief;
- (g) name of the shipowner;
- (h) period of validity of the financial security; and
- (i) an attestation that the financial security meets the requirements of Standard A2.5.2.

D. Proposals relating to Appendices A5-I, A5-II and A5-III

At the end of Appendix A5-I, add the following item:

Financial security for repatriation.

In Appendix A5-II, after item 14 under the heading *Declaration of Maritime Labour Compliance – Part I*, add the following item:

15. Financial security for repatriation (Regulation 2.5).

In Appendix A5-II, after item 14 under the heading *Declaration of Maritime Labour Compliance – Part II*, add the following item:

15. Financial security for repatriation (Regulation 2.5).

At the end of Appendix A5-III, add the following area:

Financial security for repatriation.

⁴ As noted above, there were some differing views in the Joint IMO/ILO Expert Working Group regarding the format for the evidence of this security. The wording "or" has been proposed to provide flexibility.

Appendix D

Proposal for amendments to the Code relating to Regulation 4.2 of the MLC, 2006

Second set of joint proposals

Proposal for the text of amendments to the Code of the Maritime Labour Convention, 2006, submitted to the Director-General of the ILO for consideration by ILO Members and by the Special Tripartite Committee established under Article XIII with a view to adoption in accordance with Article XV of the Maritime Labour Convention, 2006.

This proposal reflects the principles that were adopted at the Ninth Session (2–6 March 2009) of the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers.¹ The footnotes in this proposal are for information only and are not part of this proposal for the text of the amendments.

A. Proposals relating to Standard A4.2

In the present heading, “Standard A4.2 – Shipowners’ liability”, replace “A4.2” by “A4.2.1”.

Following paragraph 7 of the present Standard A4.2, add the following text:

8. National laws and regulations shall provide that the system of financial security to assure compensation as provided by paragraph 1(b) of this Standard for contractual claims, as defined in Standard A4.2.2, meet the following minimum requirements:

- (a) the contractual compensation, where set out in the seafarer’s employment agreement and without prejudice to (c) below, shall be paid in full and without delay;
- (b) there shall be no pressure to accept a payment less than the contractual amount;
- (c) where the nature of the long-term disability of a seafarer makes it difficult to assess the full compensation to which the seafarer may be entitled, an interim payment or payments shall be made to the seafarer so as to avoid undue hardship;
- (d) in accordance with Regulation 4.2, paragraph 2, the seafarer shall receive payment without prejudice to other legal rights, but such payment may be offset by the shipowner against any damages resulting from any other claim made by the seafarer against the shipowner and arising from the same incident;
- (e) the claim for contractual compensation may be brought directly by the seafarer concerned, or their next of kin, or a representative of the seafarer or designated beneficiary.²

¹ See *Final report, Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers, Geneva, 2–6 March 2009*, ILO, 2009 http://www.ilo.org/sector/activities/sectoral-meetings/WCMS_161446/lang--en/index.htm (accessed 27 January 2014). See also Resolution concerning the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers, in *Resolutions adopted by the International Labour Conference at its 94th (Maritime) Session*, ILO, 2006, http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_088130/lang--en/index.htm (accessed 27 Jan. 2014).

² The wording which was contained in the principles that were proposed by the Joint IMO/ILO Expert Working Group (see the Final report, referred to in note 1 above, at paras 149–152 and Appendix II, “Principles” at para. 4) has been adjusted for legal drafting reasons. Although the wording appears to have been the subject of agreement (see para. 152), the spokesperson for the

9. Each Member's laws and regulations shall ensure that seafarers receive prior notification if a shipowner's financial security is to be cancelled and be notified immediately if it is not to be renewed.

10. Each Member's laws and regulations shall ensure that the flag State is notified by the provider of the insurance if a shipowner's financial security is to be cancelled, upon cancellation and upon non-renewal.

11. Each Member shall require that ships that fly its flag provide documentary evidence of financial security issued by the financial security provider. The documentary evidence shall be posted in a prominent position in the seafarers' accommodation. Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.

12. The financial security shall provide for the payment of all contractual claims covered by it which arise during the period for which the document is valid.

13. The documentary evidence of financial security shall contain the information required in Appendix A4-I. It shall be in English or accompanied by an English translation.

Add the following heading and text following the present Standard A4.2:

*Standard A4.2.2 – Treatment of contractual claims*³

1. For the purposes of Standard A4.2.1 and the present Standard, the term "contractual claim" means any claim which relates to sickness, injury or death occurring while the seafarer is serving under a seafarers' employment agreement or arising from their employment under such an agreement.

2. Each Member's laws and regulations shall ensure that effective arrangements are in place to receive, deal with and impartially settle contractual claims relating to compensation referred to in Standard A4.2.1 through rapid and fair procedures.

B. *Proposals relating to Guideline B4.2*

In the present heading, "Guideline B4.2 – Shipowners' liability", replace "B4.2" by "B4.2.1".

In paragraph 1 of the present Guideline B4.2, replace "Standard A4.2" by "Standard A4.2.1".

Following paragraph 3 of the present Guideline B4.2, add the following heading and text:

Guideline B4.2.2 – Treatment of contractual claims

1. National laws or regulations should provide that the parties to the payment of a contractual claim may use the Model Receipt and Release Form set out in Appendix B4-I.

C. *Proposals for new appendices*

After Appendix A2-I, add the following Appendix:

Seafarers' group called for the paragraph to be placed in square brackets (see para. 151). It is noted that the present proposal does not contain the square brackets.

³ The principles proposed by the Joint IMO/ILO Expert Working Group covered two issues. See the Final report, referred to in note 1 above, at paras 133 and 134.

APPENDIX A4-I

Evidence of financial security under Regulation 2.5, paragraph 2

The documentary evidence of financial security required under Standard A4.2.1, paragraph 13 shall include the following information:

- (a) name of the ship;
- (b) port of registry of the ship;
- (c) call sign of the ship;
- (d) IMO number of the ship;
- (e) name and contact details of the provider/s of the financial security;
- (f) place of business of the provider/s of the financial security;
- (g) name of the shipowner;
- (h) period of validity of the financial security;
- (i) an attestation by the competent authority that the financial security meets the requirements of this Standard.

After Appendix A4-I, add the following Appendix:

APPENDIX B4-I

Model receipt and release form
referred to in Guideline B4.2.2

Ship:

Incident:

Seafarer/legal heir and/or dependant:

Shipowner:

I, [Seafarer] [Seafarer's legal heir and/or dependant]* hereby acknowledge receipt of the sum of [currency and amount] in satisfaction of the Shipowner's obligation to pay contractual compensation for personal injury and/or death under the terms and conditions of my/the Seafarer's employment and I hereby release the Shipowner from its obligations under the said terms and conditions.

The payment is made without admission of liability of any claims and is accepted without prejudice to my/the Seafarer's legal heir and/or dependant's right to pursue any claim at law in respect of negligence, tort or any other legal redress available and arising out of the above incident.

Dated:

Seafarer/legal heir and/or dependant:

Signed:

For acknowledgement:

Shipowner/Shipowner representative:

Signed:

Insurer/Insurer representative:

Signed:

* Delete as appropriate.

D. *Proposals relating to Appendices A5-I, A5-II and A5-III*⁴

At the end of Appendix A5-I, add the following item:

Financial security relating to shipowners' liability.

In Appendix A5-II, as the last item under the heading *Declaration of Maritime Labour Compliance – Part I*, add the following item:

16. Financial security relating to shipowners' liability (Regulation 4.2).

In Appendix A5-II, as the last item under the heading *Declaration of Maritime Labour Compliance – Part II*, add the following item:

16. Financial security relating to shipowners' liability (Regulation 4.2).

At the end of Appendix A5-III, add the following area:

Financial security relating to shipowners' liability.

⁴ The IMO/ILO Expert Working Group agreed in 2009 that this item should be added to the list of areas subject to port State control and would accordingly be a matter to be certified for ships that must be both inspected and certified. See Final report referred to in note 1 above, at paragraph 126. This wording is also consistent with the approach adopted in the *ILO Guidelines on flag State inspection* that were prepared in 2008 by an international tripartite meeting of experts. See: http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_101788/lang--en/index.htm.