

## Governing Body

335th Session, Geneva, 14–28 March 2019

GB.335/LILS/4

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

**LILS**

**Date:** 25 February 2019

**Original:** English

### FOURTH ITEM ON THE AGENDA

## **Proposed amendments to the form for reports to be requested under article 22 of the ILO Constitution in relation to the Maritime Labour Convention, 2006, as amended (MLC, 2006)**

#### **Purpose of the document**

A second set of amendments to the Maritime Labour Convention, 2006, as amended (MLC, 2006), was approved in June 2016 by the International Labour Conference and entered into force on 8 January 2019. In the present document, the Governing Body is invited to examine and approve the related changes to the report form to be used by the Governments of ratifying States as a basis for their reports on the application of the MLC, 2006, in accordance with article 22 of the ILO Constitution. The proposed modifications to the report form were consulted with the Officers of the Special Tripartite Committee of the MLC, 2006 (see the draft decision in paragraph 7).

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

**Main relevant outcome/cross-cutting policy driver:** Outcome 2: Ratification and application of international labour standards.

**Policy implications:** None.

**Legal implications:** Form to be used in the context of constitutional reporting obligations.

**Financial implications:** None.

**Follow-up action required:** None.

**Author unit:** International Labour Standards Department (NORMES).

**Related documents:** GB.329/LILS/3(Rev.); GB.334/LILS/2(Rev.).



## Introduction

1. The [Maritime Labour Convention, 2006, as amended \(MLC, 2006\)](#), has been ratified by 90 member States<sup>1</sup> representing more than 91 per cent of the world merchant shipping fleet. Its Code has been amended three times since its entry into force, in 2013.<sup>2</sup> In the context of the ILO Centenary, the Office has launched a [campaign](#) aimed at reaching one hundred ratifications in 2019.
2. In June 2016, the International Labour Conference approved the second set of amendments to the Code of the MLC, 2006, that had been adopted on 10 February 2016 by the Special Tripartite Committee established under Article XIII of the Convention.<sup>3</sup> The entry into force of these amendments, on 8 January 2019,<sup>4</sup> requires the revision of the report form under article 22 of the ILO Constitution for the MLC, 2006.
3. The first amendment adopted in 2016 relates to the Code implementing *Regulation 4.3 – Health and safety protection and accident prevention* – and is aimed at eliminating shipboard harassment and bullying by ensuring that these issues are covered by the health and safety policies and measures required by the Code. This amendment, included in *Guideline B4.3*, refers to the [Guidance on eliminating shipboard harassment and bullying](#) jointly developed by the International Chamber of Shipping and the International Transport Workers' Federation.
4. The second amendment adopted in 2016 relates to the Code implementing *Regulation 5.1 – Flag State responsibilities* – and is intended to allow an extension of not more than five months of the validity of the maritime labour certificate issued for ships in cases where the renewal inspection required by *Standard A5.1.3, paragraph 2*, has been successfully completed, but a new certificate cannot immediately be issued to that ship.

<sup>1</sup> As at 15 February 2019. See the complete list in [NORMLEX](#).

<sup>2</sup> Through the simplified process of amendment established under Article XV of the MLC, 2006. In June 2014, the International Labour Conference approved amendments related to the issue of financial security for cases of abandonment of seafarers and claims for compensation in the event of a seafarer's death or long-term disability due to an occupational injury, illness or hazard. In June 2016, the International Labour Conference approved two further amendments, as indicated above. Finally, in June 2018, the International Labour Conference approved amendments related to the protection of seafarers' wages and entitlements while they are held captive on or off the ship as a result of acts of piracy or armed robbery against ships.

<sup>3</sup> The full text of the amendments can be found in the appendix.

<sup>4</sup> It is to be noted that not all ratifying member States are currently bound by these amendments. Portugal notified the Director-General of the ILO that it would be bound by the amendments only after a subsequent express notification of their acceptance (Article XV, para. 8(a) of the Convention). As of 15 February 2019, the Office was awaiting the formal declaration of acceptance of the amendments from the following countries: Albania, China (Hong Kong), Djibouti, Gambia, Grenada, Indonesia, Lebanon, Slovakia and Tunisia. Relevant information can be found at: [NORMLEX: Acceptance of amendments of 2016 to the MLC, 2006](#).

## Consideration of proposals for modifications to the form for reports on the Maritime Labour Convention, 2006, as amended (MLC, 2006)

5. Based on the advice provided by the Officers of the Special Tripartite Committee of the MLC, 2006, during informal consultations, the proposed modifications to the relevant parts of the report form,<sup>5</sup> presented below in track changes, concern only *Standard A5.1.3*.

*Standard A5.1.3* – Maritime labour certificate and declaration of maritime labour compliance (page 49 of the report form):

*Below please provide a reference to the national provisions or other measures implementing the corresponding requirements of the Convention, if those provisions or measures are in English, French or Spanish; otherwise please provide the reference and summarize the content of those provisions or measures.*

The cases in which a maritime labour certificate is required; the maximum period of issue; the scope of the prior inspection; the requirement for an intermediate inspection; the provisions for renewal of the certificate; [the provisions for the possible extension of the validity of the certificate after a renewal inspection](#). (*Regulation 5.1.3; Standard A5.1.3, paragraphs 1–4*).

6. No modifications to the report form are proposed regarding seafarers' protection against shipboard harassment and bullying as this issue is considered to be adequately covered by the following existing question:

*Guideline B4.3.1* – Provisions on occupational accidents, injuries and diseases (page 39 of the report form):

Do those laws and regulations and other measures [on occupational safety and health] address all matters in *Standard A4.3, paragraphs 1 and 2*, including any measures taken to protect seafarers under the age of 18? (*Standard A4.3, paragraphs 1 and 2; see guidance in Guideline B4.3*)

### Draft decision

- 7. The Governing Body approved the proposed changes to be inserted in the report form for the Maritime Labour Convention, 2006, as amended (MLC, 2006), to be used as the basis for the preparation of reports due under article 22 of the ILO Constitution.***

<sup>5</sup> The report form can be found at: [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:51:0::NO:51:P51\\_CONTENT\\_REPOSITORY\\_ID:3056252:NO](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:51:0::NO:51:P51_CONTENT_REPOSITORY_ID:3056252:NO).

## Appendix

### Amendments of 2016 to the Maritime Labour Convention, 2006, as amended (MLC, 2006)

#### Amendments to the Code relating to Regulation 4.3 of the MLC, 2006

##### ***Guideline B4.3.1 – Provisions on occupational accidents, injuries and diseases***

At the end of paragraph 1, add the following text:

Account should also be taken of the latest version of the *Guidance on eliminating shipboard harassment and bullying* jointly published by the International Chamber of Shipping and the International Transport Workers' Federation.

In paragraph 4, move “and” from the end of subparagraph (b) to the end of subparagraph (c). Add the following new subparagraph:

(d) harassment and bullying.

##### ***Guideline B4.3.6 – Investigations***

In paragraph 2, move “and” from the end of subparagraph (e) to the end of subparagraph (f). Add the following new subparagraph:

(g) problems arising from harassment and bullying.

#### Amendments to the Code relating to Regulation 5.1 of the MLC, 2006

##### ***Standard A5.1.3 – Maritime labour certificate and declaration of maritime labour compliance***

Move the text of the current paragraph 4 to the end of paragraph 3.

Replace the current paragraph 4 with the following:

Notwithstanding paragraph 1 of this Standard, where, after a renewal inspection completed prior to the expiry of a maritime labour certificate, the ship is found to continue to meet national laws and regulations or other measures implementing the requirements of this Convention, but a new certificate cannot immediately be issued to and made available on board that ship, the competent authority, or the recognized organization duly authorized for this purpose, may extend the validity of the certificate for a further period not exceeding five months from the expiry date of the existing certificate, and endorse the certificate accordingly. The new certificate shall be valid for a period not exceeding five years starting from the date provided for in paragraph 3 of this Standard.

**Appendix A5–II – Maritime labour certificate**

Add the following text to the end of the model form for the maritime labour certificate:

*Extension after renewal inspection (if required)*

This is to certify that, following a renewal inspection, the ship was found to continue to be in compliance with national laws and regulations or other measures implementing the requirements of this Convention, and that the present certificate is hereby extended, in accordance with paragraph 4 of Standard A5.1.3, until .....  
(not more than five months after the expiry date of the existing certificate) to allow for the new certificate to be issued to and made available on board the ship.

Completion date of the renewal inspection on which this extension is based was:

.....

Signed: .....  
(Signature of authorized official)

Place: .....

Date: .....  
(Seal or stamp of the authority, as appropriate)