



Governing Body

326th Session, Geneva, 10–24 March 2016

GB.326/LILS/6

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

LILS

Date: 7 March 2016

Original: English

SIXTH ITEM ON THE AGENDA

Report of the second meeting of the Special Tripartite Committee established under the Maritime Labour Convention, 2006 (Geneva, 8–10 February 2016)

Report of the Chairperson to the Governing Body, in accordance with article 16 of the Standing Orders of the Special Tripartite Committee

Purpose of the document

As required by the Standing Orders of the Special Tripartite Committee (STC), the Chairperson of the second meeting of the STC (8–10 February, 2016), presents his report on the working of the Convention. The Governing Body is invited to take note of this report; to appoint the Chairperson of the STC for a three-year period; to transmit to the 105th Session of the International Labour Conference the amendments to the Code of the Maritime Labour Convention, 2006, adopted by the second STC meeting; to endorse the establishment of the working group of the STC and approve the financial arrangements for its meeting; and to convene the third meeting of the STC in 2018 (see the draft decision in paragraph 17).

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

Policy implications: None.

Legal implications: Transmittal of the amendments to the Maritime Labour Convention, 2006, adopted by the STC to the next session of the Conference for possible approval.

Financial implications: Financial arrangements relating to the meeting of the working group of the STC, and to the third meeting of the STC.

Follow-up action required: Scheduling of meetings of the working group of the STC and the STC.

Author unit: International Labour Standards Department (NORMES).

Related document: GB.322/LILS/3.

Introduction

1. The second meeting of the Special Tripartite Committee (STC) established by the Governing Body under Article XIII of the Maritime Labour Convention, 2006 (MLC, 2006), was held from 8–10 February 2016 at ILO headquarters in Geneva. The meeting was attended by 231 participants.
2. In accordance with article 16 of the Standing Orders of the STC,¹ the Chairperson of the Committee is to 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.”
3. The meeting was successful in that all matters on its agenda were dealt with, and the meeting had useful bipartite and tripartite exchanges on many issues related to the working of the Convention and reached tripartite agreement on important matters. The remainder of this report of the Chairperson sets out the outcome of the meeting with respect to each matter on the agenda.

1. Consideration of proposals for amendments to the Code of the Maritime Labour Convention, 2006

4. The meeting considered proposed amendments to the Code of the MLC, 2006, which had been submitted by the groups of Shipowner and Seafarer representatives² appointed to the STC. These proposals were communicated by the Director-General to all Members of the Organization with an invitation to submit observations or suggestions on the proposed amendments within a six-month period. In accordance with Article XV, paragraph 4, of the MLC, 2006, a summary of these observations or suggestions was transmitted to the Committee for consideration when it discussed the proposed amendments.
5. The proposed amendments to the Code implementing Regulation 4.3 – *Health and safety protection and accident prevention* are intended to eliminate shipboard harassment and bullying by ensuring that these issues are covered by the health and safety policies and measures required by the Code. The proposed amendments to the Code implementing Regulation 5.1 – *Flag State responsibilities* are 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 paragraph 2 of Standard A5.1.3 has been successfully completed, but a new certificate cannot immediately be issued to that ship.

¹ Available on the MLC, 2006, website at: http://www.ilo.org/global/standards/maritime-labour-convention/special-tripartite-committee/WCMS_183944/lang--en/index.htm.

² The group of Seafarer representatives submitted amendments relating to Regulations 2.2 (wages) and 4.3 (Health and safety protection and accident prevention) of the MLC, 2006, and the group of the Shipowner representatives submitted an amendment concerning Regulation 5.1 of the MLC, 2006.

6. The STC, having reviewed and revised the proposed amendments to the Code implementing Regulations 4.3 and 5.1 of the MLC, 2006, adopted them by unanimous vote in accordance with the requirements set out in Article XV, paragraph 4, of the MLC, 2006.³ The amendments to the Code adopted by the second meeting of the STC are reproduced in Appendix I.
7. Pursuant to Article XV, paragraph 5, of the MLC, 2006, and article 17 of the Standing Orders of the STC, the amendments to the Code are hereby communicated by the Chairperson of the STC to the Governing Body for transmittal to the next session of the International Labour Conference (June 2016) for approval.⁴
8. The STC also considered a proposal for amendments to the Code relating to Regulation 2.2 – *Wages* intended to ensure the continued payment of wages when a seafarer is held captive by pirates. Following discussion, the Committee recognized the importance of the issue, but considered that it required further consideration by a working group. Accordingly, the Committee adopted a resolution concerning the establishment of a working group of the STC that is called upon: (i) to examine issues related to the protection of seafarers' wages when the seafarer is held captive on or off the ship as a result of acts such as piracy or armed robbery, and to prepare proposals including an amendment to the Code of the MLC, 2006, to address these issues.⁵

2. Exchange of information related to implementation

9. There was a useful exchange of information among governments and on a tripartite basis. A member of the Committee of Experts on the Application of Conventions and Recommendations (Professor Lia Athanassiou), presented key issues arising out of the examination of the first reports on the application of the MLC, 2006, submitted by ratifying member States. Several specific topics were raised during the discussion, including: the scope of the system of protection to be established by seafarer recruitment and placement services to compensate seafarers for monetary losses; the scope of the duties of administrative authorities to control and inspect ships; acceptance of the Declaration of Maritime Labour Compliance in electronic format; and the definition of the terms “seafarer” and “ship” for the purposes of the application of the Convention.

³ To be adopted, an amendment needs to receive the votes in favour of at least two-thirds of the Committee members, including 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. Article XIII of the MLC, 2006, requires the votes of each Shipowner and Seafarer representative to be weighted so that the Shipowners' and Seafarers' groups each have half the voting power of the Government group. There were no votes against the amendments and no abstentions.

⁴ Under Article XV, paragraph 5, of the MLC, 2006, such approval requires a majority of two-thirds of the votes cast by the delegates present. If these amendments are approved by the Conference, they will be notified to members whose ratification of the MLC, 2006, was registered prior to the date of the Conference's approval. These Members will have a period of two years from that notification to express a formal disagreement to the amendments. The amendments will enter into force six months after the end of that period unless more than 40 per cent of ratifying Members, representing not less than 40 per cent of world gross tonnage, have formally expressed their disagreement with the amendments.

⁵ The resolution concerning the establishment of a working group of the STC is in Appendix II.

10. Several governments raised concerns regarding the process of preparation of proposals of amendments to the Code of the MLC, 2006, and expressed the need to develop guidance in this regard. Accordingly, the working group of the STC established under the abovementioned resolution was also mandated “to recommend improvements to the process for preparing proposals for amendments to the Code of the MLC, 2006, for consideration by the STC in accordance with Article XV of the Convention and article 11 of the Standing Orders of the STC, to promote their earlier and fuller consideration by member States and representative organizations of seafarers and shipowners”.

3. Consideration of any request for consultation under Article VII of the MLC, 2006

11. There were no requests for consultation at this meeting.

4. Officers of the STC

12. In accordance with article 6(2) of its Standing Orders, the Government members of the Committee decided to nominate Ms Julie Carlton (United Kingdom) to the Governing Body for appointment as Chairperson of the Committee for the three-year period 2016–19.
13. In accordance with article 6(3) of its Standing Orders, the Committee appointed the following representatives as Vice-Chairpersons for the Committee for the same three-year period:
 - Mr Hans Leo Cacdac (Government member, Philippines);
 - Mr Arthur Bowring (Shipowner member, Hong Kong Special Administrative Region, China);
 - Mr David Heindel (Seafarer member, United States).

5. Establishment of a working group of the STC

14. As indicated above, the meeting decided, in accordance with article 15 of its Standing Orders, to establish a working group with the following terms of reference: (i) to examine issues related to the protection of seafarers’ wages when the seafarer is held captive on or off the ship as a result of acts such as piracy or armed robbery, and to prepare proposals including an amendment to the Code of the MLC, 2006, to address these issues; (ii) to recommend improvements to the process for preparing proposals for amendments to the Code of the MLC, 2006, for consideration by the STC in accordance with Article XV of the Convention and article 11 of the Standing Orders of the STC, to promote their earlier and fuller consideration by member States and representative organizations of Seafarers and Shipowners; and (iii) to deliver a report, with recommendations, to be submitted to the third meeting of the STC, not later than nine months before the meeting.

15. The working group is expected to work mainly through electronic correspondence and to hold one meeting in Geneva in 2017. It will be composed of four Government representatives, four Shipowner representatives and four Seafarer representatives, and in keeping with the Standing Orders of the STC. The table below outlines the estimated costs for the meeting:

	(US\$)
Travel and subsistence costs	38 100
Interpretation	60 000
Documentation and translation	5 000
Total	103 100

16. The Programme and Budget for 2016–17 contains no provision for the meeting of this working group. It is proposed that these costs would, in the first instance, be financed from savings that may arise under Part I of the budget for 2016–17 or, failing that, through the use of the provision for unforeseen expenditure, Part II. Should this not prove possible, the Director-General would propose alternative methods of financing at a later stage in the biennial.

Draft decision

17. The Governing Body:

- (a) takes note of the information provided in this report;*
- (b) transmits to the 105th Session of the International Labour Conference (June 2016) for approval the amendments to the Code of the Maritime Labour Convention, 2006, adopted by the Special Tripartite Committee, as contained in Appendix I to this report;*
- (c) appoints Ms Julie Carlton (United Kingdom) as the Chairperson of the Special Tripartite Committee for a three-year term (2016–19);*
- (d) endorses the establishment of the working group of the Special Tripartite Committee and approves that the cost of the meeting of the working group, estimated at \$103,100, be financed in the first instance from savings in Part I of the budget or, failing that, through Part II, on the understanding that, should this subsequently prove impossible, the Director-General would propose alternative methods of financing at a later stage in the 2016–17 biennial; and*
- (e) decides to convene the third meeting of the Special Tripartite Committee in 2018, and requests the Director-General to include a provision for that purpose in the Programme and Budget proposals for 2018–19.*

Appendix I

Amendments adopted 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)

Appendix II

Resolution concerning the establishment of a working group of the Special Tripartite Committee

The second meeting of the Special Tripartite Committee (STC) of the Maritime Labour Convention, 2006, having discussed a proposal, submitted by the Group of Seafarer representatives of the STC for amendments to the Code relating to Regulation 2.2 of the MLC, 2006, as well as issues related to the submission of amendments, decides, in accordance with article 15 of its Standing Orders, to establish a working group with the following terms of reference:

- (i) to examine issues related to the protection of seafarers' wages when the seafarer is held captive on or off the ship as a result of acts such as piracy or armed robbery, and to prepare proposals including an amendment to the Code of the MLC, 2006, to address these issues;
- (ii) to recommend improvements to the process for preparing proposals for amendments to the Code of the MLC, 2006, for consideration by the STC in accordance with Article XV of the Convention and article 11 of the Standing Orders of the STC, to promote their earlier and fuller consideration by member States and representative organizations of Seafarers and Shipowners; and
- (iii) to deliver a report, with recommendations, to be submitted to the third meeting of the STC, not later than nine months before the meeting.

Composition

The working group shall be composed of four Government representatives, four Shipowner representatives and four Seafarer representatives, and in keeping with the Standing Orders of the STC.

Delegation of authority to STC Officers

In accordance with paragraph 5 of article 7 of the Standing Orders of the STC, the programme of work, date and time for the sitting of the working group shall be arranged by the Officers of the STC.

There will be only one sitting of the working group, however, it is expected that the working group will commence its work by correspondence well in advance of the sitting.

* * *

The STC further invites the Governing Body to request the Director-General to give due priority in the allocation of resources with a view to giving effect to this resolution.