



**IMO**  
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# **A LAW TO INCORPORATE THE MARITIME LABOUR CONVENTION, 2006 INTO THE UKRAINIAN LEGISLATION**

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## **ABBREVIATIONS**

EU	European Union
ILC	International Labour Conference
ILO	International Labour Organization
IMO	International Maritime Organization
ISPS Code	International Ship and Port Facility Security Code, 2002
ISM Code	International Safety Management Code, 1993
MARPOL	International Convention for the Prevention of Pollution from Ships, 73/78
MLC	Maritime Labour Convention, 2006
SOLAS	International Convention for the Safety of Life at Sea, 1974
STCW	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea, 1982
USSR	Union of Soviet Socialist Republics

## I. EXPLANATORY NOTE

Special conditions and specific risks of work at sea are now considered crucial factors justifying the need for special protections of the seafarers worldwide. This is primarily because, for seafarers, *'perhaps the most 'globalized' of world's worker's'<sup>1</sup>*, the ship is both a place of residence and work.

More than 65,000 commercial vessels navigate the oceans with a total of about 1.2 million seafarers aboard.<sup>2</sup> Work at sea is quite different from that at land. Employment at sea always means danger, isolation, restriction and hard work. Through ages seafaring has been a dangerous profession, and it remains such in the XXI century. *'About 6,500 seafarers lose their lives due to shipping disasters, personal accidents, suicide, homicide and diseases at their places of work'* every year nowadays.<sup>3</sup>

Additionally, numerous international conventions and other regulations, covering a variety of maritime labour issues, even though adopted by the International Maritime Organization (IMO) and the International Labour Organization (ILO) have not been widely implemented.

The general implementation rate of conventions among the IMO and the ILO members (37 and 15 percent respectively)<sup>4</sup> evidences incontestably that minimum international maritime labour and social standards are still on their way of unification and adoption by the international maritime community, and on this sinuous way the previous years were of great significance and remarkableness.

The year 2010 was declared as 'Year of the Seafarer' by the Council of the IMO on its 102nd session in London (29 June to 3 July 2009).<sup>5</sup> Remarkably, the year 2011 was the ninetieth year since the adoption of the first maritime labour instrument, the R9 National Seamen's Code Recommendation, 1920, by the ILO at its Genoa session on 9 July 1920.<sup>6</sup> And more importantly, the year 2011, as the fifth year of the adoption of the Maritime Labour Convention, 2006 (MLC) was expected to be the year of achievement of demanding ratification formula such necessary to bring this most comprehensive ILO maritime legal instrument into force.<sup>7</sup>

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<sup>1</sup> Durler, Reto; "Maritime Labour Convention. A major step forward in maritime law", in Martínez Gutiérrez, Norman A. (Ed.), *Serving the Rule of International Maritime Law: Essays in Honour of Professor David Joseph Attard*, Routledge, London/New York, 2010, p. 299.

<sup>2</sup> Ibid.

<sup>3</sup> Li, Kevin Xingang and Ng, Jim Mi; 'International Maritime Conventions: Seafarers' Safety and Human Rights', *Journal of Maritime Law and Commerce*, Volume 33, Number 3 (July, 2002), p. 381.

<sup>4</sup> Ibid.; p. 385.

<sup>5</sup> Year of the seafarer, International Maritime Organization, <<http://www.imo.org/MediaCentre/Multimedia/Video/Pages/YOTS.aspx>> 09 April 2012.

<sup>6</sup> National Seamen's Code Recommendation, 1920, International Labour Organization <<http://www.ilo.org/ilolex/english/recdisp1.htm>> 09 April 2012.

<sup>7</sup> Action plan to rapid widespread ratification and effective implementation of the Maritime Labour Convention, 2006, Second impression, International Labour Office, Geneva, 2010, p.3.

The adoption of the MLC represented a major step forward in the protection of seafarer's rights both on international and domestic levels. The Convention is intended to be truly '*globally applicable, easily understandable, readily updatable and uniformly enforced*'.<sup>8</sup>

Therefore based on the aforementioned and the fact that since 2009 Ukraine has officially been declared as maritime State with the sea gates opened to the Black Sea, the Sea of Azov, with the developed maritime transport infrastructure and the great national maritime potential,<sup>9</sup> it is undoubtedly that the set of standards provided by the MLC has to be examined by Ukraine entirely, precisely and with due consideration.

### **1. Need for the consolidated international maritime legal instrument**

International labour standards for seafarers are mainly adopted by the ILO.

The ILO as the only tripartite United Nations (UN) agency with government, employer, and worker representatives,<sup>10</sup> truly aims to establish universally valid and applicable normative rules.<sup>11</sup>

Since 1919, the year when the ILO was founded, 40 maritime labour Conventions and 29 maritime labour Recommendations have been adopted by the organization.<sup>12</sup> Their provisions cover a wide variety of issues, including recruitment and placement, minimum age, hours of work, safety, health and welfare, labour inspection and social security.<sup>13</sup>

Considering the aforementioned and the fact that '*the issue of maritime labour or seafarers' rights often risks falling between both international and domestic legal systems*',<sup>14</sup> the aim of the ILO is of great value for reconciliation of conflicting interests that affected the historical development of core maritime labour rights for years.<sup>15</sup>

However, this aim is not always achievable. A large number of conventions and recommendations drawn up by the ILO were not well ratified and did not have such strong influence

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<sup>8</sup>Durler, Reto; p. 299.

<sup>9</sup> Maritime Doctrine of Ukraine for a period till the year 2035, adopted by the Decree of the Cabinet of Ministry of Ukraine, 07.10.2009, №1307, <<http://zakon2.rada.gov.ua/laws/show/1307-2009-%EF#Card>> 09 April 2012.

<sup>10</sup> Constitution of International Labour Organization, International Labour Organization, <<http://www.ilo.org/ilolex/english/constq.htm>> 09 April 2012.

<sup>11</sup> Craig, John D.R. and Lynk, Michael S.; (Eds.) Globalization and the Future of Labour Law, Cambridge University Press, New-York, 2006, p. 341.

<sup>12</sup> Christodoulou-Varotsi, Iliana and Pentsov, Dmitry A.; Maritime Law Fundamentals: Responsible Shipowners, Reliable Seafarers, Springer, Verlag/Berlin/Heidelberg, 2008, p. 11.

<sup>13</sup> Ibid.

<sup>14</sup> McConnel, Moira L. et al.; The Maritime Labour Convention, 2006: A Legal Primer to an Emerging International Regime, Martinus Nijhoff Publishers, Leiden/Boston, 2011, p. 4.

<sup>15</sup> Kaufmann, Christine; Globalisation and Labour Rights, The Conflict between Core Labour Rights and International Economic Law, Hart Publishing, Oxford and Portland, Oregon, 2007, pp. 79-80.

on the maritime sector as it was expected.<sup>16</sup> The main reasons which prevented the significant number of States from accepting these rules were their out-of-date and inflexible provisions, too complicated and overlapped character as well as the absence of the legal mechanisms so needed for rapid amendments to keep pace with developments in the maritime field nowadays.<sup>17</sup>

The IMO conventions, in this respect, covering all technical aspects of maritime safety, are concerned also specifically with the safety of maritime workers. According to the IMO *'the human element is a complex multi-dimensional issue that affects maritime safety, security and marine environmental protection involving the entire spectrum of human activities performed by ships' crews, shore based management, regulatory bodies and others'*.<sup>18</sup>

Thus, the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) was the first international legal instrument to deal with the issue of minimum standards of competence for seafarers.<sup>19</sup> The International Safety Management Code, 1993 (ISM Code), in this respect, endeavors to develop a safety culture at an interactive and proactive level between the shore and the sea.<sup>20</sup> And the International Ship and Port Facility Security Code, 2002 (ISPS Code) constituting an anti-terrorist instrument concerns specifically with the free movement of seafarers in the port area.<sup>21</sup>

However, there are still significant gaps in the provisions of the IMO conventions in relation to seafarers and standards of their work.

Moreover, the most significant one is considered to be in the United Nations Convention on the Law of the Sea, 1982 (UNCLOS). Particularly, drafters of the UNCLOS *'failed to do more than peripherally address the use of the ocean, particularly the high seas, as a workplace or a sight for human rights [...] these matters are simply left to the 'default' jurisdiction of the relevant flag State'*.<sup>22</sup>

Additionally, beginning from the second half of the XX century, as a result of the development of the *'flag of convenience'*, there was a veritable revolution in the pattern of ownership, control and direction of international shipping.<sup>23</sup> Ships have been allowed to be manned by non-nationals, and this fact rose truly undesirable problems.

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<sup>16</sup> ILO Maritime Labour Convention, 2006: A Guide for the Shipping Industry, Maritime International Secretariat Services Ltd., London, 2006, p.6.

<sup>17</sup> Ibid.; pp. 5-6

<sup>18</sup> Human Element, International Maritime Organization,  
<[http://www.imo.org/HumanElement/mainframe.asp?topic\\_id=62](http://www.imo.org/HumanElement/mainframe.asp?topic_id=62)> 09 April 2012.

<sup>19</sup> Christodoulou-Varotsi, Iliana and Pentsov, Dmitry A.; p. 420.

<sup>20</sup> Ibid.; p. 421.

<sup>21</sup> Ibid.

<sup>22</sup> McConnel, Moira L. et al.; pp. 6-7.

<sup>23</sup> Mensah, Thomas A.; 'Seafarers in the modern maritime industry: the need for reform', Lloyd's Maritime and Commercial Law Quarterly, Part 2 (May, 2006), p. 172.

Crew started to be considered merely as '*part of the investment in the vessel*'.<sup>24</sup> Nowadays it is often the case that neither the flag State nor the owner has any interest in or responsibility for the protection of the seafarers concerned. In most cases seafarers by themselves are not even members of a trade union, and the fact that many of them originate from developing countries evidences that their social rights are usually not strong.<sup>25</sup>

Moreover, it is often unclear which law and jurisdiction are applicable: those of the seafarer, the shipowner or the flag State.<sup>26</sup> In any case, under jurisdiction of the foreign State the seafarer may face with the absence of any concern for his particular '*economic fortune and personal welfare*'.<sup>27</sup> On the other hand, the crew supplying country may also not be interested to safeguard its national employed on board a foreign ship attempting this way to attract shipowners to use its abundant human resources.<sup>28</sup>

Thus, it is not surprising that on 23 February 2006 in Geneva the 94<sup>th</sup> Session of the International Labour Conference (ILC) with tripartite support of 1,135 participants from 106 member States adopted the MLC, a historical maritime labour convention, by 314 votes in favour and none against.<sup>29</sup>

The Convention, in trying to resolve existing situation, offers a single frame work for future action in the maritime labour sector<sup>30</sup> and establishes minimum labour standards that are universally applied irrespective of the nationality of the seafarer, the ship, or the shipowner.<sup>31</sup>

Furthermore, the MLC is considered to be an important complementary step in developing the provisions contained into the key conventions of the IMO: the International Convention for the Safety of Life at Sea, 1974 (SOLAS), the STCW and the International Convention for the Prevention of Pollution from Ships, 73/78 (MARPOL).<sup>32</sup>

Therefore, due to the MLC's unprecedented character,<sup>33</sup> its comprehensive set of global standards will definitely have a major impact on the maritime sector worldwide after entering into force.

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<sup>24</sup> Ibid.; p. 173.

<sup>25</sup> Durler, Reto; p. 299.

<sup>26</sup> Ibid.

<sup>27</sup> Mensah, Thomas A.; p. 173.

<sup>28</sup> Ibid.

<sup>29</sup> Provisional Record, Ninety-Fourth (Maritime) Session, Geneva 2006, International Labour Organization, <<http://www.ilo.org/public/english/standards/relm/ilc/ilc94/pr-17.pdf>> 09 April 2012.

<sup>30</sup> Report II Report of the Director General on developments in the maritime sector, International Labour Conference 94<sup>th</sup> (Maritime Session), 2006, Geneva, 7-23 February 2006, International Labour Office, Geneva, Switzerland, 2006, p.49.

<sup>31</sup> McConnel, Moira L. et al.; p. 16.

<sup>32</sup> Report I (1 A) Adoption of an instrument to consolidate maritime labour standards, International Labour Conference 94<sup>th</sup> (Maritime Session), 2006, Geneva, 7-23 February 2006, International Labour Office, Geneva, Switzerland, 2006, p.5.

<sup>33</sup> Report II Report of the Director General on developments in the maritime sector; p. 49.

## 2. Maritime Labour Convention, 2006

### 2.1. Content, structure and practical application of standards

The MLC, once it enters into force, will revise 36 maritime labour Conventions and 1 Protocol.<sup>34</sup> The new labour standard consolidates and updates more than 68 international labour standards related to the maritime sector adopted over the last 80 years.<sup>35</sup>

The Convention applies to all seafarers<sup>36</sup> that are persons who are employed or engaged or work in any capacity on board a ship to which the Convention applies.<sup>37</sup>

Except as expressly provided otherwise, the MLC applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks.<sup>38</sup> The Convention does not apply to warships or naval auxiliaries.<sup>39</sup> In addition, it is important to note that application of particular conventional standards depends on the size or certain type of the ship.

The MLC comprises three different but related parts: the Articles, the Regulations and the two-part Code<sup>40</sup> (Part A are mandatory Standards while Part B are non-mandatory Guidelines).<sup>41</sup>

The Articles and Regulations set out the core rights and principles and the basic obligations of Members ratifying the Convention.<sup>42</sup> They can only be changed by the Conference in the framework of Article 19 of the Constitution of the ILO.<sup>43</sup>

The Convention has 16 Articles dealing with such issues as: general obligations,<sup>44</sup> definitions and scope of application,<sup>45</sup> fundamental rights and principles,<sup>46</sup> seafarers' employment and social rights,<sup>47</sup> implementation and enforcement responsibilities,<sup>48</sup> Regulations and Parts A and B of the Code,<sup>49</sup> consultations with shipowners' and seafarers' organizations,<sup>50</sup> entry into force,<sup>51</sup>

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<sup>34</sup> Maritime Labour Convention, 2006, International Labour Organization, <[http://www.ilo.org/global/standards/maritime-labour-convention/WCMS\\_090250/lang--en/index.htm](http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_090250/lang--en/index.htm)> 09 April 2012.

<sup>35</sup> Maritime Labour Convention, Labour Standards, International Labour Organization, <<http://www.ilo.org/global/standards/maritime-labour-convention/lang--en/index.htm>> 09 April 2012.

<sup>36</sup> Maritime Labour Convention, 2006; Article II, paragraph 2.

<sup>37</sup> Ibid.; Article II, paragraph 1 (f).

<sup>38</sup> Ibid.; Article II, paragraph 4.

<sup>39</sup> Ibid.; Article II, paragraph 4.

<sup>40</sup> Ibid.; Explanatory Note to the Regulations and Code of the Maritime Labour Convention, paragraph 2.

<sup>41</sup> Ibid.; Explanatory Note to the Regulations and Code of the Maritime Labour Convention, paragraph 4.

<sup>42</sup> Ibid.; Explanatory Note to the Regulations and Code of the Maritime Labour Convention, paragraph 2.

<sup>43</sup> Ibid.; Explanatory Note to the Regulations and Code of the Maritime Labour Convention, paragraph 2.

<sup>44</sup> Ibid.; Article I.

<sup>45</sup> Ibid.; Article II.

<sup>46</sup> Ibid.; Article III.

<sup>47</sup> Ibid.; Article IV.

<sup>48</sup> Ibid.; Article V.

<sup>49</sup> Ibid.; Article VI.

<sup>50</sup> Ibid.; Article VII.

<sup>51</sup> Ibid.; Article VIII.



denunciation,<sup>52</sup> effect of entry into force,<sup>53</sup> Depositary functions,<sup>54</sup> special Tripartite Committee,<sup>55</sup> amendments of the Convention,<sup>56</sup> amendments to the Code,<sup>57</sup> authoritative languages.<sup>58</sup>

The Code contains the details for the implementation of the Regulations.<sup>59</sup> It can be amended through the simplified procedure set out in Article XV of the Convention.<sup>60</sup> Since the Code relates to detailed implementation, amendments to it must remain within the general scope of the Articles and Regulations.<sup>61</sup>

The Regulations and the Code are organized into general areas under five Titles.<sup>62</sup>

- Title 1: ‘Minimum requirements for seafarers to work on a ship contains requirements with respect to minimum age,<sup>63</sup> medical certificate,<sup>64</sup> training and qualifications,<sup>65</sup> as well as recruitment and placement;<sup>66</sup>
- Title 2: ‘Conditions of employment’ deals with seafarers’ employment agreements,<sup>67</sup> wages,<sup>68</sup> hours of work and rest,<sup>69</sup> entitlement to leave,<sup>70</sup> repatriation,<sup>71</sup> seafarer compensation for the ship loss or foundering,<sup>72</sup> manning levels,<sup>73</sup> career and skill development and opportunities for seafarers’ employment;<sup>74</sup>
- Title 3: ‘Accommodation, recreational facilities, food and catering’ deals with accommodation and recreation facilities,<sup>75</sup> as well as food and catering;<sup>76</sup>
- Title 4: ‘Health protection, medical care, welfare and social security protection’ contains provisions concerning medical care on board ship and ashore,<sup>77</sup> shipowners’ liability,<sup>78</sup> health

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<sup>52</sup> Ibid.; Article IX.

<sup>53</sup> Ibid.; Article X.

<sup>54</sup> Ibid.; Article XI, Article XII.

<sup>55</sup> Ibid.; Article XIII.

<sup>56</sup> Ibid.; Article XIV.

<sup>57</sup> Ibid.; Article XV.

<sup>58</sup> Ibid.; Article XVI.

<sup>59</sup> Ibid.; Explanatory Note to the Regulations and Code of the Maritime Labour Convention, paragraph 4.

<sup>60</sup> Ibid.; Explanatory Note to the Regulations and Code of the Maritime Labour Convention, paragraph 4.

<sup>61</sup> Ibid.; Explanatory Note to the Regulations and Code of the Maritime Labour Convention, paragraph 4.

<sup>62</sup> Ibid.; Explanatory Note to the Regulations and Code of the Maritime Labour Convention, paragraph 5.

<sup>63</sup> Ibid.; Regulation 1.1.

<sup>64</sup> Ibid.; Regulation 1.2.

<sup>65</sup> Ibid.; Regulation 1.3.

<sup>66</sup> Ibid.; Regulation 1.4.

<sup>67</sup> Ibid.; Regulation 2.1.

<sup>68</sup> Ibid.; Regulation 2.2.

<sup>69</sup> Ibid.; Regulation 2.3.

<sup>70</sup> Ibid.; Regulation 2.4.

<sup>71</sup> Ibid.; Regulation 2.5.

<sup>72</sup> Ibid.; Regulation 2.6.

<sup>73</sup> Ibid.; Regulation 2.7.

<sup>74</sup> Ibid.; Regulation 2.8.

<sup>75</sup> Ibid.; Regulation 3.1.

<sup>76</sup> Ibid.; Regulation 3.2.

<sup>77</sup> Ibid.; Regulation 4.1.

<sup>78</sup> Ibid.; Regulation 4.2.

and safety protection and accident prevention,<sup>79</sup> access to shore-based welfare facilities,<sup>80</sup> and social security;<sup>81</sup>

- Title 5: ‘Compliance and enforcement’ establishes requirements with respect to Flag State responsibilities,<sup>82</sup> notably the requirements concerning maritime labour certificate and declaration of maritime labour compliance, Port State responsibilities,<sup>83</sup> and labour-supplying responsibilities.<sup>84</sup>

There are four appendices to the MLC which all relate to the certification system under Title 5 and comprise: the list of conditions that must be inspected by the flag State before certifying a ship,<sup>85</sup> three model documents (maritime labour certificate, declaration of maritime labour compliance, interim maritime labour certificate),<sup>86</sup> the list of general areas that are subject to a detailed port inspection in the State Party of the foreign ship<sup>87</sup> and example of a national declaration of maritime labour compliance.<sup>88</sup>

It is obvious that such novel structure of the Convention was drafted by the need to present the complex substantive provisions of the new legal maritime labour instrument clearly and understandably.

## 2.2. Innovative features

The MLC is a truly special ILO convention. It does not carry a number unlike other ILO legal instruments. Moreover, the MLC comprises not only the core standards provided by the existing maritime labour conventions but also a certain number of important innovative features.

The MLC is not the first maritime labour convention that carries the substantive requirements relating to the working and living conditions of seafarers. However, it is the first Convention that includes a new system for effective enforcement and compliance.

Thus, the MLC contains a special provision on the use of ‘*recognized organization*’ for the inspection and certification of maritime labour conditions.<sup>89</sup>

In this respect, the Convention establishes a system of certification covering specific ships,<sup>90</sup> and ships not subject to certification under shipowner’s request.<sup>91</sup> This system implies that a maritime

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<sup>79</sup> Ibid.; Regulation 4.3.

<sup>80</sup> Ibid.; Regulation 4.4.

<sup>81</sup> Ibid.; Regulation 4.5.

<sup>82</sup> Ibid.; Regulation 5.1.

<sup>83</sup> Ibid.; Regulation 5.2.

<sup>84</sup> Ibid.; Regulation 5.3.

<sup>85</sup> Ibid.; Appendix A5-I.

<sup>86</sup> Ibid.; Appendix A5-II.

<sup>87</sup> Ibid.; Appendix A5-III.

<sup>88</sup> Ibid.; Appendix B5-I.

<sup>89</sup> Ibid.; Regulations 5.1.1. and 5.1.2.

<sup>90</sup> Ibid.; Regulation 5.1.3, paragraph 1.

labour certificate and declaration of maritime labour compliance must be issued by the flag State or recognized organization duly authorized,<sup>92</sup> giving shipowners responsibility for ensuring ongoing compliance on their ships with the Convention's requirements.<sup>93</sup>

For this and other purposes, the MLC includes innovative on-board,<sup>94</sup> and on-shore,<sup>95</sup> compliant procedures, as well as compliant and inspection system that is linked to the ILO supervisory system not just with respect to labour inspections on-board,<sup>96</sup> but also relating to recruitment and placement services in the State Party's territory.<sup>97</sup>

In this respect, the conventional survey and certification system includes the important tripartite component: the seafarer has to be informed about his/her rights and the possibilities of appeal if these rights are not observed; the shipowners are obliged to make sure that conventional provisions are observed; the masters of the ship must keep track of the concrete steps of implementation; and the flag State is obliged to supervise and control the entire implementation system submitting the relevant information to the ILO.<sup>98</sup>

The Convention contains also a strong tripartite consultation element before the decisions are taken or in the decision making process concerning derogation, exemption or other flexible application of the Convention. In addition, the MLC contains an innovative provision to cover the cases where representative organizations of shipowners or of seafarers do not exist within a State Party. In this particular case any derogation, exemption or other flexible application of the Convention may only be decided by the State Party concerned through consultation with the Committee referred to in Article XIII.<sup>99</sup>

For the first time in history, port State control will have the power to ensure that the ships flying the flag of any State that has not ratified the Convention, do not receive more favourable treatment than the ships that fly the flag of any State that has ratified it.<sup>100</sup>

The MLC establishes a special tripartite Committee which task is the continuous review of the Convention.<sup>101</sup> And finally, one of the most important innovations of the MLC is the allowance for the amendment of certain provisions through an accelerated amendment or tacit acceptance procedure.<sup>102</sup>

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<sup>91</sup> Ibid.; Regulation 5.1.3, paragraph 2.

<sup>92</sup> Ibid.; Regulation 5.1.3.

<sup>93</sup> McConnel, Moira L. et al.; p. 78.

<sup>94</sup> Maritime Labour Convention, 2006; Regulations 5.1.4., 5.1.5, 5.2.1.

<sup>95</sup> Ibid.; Regulation 5.2.2.

<sup>96</sup> Ibid.; Regulations 5.1.1. paragraphs 5 and 5.2.1.

<sup>97</sup> Ibid.; Regulation 5.3, paragraph 4.

<sup>98</sup> Durler, Reto; p. 303.

<sup>99</sup> Maritime Labour Convention, 2006; Article, VII.

<sup>100</sup> Ibid.; Article, V, paragraph 7.

<sup>101</sup> Ibid.; Article, XIII.

<sup>102</sup> Ibid.; Article, XV.

Thus, it is undoubtedly that innovative features of the MLC put high demands on ratifying States that have only a few years to adapt their legislation to the new conventional provisions.

### **2.3. Flexibility in implementation and entry into force**

From the very beginning of the negotiations which led to the adoption of the MLC it was agreed that the consolidation of international maritime labour standards has to be widely ratified. The implementation of the Convention by a vast majority of the countries has the absolute priority.

For this purpose, the MLC provides two main areas for flexibility in implementation.

One is the possibility for a State Party, which is not in a position to implement the rights and principles in the manner set out in Part A, unless expressly provided otherwise in the Convention,<sup>103</sup> to give effect to the detailed requirements of Part A of the Code through substantial equivalence.<sup>104</sup> In this case, any law, regulation, collective agreement or other implementing measure shall be considered to be substantially equivalent, in the context of the MLC, if the State Party satisfies itself that: it is conducive to the full achievement of the general object and purpose of, and gives effect to the provision or provisions of Part A of the Code concerned.<sup>105</sup>

The second area of flexibility in implementation is provided by formulating the mandatory requirements of many provisions in Part A in a more general way, thus leaving a wider scope for discretion as to the precise action to be provided for at the national level. In such cases, guidance on implementation is given in the non-mandatory Part B of the Code. In this way, States Parties which have ratified the Convention can ascertain the kind of action that might be expected of them under the corresponding general obligation in Part A, as well as action that would not necessarily be required.<sup>106</sup>

However, even though States Parties which have ratified the Convention are not bound by its non-mandatory Guidelines, they are required to give due consideration to implementing their responsibilities under Part A of the Code in the manner provided for in Part B.<sup>107</sup>

Moreover, there is an imminent interest of any State which runs a commercial fleet to become a party to the Convention. Due to the clause adopted for first time in the history of the ILO each State Party has to ensure that the ships that fly the flag of any State that has not ratified this Convention do not receive more favourable treatment than the ships that fly the flag of any State that has ratified

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<sup>103</sup> Ibid.; Article VI, paragraph 3.

<sup>104</sup> Ibid.; Explanatory Note to the Regulations and Code of the Maritime Labour Convention, paragraph 8.

<sup>105</sup> Ibid.; Article VI, paragraph 4.

<sup>106</sup> Ibid.; Explanatory Note to the Regulations and Code of the Maritime Labour Convention, paragraph 9.

<sup>107</sup> Ibid.; Explanatory Note to the Regulations and Code of the Maritime Labour Convention, paragraph 10.

it.<sup>108</sup> This has a considerable impact upon the ILO Member States to ratify this truly comprehensive legal instrument.

As a result, by 27 March 2012, 25 States, representing over 56 per cent of the world gross tonnage of ships, became parties to the Convention,<sup>109</sup> six of which are European Union (EU) member States (Spain, Bulgaria, Denmark, Latvia, Luxembourg and the Netherlands).<sup>110</sup> Remarkably, twelve of the ratifications concerned have been received in 2011 with their majority in the last six months, which shows that national ratification efforts are now nearing completion in many countries in all regions.<sup>111</sup>

However, the above stated evidences that only one of the two requirements for entry into force of the MLC has been already reached, that is the gross tonnage requirement but not the necessary number of ratifying countries. The Convention shall come into force 12 months after the date on which there have been registered ratifications by at least 30 States Parties with a total share in the world gross tonnage of ships of 33 per cent.<sup>112</sup>

Thus, it is expected that the additional five ratifications will be obtained in the first three to six months of 2012 making it possible for the MLC to enter into force in early 2013.<sup>113</sup>

The importance for the MLC to come into force is beyond all doubt. The maritime sector with its ships and seafarers plays a crucial part in the global economy, mainly in world trade transportations. And in the light of world economy post crisis years the Convention, as a prime protector of seafarers worldwide, is a major contribution to the recovery of the sector in these critical times.

## **2.4. Denunciation**

It is important to note that a State Party to the MLC may denounce it only after the expiration of ten years from the date on which the Convention first comes into force. For this purpose, special act has to be communicated to the Director-General of the International Labour Office for registration. In this respect, the denunciation concerned shall not take effect until one year after the date on which it is registered.<sup>114</sup>

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<sup>108</sup> Ibid.; Article V, paragraph 7.

<sup>109</sup> List of Ratifications of International Labour Conventions, Maritime Labour Convention, 2006, International Labour Organisation <[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:1174816541479294::NO:11300:P11300\\_I\\_NSTRUMENT\\_ID:312331:NO](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:1174816541479294::NO:11300:P11300_I_NSTRUMENT_ID:312331:NO)> 09 April 2012.

<sup>110</sup> The Netherlands ratifies the Maritime Labour Convention, 2006 (MLC, 2006), International Labour Organization <[http://www.ilo.org/global/standards/maritime-labour-convention/WCMS\\_170003/lang--en/index.htm](http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_170003/lang--en/index.htm)> 09 April 2012.

<sup>111</sup> Australia ratifies the Maritime Labour Convention, 2006 (MLC, 2006), International Labour Organization <[www.ilo.org/global/standards/maritime-labour-convention/WCMS\\_170327/lang--en/index.htm](http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_170327/lang--en/index.htm)> 09 April 2012.

<sup>112</sup> Maritime Labour Convention, 2006; Article VII, paragraph 3.

<sup>113</sup> Togo ratifies the Maritime Labour Convention, 2006 (MLC, 2006), International Labour Organization <[http://www.ilo.org/global/standards/maritime-labour-convention/WCMS\\_176876/lang--en/index.htm](http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_176876/lang--en/index.htm)> 09 April 2012.

<sup>114</sup> Maritime Labour Convention, 2006; Article IX, paragraph 1.

If a State Party to the Convention does not exercise such right of denunciation within the year following the expiration of the period of ten years mentioned it shall be bound for another period of ten years and, thereafter, may denounce the MLC at the expiration of each new period of ten years under the terms provided.<sup>115</sup>

The specified ten years period is a sort of permanently based guarantee of the minimal labour and social standards of the seafarers on the national level.

### **3. Importance of the Maritime Labour Convention, 2006 to Ukraine**

Since 1954 Ukraine as a member of the ILO has ratified 69 ILO conventions, 61 of which are now in force<sup>116</sup>. However, in this respect, Ukraine is a party to only 7 maritime labour conventions adopted by ILO that are now in force. This has a truly adverse effect on the national maritime labour policy of Ukraine.

Moreover, in accordance with the data of the Drewry Shipping Consultants in the year 2010 Ukraine ranks as the sixth major supplier country on the international maritime labour market (after the Philippines, China, Turkey, India, Indonesia), having 75 400 Ukrainian seafarers working on board the vessels flying foreign flag.<sup>117</sup>

As such, it is extremely vital for Ukraine to take into account the comprehensive provisions of the MLC.

The main reason for this is that, although Ukraine gained independence in the year 1991, labour relationships, including those in maritime sector, are still governed by the legislation adopted by the Union of Soviet Socialist Republics (USSR) decades ago. The Labour Code of Ukraine was adopted in 1971, and its provisions, even those amended, are still based on principles formed during the time when the employer was basically the State, and not private entities as it is nowadays. Additionally, the general character of the provisions concerned does not reflect the specific nature of maritime labour relationships.

Moreover, currently Ukraine cannot also guarantee even minimum labour standards to Ukrainian seafarers working abroad due to the principle of *lex loci laboris* of Article 52 of the Law of Ukraine 'On Private International Law' dated 23.06.2005, which provides that the law of the country in which a worker is employed should regulate such labour relationships. And even though the parties to a labour agreement are entitled to amend the provision concerned, it is not usually the case.

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<sup>115</sup> Ibid.; Article IX, paragraph 2.

<sup>116</sup> Ukraine, List of Ratification of International Labour Conventions, International Labour Organization <<http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm?lang=EN>> 09 April 2012.

<sup>117</sup> Manning-2010, Drewry's Annual Report, Drew Shipping Consultants Ltd., <[www.drewry.co.uk/publications/view\\_publication.php?id=362](http://www.drewry.co.uk/publications/view_publication.php?id=362)> 09 April 2012.

Thus, Ukrainian seafarers working on board the vessels flying foreign flag are left unprotected by Ukraine. That is why the ratification of the MLC is of vital importance for Ukraine.

Furthermore, despite the fact that in accordance with Article 9 of the Law of Ukraine ‘On Licensing of Certain Types of Economic Activity’ dated 01.06.2000, Ukrainian overseas recruitment and placement services (including those involved in maritime labour market) are subject to the compulsory licensing. However, such licensing guarantees only minimal general labour standards to workers employed not distinguishing seafarers in separate category.

This has a truly adverse effect towards the maritime labour market in Ukraine as services rendered by hundreds of crewing agencies in the country, even though controlled by Ministry of Labour and Social Policy of Ukraine in accordance with the Resolution of the Cabinet of Ministers of Ukraine ‘On approval of a list of organs of licensing’ N 1698 dated 14.11.2000, are still unregulated. Presently Ukrainian national legislation does not stipulate any special legal conditions that have to be observed by overseas recruitment and placement services while operating on maritime labour market.

However, the problems enumerated can be successfully resolved by the MLC.

The ratification of the Convention by Ukraine will place specific legislative guarantees of minimum labour and social standards for the seafarers working on board the vessels flying Ukrainian flag. The standards provided will reflect the specific nature of maritime labour relationships and will be in accordance with development of the national maritime sector.

Furthermore, the problem of *lex loci laboris* principle contained in the national legislation can be solved by paragraph 8 of Standard A1.4 of the MLC in accordance with which a Member to this Convention ‘*shall, in so far as practicable, advise its nationals on the possible problems of signing on a ship that flies the flag of a State which has not ratified the Convention, until it is satisfied that standards equivalent to those fixed by this Convention are being applied*’.

And more importantly, paragraph 5 of Standard A1.4 of the MLC gives the State Party an obligation to ensure that its private seafarer recruitment and placement services which are licensed and controlled observe the minimum conditions stipulated by the Convention. In other words, private seafarer recruitment and placement services operating in the Member-State has the following obligations:

- not to use any instruments intended to prevent or deter seafarers from gaining employment;
- not to demand any fees or charges for recruitment or placement from the seafarer, other than the costs for obtaining a national statutory medical certificate, the national seafarer's book and a passport or other similar personal travel documents, but excluding visas;
- to ensure that seafarers are informed of their rights and duties under their employment agreements which provisions are in accordance with applicable laws and regulations and any collective bargaining agreement concerned;

- to make sure that appropriate system of protection and any such measures are established to protect the seafarers employed, etc.

Therefore, considering the above discussed provisions, the MLC, if ratified by Ukraine, will have a discernable impact on the national maritime recruitment policy as the truly unique instrument that protects seafarers working not only on board the vessels flying Ukrainian flag but also those working on board foreign vessels.

#### **4. Procedure of incorporation of international conventions into Ukrainian Legislation**

To achieve the objects in view, the national legal procedure for the implementation of rules of international agreements into Ukrainian domestic legislation has to be thoroughly considered.

Thus, in accordance with Article 9 of the Constitution of Ukraine international treaties are part of the national legislation of Ukraine provided they are in force and made binding by the Verkhovna Rada of Ukraine (the Parliament of Ukraine). Provisions of international treaties concluded have to comply with the Constitution of Ukraine.

Article 85 of the Constitution of Ukraine states that only the Verkhovna Rada of Ukraine is competent to grant consent to the binding character of international treaties that Ukraine signed or adopted within the term established by law.

Article 9 of the Law of Ukraine ‘On International Agreements of Ukraine’ dated 29.06.2004 stipulates that international agreements entered by Ukraine shall be ratified by adoption of the law on ratification. In this case, an integral part of the law on ratification is the text of international agreement by itself.

Laws on ratifications as well as laws in general in accordance with Article 94 of the Constitution of Ukraine have to be signed and officially promulgated by the President of Ukraine. A law enters into force ten days from the day of its official promulgation, unless otherwise stated by the law itself, but not prior to the day of its publication.

As a result, due to Article 19 of the Law of Ukraine ‘On International Agreements of Ukraine’ dated 29.06.2004, current international agreements of Ukraine, the binding nature of which has been ratified by the Verkhovna Rada of Ukraine, are part of domestic legislation. In this respect, if the international agreement, which has come into force under the procedure discussed above, sets the rules other than those envisaged in the respective act of Ukrainian legislation, the rules of international agreement shall apply.

Considering the abovementioned, for the MLC’s provisions to be effective and binding upon the parties in maritime labour relationships in Ukraine, the Convention has to be duly incorporated



into the Ukrainian domestic legislation adopting the Law of Ukraine ‘On Ratification of the Maritime Labour Convention, 2006’.

## **5. Domestication of the Maritime Labour Convention, 2006 in Ukraine**

Taking into account the conventional provisions it is important to note that ratification is not enough to domesticate the Convention. A State that ratified the MLC has to bring into compliance its national legislation with the standards concerned. In this respect, the ratification of the MLC in no case shall be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the seafarers.<sup>118</sup>

Moreover, Ukraine as a State which ratifies the Convention undertakes to give complete effect to its provisions in order to secure the right of all seafarers to decent employment.<sup>119</sup> In other words, to fulfill accepted conventional obligations, special legal, organizational, economic and inspection mechanisms have to be established on the national level.

Thus, as a State party to the Convention, Ukraine shall ensure, within the limits of its jurisdiction, that the seafarers’ employment and social rights provided are fully implemented in accordance with the requirements of the MLC. Such implementation may be achieved through national laws or regulations, through applicable collective bargaining agreements or through other measures or practice.<sup>120</sup>

In addition, Ukraine shall establish a system for ensuring compliance with the requirements of the Convention, including regular inspections, reporting, monitoring and legal proceedings under the applicable national laws.<sup>121</sup>

Ukraine shall effectively exercise its jurisdiction and control over seafarer recruitment and placement services, if these are established in its territory.<sup>122</sup>

Moreover, in accordance with international law, Ukraine is required to prohibit violations of the requirements of the MLC. Special sanctions or corrective measures have to be established under national laws, and these must be adequate to discourage such violations.<sup>123</sup>

Considering the abovementioned, it is important to note that the provisions of the MLC fully comply with the Ukrainian legislation currently in force on general labour and social standards, particularly with:

- The Constitution of Ukraine;

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<sup>118</sup> Maritime Labour Convention, 2006; Preamble.

<sup>119</sup> Ibid.; Article, I.

<sup>120</sup> Ibid.; Article IV, paragraph 5.

<sup>121</sup> Ibid.; Article V, paragraph 2.

<sup>122</sup> Ibid.; Article V, paragraph 5.

<sup>123</sup> Ibid.; Article V, paragraph 6.

- The Labour Code of Ukraine;
- The Law of Ukraine 'On Labour Protection' dated 14.10.1992;
- The Law of Ukraine 'On Compulsory State Social Insurance against Accidents in Manufacture and Professional Diseases, that caused Disablement' dated 23.09.1999;
- The Law of Ukraine 'On Compulsory State Social Insurance in Connection with Temporary Disablement and Expenses spent on Burial' dated 18.01.2001;
- The Law of Ukraine 'On Compulsory State Pension Insurance' dated 09.07.2003;
- The Law of Ukraine 'On Non-State Pension Insurance' dated 09.07.2003;
- The Law of Ukraine 'On Licensing of Certain Types of Economic Activity' dated 01.06.2000;
- The Law of Ukraine 'Basic Legislative Principles of Ukraine on Health Protection' dated 19.11.1992.

Moreover, the Convention essentially corresponds to specific national rules on maritime labour and social standards provided by Section III of the Merchant Shipping Code of Ukraine.<sup>124</sup>

Thus, the national requirements as to the state of health of the crew members are fulfilled only if a person is qualified by the central executive authority in health care as fit to work on a vessel.<sup>125</sup>

Furthermore, the Merchant Shipping Code of Ukraine specifically states that shipowners are obliged to provide: safe working conditions and regime on the vessel, health protection for the crew members, food and water supply, proper vessel space in the norms not lower than the levels established by international treaties to which Ukraine is a party.<sup>126</sup>

In certain cases, shipowners undertake to repatriate crew members, bearing responsibility for organization and expenses for repatriation in the amount of cost of travel (as a rule, by a plane), expenses for accommodation and food, labour compensation and aid, luggage conveyance in the amount, envisaged in the agreement (contract), and treatment (until the sailor is carriageable). If the shipowner is not able to organize the repatriation and pay the expenses, these obligations shall be fulfilled by the empowered authorities with subsequent recovery of the incurred costs from the shipowner without acceptance.<sup>127</sup>

However, it is important to note that the list of cases provided by the Merchant Shipping Code of Ukraine concerning shipowners' obligation to repatriate a crew member is limited comparing with the relevant provisions of the MLC. For this reason it has to be amended respectively.

Moreover, the national requirements specified in the Merchant Shipping Code of Ukraine concerning passing relevant exams and obtaining specific diploma or qualification certificate relate

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<sup>124</sup> Merchant Shipping Code of Ukraine, the Code, 23.05.1995, № 176/95-BP, <<http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=176%2F95-%E2%F0>> 09 April 2012.

<sup>125</sup> Merchant Shipping Code of Ukraine; Article 52.

<sup>126</sup> Ibid.: Article 57.

<sup>127</sup> Ibid.; Article 55.

only to a captain and other persons of the command staff.<sup>128</sup> In this respect, even though the name of the article concerned is ‘*requirements to the crew members’ qualification*’ no such requirements are stipulated for the ship’s crew (persons fulfilling their employment duties on the vessel and not belonging to the command staff).<sup>129</sup> Thus, the relevant amendments have to be inserted in the Merchant Shipping Code of Ukraine.

Finally, it is specifically provided that labour relations on a vessel, particularly, the procedure of hiring vessel crew, their rights and duties, conditions of work on a vessel and remuneration, social amenities in the sea and in ports, as well as the procedure and ground for firing shall be regulated by the legislation of Ukraine, by the statute of service on sea vessels, general and field tariff agreements, collective and labor agreements (contracts).<sup>130</sup>

Thus, the competent authorities (the minister, government department or others) have to be appointed and delegated necessary power to issue and enforce necessary legal acts in respect of the subject matter of the conventional provisions concerned.<sup>131</sup>

In other words, the MLC as a programme document divided on the range of stages has to be executed relevantly: by the means of ratification, implementation and further enforcement into the Ukrainian Legislation.

Therefore, the Law of Ukraine ‘On Ratification of the Maritime Labour Convention, 2006’ has to be followed by the adoption of the second legislative draft, i.e. the Law of Ukraine ‘On National Maritime Labour Standards’.

In this respect, it is significant to emphasize that the Law of Ukraine ‘On National Maritime Labour Standards’ as a *lex specialis* will override the Ukrainian legislation currently in force on general labour and social standards.<sup>132</sup> In addition, the Law concerned as a latest special legal act on maritime labour and social standards will override the *legi priori* adopted by Ukraine to regulate these particular matters.<sup>133</sup> Thus, taking into account such priority of the Law of Ukraine ‘On National Maritime Labour Standards’ at the stage of its adoption there is no extreme necessity to amend the relevant national legislation in force. Instead the sufficient time has to be given to the Cabinet of Ministers of Ukraine for it to ensure that the legislation of Ukraine is in conformity with the Law concerned.

The same, however, cannot be said in relation to specific national rules provided by Section III of the Merchant Shipping Code of Ukraine which due to their power rank higher than rules provided by the relevant Laws of Ukraine and national regulations thereunder irrespective of the time

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<sup>128</sup> Ibid.; Article 51.

<sup>129</sup> Ibid.; Article 49.

<sup>130</sup> Ibid.; Article 54.

<sup>131</sup> Maritime Labour Convention, 2006; Article II, paragraph 1(a).

<sup>132</sup> *Lex specialis* derogate *lex generalis*.

<sup>133</sup> *Lex posteriori* derogate *lex priori*.

of their adoption. Taking this into account and the discussed discrepancies between the provisions specified in the Section III of the Merchant Shipping Code of Ukraine and the conventional rules, the former has to be amended respectively at the same time with the adoption of the Law of Ukraine ‘On National Maritime Labour Standards’.

Moreover, in accordance with Article V (6) of the MLC Ukraine shall establish sanctions or adopt measures under its laws which are adequate to discourage violations of the maritime social and labour standards provided by the Convention. Considering this obligation relevant amendments have to be inserted into Chapter 10 ‘Administrative offences on transport, in the field of transportation management and communication’ of the Code of Ukraine of Administrative Offences.

Finally, it is important to note that for the purposes of drafting the Law of Ukraine ‘On National Maritime Labour Standards’ Part A of the Code of the MLC will be used entirely as it is mandatory. While Part B of the Code of the MLC containing not mandatory conventional provisions will be used to the extent that is considered to be most appropriate for the effective application of the Law concerned.

In addition, the Law of Ukraine ‘On National Maritime Labour Standards’ instead of containing the general definition of a ‘*competent authority*’ will expressly specify in each particular case the relevant one in power to issue and enforce regulations, orders or other instructions in respect of specified maritime social and labour standards.

Only fulfillment of the abovementioned measures will allow Ukraine to work out in detail model provisions of the MLC in order to provide their effectiveness in the scope of subsequent implementation and enforcement on the national level.

**II. COMPARATIVE TABLE TO THE DRAFT  
LAW OF UKRAINE “ON NATIONAL MARITIME LABOUR STANDARDS”**

No	Convention	Ukrainian Legislation	Changes and Amendments
1.	<p><b>Regulation 5.1 – Flag State responsibilities,</b> <b>Regulation 5.1.1 – General principles:</b></p> <p>‘1. Each Member is responsible for ensuring implementation of its obligations under this Convention on ships that fly its flag.</p> <p>[...]</p> <p>4. A maritime labour certificate, complemented by a declaration of maritime labour compliance, shall constitute prima facie evidence that the ship has been duly inspected by the Member whose flag it flies and that the requirements of this Convention relating to working and living conditions of the seafarers have been met to the extent so certified.’</p>	No corresponding norm is available	<p><b>Part one of the Article 35 ‘Vessel documents’ of the Section II ‘Vessel’ of the Merchant Shipping Code of Ukraine shall be amended by inserting after the words ‘A safe manning certificate’:</b></p> <p>‘A maritime labour certificate; A declaration of maritime labour compliance.’</p>

2.	<p><b>Regulation 1.3 – Training and qualifications:</b></p> <p>‘1. Seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties.</p> <p>2. Seafarers shall not be permitted to work on a ship unless they have successfully completed training for personal safety on board ship.’</p>	<p><b>The Article 51 ‘Requirements to the crew members’ qualification’ of the Section III ‘Vessel crew’ of the Merchant Shipping Code of Ukraine:</b></p> <p>The persons having respective ranks determined in the Regulation on the ranks of persons belonging to command staff of sea vessels and the procedure of awarding thereof approved by the Cabinet of Ministers of Ukraine are allowed to occupy the positions of the captain and other persons of the command staff.</p> <p>Awarding of ranks is certified with issuance of diplomas or qualification certificates after successful pass of exams with the state qualification commission.</p> <p>Deprivation of a rank and withdrawal of the diploma or qualification certificate is allowed only at a court resolution.</p> <p>Persons having respective documents confirming their qualification necessary for fulfillment of their duties on the vessel issued according to the</p>	<p><b>The Article 51 ‘Requirements to the crew members’ qualification’ of the Section III ‘Vessel crew’ of the Merchant Shipping Code of Ukraine shall be amended by inserting part five of the following content:</b></p> <p>‘Persons are allowed to occupy the positions of the ship’s crew members only after passing successfully exams with the state qualification commission and obtaining respective diploma or qualification certificate in accordance with procedure approved by the Cabinet of Ministers of Ukraine.’</p>
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		established procedure are allowed to occupy the positions in the command staff for which awarding a rank is not envisaged, as well as the positions of the ship's crew members.	
3.	<p><b>Standard A2.5 – Repatriation:</b></p> <p>‘1. Each Member shall ensure that seafarers on ships that fly its flag are entitled to repatriation in the following circumstances:</p> <p>a) if the seafarers’ employment agreement expires while they are abroad;</p> <p>b) when the seafarers’ employment agreement is terminated:</p> <p>i) by the shipowner; or</p> <p>ii) by the seafarer for justified reasons; and also</p> <p>c) when the seafarers are no longer able to carry out their duties under their employment agreement or</p>	<p><b>Part one of the Article 55 ‘Repatriation of crew members’ of the Section III ‘Vessel crew’ of the Merchant Shipping Code of Ukraine:</b></p> <p>‘Repatriation at the expense of the ship owner takes place in the following cases:</p> <p>in case of dismissal at the owner’s initiative or an authority empowered by them;</p> <p>in case of a disease and injury;</p> <p>in case of the vessel destruction;</p> <p>if the ship owner is not able of fulfilling their obligations arising from the current legislation of Ukraine in force, an agreement (contract).’</p>	<p><b>Part one of the Article 55 ‘Repatriation of crew members’ of the Section III ‘Vessel crew’ of the Merchant Shipping Code of Ukraine shall be amended by rewording the content as follows:</b></p> <p>‘Repatriation at the expense of the shipowner takes place in the following cases:</p> <p>1) when seafarers’ employment agreement expires while they are abroad upon the expiry of the period of notice given in accordance with the provisions of the seafarers’ employment agreement;</p> <p>2) when the seafarers’ employment agreement is terminated or when the seafarer is no longer able to carry out its duties under the employment agreement or cannot be expected to carry them out:</p> <p>a) in the event of illness or injury</p>

<p>cannot be expected to carry them out in the specific circumstances.’</p> <p><b>Guideline B2.5 – Repatriation, Guideline B2.5.1 – Entitlement:</b></p> <p>‘1. Seafarers should be entitled to repatriation:</p> <p>a) in the case covered by Standard A2.5, paragraph 1(a), upon the expiry of the period of notice given in accordance with the provisions of the seafarers’ employment agreement;</p> <p>b) in the cases covered by Standard A2.5, paragraph 1(b) and (c):</p> <p>i) in the event of illness or injury or other medical condition which requires their repatriation when found medically fit to travel;</p> <p>ii) in the event of shipwreck;</p> <p>iii) in the event of the shipowner not being able to continue to fulfil their legal or contractual obligations as an employer of the seafarers</p>		<p>or other medical condition which requires their repatriation when found medically fit to travel;</p> <p>b) in the event of shipwreck;</p> <p>c) in the event of the shipowner not being able to continue to fulfill their legal or contractual obligations as an employer of the seafarers by reason of insolvency, sale of ship, change of ship’s registration or any other similar reason;</p> <p>d) in the event of a ship being bound for a war zone, as defined by national laws or regulations or seafarers’ employment agreements, to which the seafarer does not consent to go; and</p> <p>e) in the event of termination or interruption of employment in accordance with an industrial award or collective agreement, or termination of employment for any other similar reason.’</p>
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	<p>by reason of insolvency, sale of ship, change of ship's registration or any other similar reason;</p> <p>iv) in the event of a ship being bound for a war zone, as defined by national laws or regulations or seafarers' employment agreements, to which the seafarer does not consent to go; and</p> <p>v) in the event of termination or interruption of employment in accordance with an industrial award or collective agreement, or termination of employment for any other similar reason.'</p>		
4.	<p><b>Implementation and Enforcement Responsibilities</b></p> <p><b>Article V (6):</b></p> <p>'Each Member shall prohibit violations of the requirements of this Convention and shall, in accordance with international law, establish sanctions or require the adoption of corrective</p>	<p><b>No corresponding norm is available</b></p>	<p><b>The Chapter 10 'Administrative offences on transport, in the field of transportation management and communication' of the Code of Ukraine of Administrative Offences shall be amended by inserting Article 116-4 'Breach of maritime labour and social standards on maritime transport' of the following content:</b></p>

	<p>measures under its laws which are adequate to discourage such violations.’</p>		<p>‘The shipowner that fails or delays to submit the Maritime Labour Certificate with the attached Declaration of Maritime Labour Compliance to the representatives of the General State Ships Registrar Inspection of Ukraine and Port Administrations, in accordance with the Law of Ukraine dated _____ № _____ ‘On National Maritime Labour Standards’ shall be liable: to a fine of fifty to one hundred of citizens’ income tax exemption limits.</p> <p>The shipowner that breaches the requirements of the Law of Ukraine dated _____ № _____ ‘On National Maritime Labour Standards’ or other national normative – legal acts on maritime labour and social standards (including seafarers’ rights) shall be liable: to a fine of one hundred to one hundred and fifty of citizens’ income tax exemption limits.</p> <p>The seafarers’ recruitment and placement service established in the territory of Ukraine that breaches the requirements of the Law of Ukraine dated _____ № _____ ‘On National Maritime Labour Standards’ or other national</p>
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			<p>normative – legal acts on maritime labour and social standards (including seafarers’ rights) shall be liable: to a fine of one hundred to one hundred and fifty of citizens’ income tax exemption limits.’</p> <p><b>The Article 221 ‘Regional, district, city and cityregional courts (judges)’ of the Chapter 17 ‘Jurisdiction over cases on administrative offences’ of the Code of Ukraine of Administrative Offences shall be amended by inserting after the words ‘part two of the Article 112’:</b></p> <p>‘part three of the Article 116-4.’</p> <p><b>Paragraph 1 of the Article 225 ‘Organs of maritime and river transport’ of the Chapter 17 ‘Jurisdiction over cases on administrative offences’ of the Code of Ukraine of Administrative Offences shall be amended by inserting after the words ‘the Article 114’:</b></p> <p>‘part one and two of the Article 116-4.’</p>
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**III. THE LAW OF UKRAINE**  
**“ON RATIFICATION OF THE MARITIME LABOUR CONVENTION, 2006”**

draft



**THE LAW OF UKRAINE**

**On Ratification of the Maritime Labour Convention, 2006**

The Verkhovna Rada of Ukraine **resolves:**

To ratify the Maritime Labour Convention, concluded in Geneva on February 23, 2006,  
(enclosed).

**President of Ukraine**

**V.YANUKOVYCH**

Kyiv, \_\_\_\_ 2012

№ \_\_\_\_ - VR

**IV. THE LAW OF UKRAINE**  
**“ON NATIONAL MARITIME LABOUR STANDARDS”**

draft



**THE LAW OF UKRAINE**

**On National Maritime Labour Standards**

This Law is adopted in order to secure the right of all seafarers to decent employment in accordance with international maritime labour and social standards concerning recruitment and placement, minimum age, hours of work, safety, health and welfare, labour inspection and social security, provided by the Maritime Labour Convention, 2006.

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Definitions**

For the purpose of this Law and unless provided otherwise in particular provisions, the term:

- 1) *seafarer* means any person who is employed or engaged or works in any capacity on board a ship to which this Law applies;
- 2) *seafarers' employment agreement* includes both a contract of employment and articles of agreement;

3) *seafarer recruitment and placement service* means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners;

4) *ship* means a ship other than one which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;

5) *shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Law, regardless of whether any other organization or persons fulfill certain of the duties or responsibilities on behalf of the shipowner.

6) *maritime labour certificate* means a certificate issued to ships that fly the flag of Ukraine by the General State Ships Registrar Inspection of Ukraine, for a period of five years, certifying that the working and living conditions of seafarers on the ship, including measures for ongoing compliance to be included in the declaration of maritime labour compliance, have been inspected and meet the requirements of this Law;

7) *declaration of maritime labour compliance* means a declaration issued to ships that fly the flag of Ukraine by the General State Ships Registrar Inspection of Ukraine and attached to a maritime labour certificate stating the national requirements implementing this Law for the working and living conditions for seafarers and setting out the measures adopted by the shipowner to ensure compliance with the requirements on the ship or ships concerned.

## **Article 2. Fundamental employment and social rights of seafarers**

1. Seafarers have the employment and social rights to:

- 1) freedom of association and the effective recognition of the right to collective bargaining;
- 2) elimination of all forms of forced or compulsory labour;
- 3) effective abolition of child labour;
- 4) elimination of discrimination in respect of employment and occupation;
- 5) a safe and secure workplace that complies with safety standards;
- 6) fair terms of employment;
- 7) decent working and living conditions on board ship;
- 8) health protection, medical care, welfare measures and other forms of social protection.

### **Article 3. Scope of application**

1. Except as expressly provided otherwise, this Law applies to all seafarers.
2. Except as expressly provided otherwise, this Law applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks. This Law does not apply to warships or naval auxiliaries.

### **Article 4. Ukrainian Legislation on maritime labour and social standards**

1. National Legislation on maritime labour standards comprises this Law, the Constitution of Ukraine, the Labour Code of Ukraine and other national legal acts that contain provisions on maritime labour and social standards.

### **Article 5. International Agreements**

1. Provided the International Agreement ratified by the Verkhovna Rada of Ukraine sets the rules other than those envisaged in this Law, the rules of the International Agreement shall apply.

## **Chapter II**

### **MINIMAL REQUIREMENTS FOR SEAFARERS TO WORK ON A SHIP**

### **Article 6. Minimum age**

1. The employment, engagement or work on board a ship of any person under the age of 16 is prohibited.
2. Night work of seafarers under the age of 18 is prohibited. For this purposes, night work covers a period starting from 10 p.m. and ending at 6 a.m.
3. An exception to strict compliance with the night work restriction is allowed when:
  - 1) the effective training of the seafarers concerned, in accordance with established programmes and schedules, would be impaired; or

2) the specific nature of the duty or a recognized training programme requires that the seafarers covered by the exception perform duties at night and that the work will not be detrimental to their health or well-being.

4. The employment, engagement or work of seafarers under the age of 18 is prohibited where the work is likely to jeopardize their health or safety. The types of such work is determined by the Ministry of Health Care of Ukraine with approval of the National Committee of Ukraine On Labour Protection Supervision.

#### **Article 7. Medical certificate**

1. Seafarers shall not work on a ship unless they are certified as medically fit to perform their duties.

2. The medical certificate shall be issued by a duly qualified health care institutions recognized by the Ministry of Health Care of Ukraine.

3. The medical certificate shall be issued after conducting medical examination by a duly qualified medical practitioner. Practitioners must enjoy full professional independence in exercising their medical judgment in undertaking medical examination procedures.

4. When deciding the fitness of a seafarer the examining medical practitioner should consider and evaluate the following:

- 1) critical time needed for treatment / access to appropriate land-based care;
- 2) extent of the threat and danger caused by the medical problem to the patient and to the safety of the vessel;
- 3) current risk of occurrence of the medical problem.

5. Seafarers that have been refused a certificate or have had a limitation imposed on their ability to work, in particular with respect to time, field of work or trading area, shall be given the opportunity to have a further examination by another independent medical practitioner or by an independent medical referee.



6. Each medical certificate shall state in particular that:

1) the hearing and sight of the seafarer concerned, and the colour vision in the case of a seafarer to be employed in capacities where fitness for the work to be performed is liable to be affected by defective colour vision, are all satisfactory; and

2) the seafarer concerned is not suffering from any medical condition likely to be aggravated by service at sea or to render the seafarer unfit for such service or to endanger the health of other persons on board.

7. Unless a shorter period is required by reason of the specific duties to be performed by the seafarer concerned or is required:

1) a medical certificate is valid for a maximum period of two years unless the seafarer is under the age of 18, in which case the maximum period of validity is one year;

2) a certification of colour vision is valid for a maximum period of six years.

8. In urgent cases a seafarer is permitted to work without a valid medical certificate until the next port of call where the seafarer can obtain a medical certificate from a qualified health care institution, provided that:

1) the period of such permission does not exceed three months; and

2) the seafarer concerned is in possession of an expired medical certificate of recent date.

9. If the period of validity of a certificate expires in the course of a voyage, the certificate shall continue in force until the next port of call where the seafarer can obtain a medical certificate from a qualified health care institution, provided that the period shall not exceed three months.

10. The medical certificates for seafarers working on ships ordinarily engaged on international voyages must as a minimum be provided in English.

## **Article 8. Training and qualifications**

1. Seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties.

2. Seafarers shall not work on a ship unless they have successfully completed training for personal safety on board a ship.

3. Training and certification of seafarers in accordance with the mandatory instruments adopted or ratified by Ukraine are evidenced by diplomas or qualification certificates, their endorsement and seaman's seagoing service record book.

#### **Article 9. Recruitment and placement**

1. All seafarers shall have access to an efficient, adequate and accountable system for finding employment on board a ship without charge to the seafarer.

2. In respect of seafarers who work on ships that fly the flag of Ukraine, shipowners who use seafarer recruitment and placement services that are based in other countries or territories shall ensure that those services conform to the requirements set out in this Law.

3. Seafarer recruitment and placement services operating in Ukraine whose primary purpose is the recruitment and placement of seafarers or which recruit and place a significant number of seafarers, shall operate only in conformity with the standardized system of licensing provided by the Ministry of Labour and Social Policy of Ukraine.

4. When providing the standardized system of licensing referred to in paragraph 3 of this Article the Ministry of Labour and Social Policy of Ukraine shall ensure that seafarer recruitment and placement services fulfill the following obligations:

1) seafarer recruitment and placement services shall not use means, mechanisms or lists intended to prevent or deter seafarers from gaining employment for which they are qualified;

2) seafarer recruitment and placement services shall not require any fees or other charges for seafarer recruitment or placement or for providing employment to seafarers directly or indirectly, in whole or in part, from the seafarer, other than the cost of the seafarer obtaining a national statutory medical certificate, the national seafarer's book and a passport or other similar personal travel documents, not including, however, the cost of visas, which shall be borne by the shipowner; and

3) seafarer recruitment and placement services operating in the territory of Ukraine shall:

a) maintain an up-to-date register of all seafarers recruited or placed through them, to be available for inspection by the competent authority;

b) make sure that seafarers are informed of their rights and duties under their employment agreements prior to or in the process of engagement and that proper arrangements are made for seafarers to examine their employment agreements before and after they are signed and for them to receive a copy of the agreements;

c) verify that seafarers recruited or placed by them are qualified and hold the documents necessary for the job concerned, and that the seafarers' employment agreements are in accordance with applicable laws and regulations and any collective bargaining agreement that forms part of the employment agreement;

d) make sure, as far as practicable, that the shipowner has the means to protect seafarers from being stranded in a foreign port;

e) examine and respond to any complaint concerning their activities and advise the competent authority of any unresolved complaint;

f) establish a system of protection, by way of insurance or an equivalent appropriate measure, to compensate seafarers for monetary loss that they may incur as a result of the failure of a recruitment and placement service or the relevant shipowner under the seafarers' employment agreement to meet its obligations to them.

5. When providing the standardized system of licensing referred to in paragraph 3 of this Article the Ministry of Labour and Social Policy of Ukraine shall ensure that seafarer recruitment and placement services develop and maintain verifiable operational practices that should address the following matters:

1) medical examinations, seafarers' identity documents and such other items as may be required for the seafarer to gain employment;

2) maintaining, with due regard to the right to privacy and the need to protect confidentiality, full and complete records of the seafarers covered by their recruitment and placement system, which should include but not be limited to:

- a) the seafarers' qualifications;
- b) record of employment;
- c) personal data relevant to employment; and
- d) medical data relevant to employment;

3) maintaining up-to-date lists of the ships for which the seafarer recruitment and placement services provide seafarers and ensuring that there is a means by which the services can be contacted in an emergency at all hours;

4) procedures to ensure that seafarers are not subject to exploitation by the seafarer recruitment and placement services or their personnel with regard to the offer of engagement on particular ships or by particular companies;

5) procedures to prevent the opportunities for exploitation of seafarers arising from the issue of joining advances or any other financial transaction between the shipowner and the seafarers which are handled by the seafarer recruitment and placement services;

6) clearly publicizing costs, if any, which the seafarer will be expected to bear in the recruitment process;

7) ensuring that seafarers are advised of any particular conditions applicable to the job for which they are to be engaged and of the particular shipowner's policies relating to their employment;

8) procedures which are in accordance with the principles of natural justice for dealing with cases of incompetence or indiscipline consistent with national laws and practice and, where applicable, with collective agreements;

9) procedures to ensure, as far as practicable, that all mandatory certificates and documents submitted for employment are up to date and have not been fraudulently obtained and that employment references are verified;

10) procedures to ensure that requests for information or advice by families of seafarers while the seafarers are at sea are dealt with promptly and sympathetically and at no cost; and

11) verifying that labour conditions on ships where seafarers are placed are in conformity with applicable collective bargaining agreements concluded between a shipowner and a representative seafarers' organization and, as a matter of policy, supplying seafarers only to shipowners that offer terms and conditions of employment to seafarers which comply with applicable laws or regulations or collective agreements.

6. Licenses for the operation of private services in the territory of Ukraine are granted or renewed only after verification that the seafarer recruitment and placement service concerned meets the requirements of national laws and regulations.

7. The Ministry of Labour and Social Policy of Ukraine shall closely supervise and control all seafarer recruitment and placement services operating in the territory of Ukraine.

8. The Ministry of Labour and Social Policy of Ukraine shall ensure that adequate machinery and procedures exist for the investigation, if necessary, of complaints concerning the activities of seafarer recruitment and placement services, involving, as appropriate, representatives of shipowners and seafarers.

9. The Ministry of Labour and Social Policy of Ukraine shall provide efficient mechanism to advise nationals of Ukraine on the possible problems of signing on a ship that flies the flag of a foreign State, until it is satisfied that standards equivalent to those fixed by this Law are being applied. Measures taken to this effect shall not be in contradiction with the principle of free

movement of workers stipulated by the treaties to which Ukraine and the States concerned may be parties.

## **Chapter III**

### **CONDITIONS OF EMPLOYMENT**

#### **Article 10. Seafarers' employment agreements**

1. The terms and conditions for employment of a seafarer shall be set out or referred to in a clear written legally enforceable agreement and shall be consistent with the standards set out in this Law.

2. Seafarers' employment agreements shall be agreed under conditions which ensure that the seafarer has an opportunity to review and seek advice on the terms and conditions in the agreement and freely accepts them before signing.

3. Seafarers' employment agreements shall be understood to incorporate any applicable collective bargaining agreements.

4. Ships that fly the flag of Ukraine shall comply with the following requirements:

1) seafarers working on ships that fly the flag of Ukraine shall have a seafarers' employment agreement signed by both the seafarer and the shipowner or a representative of the shipowner (or, where they are not employees, evidence of contractual or similar arrangements) providing them with decent working and living conditions on board the ship as required by this Law;

2) seafarers signing a seafarers' employment agreement shall be given an opportunity to examine and seek advice on the agreement before signing, as well as such other facilities as are necessary to ensure that they have freely entered into an agreement with a sufficient understanding of their rights and responsibilities;

3) the shipowner and seafarer concerned shall each have a signed original of the seafarers' employment agreement;

4) measures shall be taken to ensure that clear information as to the conditions of seafarers' employment can be easily obtained on board by seafarers, including the ship's master, and that such information, including a copy of the seafarers' employment agreement, is also accessible for review by officers of a competent authority, including those in ports to be visited; and

5) seafarers shall be given a document containing a record of their employment on board the ship.

5. Where a collective bargaining agreement forms all or part of a seafarers' employment agreement, a copy of that agreement shall be available on board. Where the language of the seafarers' employment agreement and any applicable collective bargaining agreement is not in English, the following shall also be available in English (except for ships engaged only in domestic voyages):

- 1) a copy of a standard form of the agreement;
- 2) a document containing a record of seafarers' employment on board the ship referred to in paragraph 4 (5) of this Article;
- 3) the portions of the collective bargaining agreement that are subject to a port State inspection under Chapter VII.

6. The document referred to in Article 10, paragraph 4 (5) of this Law shall not contain any statement as to the quality of the seafarers' work or as to their wages. The form of the document, the particulars to be recorded and the manner in which such particulars are to be entered, shall be subject to the form determined by the Ministry of Labour and Social Policy of Ukraine.

7. Seafarers' employment agreements shall in all cases contain the following particulars:

- 1) the seafarer's full name, date of birth or age, and birthplace;
- 2) the shipowner's name and address;
- 3) the place where and date when the seafarers' employment agreement is entered into;
- 4) the capacity in which the seafarer is to be employed;
- 5) the amount of the seafarer's wages or, where applicable, the formula used for calculating them;
- 6) the amount of paid annual leave or, where applicable, the formula used for calculating it;
- 7) the termination of the agreement and the conditions thereof, including:
  - a) if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the shipowner than for the seafarer;
  - b) if the agreement has been made for a definite period, the date fixed for its expiry; and
  - c) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged;
- 8) the health and social security protection benefits to be provided to the seafarer by the shipowner;

- 9) the seafarer's entitlement to repatriation;
- 10) reference to the collective bargaining agreement, if applicable.

8. Notice periods to be given by the seafarers and shipowners for the early termination of a seafarers' employment agreement shall not be less than 14 days. No notice period or a notice period shorter than the 14 days shall be given by the shipowner to the seafarer in the circumstances provided by the Labour Code of Ukraine.

### **Article 11. Wages**

1. Seafarers shall be paid for their work regularly and in full in accordance with their employment agreements.

2. Payments due to seafarers working on ships that fly the flag of Ukraine shall be made at no greater than monthly intervals.

3. Seafarers shall be given a monthly account of the payments due and the amounts paid, including wages, additional payments and the rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to.

4. Shipowners shall take measures to provide seafarers with a means to transmit all or part of their earnings to their families or dependants or legal beneficiaries. Such measures include:

1) a system for enabling seafarers, at the time of their entering employment or during it, to allot, if they so desire, a proportion of their wages for remittance at regular intervals to their families by bank transfers or similar means; and

2) a requirement that allotments should be remitted in due time and directly to the person or persons nominated by the seafarers.

5. Any charge for the service under paragraphs 3 and 4 of this Article shall be reasonable in amount, and the rate of currency exchange, unless otherwise provided, shall be at the prevailing market rate or the official published rate and not unfavourable to the seafarer.

6. For the purpose of paragraphs 7 to 13 of this Article, the term:

1) *basic pay or wages* means the pay, however composed, for normal hours of work; it does not include payments for overtime worked, bonuses, allowances, paid leave or any other additional remuneration;

2) *consolidated wage* means a wage or salary which includes the basic pay and other pay-related benefits; a consolidated wage may include compensation for all overtime hours which are worked and all other pay-related benefits, or it may include only certain benefits in a partial consolidation;

3) *hours of work* means time during which seafarers are required to do work on account of the ship;

4) *overtime* means time worked in excess of the normal hours of work.

7. For seafarers whose remuneration includes separate compensation for overtime worked:

1) for the purpose of calculating wages, the normal hours of work at sea and in port should not exceed eight hours per day;

2) for the purpose of calculating overtime, the number of normal hours per week covered by the basic pay or wages should not exceed 48 hours; collective agreements may provide for a different but not less favourable treatment;

3) the rate or rates of compensation for overtime should be not less than one and one-quarter times the basic pay or wages per hour; and

4) records of all overtime worked should be maintained by the master, or a person assigned by the master, and endorsed by the seafarer at no greater than monthly intervals.

8. For seafarers whose wages are fully or partially consolidated:

1) the seafarers' employment agreement should specify clearly, where appropriate, the number of hours of work expected of the seafarer in return for this remuneration, and any additional allowances which might be due in addition to the consolidated wage, and in which circumstances;

2) where hourly overtime is payable for hours worked in excess of those covered by the consolidated wage, the hourly rate should be not less than one and onequarter times the basic rate corresponding to the normal hours of work as defined in paragraph 7 of this Article; the same principle should be applied to the overtime hours included in the consolidated wage;

3) remuneration for that portion of the fully or partially consolidated wage representing the normal hours of work as defined in paragraph 7 (1) of this Article should be no less than the applicable minimum wage; and



4) for seafarers whose wages are partially consolidated, records of all overtime worked should be maintained and endorsed as provided for in paragraph 7(3) of this Article.

9. Compensation for overtime or for work performed on the weekly day of rest and on public holidays may be provided by at least equivalent time off duty and off the ship or additional leave in lieu of remuneration or any other compensation so provided.

10. Seafarers shall be paid for their work taking into account the following principles:

1) equal remuneration for work of equal value should apply to all seafarers employed on the same ship without discrimination based upon race, colour, sex, religion, political opinion, national extraction or social origin;

2) the seafarers' employment agreement specifying the applicable wages or wage rates should be carried on board the ship; information on the amount of wages or wage rates should be made available to each seafarer, either by providing at least one signed copy of the relevant information to the seafarer in a language which the seafarer understands, or by posting a copy of the agreement in a place accessible to seafarers or by some other appropriate means;

3) wages should be paid in legal tender; where appropriate, they may be paid by bank transfer, bank cheque, postal cheque or money order;

4) on termination of engagement all remuneration due should be paid without undue delay;

5) adequate penalties or other appropriate remedies should be imposed by the competent authority where shipowners unduly delay, or fail to make, payment of all remuneration due;

6) wages should be paid directly to seafarers' designated bank accounts unless they request otherwise in writing;

7) subject to subparagraph (8) of this paragraph, the shipowner should impose no limit on seafarers' freedom to dispose of their remuneration;

8) deduction from remuneration is permitted only if:

a) the seafarer has been informed, in written form before signing the employment agreement, of the conditions for such deductions; and

b) the deductions do not in total exceed the half of the remuneration

9) no deductions should be made from a seafarer's remuneration in respect of obtaining or retaining employment;

10) monetary fines against seafarers other than those authorized by national laws or regulations, collective agreements or other measures are prohibited;

11) representatives of the General State Ships Registrar Inspection of Ukraine and Port Administrations have the power to inspect stores and services provided on board ship to ensure that fair and reasonable prices are applied for the benefit of the seafarers concerned.

11. Procedures to investigate complaints relating to any matter contained in this Article are set by the Ministry of Labour and Social Policy of Ukraine.

12. Procedures for determining minimum wages for seafarers are set by the Ministry of Labour and Social Policy of Ukraine in accordance with the following principles:

- 1) the level of minimum wages should take into account the nature of maritime employment, crewing levels of ships, and seafarers' normal hours of work; and
- 2) the level of minimum wages should be adjusted to take into account changes in the cost of living and in the needs of seafarers.

13. The Ministry of Labour and Social Policy of Ukraine shall ensure:

- 1) by means of a system of supervision and sanctions, that wages are paid at not less than the rate or rates fixed; and
- 2) that any seafarers who have been paid at a rate lower than the minimum wage are enabled to recover, by an inexpensive and expeditious judicial or other procedure, the amount by which they have been underpaid.

## **Article 12.** Hours of work and hours of rest

1. For the purpose of this Article, the term:

- 1) *hours of work* means time during which seafarers are required to do work on account of the ship;
- 2) *hours of rest* means time outside hours of work; this term does not include short breaks.

2. Normal working hours' standard for seafarers shall be based on an eight-hour day with one day of rest per week and rest on public holidays. However, this shall not prevent a collective agreement to determine seafarers' normal working hours on a basis no less favourable than this standard.

3. The limits on hours of work or rest shall be as follows:

- 1) maximum hours of work shall not exceed:

- a) 14 hours in any 24-hour period; and
  - b) 72 hours in any seven-day period;
- or
- 2) minimum hours of rest shall not be less than:
    - a) ten hours in any 24-hour period; and
    - b) 77 hours in any seven-day period.

4. Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.

5. Musters, fire-fighting and lifeboat drills, and drills prescribed by national laws and regulations and by international instruments, shall be conducted in a manner that minimizes the disturbance of rest periods and does not induce fatigue.

6. When a seafarer is on call, such as when a machinery space is unattended, the seafarer shall have an adequate compensatory rest period if the normal period of rest is disturbed by call-outs to work.

7. Shipowners are obliged to provide posting, in an easily accessible place, of a table with the shipboard working arrangements, which shall contain for every position at least:

- 1) the schedule of service at sea and service in port; and
- 2) the maximum hours of work or the minimum hours of rest required by national laws or regulations or applicable collective agreements.

8. The table referred to in paragraph 7 of this Article shall be in a standardized format established by the State Administration of Maritime and River Transport of Ukraine in Ukrainian and in English.

9. Shipowners shall maintain records of seafarers' daily hours of work or of their daily hours of rest to allow monitoring of compliance with paragraphs 3 to 8 of this Article. The records shall be in a standardized format established by the State Administration of Maritime and River Transport of Ukraine in Ukrainian and in English. The seafarers shall receive a copy of the records pertaining to them which shall be endorsed by the master, or a person authorized by the master, and by the seafarers.

10. Nothing in this Article shall be deemed to impair the right of the master of a ship to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea. Accordingly, the master may suspend the schedule of hours of work or hours of rest and require a seafarer to perform any hours of work necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the master shall ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.

11. At sea and in port shipowners shall apply the following provisions to all young seafarers under the age of 18:

- 1) working hours should not exceed eight hours per day and 40 hours per week and overtime should be worked only where unavoidable for safety reasons;
- 2) sufficient time should be allowed for all meals, and a break of at least one hour for the main meal of the day should be assured; and
- 3) a 15-minute rest period as soon as possible following each two hours of continuous work should be allowed.

12. Exceptionally, the provisions of paragraph 11 of this Article need not be applied if:

- 1) they are impracticable for young seafarers in the deck, engine room and catering departments assigned to watchkeeping duties or working on a rostered shiftwork system; or
- 2) the effective training of young seafarers in accordance with established programmes and schedules would be impaired.

13. Such exceptional situations referred to in paragraph 12 of this Article should be recorded, with reasons, and signed by the master.

14. Paragraph 11 of this Article does not exempt young seafarers from the general obligation on all seafarers to work during any emergency as provided for in paragraph 10 of this Article.

### **Article 13. Entitlement to leave**

1. Shipowners shall pay seafarers employed on ships that fly the flag of Ukraine an annual leave under appropriate conditions, in accordance with the provisions in the Law.

2. Shipowners shall pay seafarers employed on ships that fly the flag of Ukraine shore leave to benefit their health and well-being and with the operational requirements of their positions.

3. The Ministry of Labour and Social Policy shall set the minimum standards for annual leave for seafarers serving on ships that fly the flag of Ukraine, taking proper account of the special needs of seafarers with respect to such leave.

4. The annual leave with pay entitlement shall be calculated on the basis of a minimum of 2.5 calendar days per month of employment. Justified absences from work shall not be considered as annual leave.

5. Any agreement to forgo the minimum annual leave with pay prescribed in this Law is prohibited.

6. Service off-articles is counted as part of the period of service.

7. Absence from work to attend an approved maritime vocational training course or for such reasons as illness or injury or for maternity is counted as part of the period of service.

8. The level of pay during annual leave should be at the seafarer's normal level of remuneration provided for by national laws or regulations or in the applicable seafarers' employment agreement. For seafarers employed for periods shorter than one year or in the event of termination of the employment relationship, entitlement to leave should be calculated on a pro-rata basis.

9. The following should not be counted as part of annual leave with pay:

- 1) public and customary holidays recognized as such in Ukraine, whether or not they fall during the annual leave with pay;
- 2) periods of incapacity for work resulting from illness or injury or from maternity;
- 3) temporary shore leave granted to a seafarer while under an employment agreement; and
- 4) compensatory leave of any kind.

10. The time at which annual leave is to be taken should be determined by the shipowner after consultation and, as far as possible, in agreement with the seafarers concerned or their representatives.

11. Seafarers have the right to take annual leave in the place with which they have a substantial connection, which would normally be the same as the place to which they are entitled to be repatriated. Seafarers should not be required without their consent to take annual leave due to them in another place.

12. If seafarers are required to take their annual leave from a place other than that permitted by paragraph 11 of this Article, they are entitled to free transportation to the place where they were engaged or recruited, whichever is nearer their home; subsistence and other costs directly involved should be for the account of the shipowner; the travel time involved should not be deducted from the annual leave with pay due to the seafarer.

13. A seafarer taking annual leave should be recalled only in cases of extreme emergency and with the seafarer's consent.

14. The division of the annual leave with pay into parts, or the accumulation of such annual leave due in respect of one year together with a subsequent period of leave, is permitted. The annual leave with pay recommended in this paragraph should consist of an uninterrupted period.

15. Special measures should be considered with respect to young seafarers under the age of 18 who have served six months or any other shorter period of time under a collective agreement or seafarers' employment agreement without leave on a foreign-going ship which has not returned to their country of residence in that time, and will not return in the subsequent three months of the voyage. Such measures consist of their repatriation at no expense to themselves to the place of original engagement in their country of residence for the purpose of taking any leave earned during the voyage.

#### **Article 14. Repatriation**

1. Seafarers have a right to be repatriated at no cost to themselves in the circumstances and under the conditions specified in this Law.

2. Shipowners shall provide financial security for seafarers employed on the ships that fly the flag of Ukraine to ensure that seafarers are duly repatriated in accordance with this Law.

3. Seafarers on ships that fly the flag of Ukraine are entitled to repatriation in the following circumstances:

- 1) if the seafarers' employment agreement expires while they are abroad;
- 2) when the seafarers' employment agreement is terminated:
  - a) by the shipowner; or
  - b) by the seafarer for justified reasons; and also
- 3) when the seafarers are no longer able to carry out their duties under their employment agreement or cannot be expected to carry them out in the specific circumstances.

4. Seafarers on board ships that fly the flag of Ukraine are entitled to repatriation:

- 1) in the case covered by paragraph 3 (1) of this Article, upon the expiry of the period of notice given in accordance with the provisions of the seafarers' employment agreement;
- 2) in the cases covered by paragraph 3 (2) and (3) of this Article:
  - a) in the event of illness or injury or other medical condition which requires their repatriation when found medically fit to travel;
  - b) in the event of shipwreck;
  - c) in the event of the shipowner not being able to continue to fulfil their legal or contractual obligations as an employer of the seafarers by reason of insolvency, sale of ship, change of ship's registration or any other similar reason;
  - d) in the event of a ship being bound for a war zone, as defined by national laws or regulations or seafarers' employment agreements, to which the seafarer does not consent to go; and
  - e) in the event of termination or interruption of employment in accordance with an industrial award or collective agreement, or termination of employment for any other similar reason.

5. Shipowners shall accord the precise entitlements for repatriation, including those relating to the destinations of repatriation, the mode of transport, the items of expense to be covered and other arrangements to be made by shipowners.

6. Shipowners are prohibited from requiring that seafarers make an advance payment towards the cost of repatriation at the beginning of their employment, and also from recovering the cost of repatriation from the seafarers' wages or other entitlements except where the seafarer has been found in serious default of the seafarer's employment obligations.

7. The costs to be borne by the shipowner for repatriation under this Article should include at least the following:

1) passage to the destination selected for repatriation in accordance with paragraph 10 of this Article;

2) accommodation and food from the moment the seafarers leave the ship until they reach the repatriation destination;

3) pay and allowances from the moment the seafarers leave the ship until they reach the repatriation destination, if provided for by national laws or regulations or collective agreements;

4) transportation of 30 kg of the seafarers' personal luggage to the repatriation destination;  
and

5) medical treatment when necessary until the seafarers are medically fit to travel to the repatriation destination.

8. Time spent awaiting repatriation and repatriation travel time should not be deducted from paid leave accrued to the seafarers.

9. Shipowners should continue to cover the costs of repatriation until the seafarers concerned are landed at a destination prescribed pursuant to this Law or are provided with suitable employment on board a ship proceeding to one of those destinations.

10. Shipowners shall take responsibility for repatriation arrangements by appropriate and expeditious means. The normal mode of transport should be by air. The destinations to which seafarers may be repatriated should include the countries with which seafarers may be deemed to have a substantial connection including:

1) the place at which the seafarer agreed to enter into the engagement;

2) the place stipulated by collective agreement;

3) the seafarer's country of residence; or

4) such other place as may be mutually agreed at the time of engagement.

11. Seafarers have the right to choose from among the prescribed destinations the place to which they are to be repatriated.

12. The entitlement to repatriation may lapse if the seafarers concerned do not claim it within a month.

13. If, after young seafarers under the age of 18 have served on a ship for at least four months during their first foreign-going voyage, it becomes apparent that they are unsuited to life at sea, they



should be given the opportunity of being repatriated at no expense to themselves from the first suitable port of call in which there are consular services of the flag State, or the State of nationality or residence of the young seafarer. Notification of any such repatriation, with the reasons therefor, should be given to the authority which issued the papers enabling the young seafarers concerned to take up seagoing employment.

14. Shipowners are entitled to recover the cost of repatriation under third-party contractual arrangements.

15. If a shipowner fails to make arrangements for or to meet the cost of repatriation of seafarers who are entitled to be repatriated:

1) the Ministry of Foreign Affairs of Ukraine shall arrange for repatriation of the seafarers concerned;

2) costs incurred in repatriating seafarers shall be recoverable from the shipowner;

3) the expenses of repatriation shall in no case be a charge upon the seafarers, except as provided for in paragraph 6 of this Article.

16. The Ministry of Foreign Affairs of Ukraine shall facilitate the repatriation of seafarers serving on ships which call at its ports or pass through territorial or internal waters of Ukraine, as well as their replacement on board.

17. The Ministry of Foreign Affairs of Ukraine shall not refuse the right of repatriation to any seafarer because of the financial circumstances of a shipowner or because of the shipowner's inability or unwillingness to replace a seafarer.

18. Ships that fly the flag of Ukraine shall carry and make available to seafarers a copy of the applicable national provisions regarding repatriation written in Ukrainian and in English.

#### **Article 15.** Seafarer compensation for the ship's loss or foundering

1. Seafarers are entitled to adequate compensation in the case of injury, loss or unemployment arising from the ship's loss or foundering.

2. In every case of loss or foundering of any ship, the shipowner shall pay to each seafarer on board an indemnity against unemployment resulting from such loss or foundering without prejudice to any other rights a seafarer have for losses or injuries arising from a ship's loss or foundering.

3. The indemnity against unemployment resulting from a ship's foundering or loss should be paid for the days during which the seafarer remains in fact unemployed at the same rate as the wages payable under the employment agreement, but the total indemnity payable to any one seafarer may be limited to two months' wages.

4. Seafarers have the same legal remedies for recovering such indemnities as they have for recovering arrears of wages earned during the service.

#### **Article 16. Manning levels**

1. All ships that fly the flag of Ukraine shall have a sufficient number of seafarers employed on board to ensure that ships are operated safely, efficiently and with due regard to security under all conditions, taking into account concerns about seafarer fatigue and the particular nature and conditions of the voyage.

2. Every ship shall be manned by a crew that is adequate, in terms of size and qualifications, to ensure the safety and security of the ship and its personnel, under all operating conditions, in accordance with the minimum safe manning document issued by the Inspection of the General State Ships Registrar Inspection of Ukraine, and to comply with the standards of this Law.

3. When determining, approving or revising manning levels, the General State Ships Registrar Inspection of Ukraine shall take into account the need to avoid or minimize excessive hours of work to ensure sufficient rest and to limit fatigue, as well as the principles in applicable international instruments on manning levels.

#### **Article 17. Career and skill development and opportunities for seafarers' employment**

1. The Ministry of Labour and Social Policy of Ukraine shall set national policies that encourage career and skill development and employment opportunities for seafarers, in order to provide the maritime sector with a stable and competent workforce.

2. The aim of the policies referred to in paragraph 1 of this Article is to help seafarers strengthen their competencies, qualifications and employment opportunities.

3. The Ministry of Labour and Social Policy of Ukraine shall, after consulting the shipowners' and seafarers' organizations concerned, establish clear objectives for the vocational guidance, education and training of seafarers whose duties on board ship primarily relate to the safe operation and navigation of the ship, including ongoing training.

4. Measures to achieve the objectives set out in paragraphs 1 to 3 of this Article shall include:

1) agreements providing for career development and skills training with a shipowner or an organization of shipowners; or

2) arrangements for promoting employment through the establishment and maintenance of registers or lists, by categories, of qualified seafarers; or

3) promotion of opportunities, both on board and ashore, for further training and education of seafarers to provide for skill development and portable competencies in order to secure and retain decent work, to improve individual employment prospects and to meet the changing technology and labour market conditions of the maritime industry.

## **Chapter IV**

### **ACCOMMODATION, RECREATIONAL FACILITIES, FOOD AND CATERING**

#### **Article 18. Accommodation and recreational facilities**

1. Ships that fly the flag of Ukraine shall provide and maintain decent accommodations and recreational facilities for seafarers working or living on board, or both, consistent with promoting the seafarers' health and well-being.

2. Ships that fly the flag of Ukraine shall:

1) meet minimum standards to ensure that any accommodation for seafarers, working or living on board, or both, is safe, decent and in accordance with the relevant provisions of this Law; and

2) be inspected to ensure initial and ongoing compliance with those standards.

3. The inspections required under paragraph 2 of this Article shall be carried out by the Inspection of the General State Ships Registrar Inspection of Ukraine when:

- 1) a ship is registered or re-registered; or
- 2) the seafarer accommodation on a ship has been substantially altered.

4. The Inspection of the General State Ships Registrar Inspection of Ukraine shall pay particular attention to ensuring implementation of the requirements of this Law relating to:

- 1) the size of rooms and other accommodation spaces;
- 2) heating and ventilation;
- 3) noise and vibration and other ambient factors;
- 4) sanitary facilities;
- 5) lighting; and
- 6) hospital accommodation.

5. Ships that fly the flag of Ukraine shall meet the minimum standards for on-board accommodation and recreational facilities that are set out in paragraphs 6 to 17 of this Article.

6. With respect to general requirements for accommodation:

1) there shall be adequate headroom in all seafarer accommodation; the minimum permitted headroom in all seafarer accommodation where full and free movement is necessary shall be not less than 203 centimetres; some limited reduction are permitted in headroom in any space, or part of any space, in such accommodation where it is satisfied that such reduction:

- a) is reasonable; and
- b) will not result in discomfort to the seafarers;
- 2) the accommodation shall be adequately insulated;

3) in ships other than passenger ships, sleeping rooms shall be situated above the load line amidships or aft, except that in exceptional cases, where the size, type or intended service of the ship renders any other location impracticable, sleeping rooms may be located in the fore part of the ship, but in no case forward of the collision bulkhead;

4) in passenger ships, and in special purpose ships, on condition that satisfactory arrangements are made for lighting and ventilation, the location of sleeping rooms below the load line is permitted, but in no case shall they be located immediately beneath working alleyways;

5) there shall be no direct openings into sleeping rooms from cargo and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of a bulkhead

separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or other approved substance and be watertight and gas-tight;

6) the materials used to construct internal bulkheads, panelling and sheeting, floors and joinings shall be suitable for the purpose and conducive to ensuring a healthy environment;

7) proper lighting and sufficient drainage shall be provided; and

8) accommodation and recreational and catering facilities shall meet the requirements in Article 22, and the related provisions in the Law, on health and safety protection and accident prevention, with respect to preventing the risk of exposure to hazardous levels of noise and vibration and other ambient factors and chemicals on board ships, and to provide an acceptable occupational and onboard living environment for seafarers.

7. With respect to requirements for ventilation and heating:

1) sleeping rooms and mess rooms shall be adequately ventilated;

2) ships, except those regularly engaged in trade where temperate climatic conditions do not require this, shall be equipped with air conditioning for seafarer accommodation, for any separate radio room and for any centralized machinery control room;

3) all sanitary spaces shall have ventilation to the open air, independently of any other part of the accommodation; and

4) adequate heat through an appropriate heating system shall be provided, except in ships exclusively on voyages in tropical climates.

8. With respect to requirements for lighting, subject to such special arrangements as may be permitted in passenger ships, sleeping rooms and mess rooms shall be lit by natural light and provided with adequate artificial light.

9. When sleeping accommodation on board ships is required, the following requirements for sleeping rooms apply:

1) in ships other than passenger ships, an individual sleeping room shall be provided for each seafarer; in the case of ships of less than 3,000 gross tonnage or special purpose ships;

2) separate sleeping rooms shall be provided for men and for women;

3) sleeping rooms shall be of adequate size and properly equipped so as to ensure reasonable comfort and to facilitate tidiness;

4) a separate berth for each seafarer shall in all circumstances be provided;

5) the minimum inside dimensions of a berth shall be at least 198 centimetres by 80 centimetres;

- 6) in single berth seafarers' sleeping rooms the floor area shall not be less than:
- a) 4.5 square metres in ships of less than 3,000 gross tonnage;
  - b) 5.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;
  - c) 7 square metres in ships of 10,000 gross tonnage or over;
- 6) however, in order to provide single berth sleeping rooms on ships of less than 3,000 gross tonnage, passenger ships and special purpose ships, the General State Ships Registrar Inspection of Ukraine may allow a reduced floor area;
- 7) in ships of less than 3,000 gross tonnage other than passenger ships and special purpose ships, sleeping rooms may be occupied by a maximum of two seafarers; the floor area of such sleeping rooms shall not be less than 7 square metres;
- 8) on passenger ships and special purpose ships the floor area of sleeping rooms for seafarers not performing the duties of ships' officers shall not be less than:
- a) 7.5 square metres in rooms accommodating two persons;
  - b) 11.5 square metres in rooms accommodating three persons;
  - c) 14.5 square metres in rooms accommodating four persons;
- 9) on special purpose ships sleeping rooms may accommodate more than four persons; the floor area of such sleeping rooms shall not be less than 3.6 square metres per person;
- 10) on ships other than passenger ships and special purpose ships, sleeping rooms for seafarers who perform the duties of ships' officers, where no private sitting room or day room is provided, the floor area per person shall not be less than:
- a) 7.5 square metres in ships of less than 3,000 gross tonnage;
  - b) 8.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;
  - c) 10 square metres in ships of 10,000 gross tonnage or over;
- 11) on passenger ships and special purpose ships the floor area for seafarers performing the duties of ships' officers where no private sitting room or day room is provided, the floor area per person for junior officers shall not be less than 7.5 square metres and for senior officers not less than 8.5 square metres; junior officers are understood to be at the operational level, and senior officers at the management level;
- 12) the master, the chief engineer and the chief navigating officer shall have, in addition to their sleeping rooms, an adjoining sitting room, day room or equivalent additional space; ships of less than 3,000 gross tonnage are exempted from this requirement;
- 13) for each occupant, the furniture shall include a clothes locker of ample space (minimum 475 litres) and a drawer or equivalent space of not less than 56 litres; if the drawer is incorporated in

the clothes locker then the combined minimum volume of the clothes locker shall be 500 litres; it shall be fitted with a shelf and be able to be locked by the occupant so as to ensure privacy;

14) each sleeping room shall be provided with a table or desk, which may be of the fixed, drop-leaf or slide-out type, and with comfortable seating accommodation as necessary.

10. With respect to requirements for mess rooms:

1) mess rooms shall be located apart from the sleeping rooms and as close as practicable to the galley; ships of less than 3,000 gross tonnage are exempted from this requirement; and

2) mess rooms shall be of adequate size and comfort and properly furnished and equipped (including ongoing facilities for refreshment), taking account of the number of seafarers likely to use them at any one time; provision shall be made for separate or common mess room facilities as appropriate.

11. With respect to requirements for sanitary facilities:

1) all seafarers shall have convenient access on the ship to sanitary facilities meeting minimum standards of health and hygiene and reasonable standards of comfort, with separate sanitary facilities being provided for men and for women;

2) there shall be sanitary facilities within easy access of the navigating bridge and the machinery space or near the engine room control centre; ships of less than 3,000 gross tonnage are exempted from this requirement;

3) in all ships a minimum of one toilet, one wash basin and one tub or shower or both for every six persons or less who do not have personal facilities shall be provided at a convenient location;

4) with the exception of passenger ships, each sleeping room shall be provided with a washbasin having hot and cold running fresh water, except where such a washbasin is situated in the private bathroom provided;

5) in passenger ships normally engaged on voyages of not more than four hours' duration, consideration may be given by the General State Ships Registrar Inspection of Ukraine to special arrangements or to a reduction in the number of facilities required; and

6) hot and cold running fresh water shall be available in all wash places.

12. With respect to requirements for hospital accommodation, ships carrying 15 or more seafarers and engaged in a voyage of more than three days' duration shall provide separate hospital accommodation to be used exclusively for medical purposes. The on-board hospital accommodation

shall, in all weathers, be easy of access, provide comfortable housing for the occupants and be conducive to their receiving prompt and proper attention.

13. Appropriately situated and furnished laundry facilities shall be available.

14. All ships shall have a space or spaces on open deck to which the seafarers can have access when off duty, which are of adequate area having regard to the size of the ship and the number of seafarers on board.

15. All ships shall be provided with separate offices or a common ship's office for use by deck and engine departments; ships of less than 3,000 gross tonnage are exempted from this requirement.

16. Ships regularly trading to mosquito-infested ports shall be fitted with appropriate devices as required by the General State Ships Registrar Inspection of Ukraine.

17. Appropriate seafarers' recreational facilities, amenities and services, as adapted to meet the special needs of seafarers who must live and work on ships, shall be provided on board for the benefit of all seafarers, taking into account Article 22 and the associated Law provisions on health and safety protection and accident prevention.

18. The General State Ships Registrar Inspection of Ukraine shall carry regular inspections out on board ships, by or under the authority of the master, to ensure that seafarer accommodation is clean, decently habitable and maintained in a good state of repair. The results of each such inspection shall be recorded and be available for review.

#### **Article 19. Food and catering**

1. Ships that fly the flag of Ukraine shall carry on board and serve food and drinking water of appropriate quality, nutritional value and quantity that adequately covers the requirements of the ship and takes into account the differing cultural and religious backgrounds.

2. Seafarers on board a ship shall be provided with food free of charge during the period of engagement.



3. The General State Ships Registrar Inspection of Ukraine shall provide national standards for the quantity and quality of food and drinking water and for the catering standards that apply to meals provided to seafarers on ships that fly its flag, and shall undertake educational activities to promote awareness and implementation of the standards referred to in this paragraph.

4. Ships that fly the flag of Ukraine shall meet the following minimum standards:

1) food and drinking water supplies, having regard to the number of seafarers on board, their religious requirements and cultural practices as they pertain to food, and the duration and nature of the voyage, shall be suitable in respect of quantity, nutritional value, quality and variety;

2) the organization and equipment of the catering department shall be such as to permit the provision to the seafarers of adequate, varied and nutritious meals prepared and served in hygienic conditions; and

3) catering staff shall be properly trained or instructed for their positions.

5. Shipowners shall ensure that seafarers who are engaged as ships' cooks are trained, qualified and found competent for the position in accordance with the requirements of a completion of a training course approved or recognized by the General State Ships Registrar Inspection of Ukraine, which covers practical cookery, food and personal hygiene, food storage, stock control, and environmental protection and catering health and safety.

6. Ships operating with a prescribed manning of less than ten which, by virtue of the size of the crew or the trading pattern, are not required to carry a fully qualified cook, anyone processing food in the galley shall be trained or instructed in areas including food and personal hygiene as well as handling and storage of food on board ship.

7. In accordance with the ongoing compliance procedures under Chapter VI and VII, the frequent documented inspections shall be carried out on board ships, by or under the authority of the master, with respect to:

1) supplies of food and drinking water;

2) all spaces and equipment used for the storage and handling of food and drinking water; and

3) galley and other equipment for the preparation and service of meals.

8. No seafarer under the age of 18 shall be employed or engaged or work as a ship's cook.

9. The General State Ships Registrar Inspection of Ukraine shall collect up-to-date information on nutrition and on methods of purchasing, storing, preserving, cooking and serving food, with special reference to the requirements of catering on board a ship. This information should be made available, free of charge, to manufacturers of and traders in ships' food supplies and equipment, masters, stewards and cooks, and to shipowners' and seafarers' organizations concerned.

## **Chapter V**

### **HEALTH PROTECTION, MEDICAL CARE, WELFARE AND SOCIAL SECURITY PROTECTION**

#### **Article 20. Medical care on board ship and ashore**

1. Shipowners shall cover seafarers employed on ships that fly the flag of Ukraine by adequate measures for the protection of their health and that they have access to prompt and adequate medical care whilst working on board. The protection and care concerned in this paragraph shall be provided at no cost to the seafarers.

2. Seafarers on board ships in the territory of Ukraine who are in need of immediate medical care are entitled to have access to the Ukrainian medical facilities on shore.

3. The requirements for on-board health protection and medical care set out in this Law include standards for measures aimed at providing seafarers with health protection and medical care as comparable as possible to that which is generally available to workers ashore.

4. Seafarers working on board a ship that flies the flag of Ukraine are entitled to:

1) occupational health protection and medical care relevant to their duties, as well as of special provisions specific to work on board ship;

2) protection and medical care as comparable as possible to that which is generally available to workers ashore, including prompt access to the necessary medicines, medical equipment and facilities for diagnosis and treatment and to medical information and expertise;

3) visit a qualified medical doctor or dentist without delay in ports of call, where practicable; medical care and health protection services while on board a ship or landed in a foreign port provided free of charge to seafarers; and

4) get treatment if seafarer is sick or injured, as well as measures of a preventive character such as health promotion and health education programmes.

5. Ships' masters and relevant onshore and on-board medical personnel shall use a standard medical report form adopted by the Ministry of Health Care of Ukraine. The form, when completed, and its contents shall be kept confidential and shall only be used to facilitate the treatment of seafarers.

6. Requirements for on-board hospital and medical care facilities and equipment and training on ships that fly the flag of Ukraine:

1) all ships shall carry a medicine chest, medical equipment and a medical guide, the specifics of which are prescribed and subject to regular inspection by the General State Ships Registrar Inspection of Ukraine;

2) ships carrying 100 or more persons and ordinarily engaged on international voyages of more than three days' duration shall carry a qualified medical doctor who is responsible for providing medical care;

3) ships which do not carry a medical doctor shall be required to have either at least one seafarer on board who is in charge of medical care and administering medicine as part of their regular duties or at least one seafarer on board competent to provide medical first aid; persons in charge of medical care on board who are not medical doctors shall have satisfactorily completed training in medical care; seafarers designated to provide medical first aid shall have satisfactorily completed training in medical first aid.

7. Persons referred to in paragraph 6 (3) of this Article shall undergo, at approximately fiveyear intervals, refresher courses to enable them to maintain and increase their knowledge and skills and to keep up-to-date with new developments.

8. The medicine chest and its contents, as well as the medical equipment and medical guide carried on board, should be properly maintained and inspected at regular intervals, not exceeding 12 months, by responsible persons designated by the General State Ships Registrar Inspection of Ukraine, who should ensure that the labelling, expiry dates and conditions of storage of all medicines and directions for their use are checked and all equipment functioning as required.

9. Where a cargo which is classified dangerous is carried on-board a ship that flies the flag of Ukraine, the shipowner shall make the necessary information on the nature of the substances, the

risks involved, the necessary personal protective devices, the relevant medical procedures and specific antidotes available to the seafarers. Such specific antidotes and personal protective devices should be on board whenever dangerous goods are carried. This information should be integrated with the ship's policies and programmes on occupational safety and health described in Article 22 and related Law provisions.

10. All ships that flies the flag of Ukraine should carry a complete and up-to-date list of radio stations through which medical advice can be obtained; and, if equipped with a system of satellite communication, carry an up-to-date and complete list of coast earth stations through which medical advice can be obtained. Seafarers with responsibility for medical care or medical first aid on board should be instructed in the use of the ship's medical guide and the medical section of the most recent edition of the International Code of Signals so as to enable them to understand the type of information needed by the advising doctor as well as the advice received.

11. Shore-based medical facilities for treating seafarers should be adequate for the purposes. The doctors, dentists and other medical personnel should be properly qualified.

12. Port Administrations are obliged to provide to seafarers an access when in port to:

- 1) outpatient treatment for sickness and injury;
- 2) hospitalization when necessary; and
- 3) facilities for dental treatment, especially in cases of emergency.

13. Suitable measures should be taken by shipowners and Port Administrations to facilitate the treatment of seafarers suffering from disease. In particular, seafarers should be promptly admitted to clinics and hospitals ashore, without difficulty and irrespective of nationality or religious belief, and, whenever possible, arrangements should be made to ensure, when necessary, continuation of treatment to supplement the medical facilities available to them.

## **Article 21. Shipowners' liability**

1. Shipowners shall provide seafarers employed on the ships that fly the flag of Ukraine with material assistance and support with respect to the financial consequences of sickness, injury or death occurring while they are serving under a seafarers' employment agreement or arising from their employment under such agreement.

2. This Law does not affect any other legal remedies that a seafarer may seek.

3. Shipowners of ships that fly the flag of Ukraine are responsible for health protection and medical care of all seafarers working on board the ships in accordance with the following minimum standards:

1) shipowners shall bear the costs for seafarers working on their ships in respect of sickness and injury of the seafarers occurring between the date of commencing duty and the date upon which they are deemed duly repatriated, or arising from their employment between those dates;

2) shipowners shall provide financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard, as set out in national law, the seafarers' employment agreement or collective agreement;

3) shipowners shall defray the expense of medical care, including medical treatment and the supply of the necessary medicines and therapeutic appliances, and board and lodging away from home until the sick or injured seafarer has recovered, or until the sickness or incapacity has been declared of a permanent character; and

4) shipowners shall pay the cost of burial expenses in the case of death occurring on board or ashore during the period of engagement.

4. The shipowner shall defray the expense of medical care and board and lodging for the period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.

5. Where the sickness or injury results in incapacity for work the shipowner shall:

1) pay full wages as long as the sick or injured seafarers remain on board or until the seafarers have been repatriated in accordance with this Law; and

2) pay fifty percent of wages from the time when the seafarers are repatriated or landed until their recovery.

6. The shipowner shall pay fifty percent of wages in respect of a seafarer no longer on board for a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.

7. The shipowner is excluded from liability in respect of:

1) injury incurred otherwise than in the service of the ship;

- 2) injury or sickness due to the wilful misconduct of the sick, injured or deceased seafarer;  
and  
3) sickness or infirmity intentionally concealed when the engagement is entered into.

8. Shipowners or their representatives shall take measures for safeguarding property left on board by sick, injured or deceased seafarers and for returning it to them or to their next of kin.

9. The shipowner shall cease to be liable to bear the costs of a sick or injured seafarer from the time at which that seafarer can claim medical benefits under a scheme of compulsory sickness insurance, compulsory accident insurance or workers' compensation for accidents.

10. Burial expenses paid by the shipowner shall be reimbursed by an insurance institution in cases in which funeral benefit is payable in respect of the deceased seafarer under laws or regulations relating to social insurance or workers' compensation.

## **Article 22. Health and safety protection and accident prevention**

1. Shipowners shall provide seafarers on ships that fly the flag of Ukraine with occupational health protection and live, work and train on board ship in a safe and hygienic environment in accordance with national guidelines for the management of occupational safety and health on board ships adopted by the General State Ships Registrar Inspection of Ukraine.

2. Shipowners, seafarers and others on-board a ship that flies the flag of Ukraine shall comply with the applicable standards and with the ship's occupational safety and health policy and programme adopted by the General State Ships Registrar Inspection of Ukraine with special attention being paid to the safety and health of seafarers under the age of 18.

3. The master or a person designated by the master, or both, shall take specific responsibility for the implementation of and compliance with the ship's occupational safety and health policy and programme adopted by the General State Ships Registrar Inspection of Ukraine.

4. The General State Ships Registrar Inspection of Ukraine shall be in charge of:

- 1) collecting adequate information on occupational accidents, injuries and diseases;

2) keeping, analyzing and publishing comprehensive statistics of such accidents and diseases and, where appropriate, following up by research into general trends and into the hazards identified; and

3) investigating occupational accidents.

5. Shipowners conducting risk evaluation in relation to management of occupational safety and health shall refer to appropriate statistical information from their ships and from general statistics provided by the General State Ships Registrar Inspection of Ukraine.

6. Shipowners assessing risks and reduction of exposure in relation to management of occupational safety and health shall take account of the physical occupational health effects, including manual handling of loads, noise and vibration, the chemical and biological occupational health effects, the mental occupational health effects, the physical and mental health effects of fatigue, and occupational accidents. Shipowners shall take necessary measures in the form of the preventive principle according to which, among other things, combating risk at the source, adapting work to the individual, especially as regards the design of workplaces, and replacing the dangerous by the nondangerous or the less dangerous, have precedence over personal protective equipment for seafarers.

7. In addition, shipowners shall imply for health and safety particularly in the following areas:

- 1) emergency and accident response;
- 2) the effects of drug and alcohol dependency; and
- 3) HIV/AIDS protection and prevention.

8. Shipowners shall take the following measures to reduce shipboard noise to protect seafarers:

- 1) instruction of seafarers in the dangers to hearing and health of prolonged exposure to high noise levels and in the proper use of noise protection devices and equipment;
- 2) provision of approved hearing protection equipment to seafarers where necessary; and
- 3) assessment of risk and reduction of exposure levels to noise in all accommodation and recreational and catering facilities, as well as engine rooms and other machinery spaces.

9. Shipowners shall take the following measures to reduce shipboard vibration to protect seafarers:

- 1) instruction of seafarers in the dangers to their health of prolonged exposure to vibration;

- 2) provision of approved personal protective equipment to seafarers where necessary; and
- 3) assessment of risks and reduction of exposure to vibration in all accommodation and recreational and catering facilities, taking account of the difference between exposure in those areas and in the workplace.

10. Shipowner shall provide protective equipment or other accident prevention safeguards for the purposes of health and safety protection and accident prevention.

11. Seafarers shall use protective equipment or other accident prevention safeguards provided in accordance with paragraph 10 of this Article and comply with the relevant accident prevention and health protection measures.

12. Shipowners shall not involve young seafarers under the age of 18, without appropriate supervision and instruction, in the types of work presenting special risk of accident or of detrimental effect on their health or physical development, or requiring a particular degree of maturity, experience or skill, such as:

- 1) the lifting, moving or carrying of heavy loads or objects;
- 2) entry into boilers, tanks and cofferdams;
- 3) exposure to harmful noise and vibration levels;
- 4) operating hoisting and other power machinery and tools, or acting as signalers to operators of such equipment;
- 5) handling mooring or tow lines or anchoring equipment;
- 6) rigging;
- 7) work aloft or on deck in heavy weather;
- 8) nightwatch duties;
- 9) servicing of electrical equipment;
- 10) exposure to potentially harmful materials, or harmful physical agents such as dangerous or toxic substances and ionizing radiations;
- 11) the cleaning of catering machinery; and
- 12) the handling or taking charge of ships' boats.

13. Shipowners shall bring to the attention of young seafarers information concerning the prevention of accidents and the protection of their health on board ships. Such measures could include adequate instruction in courses, official accident prevention publicity intended for young persons and professional instruction and supervision of young seafarers.



14. Shipowners shall report all occupational accidents and occupational injuries and diseases to the General State Ships Registrar Inspection of Ukraine, so that they can be investigated and comprehensive statistics can be kept, analysed and published. Reports should not be limited to fatalities or to accidents involving the ship.

**Article 23.** Access to shore-based welfare facilities

1. Port Administrations shall provide seafarers on ships that are in its ports with access to adequate welfare facilities and services, irrespective of nationality, race, colour, sex, religion, political opinion or social origin and irrespective of the flag State of the ship on which they are employed or engaged or work.

2. Necessary welfare and recreational facilities referred to in paragraph 1 of this Article should be established or developed in ports and include:

- 1) meeting and recreation rooms as required;
- 2) facilities for sports and outdoor facilities, including competitions;
- 3) educational facilities; and
- 4) where appropriate, facilities for religious observances and for personal counselling.

3. Hotels or hostels suitable for seafarers should be available where there is need for them. Port Administrations should provide facilities equal to those found in a good-class hotel, and should wherever possible be located in good surroundings away from the immediate vicinity of the docks. Such hotels or hostels should be properly supervised, the prices charged should be reasonable in amount and, where necessary and possible, provision should be made for accommodating seafarers' families.

4. Port Administrations shall employ full time technically competent persons in the operation of seafarers' welfare facilities and services, in addition to any voluntary workers.

5. Welfare boards should be established, at the port, regional and national levels, as appropriate. Their functions should include:

- 1) keeping under review the adequacy of existing welfare facilities and monitoring the need for the provision of additional facilities or the withdrawal of underutilized facilities; and

2) assisting and advising those responsible for providing welfare facilities and ensuring coordination between them.

6. Welfare boards should include among their members representatives of shipowners' and seafarers' organizations and Port Administrations.

7. Financial support for port welfare facilities should be made available through one or more of the following:

- 1) grants from public funds;
- 2) levies or other special dues from shipping sources;
- 3) voluntary contributions from shipowners, seafarers, or their organizations; and
- 4) voluntary contributions from other sources.

8. Where welfare taxes, levies and special dues are imposed, they should be used only for the purposes for which they are raised.

9. Port Administrations shall disseminate information among seafarers concerning facilities open to the general public in ports of call, particularly transport, welfare, entertainment and educational facilities and places of worship, as well as facilities provided specifically for seafarers.

10. Port Administrations shall provide adequate means of transport at moderate prices at any reasonable time in order to enable seafarers to reach urban areas from convenient locations in the port.

11. Port Administrations shall take all suitable measures to make known to shipowners and to seafarers entering port any special laws and customs, the contravention of which may jeopardize their freedom.

12. Port Administrations shall provide port areas and access roads with adequate lighting and signposting and regular patrols for the protection of seafarers.

13. For the protection of seafarers, non-nationals of Ukraine, Port Administrations shall take measures in ports to facilitate:

- 1) access to consuls of their State of nationality or State of residence; and
- 2) effective cooperation between consuls and the local or national authorities.

14. Port Administrations shall deal with seafarers, non-nationals of Ukraine, who are detained in a port of Ukraine promptly under due process of law and with appropriate consular protection.

15. Whenever a seafarer is detained for any reason in the territory of Ukraine, the Ministry of Foreign Affairs of Ukraine should, if the seafarer so requests, immediately inform the flag State and the State of nationality of the seafarer. The competent authority in charge of detention shall promptly inform the seafarer of the right to make such a request. The State of nationality of the seafarer should promptly notify the seafarer's next of kin. the Ministry of Foreign Affairs of Ukraine shall allow consular officers of these States immediate access to the seafarer and regular visits thereafter so long as the seafarer is detained.

#### **Article 24. Social security**

1. All seafarers and their dependants shall have access to social security protection in accordance with national laws and regulations no less favourable than that enjoyed by shoreworkers.

2. The Ministry of Labour and Social Policy of Ukraine shall provide seafarers with progressively comprehensive social security protection including: medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit, complementing the protection provided for under Article 20, on medical care, and Article 21, on shipowners' liability, and under other titles of this Law.

3. All disputes relevant to the claims of the seafarers concerned, irrespective of the manner in which the coverage is provided, shall be dealt in accordance with fair and effective procedure for the settlement of disputes provided by the Ministry of Labour and Social Policy.

4. The seafarers' employment agreement should identify the means by which the various branches of social security protection will be provided to the seafarer by the shipowner as well as any other relevant information at the disposal of the shipowner, such as statutory deductions from the seafarers' wages and shipowners' contributions which may be made in accordance with the requirements of identified authorized bodies pursuant to relevant national social security schemes.

5. Shipowners shall provide seafarers with social security protection, making the required contributions to social security schemes.

## Chapter VI

### FLAG STATE RESPONSIBILITIES

#### **Article 25.** General principles

1. The General State Ships Registrar Inspection of Ukraine shall carry the inspection and certification of maritime labour conditions, in accordance with Article 26 and 27 ensuring that the working and living conditions for seafarers on ships that fly the flag of Ukraine meet, and continue to meet, the standards in this Law.

2. A maritime labour certificate, complemented by a declaration of maritime labour compliance, constitutes prima facie evidence that the ship has been duly inspected by the General State Ships Registrar Inspection of Ukraine and that the requirements of this Law relating to working and living conditions of the seafarers have been met to the extent so certified.

#### **Article 26.** Maritime labour certificate and declaration of maritime labour compliance

1. This Article applies to ships of:

- 1) 500 gross tonnage or over, engaged in international voyages; and
- 2) 500 gross tonnage or over, flying the flag of a Member and operating from a port, or between ports, in another country.

2. For the purpose of this Article, *international voyage* means a voyage from a country to a port outside such a country.

3. This Article also applies to any ship that flies the flag of a Ukraine and is not covered by paragraph 1 of this Article, at the request of the shipowner.

4. Ships that fly the flag of Ukraine shall carry and maintain a maritime labour certificate certifying that the working and living conditions of seafarers on the ship, including measures for ongoing compliance to be included in the declaration of maritime labour compliance referred to in paragraph 5 of this Article, have been inspected and meet the requirements of this Law.

5. Ships that fly the flag of Ukraine shall carry and maintain a declaration of maritime labour compliance stating the national requirements implementing this Law for the working and living conditions for seafarers and setting out the measures adopted by the shipowner to ensure compliance with the requirements on the ship or ships concerned.

6. Where the General State Ships Registrar Inspection of Ukraine has ascertained through inspection that a ship that flies the flag of Ukraine meets or continues to meet the standards of this Law, it shall issue or renew a maritime labour certificate to that effect and maintain a publicly available record of that certificate.

7. The maritime labour certificate shall be issued to a ship by the General State Ships Registrar Inspection of Ukraine, for a period of five years. A list of matters that must be inspected regarding the working and living conditions of seafarers on ships before a maritime labour certificate can be issued is found in Annex 1.

8. The validity of the maritime labour certificate shall be subject to an intermediate inspection carried by the General State Ships Registrar Inspection of Ukraine between the second and third anniversary dates of the certificate. Anniversary date means the day and month of each year which will correspond to the date of expiry of the maritime labour certificate. The scope and depth of the intermediate inspection shall be equal to an inspection for renewal of the certificate. The certificate shall be endorsed following satisfactory intermediate inspection.

9. Notwithstanding paragraph 7 of this Article, when the renewal inspection has been completed within three months before the expiry of the existing maritime labour certificate, the new maritime labour certificate shall be valid from the date of completion of the renewal inspection for a period not exceeding five years from the date of expiry of the existing certificate.

10. When the renewal inspection is completed more than three months before the expiry date of the existing maritime labour certificate, the new maritime labour certificate shall be valid for a period not exceeding five years starting from the date of completion of the renewal inspection.

11. A maritime labour certificate may be issued on an interim basis:

- 1) to new ships on delivery;
- 2) when a ship changes flag; or

3) when a shipowner assumes responsibility for the operation of a ship which is new to that shipowner.

12. An interim maritime labour certificate may be issued for a period not exceeding six months by the General State Ships Registrar Inspection of Ukraine.

13. An interim maritime labour certificate may only be issued following verification that:

1) the ship has been inspected, as far as reasonable and practicable, for the matters listed in Annex 1, taking into account verification of items under subparagraphs (2), (3) and (4) of this paragraph;

2) the shipowner has demonstrated to the General State Ships Registrar Inspection of Ukraine that the ship has adequate procedures to comply with this Law;

3) the master is familiar with the requirements of this Law and the responsibilities for its compliance; and

4) relevant information has been submitted to the General State Ships Registrar Inspection of Ukraine to produce a declaration of maritime labour compliance.

14. A full inspection in accordance with paragraph 7 of this Article shall be carried out prior to expiry of the interim certificate to enable issue of the full-term maritime labour certificate. No further interim certificate may be issued following the initial six months referred to in paragraph 12 of this Article. A declaration of maritime labour compliance need not be issued for the period of validity of the interim certificate.

15. The maritime labour certificate, the interim maritime labour certificate and the declaration of maritime labour compliance shall be drawn up in the form corresponding to the models given in Annex 2.

16. The declaration of maritime labour compliance shall be attached to the maritime labour certificate.

17. The results of all subsequent inspections or other verifications carried out with respect to the ship concerned and any significant deficiencies found during any such verification shall be recorded by the General State Ships Registrar Inspection of Ukraine, together with the date when the deficiencies were found to have been remedied. This record in Ukrainian, accompanied by an English-language translation, shall be appended to the declaration of maritime labour compliance.

18. A current valid maritime labour certificate and declaration of maritime labour compliance in Ukrainian, accompanied by an English-language translation, shall be carried on the ship and a copy shall be posted in a conspicuous place on board where it is available to the seafarers. A copy shall be made available upon request, to seafarers, flag State inspectors, authorized officers in port States, and shipowners' and seafarers' representatives.

19. A certificate issued under paragraph 7 or 11 of this Article shall cease to be valid in any of the following cases:

- 1) if the relevant inspections are not completed within the periods specified under paragraph 8 of this Article;
- 2) if the certificate is not endorsed in accordance with paragraph 8 of this Article;
- 3) when a ship changes flag;
- 4) when a shipowner ceases to assume the responsibility for the operation of a ship; and
- 5) when substantial changes have been made to the structure or equipment covered in Chapter IV.

20. In the case referred to in paragraph 19 (3), (4) or (5) of this Article, a new certificate shall only be issued when the ship is in compliance with the requirements of this Law.

21. A maritime labour certificate shall be withdrawn by the General State Ships Registrar Inspection of Ukraine, if there is evidence that the ship concerned does not comply with the requirements of this Law and any required corrective action has not been taken.

22. When considering whether a maritime labour certificate should be withdrawn in accordance with paragraph 21 of this Article, the General State Ships Registrar Inspection of Ukraine shall take into account the seriousness or the frequency of the deficiencies.

## **Article 27. Inspection**

1. The General State Ships Registrar Inspection of Ukraine through an effective and coordinated system of regular inspections, monitoring and other control measures, shall ensure that ships that fly the flag of Ukraine comply with the requirements of this Law.

2. Inspections shall take place at the three years intervals. Masters, seafarers or representatives of the seafarers have the right to request an inspection when they consider it necessary.

3. If the General State Ships Registrar Inspection of Ukraine receives a complaint which it does not consider manifestly unfounded or obtains evidence that a ship that flies the flag of Ukraine does not conform to the requirements of this Law or that there are serious deficiencies in the implementation of the measures set out in the declaration of maritime labour compliance, the General State Ships Registrar Inspection of Ukraine shall inspect the ship and ensure that action is taken to remedy any deficiencies found.

4. Inspectors of the General State Ships Registrar Inspection of Ukraine shall have qualifications and adequate training to carry inspections referred to in paragraph 3 of this Article and where possible should have a maritime education or experience as a seafarer. They should have adequate knowledge of seafarers' working and living conditions and of the English language.

5. Inspectors of the General State Ships Registrar Inspection of Ukraine, issued with clear guidelines as to the tasks to be performed and provided with proper credentials, are empowered:

1) to board ships freely and without previous notice; however, when commencing the ship inspection, inspectors should provide notification of their presence to the master or person in charge and, where appropriate, to the seafarers or their representatives;

2) to question the master, seafarer or any other person, including the shipowner or the shipowner's representative, on any matter concerning the application of the requirements under this Law, in the presence of any witness that the person may have requested;

3) to require the production of any books, log books, registers, certificates or other documents or information directly related to matters subject to inspection, in order to verify compliance with this Law;

4) to carry out any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the standards are being strictly observed;

5) to enforce the posting of notices required under this Law;

6) to take or remove, for the purpose of analysis, samples of products, cargo, drinking water, provisions, materials and substances used or handled;

7) following an inspection, to bring immediately to the attention of the shipowner, the operator of the ship or the master, deficiencies which may affect the health and safety of those on board ship;



8) to notify the competent authority of any occupational injuries or diseases affecting seafarers in such cases and in such manner as may be prescribed by laws and regulations; and

9) to require that any deficiency is remedied and, where they have grounds to believe that deficiencies constitute a serious breach of the requirements of this Law (including seafarers' rights), or represent a significant danger to seafarers' safety, health or security, to prohibit a ship from leaving port until necessary actions are taken.

6. Inspectors of the General State Ships Registrar Inspection of Ukraine are not entrusted with duties which might, because of their number or nature, interfere with effective inspection or prejudice in any way their authority or impartiality in their relations with shipowners, seafarers or other interested parties. In particular, inspectors:

1) are prohibited from having any direct or indirect interest in any operation which they are called upon to inspect; and

2) subject to appropriate sanctions or disciplinary measures, shall not reveal, even after leaving service, any commercial secrets or confidential working processes or information of a personal nature which may come to their knowledge in the course of their duties.

7. Inspectors shall submit a report of each inspection to the General State Ships Registrar Inspection of Ukraine. One copy of the report in Ukrainian and in English shall be furnished to the master of the ship and another copy shall be posted on the ship's notice board for the information of the seafarers and, upon request, sent to their representatives.

8. In the case of an inspection pursuant to a major incident, inspectors shall submit the report to the General State Ships Registrar Inspection of Ukraine as soon as practicable, but not later than one month following the conclusion of the investigation.

9. The General State Ships Registrar Inspection of Ukraine shall maintain records of inspections of the conditions for seafarers on ships that fly the flag of Ukraine. It publishes an annual report on inspection activities within a reasonable time, not exceeding six months, after the end of the year.

10. The annual report published by the General State Ships Registrar Inspection of Ukraine, in respect of ships that fly the flag of Ukraine, should contain:

1) a list of laws and regulations in force relevant to seafarers' working and living conditions and any amendments which have come into effect during the year;

- 2) details of the organization of the system of inspection;
- 3) statistics of ships or other premises subject to inspection and of ships and other premises actually inspected;
- 4) statistics on all seafarers nationals of Ukraine, as well as non-nationals of Ukraine employed on ships that fly the flag of Ukraine;
- 5) statistics and information on violations of legislation, penalties imposed and cases of detention of ships; and
- 6) statistics on reported occupational injuries and diseases affecting seafarers.

11. When an inspection is conducted or when measures are taken under this Article, all reasonable efforts shall be made by inspectors of the General State Ships Registrar Inspection of Ukraine to avoid a ship being unreasonably detained or delayed.

12. The General State Ships Registrar Inspection of Ukraine shall pay compensation for any loss or damage suffered as a result of the wrongful exercise of the inspectors' powers. The burden of proof in each case shall be on the complainant.

#### **Article 28. On-board complaint procedures**

1. Ships that fly the flag of Ukraine shall have on-board procedures for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of this Law (including seafarers' rights), without prejudice to a seafarer's right to seek redress through whatever legal means the seafarer considers appropriate.

2. The on-board complaint procedures include the right of the seafarer to be accompanied or represented during the complaints procedure, as well as safeguards against the possibility of victimization of seafarers for filing complaints. The term *victimization* covers any adverse action taken by any person with respect to a seafarer for lodging a complaint which is not manifestly vexatious or maliciously made.

3. The Shipowner in addition to a copy of their seafarers' employment agreement shall provide all seafarers with a copy of the on-board complaint procedures applicable on the ship that fly the flag of Ukraine. This shall include contact information for the competent authority in the flag State and, where different, in the seafarers' country of residence, and the name of a person or persons on board the ship who can, on a confidential basis, provide seafarers with impartial advice on their

complaint and otherwise assist them in following the complaint procedures available to them on board the ship.

4. A model for fair, expeditious and well-documented on-board complaint-handling procedures for all ships that fly the flag of Ukraine shall include the following:

1) complaints should be addressed to the head of the department of the seafarer lodging the complaint or to the seafarer's superior officer;

2) the head of department or superior officer should then attempt to resolve the matter within 7 days depending on the seriousness of the issues involved;

3) if the head of department or superior officer cannot resolve the complaint to the satisfaction of the seafarer within the time limit referred to in subparagraph (2) of this paragraph, the latter may refer it to the master, who should handle the matter personally within 7 days;

4) seafarers should at all times have the right to be accompanied and to be represented by another seafarer of their choice on board the ship concerned;

5) the head of department or superior officer shall record all complaints and the decisions on them providing a copy to the seafarer concerned;

6) if a complaint cannot be resolved on board within the time limits referred to in subparagraphs (2) and (3) of this paragraph, the master shall refer the matter ashore to the shipowner, who shall resolve the matter in 14 days, where appropriate, in consultation with the seafarers concerned or any person they may appoint as their representative; and

7) in all cases seafarers have a right to file their complaints directly with the master and the shipowner and competent authorities.

## **Chapter VII**

### **PORT STATE RESPONSIBILITIES**

#### **Article 29. Inspections in port**

1. Every foreign ship calling, in the normal course of its business or for operational reasons, in the port of Ukraine may be the subject of inspection for the purpose of reviewing compliance with the requirements of this Law (including seafarers' rights) relating to the working and living conditions of seafarers on the ship.

2. The maritime labour certificate and the declaration of maritime labour compliance required under Article 26 of this Law are prima facie evidences of compliance with the requirements of this Law and other relevant international rules (including seafarers' rights). Accordingly, the inspection in ports of Ukraine shall, except in the circumstances specified in paragraph 5 of this Article, be limited to a review of the certificate and declaration.

3. Inspections in a port shall be carried out by authorized officers in accordance with the provisions of this Law and other applicable international rules governing port State control inspections in Ukraine. Authorized officers shall be specifically appointed by Port Administrations.

4. Inspections that may be carried out in accordance with this Article shall be based on an effective port State inspection and monitoring system provided by the Port Administrations.

5. Where an authorized officer, having come on board to carry out an inspection and requested, where applicable, the maritime labour certificate and the declaration of maritime labour compliance, finds that:

1) the required documents are not produced or maintained or are falsely maintained or that the documents produced do not contain the information required by this Law or are otherwise invalid; or

2) there are clear grounds for believing that the working and living conditions on the ship do not conform to the requirements of this Law; or

3) there are reasonable grounds to believe that the ship has changed flag for the purpose of avoiding compliance with this Law; or

4) there is a complaint alleging that specific working and living conditions on the ship do not conform to the requirements of this Law;

a more detailed inspection shall be carried out to ascertain the working and living conditions on board the ship. Such inspection shall in any case be carried out where the working and living conditions believed or alleged to be defective could constitute a clear hazard to the safety, health or security of seafarers or where the authorized officer has grounds to believe that any deficiencies constitute a serious breach of the requirements of this Law (including seafarers' rights).

6. Where a more detailed inspection is carried out on a foreign ship in the port of Ukraine by authorized officers, it shall in principle cover the matters listed in Annex 3.

7. Where, following a more detailed inspection, the working and living conditions on the ship are found not to conform to the requirements of this Law, the authorized officer shall forthwith bring

the deficiencies to the attention of the master of the ship, with required deadlines for their rectification. In the event that such deficiencies are considered to be significant, the authorized officer shall:

- 1) notify a representative of the flag State;
- 2) provide the competent authorities of the next port of call with the relevant information.

8. Where, following a more detailed inspection by an authorized officer, the ship is found not to conform to the requirements of this Law and:

1) the conditions on board are clearly hazardous to the safety, health or security of seafarers;  
or

2) the non-conformity constitutes a serious or repeated breach of the requirements of this Law (including seafarers' rights);

the authorized officer shall take steps to ensure that the ship shall not proceed to sea until any non-conformities that fall within the scope of subparagraph (1) or (2) of this paragraph have been rectified, or until the authorized officer has accepted a plan of action to rectify such non-conformities and is satisfied that the plan will be implemented in an expeditious manner.

9. If the ship is prevented from sailing, the authorized officer shall forthwith notify the flag State accordingly and invite a representative of the flag State to be present, if possible, requesting the flag State to reply within a prescribed deadline. The authorized officer shall also inform forthwith the appropriate shipowners' and seafarers' organizations in Ukraine.

10. If a ship is found to be unduly detained or delayed, Port Administration shall pay compensation for any loss or damage suffered. The burden of proof in each case shall be on the complainant.

### **Article 30. Onshore seafarer complaint-handling procedures**

1. Seafarers on ships calling at a port in the territory of Ukraine who allege a breach of the requirements of this Law (including seafarers' rights) have the right to report such a complaint in order to facilitate a prompt and practical means of redress.

2. A complaint by a seafarer alleging a breach of the requirements of this Law (including seafarers' rights) may be reported to an authorized officer in the port at which the seafarer's ship has called. In such cases, the authorized officer shall undertake an initial investigation.

3. Where appropriate, given the nature of the complaint, the initial investigation shall include consideration of whether the on-board complaint procedures provided under Article 28 have been explored. The authorized officer may also conduct a more detailed inspection in accordance with Article 29.

4. The authorized officer shall, where appropriate, seek to promote a resolution of the complaint at the ship-board level.

5. In the event that the investigation or the inspection provided under this Article reveals a non-conformity that falls within the scope of paragraph 8 of Article 29, the provisions of that paragraph shall be applied.

6. Where the provisions of paragraph 5 of this Article do not apply, and the complaint has not been resolved at the ship-board level, the authorized officer shall forthwith notify the flag State, seeking, within a prescribed deadline, advice and a corrective plan of action.

#### **Article 31. Labour-supplying responsibilities**

1. The Ministry of Labour and Social Policy of Ukraine shall establish an effective inspection and monitoring system enforcing requirements of this Law regarding the recruitment and placement of seafarers as well as the social security protection of seafarers that are its nationals or are resident or are otherwise domiciled in its territory.

2. Seafarers' recruitment and placement services established in the territory of Ukraine shall be responsible for the proper fulfilment by shipowners of the terms of their employment agreements concluded with seafarers.

## Chapter VIII

### FINAL PROVISIONS

#### **Article 32.** Entry into force

1. This Law shall enter into force on the date when the Maritime Labour Convention, 2006, enters into force, in accordance with the Law of Ukraine dated \_\_\_\_ 2012 № \_\_\_\_ - VR ‘On Ratification of the Maritime Labour Convention, 2006’.

2. Until national legislation is brought in conformity with this Law, laws and other normative – legal acts shall apply in the part that is consistent with this Law.

#### **Article 33.** Transitional provisions

1. Part one of the Article 35 ‘Vessel documents’ of the Section II ‘Vessel’ of the Merchant Shipping Code of Ukraine (Vedomosti of Verchovna Rada of Ukraine, 1995, №№ 47, 48, 49, 50, 51, 52, art.349 ) is amended by inserting after the words ‘A safe manning certificate’:

‘A maritime labour certificate;

A declaration of maritime labour compliance.’

2. The Article 51 ‘Requirements to the crew members’ qualification’ of the Section III ‘Vessel crew’ of the Merchant Shipping Code of Ukraine (Vedomosti of Verchovna Rada of Ukraine, 1995, №№ 47, 48, 49, 50, 51, 52, art.349 ) is amended by inserting part five of the following content:

‘Persons are allowed to occupy the positions of the ship’s crew members only after passing successfully exams with the state qualification commission and obtaining respective diploma or qualification certificate in accordance with procedure approved by the Cabinet of Ministers of Ukraine.’

3. Part one of the Article 55 ‘Repatriation of crew members’ of the Section III ‘Vessel crew’ of the Merchant Shipping Code of Ukraine (Vedomosti of Verchovna Rada of Ukraine, 1995, №№ 47, 48, 49, 50, 51, 52, art.349 ) is amended by rewording the content as follows:

‘Repatriation at the expense of the shipowner takes place in the following cases:

1) when seafarers’ employment agreement expires while they are abroad upon the expiry of the period of notice given in accordance with the provisions of the seafarers’ employment agreement;

2) when the seafarers’ employment agreement is terminated or when the seafarer is no longer able to carry out its duties under the employment agreement or cannot be expected to carry them out:

a) in the event of illness or injury or other medical condition which requires their repatriation when found medically fit to travel;

b) in the event of shipwreck;

c) in the event of the shipowner not being able to continue to fulfil their legal or contractual obligations as an employer of the seafarers by reason of insolvency, sale of ship, change of ship’s registration or any other similar reason;

d) in the event of a ship being bound for a war zone, as defined by national laws or regulations or seafarers’ employment agreements, to which the seafarer does not consent to go; and

e) in the event of termination or interruption of employment in accordance with an industrial award or collective agreement, or termination of employment for any other similar reason.’

4. The Chapter 10 ‘Administrative offences on transport, in the field of transportation management and communication’ of the Code of Ukraine of Administrative Offences (Vedomosti of Verhovna Rada of Ukraine, 1984, annex to № 51, art. 1122) is amended by inserting Article 116-4 ‘Breach of maritime labour and social standards on maritime transport’ of the following content:

‘The shipowner that fails or delays to submit the Maritime Labour Certificate with the attached Declaration of Maritime Labour Compliance to the representatives of the General State Ships Registrar Inspection of Ukraine and Port Administrations, in accordance with the Law of Ukraine dated \_\_\_\_ № \_\_\_\_ ‘On National Maritime Labour Standards’ shall be liable:

to a fine of fifty to one hundred of citizens’ income tax exemption limits.

The shipowner that breaches the requirements of the Law of Ukraine dated \_\_\_\_ № \_\_\_\_ ‘On National Maritime Labour Standards’ or other national normative – legal acts on maritime labour and social standards (including seafarers’ rights) shall be liable:

to a fine of one hundred to one hundred and fifty of citizens’ income tax exemption limits.

The seafarers’ recruitment and placement service established in the territory of Ukraine that breaches the requirements of the Law of Ukraine dated \_\_\_\_ № \_\_\_\_ ‘On National



Maritime Labour Standards’ or other national normative – legal acts on maritime labour and social standards (including seafarers’ rights) shall be liable:

to a fine of one hundred to one hundred and fifty of citizens’ income tax exemption limits.’

5. The Article 221 ‘Regional, district, city and cityregional courts (judges)’ of the Chapter 17 ‘Jurisdiction over cases on administrative offences’ of the Code of Ukraine of Administrative Offences (Vedomosti of Verchovna Rada of Ukraine, 1984, annex to № 51, art. 1122) is amended by inserting after the words ‘part two of the Article 112’:

‘part three of the Article 116-4.’

6. Paragraph 1 of the Article 225 ‘Organs of maritime and river transport’ of the Chapter 17 ‘Jurisdiction over cases on administrative offences’ of the Code of Ukraine of Administrative Offences (Vedomosti of Verchovna Rada of Ukraine, 1984, annex to № 51, art. 1122) is amended by inserting after the words ‘the Article 114’:

‘part one and two of the Article 116-4.’

7. The Cabinet of Ministers of Ukraine within a six-month period from the date of the entry into force of this Law shall:

1) prepare and submit for consideration to Verchovna Rada of Ukraine the proposals regarding bringing the legislation of Ukraine in conformity with this Law;

2) bring its legislative acts in conformity with this Law;

3) ensure that ministries and other central organs of executive power bring their normative-legal acts in conformity with this Law.

**President of Ukraine**

**V.YANUKOVYCH**

Kyiv, \_\_\_\_ 2012

№ \_\_\_\_ - VR

**Annex № 1 to**

**the Law of Ukraine dd \_\_\_\_\_ № \_\_\_\_\_**

**‘On National Maritime Labour Standards’**

The working and living conditions of seafarers that must be inspected and approved by the flag State before certifying a ship in accordance with Article 26, paragraph 7:

Minimum age

Medical certification

Qualifications of seafarers

Seafarers’ employment agreements

Use of any licensed or certified or regulated private recruitment and placement service

Hours of work or rest

Manning levels for the ship

Accommodation

On-board recreational facilities

Food and catering

Health and safety and accident prevention

On-board medical care

On-board complaint procedures

Payment of wages

Annex № 2 to

the Law of Ukraine dd \_\_\_\_\_ № \_\_\_\_\_

‘On National Maritime Labour Standards’



### Maritime Labour Certificate

*(Note: This Certificate shall have a Declaration  
of Maritime Labour Compliance attached)*

Issued under the provisions of Article V and Title 5 of the  
Maritime Labour Convention, 2006  
(referred to below as “the Convention”)  
under the authority of the Government of:

**UKRAINE**

by: **the General State Ships Registrar Inspection of Ukraine**

#### Particulars of the ship

Name of ship .....  
Distinctive number or letters .....  
Port of registry .....  
Date of registry .....  
Gross tonnage<sup>1</sup> .....  
IMO number .....  
Type of ship .....  
Name and address of the shipowner<sup>2</sup> .....  
.....  
.....

<sup>1</sup> For ships covered by the tonnage measurement interim scheme adopted by the IMO, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969). See Article II (1) (c) of the Convention

<sup>2</sup> *Shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II (1) j of the Convention

This is to certify:

1. That this ship has been inspected and verified to be in compliance with the requirements of the Convention, and the provisions of the attached Declaration of Maritime Labour Compliance.

2. That the seafarers' working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country's national requirements implementing the Convention. These national requirements are summarized in the Declaration of Maritime Labour Compliance, Part I.

This Certificate is valid until ..... subject to inspections in accordance with Standards A5.1.3 and A5.1.4 of the Convention.

This Certificate is valid only when the Declaration of Maritime Labour Compliance issued at ..... on ..... is attached.  
Completion date of the inspection on which this Certificate is based was .....  
Issued at ..... on .....

Signature of the duly authorized official issuing the Certificate

(Seal or stamp of issuing authority, as appropriate)

*Endorsements for mandatory intermediate inspection and, if required, any additional inspection*

This is to certify that the ship was inspected in accordance with Standards A5.1.3 and A5.1.4 of the Convention and that the seafarers' working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country's national requirements implementing the Convention.

*Intermediate inspection:*  
(to be completed between the second and third anniversary dates)

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

Place .....

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

*Additional endorsements (if required)*

This is to certify that the ship was the subject of an additional inspection for the purpose of verifying that the ship continued to be in compliance with the national requirements implementing the Convention, as required by Standard A3.1, paragraph 3, of the Convention (re-registration or substantial alteration of accommodation) or for other reasons.

*Additional inspection:*  
(if required)

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

Place .....

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

*Additional inspection:*  
(if required)

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

Place .....

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

*Additional inspection:*  
(if required)

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

Place .....

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



## Declaration of Maritime Labour Compliance – Part I

*(Note: This Declaration must be attached to the ship's Maritime Labour Certificate)*

Issued under the authority of: **the General State Ships Registrar Inspection of Ukraine**

With respect to the provisions of the Maritime Labour Convention, 2006, the following referenced ship:

Name of ship	IMO number	Gross tonnage

is maintained in accordance with Standard A5.1.3 of the Convention.

The undersigned declares, on behalf of the abovementioned competent authority, that:

- (a) the provisions of the Maritime Labour Convention are fully embodied in the national requirements referred to below;
- (b) these national requirements are contained in the national provisions referenced below; explanations concerning the content of those provisions are provided where necessary;
- (c) the details of any substantial equivalencies under Article VI, paragraphs 3 and 4, are provided <under the corresponding national requirement listed below> <in the section provided for this purpose below> *(strike out the statement which is not applicable)*;
- (d) any exemptions granted by the competent authority in accordance with Title 3 are clearly indicated in the section provided for this purpose below; and any ship-type specific requirements under national legislation are also referenced under the requirements concerned.

- 1. Minimum age (Regulation 1.1) .....
- 2. Medical certification (Regulation 1.2) .....
- 3. Qualifications of seafarers (Regulation 1.3) .....
- 4. Seafarers' employment agreements (Regulation 2.1) .....
- 5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4) .....
- 6. Hours of work or rest (Regulation 2.3) .....
- 7. Manning levels for the ship (Regulation 2.7) .....
- 8. Accommodation (Regulation 3.1) .....
- 9. On-board recreational facilities (Regulation 3.1) .....
- 10. Food and catering (Regulation 3.2) .....
- 11. Health and safety and accident prevention (Regulation 4.3) .....
- 12. On-board medical care (Regulation 4.1) .....
- 13. On-board complaint procedures (Regulation 5.1.5) .....
- 14. Payment of wages (Regulation 2.2) .....

Name: .....  
Title: .....  
Signature: .....  
Place: .....  
Date: .....  
(Seal or stamp of the authority,  
as appropriate)

#### Substantial equivalencies

*(Note: Strike out the statement which is not applicable)*

The following substantial equivalencies, as provided under Article VI, paragraphs 3 and 4, of the Convention, except where stated above, are noted *(insert description if applicable)*:

.....  
.....

No equivalency has been granted.

Name: .....  
Title: .....  
Signature: .....  
Place: .....  
Date: .....  
(Seal or stamp of the authority,  
as appropriate)

#### Exemptions

*(Note: Strike out the statement which is not applicable)*

The following exemptions granted by the competent authority as provided in Title 3 of the Convention are noted:

.....  
.....

No exemption has been granted.

Name: .....  
Title: .....  
Signature: .....  
Place: .....  
Date: .....  
(Seal or stamp of the authority,  
as appropriate)



## Declaration of Maritime Labour Compliance – Part II

### *Measures adopted to ensure ongoing compliance between inspections*

The following measures have been drawn up by the shipowner, named in the Maritime Labour Certificate to which this Declaration is attached, to ensure ongoing compliance between inspections:

*(State below the measures drawn up to ensure compliance with each of the items in Part I)*

- |   |                          |
|---|--------------------------|
| 1. Minimum age (Regulation 1.1)   | <input type="checkbox"/> |
| .....   |                          |
| 2. Medical certification (Regulation 1.2)   | <input type="checkbox"/> |
| .....   |                          |
| 3. Qualifications of seafarers (Regulation 1.3)   | <input type="checkbox"/> |
| .....   |                          |
| 4. Seafarers' employment agreements (Regulation 2.1)  | <input type="checkbox"/> |
| .....   |                          |
| 5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4) | <input type="checkbox"/> |
| .....   |                          |
| 6. Hours of work or rest (Regulation 2.3)   | <input type="checkbox"/> |
| .....   |                          |
| 7. Manning levels for the ship (Regulation 2.7)   | <input type="checkbox"/> |
| .....   |                          |
| 8. Accommodation (Regulation 3.1)   | <input type="checkbox"/> |
| .....   |                          |
| 9. On-board recreational facilities (Regulation 3.1)  | <input type="checkbox"/> |
| .....   |                          |
| 10. Food and catering (Regulation 3.2)  | <input type="checkbox"/> |
| .....   |                          |
| 11. Health and safety and accident prevention (Regulation 4.3)  | <input type="checkbox"/> |
| .....   |                          |
| 12. On-board medical care (Regulation 4.1)  | <input type="checkbox"/> |
| .....   |                          |
| 13. On-board complaint procedures (Regulation 5.1.5)  | <input type="checkbox"/> |
| .....   |                          |
| 14. Payment of wages (Regulation 2.2)   | <input type="checkbox"/> |
| .....   |                          |



I hereby certify that the above measures have been drawn up to ensure ongoing compliance, between inspections, with the requirements listed in Part I.

Name of shipowner:<sup>1</sup> .....  
.....  
Company address: .....  
.....  
Name of the authorized signatory: .....  
.....  
Title: .....  
Signature of the authorized signatory: .....  
.....  
Date: .....  
(Stamp or seal of the shipowner<sup>1</sup>)

The above measures have been reviewed by the General State Ships Registrar Inspection of Ukraine and, following inspection of the ship, have been determined as meeting the purposes set out under Standard A5.1.3, paragraph 10(b), regarding measures to ensure initial and ongoing compliance with the requirements set out in Part I of this Declaration.

Name: .....  
Title: .....  
Address: .....  
.....  
Signature: .....  
Place: .....  
Date: .....  
(Seal or stamp of the authority,  
as appropriate)

---

<sup>1</sup> *Shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.



## Interim Maritime Labour Certificate

Issued under the provisions of Article V and Title 5 of the  
Maritime Labour Convention, 2006  
(referred to below as “the Convention”)  
under the authority of the Government of:

**UKRAINE**

by: **the General State Ships Registrar Inspection of Ukraine**

### Particulars of the ship

Name of ship .....  
Distinctive number or letters .....  
Port of registry .....  
Date of registry .....  
Gross tonnage <sup>1</sup> .....  
IMO number .....  
Type of ship .....  
Name and address of the shipowner <sup>2</sup> .....  
.....

This is to certify, for the purposes of Standard A5.1.3, paragraph 7, of the Convention, that:

- (a) this ship has been inspected, as far as reasonable and practicable, for the matters listed in Appendix A5-I to the Convention, taking into account verification of items under (b), (c) and (d) below;
- (b) the shipowner has demonstrated to the competent authority or recognized organization that the ship has adequate procedures to comply with the Convention;
- (c) the master is familiar with the requirements of the Convention and the responsibilities for implementation; and
- (d) relevant information has been submitted to the competent authority or recognized organization to produce a Declaration of Maritime Labour Compliance.

<sup>1</sup> For ships covered by the tonnage measurement interim scheme adopted by the IMO, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969). See Article II (1) (c) of the Convention

<sup>2</sup> *Shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II (1) j of the Convention

This Certificate is valid until .....subject to inspections in accordance with Standards A5.1.3 and A5.1.4.

Completion date of the inspection referred to under (a) above was .....

Issued at .....on.....

Signature of the duly authorized official  
issuing the interim certificate .....

(Seal or stamp of issuing authority, as appropriate)

**Annex № 3**

**the Law of Ukraine dd \_\_\_\_\_ № \_\_\_\_\_**

**‘On National Maritime Labour Standards’**

General areas that are subject to a detailed inspection by an authorized officer in a port of a Member carrying out a port State inspection pursuant to Article 29:

Minimum age

Medical certification

Qualifications of seafarers

Seafarers’ employment agreements

Use of any licensed or certified or regulated private recruitment and placement service

Hours of work or rest

Manning levels for the ship

Accommodation

On-board recreational facilities

Food and catering

Health and safety and accident prevention

On-board medical care

On-board complaint procedures

Payment of wages

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