A LAW TO INCORPORATE THE MARITIME LABOR CONVENTION, 2006 (MLC, 2006) AS AMENDED, INTO THE LAWS OF MEXICO AND TO PROVIDE FOR THE EFFECTIVE IMPLEMENTATION THEREOF

A Legislation Drafting Project submitted in partial fulfillment of the requirements for the award of the Degree of Master of Laws (LL.M.) in International Maritime Law at the IMO International Maritime Law Institute

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A. EXPLANATORY NOTE

INTRODUCTION

The purpose of this Drafting project is to explain the provisions of the Maritime Labor Convention, 2006, as amended (hereinafter referred to as MLC, 2006 or Convention)\(^1\) and its legal interpretation for the implementation into the national legislation of the United Mexican States (hereinafter referred to as Mexico).

The rights of the Convention are specific, but some provisions must be legislatively enacted at the national level for the full implementation, to comply with them and above all, for the seafarers use the rights derived from there. One of the main concerns of the subjects of international law is the uniformity of jurisdictional law, in order to create a level field for the adequate economic development and protection of the human and labor rights of seafarers.

For this reason, the MLC, 2006, was adopted to provide better rights for workers and to provide certainty to the Member States of the International Labor Organization (hereinafter referred to as ILO) in establishing minimum clear rules and standards. The legislative reforms of 2011, 2012, 2015, 2016 and 2018, to the Political Constitution of the United Mexican States,\(^2\) Federal Labor Law,\(^3\) and the Navigational Law and Maritime Commerce\(^4\) allow the implementation of the so-called “Bill of Rights of seafarers” to be more

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straightforward, but some changes in the national legislation will be required, as explained in the following chapters.

1. HISTORICAL BACKGROUND

According to Penstov, the 29th Session of the Joint Maritime Commission (Geneva, January 2001) discussed how the 37 ILO instruments developed between 1920 and 1996\(^5\) had no uniform definitions like the term’s “seafarers” and “ships”.\(^6\) It was essential to know the meaning of these terms for each significant agreement or recommendation. The Governing Body mentioned this gap (among others) for the elaboration of a framework agreement gathered in a consolidated text majority of the existent ILO maritime labor standards, which later became revised with the adoption of the Maritime Labour Convention, 2006.\(^7\)

All ILO conventions and recommendations related to the seafarers, except four existing maritime labor instruments (Standards)\(^8\) are consolidated with a new structure, updating (where necessary) to reflect the new conditions and language of the maritime sector. ILO decided to promote MLC, 2006 as a result of the joint resolution 2001,\(^9\) signed "by the representatives of the international seafarers’ and shipowners’ organizations,"\(^10\) and supported by governments. All this was to develop “an international regulatory response of appropriate kind-global standards applicable to the entire industry.”\(^11\)

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\(^5\) MLC, 2006, Article X.


\(^7\) Ibid (n 6) 560

\(^8\) ILO Conventions: the Seafarers’ Identity Documents Convention (Revised) 2003 (No. 185), the 1958 Convention that it revises (No. 108), the Seafarers’ Pensions Convention 1946 (No. 71), and the (outdated) Minimum Age (Trimmers and Stokers) Convention 1921 (No. 15), are not consolidated in the MLC, 2006


\(^10\) Idem, para 5

\(^11\) Idem, para 5
The MLC, 2006 was adopted at the 94th (Maritime) Session of the International Labor Conference on February 23, 2006. As of April 2019, 93 countries have ratified the Convention; they represent more than 91 percent of the total world gross tonnage.

The MLC, 2006 has two primary objectives: to “ensure comprehensive worldwide protection of the rights of seafarers [and] establish a fair level playing field for countries”.

The International Maritime Organization (hereinafter referred to as IMO) and the ILO have joined their efforts with the desire to improve the labor standards in the international field. With this purpose and for the direct impact in the area of maritime safety and maritime security, the MLC, 2006 is designated to stand alongside regulations in the IMO regime, such as the following:

- The International Convention for the Safety of Life at Sea (hereinafter referred to as SOLAS Convention) 1974, as amended;
- The International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (hereinafter referred to as STCW Convention) 1978, as amended;

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• The International Convention for the Prevention of Pollution from Ships (hereinafter referred to as MARPOL Convention) 1973,\textsuperscript{17} as amended.\textsuperscript{18}

To this end, the SOLAS Convention, the STCW Convention, the MARPOL Convention, and the MLC, 2006 are commonly known as the four “pillars of the international regulatory regime for quality shipping”.\textsuperscript{19}

2. MAIN FEATURES

The three core elements of the MLC, 2006 are universally acceptable, readily updatable, and uniformly enforced.\textsuperscript{20} Moreover, it combines the relevant principles and rights for seafarers with a new approach to securing ongoing compliance.\textsuperscript{21}

Also, MLC, 2006, introduces a new interrelated structure for the ILO conventions,\textsuperscript{22} the 16 Articles, Regulations, and the Code work interrelated. The Conference can only change the Articles and Regulations in the framework of Article 19 of the Constitution of the International Labor Organization and the rules and procedures of the ILO for the adoption


\textsuperscript{20}Reto Dürler, “Maritime Labor Convention, 2006” in Norman Martinez Gutierrez and others (eds), Serving the Rule of International Maritime Law (IMLI Studies in International Maritime Law) p. 299.

\textsuperscript{21}The compliance is possible through the maritime labor certificate (MLC) and declaration of maritime labor compliance (DMLC). The flag State or a recognized organization on behalf of the flag State shall issue MLC and DMLC. Except in specific situations where a detail inspection is warranted, any inspection in a foreign port is limited to the review of the certificate and the declaration.

\textsuperscript{22}Martinez (n 20). Just like Reto Dürler said: “is a well-established approach develop in other major conventions in the maritime sector ... [this] structure is similar to... set in STCW...".
of conventions.\textsuperscript{23} These 16 Articles with issues such as definitions, the scope of applications, entry into force, and amendments to the Convention.\textsuperscript{24} They provide the overall legal framework for the provisions found in the Code.\textsuperscript{25}

The Convention allows for the amendment of specific provisions through an accelerated amendment or “tacit acceptance” procedure\textsuperscript{26} rather than ordinary ratification, and thus offers easier updating of technical details.\textsuperscript{27} This new procedure differs in that “\textit{instead of requiring that an amendment shall enter into force after being accepted by, for example, two-thirds of the Parties},”\textsuperscript{28} the tacit acceptance procedure “\textit{provides that an amendment shall enter into force at a particular time unless, before that date, objections to the amendment are received from a specified number of Parties}”.\textsuperscript{29}

Many Flag States that ratify the MLC, 2006, may have “higher standards”\textsuperscript{30}, the only limitation is that the parameter does not go against the established principles or diminish the rights recognized by the text of the Convention. In the case of Mexico, during the implementation process, the rights already granted in national legislation will be respected and protected. Also, under Article 1 of the Political Constitution of the United Mexican States, the authorities will act by following the principle of progressivity.

\textsuperscript{23} MLC, 2006. Article XIV (1) and Explanatory Note (3)
\textsuperscript{24} Martinez (n 20)
\textsuperscript{25} Ibid
\textsuperscript{26} MLC, 2006. Article XV
\textsuperscript{27} Martinez (n 20)
\textsuperscript{28} IMO <http://www.imo.org/en/About/Conventions/Pages/Home.aspx> accessed April 1, 2019. The “tacit amendment” procedure is not new in the International Maritime field. IMO regime developed this procedure. Furthermore, this kind of amendment has been used in the case of conventions such as the Convention on the International Regulations for Preventing Collisions at Sea, 1972, the International Convention for the Prevention of Pollution from Ships, 1973 and SOLAS 1974, all of which incorporate a procedure involving the "tacit acceptance" of amendments by States.
\textsuperscript{29} Ibid
\textsuperscript{30} “\textit{Higher standards}” means that each country can decide that its standards will be much stricter than those established in the MLC, 2006; in consistency with the provision of the Article 19 (8) of the Constitution of the ILO. Because Convention only sets the minimum parameters.
Since 2008, ILO with IMO and the World Health Organization (WHO), developed practical guidance in connection with inspections and certifications of ships. These documents, which are not legally binding instruments, provide special practical assistance to governments to the proper implementation of MLC, 2006, as follows:

- 2008, “Guidelines for Flag State inspections under the Maritime Labor Convention, 2006”, and the guidelines for Port State control officers carrying out inspections under the Maritime Labor Convention, 2006”; these guidelines were developed jointly by the ILO and IMO.

- 2011, “Guidelines on the medical examinations of seafarers”, as developed jointly by the ILO and IMO.

- 2014, “Guidelines for implementing the occupational safety and health provision of the Maritime Labor Convention, 2006”; these guidelines were developed jointly by ILO, IMO, and WHO.

The Convention “applies to all ships, whether publicly or privately owned and ordinarily engaged in commercial activities”, with an exception to the ships navigating exclusively in inland waters, close to the coast, sheltered waters, and/or areas where port regulations apply; ships engaged in fishing or similar pursuits; ships of tradition build such as dhows and junks and warships or naval auxiliaries.

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33 Idem


36 MLC, 2006. Article II (4)

37 MLC, 2006. Article II (4)
The Flag State can exclude ships below 200 gross tonnages that are not carrying out international voyages from some of the requirements if national laws already cover the concerned seafarers’ rights, collective agreements, or other measures.\textsuperscript{38}

A “seafarer” could be any person who is employed, is engaged with, or works in any capacity “on board a ship to which MLC, 2006 applies”.\textsuperscript{39} Also, the definition under the MLC, 2006 includes the master and hotel staff on cruise ships, which means anyone working on board.\textsuperscript{40} If there is any doubt as to whether the Convention covers a category of ship or person, the State authorities, upon consultation with the representatives of the seafarers’ and shipowners’ organizations, shall clarify the situation.\textsuperscript{41}

The definition of “shipowner” under the MLC, 2006 extends to all persons and organizations that have or have assumed responsibilities for seafarers on ships.\textsuperscript{42} This definition includes owners, managers, agents, and bareboat charterers.\textsuperscript{43}

The MLC, 2006 mandates that if commercially operated ships of 500 gross tonnages or over governed by its provisions are engaged on international voyages, they shall be required to carry, among others,\textsuperscript{44} two specific documents, the Maritime Labor Certificate and the

\begin{itemize}
\item recent Inspection Report;
\item evidence proving that all seafarers onboard are above sixteen (16) years of age;
\item evidence showing the crew agencies comply with the MLC, 2006 requirements;
\item medical Certificate, maximum one-year validity for seafarers under 18 years of age;
\item medical Certificate of maximum two years validity, for seafarers above 18 years of age;
\item no dangerous work or night-time work for seafarers under 18 years of age, shall be proved;
\item seafarers’ Employment Agreement (SEA), signed by the seafarer and shipowner or an authorized representative;
\item copy of CBA or Collective Bargaining Act and its English version (for international voyages);
\end{itemize}

\textsuperscript{38} MLC, 2006. Article II (6)
\textsuperscript{39} MLC, 2006. Article II (1) (f)
\textsuperscript{41} MLC, 2006. Article II (3) and Article VII
\textsuperscript{43} MLC, 2006. Article II (1) (j)
\textsuperscript{44} Such as:
Declaration of Maritime Labor Compliance (Part I and II), to provide prima facie evidence that the ships comply with the requirements of the Convention.

Another issue is the principle of the “no more favorable treatment clause.” It requires a ratifying State to apply MLC, 2006, “standards to a foreign ship in its ports (if it chooses to inspect the ship), even if the Flag State of the ship has not ratified it.” The principle prevents ships flying flags of States that have not “signed the Convention from having an unfair advantage over ships flying the flag of State that have.” The clause may provide an incentive for the ratification of the MLC, 2006 and it helps to secure a level “playing field” for shipowners, achieving fair competition and equality of treatment for Flag States through a Port State’s responsibilities in respect to all ships entering their ports.

To ensure the social rights or employment of seafarers is required the ratification and implementation of the MLC, 2006. Hence, the Flag State is responsible for labor conditions and crewing and social standards on ships that are flying its flag. For this purpose, the State shall establish a system for ensuring compliance with the Convention's requirements and incorporate onboard- and onshore- complaint procedures. Moreover, the seafarers shall have access to the courts, tribunals, or other dispute-settlement mechanisms.

- a valid COC or Certificate of Competency and valid training certificates for all seafarers onboard;
- records of training in personal safety and safety meetings held onboard;
- records of all accidents, incidents, investigations, and following analysis onboard;
- records of seafarer's familiarization and the records for seafarer's rest/work hours; and
- a copy of MLC, 2006.

The MLC, 2006 combines the core principles and rights for the seafarers with a new approach to securing ongoing compliance. The compliance is possible through the maritime labor certificate (MLC) and declaration of maritime labor compliance (DMLC). The Flag State or a recognized organization on behalf of the Flag State must issue MLC and DMLC. Except in specific situations where a detail inspection is warranted, any inspection in a foreign port is limited to the review of the certificate and the declaration.

ILC (note 12)
MLC, 2006. Article V (7)
Ibid
In concluding this section, the task of the Flag State to supervise and control the entire implementation system of the Convention concludes with the submission to ILO on all pertinent information about the survey and certification systems, including the implementation methods and quality management.

The Convention uses very well-known structures for Mexico, used in other major conventions in the maritime sector such as the SOLAS Convention and STCW Convention. It is possible to identify the applicable rules, regulations, and guidelines because they follow the enumeration of the respective Titles.

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51 MLC, 2006. Explanatory note (6)
3. OVERVIEW OF MLC, 2006

In order to possess an adequate knowledge, a general overview of the contents of the Regulations and Code is herewith presented.

3.1. Title 1: Minimum requirements for seafarers to work on a ship

a.) Minimum Age (Regulation 1.1)

*Purpose: To ensure that no under-age persons work on a ship*

The Convention provides specific measures for young persons under the age of 18. The minimum age to work on a ship is 16. The minimum age for work at night is 18.

For example, minors should not work between 24:00 and 05:00 hours; an exception can be made by the national authority for training purposes.

b.) Medical Certificate (Regulation 1.2)

*Purpose: To ensure that all seafarers are medically fit to perform their duties at sea*

To verify the seafarer’s medical fitness to perform his duties, each seafarer shall hold a valid medical certificate. The Standards related to the medical certificate set by the STCW Convention are also applicable for those seafarers covered by the STCW Convention. National authorities establish the medical Standards in consultation with shipowners’ and seafarers’ organizations in the case of those seafarers not covered by the STCW Convention.

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52 MLC, 2006. Standard A1.1 (2)
54 MLC, 2006. Standard A1.2 (1)
56 MLC, 2006. Standard A1.2 (2)
The validity of the medical certificates depends on whether (one year) or not (two years) the seafarer is a minor.\textsuperscript{57}

c.) Training and Qualifications (Regulation 1.3)

\textit{Purpose: To ensure that seafarers are trained or qualified to carry out their duties on board the ship.}

The MLC, 2006 notes that all seafarers shall be trained and qualified for their duties aboard ship, including those occupations not covered by STCW standards, like cruise staff.

d.) Recruitment and Placement (Regulation 1.4)

\textit{Purpose: To ensure that seafarers have access to efficient and well-regulated seafarer recruitment and placement}

This involves the regulation of recruitment and placement agencies for seafarers by countries in which they operate.\textsuperscript{58} The Flag States shall require shipowners of ships flying their flag with placement agencies to only use the agencies outside of their territory that conform to the requirements of the Convention.\textsuperscript{59} Moreover, the States shall maintain a system for investigating complaints about seafarers’ placement services.

The provision for charging fees to the seafarers\textsuperscript{60} and using black-listing for placement services are included in the standards for placement services.\textsuperscript{61} Also, it provides the obligation for the placement agencies to explain to the seafarers’ employment agreement\textsuperscript{62} and provide them a copy of it so they can seek external consultation.\textsuperscript{63} One important duty

\textsuperscript{57} MLC, 2006. Standard A1.2 (7) (a)
\textsuperscript{58} The Seamans Church Institute, (note 42)
\textsuperscript{59} Ibid
\textsuperscript{60} MLC, 2006. Standard A1.4 (5) (b)
\textsuperscript{61} MLC, 2006. Standard A1.4 (5) (a)
\textsuperscript{62} MLC, 2006. Standard A1.4 (5) (c)
\textsuperscript{63} MLC, 2006. Standard A1.4 (5) (c)
for the placement services is their obligation to provide insurance or another system to compensate the seafarers in case of default. 64

3.2. Title 2: Conditions of employment

a.) Seafarers’ Employment Agreements (Regulation 2.1)

Purpose: To ensure that seafarers have a fair employment agreement

The Flag States shall implement the shipboard requirements of seafarers’ employment agreements (hereinafter referred to as SEA) through its laws or regulations.65 This workforce shall have seafarer employment agreements that are written and enforceable.66 The seafarers shall have an opportunity to review the SEA and get advice on the terms and conditions before signing.67 Also, collective bargaining agreements may be incorporated into SEA.68 The Convention set out 13 minimum elements for the SEA.

b.) Wages (Regulation 2.2)

Purpose: To ensure that seafarers are paid for their services

Flag States shall adopt laws or regulations that ensure seafarers are paid their wages according to the requirements settled in MLC, 2006.69 The Convention does not specify the specific amount of wages that are paid.70 It is mandatory to pay the wages at least once a month.71

64 MLC, 2006. Standard A1.4 (5) (c) (vi)
65 MLC, 2006. Standard A2.1 (1)
66 MLC, 2006. Regulation 2.1 (1)
67 MLC, 2006. Regulation 2.1 (2)
68 MLC, 2006. Standard A2.1 (2)
69 MLC, 2006. Standard A2.2 (3)
70 MLC, 2006. Standard A2.2 (5)
71 MLC, 2006. Standard A2.2 (1)
The Flag States shall require shipowners to provide a way to make transfers to the seafarers’ families, dependents, or legal beneficiaries.\footnote{MLC, 2006. Standard A2.2 (4)}

c.) Hours of Work and Hours of Rest (Regulation 2.3)

*Purpose: To ensure that seafarers have regulated hours of work or hours of rest*

Hours of work and hours of rest shall be regulated,\footnote{MLC, 2006. Regulation A2.3 (1)} and the limits shall apply to all seafarers.\footnote{MLC, 2006. Regulation A2.3 (2)} The shipowners shall maintain daily records for hours of work or rest. The exception\footnote{MLC, 2006. Standard A2.3 (10)} is if work is required for the immediate safety of the ship, persons, or cargo on board, or to assist another ship or persons in distress at sea.\footnote{MLC, 2006. Standard A2.3 (14)}

The Flag State shall establish one of two different limits on maximum hours of work or minimum hours of rest:

- maximum hours of work cannot exceed 14 hours in any 24 hours, and 72 hours in any seven days;\footnote{MLC, 2006. Standard A2.3 (5) (a)} and

- minimum hours of rest cannot be less than 10 hours in any 24 hours, and 77 hours in any seven days (using hours of rest requirements will allow 91 hours of work in seven days).\footnote{MLC, 2006. Standard A2.3 (5) (b)}
d.) Entitlement to Leave (Regulation 2.4)

*Purpose: To ensure that seafarers have adequate leave*

The Flag State shall ensure annual leave for seafarers, and the payment shall be calculated based on at least 2.5 calendar days per month of employment.\(^{79}\) Also, the following shall not be counted as part of annual leave with pay: public or customary holidays; periods of incapacity for work resulting from illness, injury or maternity; temporary shore leave granted under an employment agreement; and compensatory leave of any kind.\(^{80}\)

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e.) Repatriation (Regulation 2.5)

*Purpose: To ensure that seafarers can return home*

The shipowners shall cover the seafarers' repatriation expenses.\(^{81}\) For this purpose, the Flag State shall constitute financial security through a social-security system, with insurance or national trust to the seafarers in the event of abandonment.\(^{82}\) The financial security shall cover four months of wages, repatriation expenses, and the seafarers' essential needs such as food, clothing, water, lodging medical care, and fuel essentials for survival on the ship.\(^{83}\)
The MLC, 2006, specifies three criteria to take into account in case of abandonment.

The seafarers shall pay the repatriation expenses and have the expenses deducted from earned wages if there is a serious default in their obligations.\(^{84}\)

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\(^{79}\) MLC, 2006. Standard A2.4 (2)

\(^{80}\) MLC, 2006. Standard A2.4 (4)

\(^{81}\) MLC, 2006. Regulation A2.5 (1)

\(^{82}\) MLC, 2006. Regulation A2.5 (2), and Standard A2.5.2 (6)

\(^{83}\) MLC, 2006. Standard A2.5.2 (9)

\(^{84}\) MLC, 2006. Standard A2.5.1 (3)
f.) Compensation for a Ship’s Loss or Foundering (Regulation 2.6)

*Purpose: To ensure that seafarers are compensated when a ship is lost or has foundered*

Under this regulation, seafarers are entitled to compensation for an injury, financial loss, and unemployment when an employed ship is lost or has foundered.\(^{85}\) The domestic legislation should establish the amount of compensation.\(^{86}\) The guidelines allow the indemnity to be limited to two months of wages.\(^{87}\)

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g.) Manning Levels (Regulation 2.7)

*Purpose: To ensure that seafarers working on board ships with sufficient personnel for the safe, efficient, and secure operation of the ship*

The Flag States shall require all of its ships to have a sufficient number of seafarers employed on board to ensure safe and efficient ship operations regarding the security requirements, seafarer fatigue, and the particular conditions of the voyage.\(^{88}\)

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h.) Career and Skill Development and Opportunities for Employment (Regulation 2.8)

*Purpose: To promote career and skill development and employment opportunities for seafarers*

Member States are required to have national policies to promote employment in the maritime sector and to encourage career and skill development and more significant employment opportunities for its seafarers.\(^{89}\)

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\(^{85}\) MLC, 2006. Regulation 2.6 (1)

\(^{86}\) MLC, 2006. Standard A2.6 (1)

\(^{87}\) MLC, 2006. Guidelines B2.6 (1)

\(^{88}\) MLC, 2006. Regulation 2.7 (1)

\(^{89}\) MLC, 2006. Regulation 2.8 (1)
3.3. Title 3: Accommodation, recreational facilities, food, and catering

a.) Accommodation and Recreational Facilities (Regulation 3.1)

*Purpose:* To ensure that seafarers have decent accommodation and recreational facilities on board.

The Convention provides detailed technical requirements for the physical design and construction. The provisions that affect ship construction and equipment do not apply to ships constructed before the Convention came into force for the State concerned. The Member shall ensure the requirements for accommodation, recreational facilities, food, and catering implemented on ships flying their flags. Through the inspections (initial inspection, intermediate, or renewal) of the official inspectors of the Flag State or Recognized Organizations, it is verified that the shipowners comply with the dispositions prescribed in the MLC, 2006.

This Title of the Convention is very extensive and technical, and for this reason, the competent authorities, upon consultation with the representatives of the seafarers' and shipowners' organizations, could exempt smaller ships (less than 300 gross tonnages or particular purpose ships) from specific accommodation requirements.

b.) Food and Catering (Regulation 3.2)

*Purpose:* To ensure that seafarers have access to good quality food and drinking water provided under regulated hygienic conditions.

The first responsibility of Flag State is to ensure that their ships follow the Standards for food and catering. Food and drinking water supplies, having regard to the number of seafarers on board, their religious requirements, and cultural practices relating to food, shall be suitable in respect to quantity, nutritional value, quality, and variety. The catering

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90 MLC, 2006. Standard A3.1 in relation with Guideline B3.1
91 MLC, 2006. Regulation 3.1 (2)
92 MLC, 2006. Regulation 3.1 (1)
93 MLC, 2006. Standard A3.1 (9)
94 MLC, 2006. Standard A3.2 (1)
95 MLC, 2006. Standard A3.2 (2) (a)
department’s organization and equipment shall be adequate to provide seafarers with adequate, varied, and nutritious meals prepared and served in hygienic conditions.\textsuperscript{96}

3.4. Title 4: Health protection, medical care, welfare, and social security protection

a.) Medical Care on board ship and ashore (Regulation 4.1)

\textit{Purpose: To protect the health of seafarers and ensure their prompt access to medical care on board ship and ashore}

Each State shall ensure that all seafarers working on its ships have health protection coverage and immediate access to medical care onboard and ashore.\textsuperscript{97} Port State shall provide access to its medical facilities to all seafarers on ships in its territory.\textsuperscript{98} The levels of health protection and medical care for seafarers shall be comparable to that available to workers ashore.\textsuperscript{99} National regulations shall establish Standards for onboard hospital and medical care facilities and equipment.\textsuperscript{100} The Flag State shall establish requirements for medical chests, medical doctors on ships carrying 100 or more persons, medical qualifications for persons on ships that do not carry a doctor, and 24/7 radio or satellite medical advisory system are specified.\textsuperscript{101}

\textsuperscript{96} MLC, 2006. Standard A3.2 (2) (b)
\textsuperscript{97} MLC, 2006. Regulation 4.1 (1) and (3)
\textsuperscript{98} MLC, 2006. Regulation 4.1 (2)
\textsuperscript{99} MLC, 2006. Standard A4.1 (1) (b)
\textsuperscript{100} MLC, 2006. Standard A4.1 (1) (d)
\textsuperscript{101} MLC, 2006. Standard A4.1 (4) (b) and (d)
b.) Shipowners’ Liability (Regulation 4.2)

Purpose: To ensure that seafarers are protected from the financial consequences of sickness, injury, or death in conjunction with their employment

Shipowners are obliged to pay for medical care, including housing and subsistence, during the recovery from illnesses or injuries to seafarers incurred from the time that they began working until their repatriation.\footnote{MLC, 2006. Standard A4.2.1 (1) (a)} National laws can exclude shipowners’ liability for paying for injuries or sicknesses that were caused by the seafarer’s own willful misconduct or intentionally concealed when hiring the seafarer.\footnote{MLC, 2006. Standard A4.2.1 (5)} National legislation may limit the shipowners’ liability to pay for medical expenses, but it shall not be less than 16 weeks from the day the injury occurred or the onset of the disease.\footnote{MLC, 2006. Standard A4.2.1 (2) and (4)} Shipowners are liable to pay burial expenses for seafarers who die on board or ashore during the period of employment.\footnote{MLC, 2006. Standard A4.2.1 (6)}

\begin{itemize}
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\end{itemize}

\footnote{MLC, 2006. Standard A4.2.1 (1) (a)}
\footnote{MLC, 2006. Standard A4.2.1 (5)}
\footnote{MLC, 2006. Standard A4.2.1 (2) and (4)}
\footnote{MLC, 2006. Standard A4.2.1 (6)}
\footnote{MLC, 2006. Standard A4.3 (2)}
\footnote{MLC, 2006. Standard A4.3 (1) (b)}
\footnote{MLC, 2006. Standard A4.3 (1) (a)}
\footnote{MLC, 2006. Standard A4.3 (1) (d)}
\footnote{MLC, 2006. Standard A4.3 (5) and (6)}

\textbf{c.) Health and Safety Protection and Accident Prevention (Regulation 4.3)}

\textit{Purpose: To ensure that seafarers’ work environment on board ships promotes occupational safety and health}

It is required that Flag States develop and promulgate National Guidelines designated to prevent accidents, injuries, and illnesses on their ships.\footnote{MLC, 2006. Standard A4.3 (2)} The National health and safety protection and accident prevention policies and regulations should include preventing accidents, injuries, and deaths;\footnote{MLC, 2006. Standard A4.3 (1) (b)} provide personal safety equipment and training;\footnote{MLC, 2006. Standard A4.3 (1) (a)} inspect, report, and correct unsafe conditions;\footnote{MLC, 2006. Standard A4.3 (1) (d)} and occupational accidents.\footnote{MLC, 2006. Standard A4.3 (5) and (6)}
d.) Shore-based Welfare Facilities (Regulation 4.4)

*Purpose: To ensure that seafarers working on board a ship have access to shore-based facilities and services to secure their health and well-being*

The Guidelines contain the Port States’ responsibilities. They are required to promote the development of shore-based welfare facilities for seafarers in their Ports, and they are also encouraged to establish welfare boards to regularly review seafarers’ welfare facilities and services to ensure that they are appropriate for seafarers’ needs. The existing facilities shall be readily accessible to seafarers, without any discrimination. The Port States are not obligated to finance them.

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111 MLC, 2006. Guidelines B4.4
112 MLC, 2006. Standard A4.4 (2)
113 MLC, 2006. Standard A4.4 (3)
114 MLC, 2006. Standard A4.4 (1)
115 MLC, 2006. Guideline B4.4.1 (4) and Guideline B4.4.2 (2)
116 MLC, 2006. Regulation 4.5 (1)
117 MLC, 2006. Regulation 4.5 (3)
118 MLC, 2006. Standard A4.5 (3)
119 MLC, 2006. Standard A4.5 (1)
With regard to shipowner liability, the Flag State shall require that ships that fly its flag carry on board a certificate or other documentary evidence of financial security issued by the financial security provider.

3.5. Title 5: Compliance and enforcement

MLC, 2006, specifies each Member's responsibility to ensure full implementation and enforcement of the principles and rights set out in the Regulations of the Convention.\textsuperscript{120} The Members shall implement the provisions, bearing in mind that seafarers and shipowners, like other persons, are equal before the law and are entitled to equal protection of the law and shall not be subject to discriminatory access to courts, tribunals, or other dispute resolution mechanisms.\textsuperscript{121}

a.) Flag State Responsibilities (Regulation 5.1)

_Purpose: To ensure that each Member implements its responsibilities under this Convention concerning ships that fly its flag_

Even though the Flag States may authorize other organizations, called “recognized organizations”, to perform some of their inspection functions, the Flag States still retain full responsibility for inspecting and certifying living and working conditions on their ships.\textsuperscript{122}

As evidence of complying with the requirements of the Convention, the Flag State shall ensure that ships flying their flag carry on board the following documents:

- Maritime Labor Certificate (MLC): All ships that have a 500 gross tonnage or more and operate internationally shall have the certificate issued by the Flag State.\textsuperscript{123}

\textsuperscript{120} MLC, 2006. Title 5 (1)
\textsuperscript{121} MLC, 2006. Title 5 (4)
\textsuperscript{122} MLC, 2006. Regulation 5.1.1 (3) and Regulation 5.1.2
\textsuperscript{123} MLC, 2006. Regulation 5.1.3 (1)
certificate is the evidence that the working and living conditions on the ship have been inspected by the Flag State and complied with the requirements under the Convention.\textsuperscript{124}

- Declaration of Maritime Labor Compliance (DMLC): The declaration consists of two parts: the first one is prepared for the Flag State and summarizes the laws and regulations contained in the Convention and their implementation under domestic laws;\textsuperscript{125} the second one is prepared by the shipowner and contains his plan for implementing MLC, 2006.\textsuperscript{126} Finally, the DMLC shall remain on the ship between inspections and shall be available to seafarers, Flag State inspectors, authorized officers Port State, and shipowners’ and seafarers’ representatives.\textsuperscript{127}

The functions related to the inspection and enforcement of the Convention are identified according to the responsibilities of a Flag State concerning its ships and a Port State concerning foreign ships. Each Member shall inspect its ships for compliance with the Convention at least once every three years.\textsuperscript{128} If a complaint generates the inspection, the inspector shall maintain the confidentiality of the source of the complaint or grievance and shall not reveal the motive of the inspection to the shipowner.\textsuperscript{129} The ships can be detained to correct deficiencies that present a significant danger to seafarers’ health, safety, or security.\textsuperscript{130}

\textsuperscript{124} MLC, 2006. Regulation 5.1.3 (3)
\textsuperscript{125} MLC, 2006. Appendix A5-II Declaration of Maritime Labour Compliance – Part I
\textsuperscript{126} MLC, 2006. Standard A5.1.3 (1) and (10)
\textsuperscript{127} MLC, 2006. Standard A5.1.3 (11)
\textsuperscript{128} MLC, 2006. Standard A5.1.4 (4)
\textsuperscript{129} MLC, 2006. Standard A5.1.4 (10)
\textsuperscript{130} MLC, 2006. Standard A5.1.4 (7) (c)
The seafarers’ complaint procedures on board enforce the regulations under the Convention. For this reason, the Flag State shall develop National Guidelines that establish on-board grievance procedures to handle seafarers’ complaints about violations of the Convention. These shall be fair, effective, and expeditious. Furthermore, in case of any marine casualties on board that result in death or severe injury, the Flag States shall investigate if the ship is flying their flag.

b.) Port State Responsibilities (Regulation 5.2)

Purpose: To enable each Member to implement its responsibilities under this Convention regarding international cooperation in the implementation and enforcement of the Convention standards on foreign ships

The Port States may inspect any foreign ship in its ports for compliance with the Convention. As a consequence of the “no more favorable treatment” provision, all ships from countries that have not ratified the MLC, 2006, are subject to Port State control inspection and possible detention if they do not meet the minimum standards. Usually, the inspections should be limited to examining the relevant requirements set out in the Articles and Regulations of the Convention and verification of the MLC and DMLC.

The inspection can be more specific if: the required documents do not comply with the regulatory requirements under MLC, 2006; there are clear grounds for believing that the ship does not conform with the Convention; there are reasonable grounds to believe that the ship has changed flags to avoid complying with the Convention; and there is complaint alleging that the ship does not conform with MLC, 2006.

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131 MLC, 2006. Regulation 5.1.5 (1) and Standard A5.1.5 (1)
132 MLC, 2006. Regulation 5.1.6 (1)
133 MLC, 2006. Regulation 5.2.1 (1)
134 MLC, 2006. Regulation 5.2.1 (3)
135 MLC, 2006. Standard A5.2.1 (1)
In order to preserve the safety of the ship and prevent safety or health hazards to seafarers on board, any person may make a complaint to Port State control authorities about conditions on a ship that do not conform with MLC, 2006. An inspection based solely on a complaint should be limited to the scope of the complaint. Ships can be detained by Port State control to correct deficiencies that present a significant danger to seafarers’ health, safety, or security.

Port State shall provide procedures to seafarers onboard in their ports to report any violations, including seafarers' rights under MLC, 2006. Upon receipt of the report, the authorized port officer should conduct an initial investigation. The competent authorities should implement specific procedures to resolve seafarers' complaints at the lowest possible level and provide reports to ILO and report to the ILO and the appropriate shipowners' and seafarers' organizations in the Port State on unresolved complaints.

c.) Labor-supplying Responsibilities (Regulation 5.3)

Purpose: To ensure that each Member implements its responsibilities under this Convention as pertaining to seafarer recruitment and placement and the social protection of its seafarers

The Convention recognized that Flag State have the primary responsibility for regulating seafarers' working and living conditions on their ships. Labor-supplying countries shall enforce the Convention provisions relating to regulating seafarers' recruiting and placement agencies, as well as some of its social-security requirements. The MLC, 2006, requires labor-supplying members to establish an adequate inspection and monitoring system for enforcing their labor-supplying responsibilities.

Ibid
MLC, 2006. Standard A5.2.1 (3)
MLC, 2006. Standard A5.2.1 (6)
MLC, 2006. Regulation 5.2.2 (1)
MLC, 2006. Standard A5.2.2 (1)
MLC, 2006. Standard A5.2.2 (5)
MLC, 2006. Standard A5.2.2 (6)
4. **REASON FOR RATIFICATION**\(^{143}\) MLC, 2006, INTO THE LAWS OF MEXICO

Due to the geostrategic position of the United Mexican States, the incoming government has excellent opportunities to develop and promote high seas navigation, promote safe shipbuilding and improve working conditions of seafarers to continue facilitating the international maritime trade of materials and services, according to international standards.

Mexico does not have the same presence in the shipping industry as its principal neighbors in the Region: the United States of America, Canada, and the Republic of Panama, for example. However, because of its privileged position, Mexico plays a prominent role.

From the regional perspective it is worth it to mention that the countries of the American continent that have ratified the MLC, 2006 are Canada, Honduras, Nicaragua, Argentina, Panama, and Chile.\(^{144}\) Furthermore, taking into account the partners in bilateral connectivity and international merchandise trade,\(^{145}\) the countries that have ratified the Convention are Germany, China, Hong Kong, Belgium, Spain, and the United Kingdom.\(^{146}\)

Besides, it must be noted that the United States is not part of the Convention. However, they have standards regarding the protection of the rights of maritime workers which are equal to or higher than those required in the MLC, 2006.

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\(^{143}\) Article VIII (4) of the MLC, 2006 use the term "ratification" when any Member accepts the offer or the opportunity to become a party to the Convention. For this reason, the term "ratification" is used throughout this work. Even though the correct expression is "accession" because the MLC, 2006 is in force since 20 August 2013, in conformity with the Article 2 (1) (b) and Article 15 of the Vienna Convention for the Law of the Treaties 1969, \(\leq https://treaties.un.org/pages/Overview.aspx?path=overview/glossary/page1_en.xml#accession\), accessed 29 April 2019

\(^{144}\) ILO "Ratification of MLC, 2006" \(\leq https://www.ilo.org/dyn/normlex/es/?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_1D:312331:NO\) accessed 22 February 2019


\(^{146}\) ILO (n 144)
Failure to ratify this Convention would not be advantageous for the shipowners, because according to the principle of “no more favorable treatment”, the Port State control officers will treat a ship from a non-ratifying State the same as a ship from a ratifying State, and may apply certain fundamental elements that are envisaged in the MLC, 2006 (i.e., ships flying the Mexican flag). So that means that such a ship could be detained by the Port State Control of State Party to ensure that the ship complies with the regulations of the MLC, 2006.

Formally, the seafarers’ labor rights are fully recognized and reinforced both their status as constitutional rights, as well as human rights, with the reform of 2011 into the Political Constitution of the United Mexican States. Promoting and respecting human rights has opened an opportunity to advance in the protection of these rights.

Mexico has legislation created with the purpose to protect the labor rights in the Country. For instance, the Federal Labor Law has the purpose of achieving the balance between the factors of production and social justice, as well as for providing dignified or decent work in all labor relationships. Also, the Navigational Law and Maritime Commerce indirectly address specific aspects of labor relations in the maritime field in Mexico.

At the national level, these reforms would have a positive economic and social impact. At the international level, the image of Mexico would be more attractive. Because it allows significant opportunities for the investment of the international maritime industry, at the same time, it would demonstrate the willingness of Mexico to acquire and adequately assume their commitments before the international community.

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148 Ibid. Also, see the Decree in the Official Gazette related to the constitutional reform on human rights (available only in the Spanish language) <http://dof.gob.mx/nota_detalle.php?codigo=5194486&fecha=10/06/2011> accessed 05 February 2019

5. INCORPORATION OF THE MLC, 2006 INTO THE LAWS OF MEXICO

5.1. Procedure for the incorporation

According to Article 76 (I) of the Political Constitution of the United Mexican States, a treaty shall be approved by the Senate and be published in the Official Gazette in order to take effect as a superior law of the State. As the United Mexican States has not ratified the MLC, 2006, the Convention has to be acceded by decree of the promulgation of Maritime Labor Convention, 2006, as amended (MLC, 2006), with the deposit of the ratification instrument.

If the Mexican Senate ratifies a treaty, it becomes automatically part of the Mexican legal system. However, as the act of ratification itself is not enough, it is necessary to ensure the effective implementation of the MLC, 2006, into domestic law. In the case that the State has already enacted a domestic law, it will be necessary to amend or repeal the provisions of the domestic law when introducing the new regulations. However, if the matter of the treaty is new, the Federal Congress will have to create a separate law.

Seafarers’ labor rights and the responsibilities of the Mexican Government as Flag State and Port State are covered in at least 5 principles and norms, namely: Federal Labor Law; Social Security Law; Law of Alimentary Assistance for Workers; Navigational Law and Maritime

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150 See document “B. NOTIFICATION FROM SENATE TO THE PRESIDENT OF REPUBLIC”
151 CPEUM. Art. 133
153 See document “C. INSTRUMENT OF RATIFICATION BY THE UNITED MEXICAN STATES TO THE MARITIME LABOR CONVENTION, 2006 (AS AMENDED)”
154 SCJN, [2 006 223] “Cuestión constitucional para efectos de la procedencia del recurso de revisión en amparo directo, se surte cuando su materia versa sobre la colisión entre una ley secundaria y un tratado internacional, o a interpretación de una norma de fuente convencional, y se advierte prima facie que existe un derecho humano en juego” (Constitutional issue for the origin of the recourse of review in direct Amparo, is provided when its subject is on the collision between a secondary law and an international treaty, or interpretation of a rule of conventional source, and prima facie warns that there is a human right in play)
Commerce, with their respective regulations; and Federal Regulations for Occupational Health and Safety and other official Mexican standards enacted by the competent authorities.

The Bill proposes new legislation separate from (but written in accordance with) the provisions of Chapter III, “Workers on Ships,” and Title Six “Special Jobs” of the Federal Labor Law, for respecting and protecting the rights of the seafarers onboard ships engaged in fishing or similar pursuits, and ships of traditional build such as dhows and junks, from those seafarers covered under the MLC, 2006.

The provisions of the MLC, 2006 covered for different authorities in different areas of the law. Also, the specialized work developed by the seafarers requires a specific law for its proper implementation.

Given the peculiarities of the Mexican legislation, the Bill itself will not provide the form of the documents required under MLC, 2006, but will be referred to the model set out in the Annex to the MLC, 2006.

5.2. Competent authorities for the implementation and enforcement of MLC, 2006

According to Article 7 of the Federal Maritime Law, its enforcement corresponds to the Federal Executive Power through the various agencies of the Federal Public Administration which, by its Organic Act and other pertinent legal provisions in force, are the competent national authorities by the powers vested in each of them.

For the implementation and enforcement of the MLC, 2006, the competent authorities are the Secretariat of Labor and Social Welfare, the Secretariat of the Navy, the Secretariat of Communications and Transport, and the Mexican Institute of Social Security.
The Secretariat of Labor and Social Welfare, carries out a wide range of tasks related to labor regulations, such as the inspections, recognition, and control of the recruitment and placement services, workers' and employers' organizations/unions (shipowners and seafarers), inspection of labor conditions on board, reviews, approvals of the validity of the employment agreements, and other tasks.

The Secretariat of the Navy, in the exercise of its competencies as National Maritime Authority, is in charge as follows:

- the surveillance, visits, and inspections of the Mexican and foreign ships in the Mexican maritime zones;
- to regulate, guard the safety of navigation and human life at sea, and supervise the merchant marine personnel;
- to carry out the functions of Flag State and Port State related to the IMO regime;
- to manage different publications in Mexico, with powers in the maritime field, following the provisions of IMO
- to appoint and remove the harbor masters and others.\textsuperscript{155}

The Secretariat of Communications and Transport is the competent authority for planning, formulating, and conducting policies and programs for the development of the merchant marine personnel and national ports and to carry the National Maritime Public Registry, which includes:

- Organizing, promoting and regulating the training and qualifications of the merchant marine personnel, as well as granting certificates of competence in terms of the Navigational law and the Maritime Commerce and its regulations; monitor their compliance and revoke or suspend them if applicable;

\textsuperscript{155} \textit{Navigational Law and Maritime Commerce, Article 8 Bis}
• Participate with the Secretariat of the Navy in the safety of navigation and safeguarding human life at sea;

• Establish, in coordination with the Mexican Navy, the Port Security measures to be applied.156

The Mexican Institute of Social Security, among others, has the following authority and responsibilities:

• To administer insurance for occupational risks, illnesses, maternity, invalidity, and life, as well as childcare and social benefits, family health care and others, as well as rendering collective services stipulated in Social Security Law;

• To establish medical units, child care centers, pharmacies, and mortuaries, as well as centers of qualification, sports, culture, and vacation, and social security for the wellbeing of the family, along with all other establishments for compliance to its objectives, without subjecting them to any conditions, except sanitary, set by the respective laws and respective regulations for private companies, with similar activities;

• To register employers and all other obligated subjects and enroll salaried workers and establish their criteria for payment, even without the management of the interested parties and the independent workers at their request, without releasing those obligated for the responsibilities and sanctions for infractions in which they incurred;

• To collect and charge the payments for the insurance policies for occupational risk, illness and maternity, invalidity and life, child care centers and social benefits, family health and additional insurance, the constitutive capital, as well as their legal instruments, receive all other resources of the Institute, and carry out programs of legalization of payments owed. Likewise, collect and charge the payments and legal instruments of insurance for retirement, advanced, and old age;

• To confirm or rectify the class and rate of risk of the companies for the coverage of the payments of the occupational risk insurance;

156 Navigational Law and Maritime Commerce, Article 8
• To promote and sponsor the creation of health and social security research, using it as a tool for the generation of new knowledge, for improving the quality of the attention granted and for the formation and qualification of personnel;

• To make agreements with foreign entities or institutions for technical assistance, exchange of information related to the compliance to its objectives, and the attention to the rightful claimants, under the reciprocity principle, with restrictions detailed in the agreements that made for the purpose, which will invariably have a confidentiality and non-disclosure clause;

• To make cooperation and exchange agreements in matters of preventive medicine, medical attention, handling and hospitalization, and rehabilitation of any level with other social security or health institutions of the federal, state or municipal public sectors or the social sector.157

5.3. Provisions in the National Legislation of Mexico

Even though Mexico ratified 12 ILO Conventions,158 there is not one specific law to regulating the seafarers' labor rights and providing a full implementation for the State’s obligations contained within those Conventions. The rules that cover the seafarers’ work are in different Laws and Regulations among the Official Mexican Standards.


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157 Social Security Law, Article 251

158 Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8); Placing of Seamen Convention, 1920 (No. 9); Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16); Seamen’s Articles of Agreement Convention, 1926 (No. 22); Officers’ Competency Certificates Convention, 1936 (No. 33); Shipowners’ Liability (Sick and Injured Seamen) Convention, 1936 (No. 55); Sickness Insurance (Sea) Convention, 1936 (No. 56); Minimum Age (Sea) Convention (Revised), 1936 (No. 58); Prevention of Accidents (Seafarers) Convention, 1970 (No. 134); Seafarers’ Welfare Convention, 1987 (No. 163); Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164); Repatriation of Seafarers Convention (Revised), 1987 (No. 166).
Regulation of Labor Inspection and Application of Sanctions, and General Regulations of the Seafarers House of the United Mexican States, among others.

Due to the extension and specificity of each issue addressed by the Convention and the absence of a consolidated document in the national regulations governing the seafarers’ labor relations, a comparative table (Annex 1) was drawn up to compare the disposition between MLC, 2006 and the national legislation of Mexico.

One of the main peculiarities of the labor law in Mexico is that the identification of the “seafarer” is under the figure “worker on ships” Articles 187 to 214 (Chapter III “Workers on Ships”) located in the Title Six “Special Jobs” of the Federal Labor Law. The scope of application of the Chapter above applies to all workers on ships. Included in this classification are all classes of ships or boats that display the Mexican flag, so even the fishermen are covered for those provisions.

The Federal Labor Law includes the provisions relating to the workers on ships, workers’ contracts, annual leave, wages and benefits, employers special obligations, workers’ obligations, special reasons for the rescissions of labor relations, termination of the workers’ contracts, labor inspectors, labor conditions, work of minors, collective labor relations, strikes, and labor risks, among others.

Some of the changes that will be made to the national legislation are the separation of the labor regimes between seafarers and fisherman; inclusion of the Maritime Labor Certificate and Declaration of Maritime Compliance; incorporation of the clause of no more favorable treatment; accommodation, recreational facilities, food and catering; onshore seafarer complaint-handling procedures; and evidence of financial security for the repatriation, among others.

One point that deserves special attention is regarding the implementation and development of the inspection as Flag State and Port State. The Navigational Law and Maritime Commerce empower the Secretary of the Navy to act as Port State and perform the inspections of foreign ships under international treaties.
As a Flag State, according to the Article 212 of the Federal Labor Law and the General Regulation of Labor Inspection and Application of Sanctions, only the labor inspectors can carry out inspections to the labor, health, and social services issues. However, the number of specialized labor inspectors is insufficient, considering the number of national seafarers and ships flying the Mexican flag. That requires the verification of the shipbuilding construction for fulfilling the requirements related to the accommodation, recreational facilities, food, and catering.

For this reason, it is advisable that the inspections as Flag State can be carried out by recognized organizations authorized by the Secretariat of the Labor and Social Welfare in coordination with the Secretariat of the Navy as a National Maritime Authority.
B. NOTIFICATION FROM SENATE TO THE PRESIDENT OF THE REPUBLIC.
Directorate of the Legal Advisor to the Federal Executive.

During the present legislature, this sovereign power represented by all the parliamentary groups has voted and reached the decision that Mexico must ratify the Maritime Labor Convention, 2006, as amended (MLC, 2006).

According to article 76 (1) of the Mexican Constitution, Article 273 of the internal rules of the Senate and on behalf of the Government, we request to continue the legislative process with the publication of this instrument.

As mentioned in the ordinary session:

THE MEXICAN SENATE ACCORDING TO ARTICLE 76 (1) OF THE POLITICAL CONSTITUTION OF THE UNITED MEXICAN STATES DECREED:


(Signatures)

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(Name)                      (Name)
President of the Board Directive of the Chamber of Senators
                                       President Constitutional of the United Mexican States
C. INSTRUMENT OF RATIFICATION BY THE UNITED MEXICAN STATES TO THE MARITIME LABOR CONVENTION, 2006 (AS AMENDED)
WHEREAS, the United Mexican States is a Party to Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8); Placing of Seamen Convention, 1920 (No. 9); Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16); Seamen’s Articles of Agreement Convention, 1926 (No. 22); Officers’ Competency Certificates Convention, 1936 (No. 53); Shipowners’ Liability (Sick and Injured Seamen) Convention, 1936 (No. 55); Sickness Insurance (Sea) Convention, 1936 (No. 56); Minimum Age (Sea) Convention (Revised), 1936 (No. 58); Prevention of Accidents (Seafarers) Convention, 1970 (No. 134); Seafarers’ Welfare Convention, 1987 (No. 163); Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164); Repatriation of Seafarers Convention (Revised), 1987 (No. 166),

WHEREAS the Maritime Labor Convention, 2006, (as amended), was adopted on February 23, 2006, during the Tenth Maritime Session of the International Labor Conference,

AND WHEREAS, the United Mexican States, is a State entitled to become a party to the said Convention by the Article XIV (9) thereof,

NOW THEREFORE the Government of the United Mexican States, having considered and approved the said Convention,

HERBY DENOUNCES the said 1920 Convention of Unemployment Indemnity in conformity

AND FORMALLY DECLARES ITS ACCESSION to the Maritime Labor Convention, 2006 (as amended),
IN WITNESS OF WHICH, Andres Manuel Lopez Obrador, Constitutional President of the United Mexican States and the Secretariat of Foreign Affairs have signed this instrument of Ratification.

SOCIAL SECURITY COVERAGE in accordance with the standard A.4.5 (2) and (10), the Government specified the following branches of social security:

DONE at (place), this (day, month, and year).

(stamp with the National Emblem)  (Signature)  (Name)

President Constitutional of the United Mexican States.

(Signature)  (Name)

Secretariat of Foreign Affairs

In the margin a stamp with the National Seal, that says the United Mexican States. Presidency of the Republic.

(NAME), CONSTITUTIONAL PRESIDENT OF THE UNITED MEXICAN STATES, to its inhabitants, makes known:

On (day and month), two thousand _____, the Plenipotentiary of the United Mexican States, duly authorized for that purpose, signed ad referendum the Maritime Labor Convention, 2006 (MLC-2006), made in Geneva, on February 23, 2006, whose text in Spanish it is included in the attached certified copy.

The Convention above was approved by the Senate of the Honorable Congress of the Union, on (day, month, and year), according to a decree published in the Official Diary of the Federation of the (day, month, and year).

The instrument of ratification, signed by the Federal Executive to my office on (day, month, and year), was deposited with the Director-General of the International Labor Convention, (day, month, and year).

Therefore, for its due observance, in compliance with the provisions of Article 89 (I) of the Political Constitution of the United Mexican States, I promulgate this Decree, in the residence of the Federal Executive Power, in Mexico City, the (day, month, and year).

TRANSITORY

SINGLE ARTICLE. - This Decree shall come into force on (day, month, and year).

(Name of the President of the Republic). (Signature). The Secretary of Foreign Affairs, (Name of the Secretary). Signature.

(NAME), LEGAL ADVISOR OF THE SECRETARIAT OF FOREIGN AFFAIRS,

CERTIFIED:

That is the archives of this Secretariat there is a certified copy of the Maritime Labor Convention, 2006, as amended (MLC, 2006), made in Geneva, on February 23, 2006, whose text in Spanish is as follows:
This is a faithful and complete copy in Spanish of the Maritime Labor Convention, 2006, as amended (MLC, 2006), made in Geneva, on February 23, 2006. I extend the present, in (number of pages) useful pages, in Mexico City, on (day, month, and year), in order to incorporate it into the respective enactment decree. (Initialed).
INTERNATIONAL LABOUR CONFERENCE

MARITIME LABOUR CONVENTION, 2006, as amended
MARITIME LABOUR CONVENTION, 2006, as amended

Consolidated text established by the International Labour Office, including the Amendments of 2014 and 2016 to the Code of the Convention.
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PREAMBLE

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninety-fourth Session on 7 February 2006, and

Desiring to create a single, coherent instrument embodying as far as possible all up-to-date standards of existing international maritime labour Conventions and Recommendations, as well as the fundamental principles to be found in other international labour Conventions, in particular:

— the Forced Labour Convention, 1930 (No. 29);
— the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
— the Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
— the Equal Remuneration Convention, 1951 (No. 100);
— the Abolition of Forced Labour Convention, 1957 (No. 105);
— the Discrimination (Employment and Occupation) Convention, 1958 (No. 111);
— the Minimum Age Convention, 1973 (No. 138);
— the Worst Forms of Child Labour Convention, 1999 (No. 182); and

Mindful of the core mandate of the Organization, which is to promote decent conditions of work, and

Recalling the ILO Declaration on Fundamental Principles and Rights at Work, 1998, and

Mindful also that seafarers are covered by the provisions of other ILO instruments and have other rights which are established as fundamental rights and freedoms applicable to all persons, and

Considering that, given the global nature of the shipping industry, seafarers need special protection, and

Mindful also of the international standards on ship safety, human security and quality ship management in the International Convention for the Safety of Life at Sea, 1974, as amended, the Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended, and the seafarer training and competency requirements in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended, and
Recalling that the United Nations Convention on the Law of the Sea, 1982, sets out a general legal framework within which all activities in the oceans and seas must be carried out and is of strategic importance as the basis for national, regional and global action and cooperation in the marine sector, and that its integrity needs to be maintained, and

Recalling that Article 94 of the United Nations Convention on the Law of the Sea, 1982, establishes the duties and obligations of a flag State with regard to, inter alia, labour conditions, crewing and social matters on ships that fly its flag, and

Recalling paragraph 8 of article 19 of the Constitution of the International Labour Organisation which provides that in no case shall the adoption of any Convention or Recommendation by the Conference or the ratification of any Convention by any Member be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for in the Convention or Recommendation, and

Determined that this new instrument should be designed to secure the widest possible acceptability among governments, shipowners and seafarers committed to the principles of decent work, that it should be readily updateable and that it should lend itself to effective implementation and enforcement, and

Having decided upon the adoption of certain proposals for the realization of such an instrument, which is the only item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this twenty-third day of February of the year two thousand and six the following Convention, which may be cited as the Maritime Labour Convention, 2006.

**GENERAL OBLIGATIONS**

**Article I**

1. Each Member which ratifies this Convention undertakes to give complete effect to its provisions in the manner set out in Article VI in order to secure the right of all seafarers to decent employment.

2. Members shall cooperate with each other for the purpose of ensuring the effective implementation and enforcement of this Convention.

**DEFINITIONS AND SCOPE OF APPLICATION**

**Article II**

1. For the purpose of this Convention and unless provided otherwise in particular provisions, the term:
   (a) *competent authority* means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;
   (b) *declaration of maritime labour compliance* means the declaration referred to in Regulation 5.1.3;
(c) **gross tonnage** means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention; for ships covered by the tonnage measurement interim scheme adopted by the International Maritime Organization, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969);

(d) **maritime labour certificate** means the certificate referred to in Regulation 5.1.3;

(e) **requirements of this Convention** refers to the requirements in these Articles and in the Regulations and Part A of the Code of this Convention;

(f) **seafarer** means any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies;

(g) **seafarers' employment agreement** includes both a contract of employment and articles of agreement;

(h) **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;

(i) **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;

(j) **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 organization or persons fulfil certain of the duties or responsibilities on behalf of the shipowner.

2. Except as expressly provided otherwise, this Convention applies to all seafarers.

3. In the event of doubt as to whether any categories of persons are to be regarded as seafarers for the purpose of this Convention, the question shall be determined by the competent authority in each Member after consultation with the shipowners’ and seafarers’ organizations concerned with this question.

4. Except as expressly provided otherwise, this Convention 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 Convention does not apply to warships or naval auxiliaries.

5. In the event of doubt as to whether this Convention applies to a ship or particular category of ships, the question shall be determined by the competent authority in each Member after consultation with the shipowners’ and seafarers’ organizations concerned.

6. Where the competent authority determines that it would not be reasonable or practicable at the present time to apply certain details of the Code referred to in Article VI, paragraph 1, to a ship or particular categories of ships flying the flag of the Member, the relevant provisions of the Code shall not apply to the extent that the subject matter is dealt with differently by national laws or regulations or collective bargaining
agreements or other measures. Such a determination may only be made in consultation with the shipowners’ and seafarers’ organizations concerned and may only be made with respect to ships of less than 200 gross tonnage not engaged in international voyages.

7. Any determinations made by a Member under paragraph 3 or 5 or 6 of this Article shall be communicated to the Director-General of the International Labour Office, who shall notify the Members of the Organization.

8. Unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to the Regulations and the Code.

**FUNDAMENTAL RIGHTS AND PRINCIPLES**

*Article III*

Each Member shall satisfy itself that the provisions of its law and regulations respect, in the context of this Convention, the fundamental rights to:

(a) freedom of association and the effective recognition of the right to collective bargaining;
(b) the elimination of all forms of forced or compulsory labour;
(c) the effective abolition of child labour; and
(d) the elimination of discrimination in respect of employment and occupation.

**SEAFARERS’ EMPLOYMENT AND SOCIAL RIGHTS**

*Article IV*

1. Every seafarer has the right to a safe and secure workplace that complies with safety standards.

2. Every seafarer has a right to fair terms of employment.

3. Every seafarer has a right to decent working and living conditions on board ship.

4. Every seafarer has a right to health protection, medical care, welfare measures and other forms of social protection.

5. Each Member shall ensure, within the limits of its jurisdiction, that the seafarers’ employment and social rights set out in the preceding paragraphs of this Article are fully implemented in accordance with the requirements of this Convention. Unless specified otherwise in the Convention, such implementation may be achieved through national laws or regulations, through applicable collective bargaining agreements or through other measures or in practice.

**IMPLEMENTATION AND ENFORCEMENT RESPONSIBILITIES**

*Article V*

1. Each Member shall implement and enforce laws or regulations or other measures that it has adopted to fulfil its commitments under this Convention with respect to ships and seafarers under its jurisdiction.
2. Each Member shall effectively exercise its jurisdiction and control over ships that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention, including regular inspections, reporting, monitoring and legal proceedings under the applicable laws.

3. Each Member shall ensure that ships that fly its flag carry a maritime labour certificate and a declaration of maritime labour compliance as required by this Convention.

4. A ship to which this Convention applies may, in accordance with international law, be inspected by a Member other than the flag State, when the ship is in one of its ports, to determine whether the ship is in compliance with the requirements of this Convention.

5. Each Member shall effectively exercise its jurisdiction and control over seafarer recruitment and placement services, if these are established in its territory.

6. 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 measures under its laws which are adequate to discourage such violations.

7. Each Member shall implement its responsibilities under this Convention in such a way as 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 it.

**REGULATIONS AND PARTS A AND B OF THE CODE**

**Article VI**

1. The Regulations and the provisions of Part A of the Code are mandatory. The provisions of Part B of the Code are not mandatory.

2. Each Member undertakes to respect the rights and principles set out in the Regulations and to implement each Regulation in the manner set out in the corresponding provisions of Part A of the Code. In addition, the Member shall give due consideration to implementing its responsibilities in the manner provided for in Part B of the Code.

3. A Member which is not in a position to implement the rights and principles in the manner set out in Part A of the Code may, unless expressly provided otherwise in this Convention, implement Part A through provisions in its laws and regulations or other measures which are substantially equivalent to the provisions of Part A.

4. For the sole purpose of paragraph 3 of this Article, any law, regulation, collective agreement or other implementing measure shall be considered to be substantially equivalent, in the context of this Convention, if the Member satisfies itself that:
   (a) it is conducive to the full achievement of the general object and purpose of the provision or provisions of Part A of the Code concerned; and
   (b) it gives effect to the provision or provisions of Part A of the Code concerned.
CONSULTATION WITH SHIPOWNERS’ AND SEAFARERS’ ORGANIZATIONS

Article VII

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

ENTRY INTO FORCE

Article VIII

1. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

2. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered by the Director-General.

3. This Convention shall come into force 12 months after the date on which there have been registered ratifications by at least 30 Members with a total share in the world gross tonnage of ships of at least 33 per cent.

4. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

DENUNCIATION

Article IX

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which does not, within the year following the expiration of the period of ten years mentioned in paragraph 1 of this Article, exercise the right of denunciation provided for in this Article, shall be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each new period of ten years under the terms provided for in this Article.

EFFECT OF ENTRY INTO FORCE

Article X

This Convention revises the following Conventions:
Minimum Age (Sea) Convention, 1920 (No. 7)
Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)
Placing of Seamen Convention, 1920 (No. 9)
Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)
Seamen’s Articles of Agreement Convention, 1926 (No. 22)
Repatriation of Seamen Convention, 1926 (No. 23)
Officers’ Competency Certificates Convention, 1936 (No. 53)
Holidays with Pay (Sea) Convention, 1936 (No. 54)
Shipowners’ Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)
Sickness Insurance (Sea) Convention, 1936 (No. 56)
Hours of Work and Manning (Sea) Convention, 1936 (No. 57)
Minimum Age (Sea) Convention (Revised), 1936 (No. 58)
Food and Catering (Ships’ Crews) Convention, 1946 (No. 68)
Certification of Ships’ Cooks Convention, 1946 (No. 69)
Social Security (Seafarers) Convention, 1946 (No. 70)
Paid Vacations (Seafarers) Convention, 1946 (No. 72)
Medical Examination (Seafarers) Convention, 1946 (No. 73)
Certification of Able Seamen Convention, 1946 (No. 74)
Accommodation of Crews Convention, 1946 (No. 75)
Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76)
Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91)
Accommodation of Crews Convention (Revised), 1949 (No. 92)
Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93)
Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109)
Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)
Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)
Continuity of Employment (Seafarers) Convention, 1976 (No. 145)
Seafarers’ Annual Leave with Pay Convention, 1976 (No. 146)
Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)
Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)
Seafarers’ Welfare Convention, 1987 (No. 163)
Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)
Social Security (Seafarers) Convention (Revised), 1987 (No. 165)
Repatriation of Seafarers Convention (Revised), 1987 (No. 166)
Labour Inspection (Seafarers) Convention, 1996 (No. 178)
Recruitment and Placement of Seafarers Convention, 1996 (No. 179)
Seafarers’ Hours of Work and the Manning of Ships Convention, 1996 (No. 180).
DEPOSITARY FUNCTIONS

Article XI

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, acceptances and denunciations under this Convention.

2. When the conditions provided for in paragraph 3 of Article VIII have been fulfilled, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

Article XII

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, acceptances and denunciations registered under this Convention.

SPECIAL TRIPARTITE COMMITTEE

Article XIII

1. The Governing Body of the International Labour Office shall keep the working of this Convention under continuous review through a committee established by it with special competence in the area of maritime labour standards.

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

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

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

AMENDMENT OF THIS CONVENTION

Article XIV

1. Amendments to any of the provisions of this Convention may be adopted by the General Conference of the International Labour Organization in the framework of article 19 of the Constitution of the International Labour Organisation and the rules and procedures of the Organization for the adoption of Conventions. Amendments to the Code may also be adopted following the procedures in Article XV.
2. In the case of Members whose ratifications of this Convention were registered before the adoption of the amendment, the text of the amendment shall be communicated to them for ratification.

3. In the case of other Members of the Organization, the text of the Convention as amended shall be communicated to them for ratification in accordance with article 19 of the Constitution.

4. An amendment shall be deemed to have been accepted on the date when there have been registered ratifications, of the amendment or of the Convention as amended, as the case may be, by at least 30 Members with a total share in the world gross tonnage of ships of at least 33 per cent.

5. An amendment adopted in the framework of article 19 of the Constitution shall be binding only upon those Members of the Organization whose ratifications have been registered by the Director-General of the International Labour Office.

6. For any Member referred to in paragraph 2 of this Article, an amendment shall come into force 12 months after the date of acceptance referred to in paragraph 4 of this Article or 12 months after the date on which its ratification of the amendment has been registered, whichever date is later.

7. Subject to paragraph 9 of this Article, for Members referred to in paragraph 3 of this Article, the Convention as amended shall come into force 12 months after the date of acceptance referred to in paragraph 4 of this Article or 12 months after the date on which their ratifications of the Convention have been registered, whichever date is later.

8. For those Members whose ratification of this Convention was registered before the adoption of an amendment but which have not ratified the amendment, this Convention shall remain in force without the amendment concerned.

9. Any Member whose ratification of this Convention is registered after the adoption of the amendment but before the date referred to in paragraph 4 of this Article may, in a declaration accompanying the instrument of ratification, specify that its ratification relates to the Convention without the amendment concerned. In the case of a ratification with such a declaration, the Convention shall come into force for the Member concerned 12 months after the date on which the ratification was registered. Where an instrument of ratification is not accompanied by such a declaration, or where the ratification is registered on or after the date referred to in paragraph 4, the Convention shall come into force for the Member concerned 12 months after the date on which the ratification was registered and, upon its entry into force in accordance with paragraph 7 of this Article, the amendment shall be binding on the Member concerned unless the amendment provides otherwise.

AMENDMENTS TO THE CODE

Article XV

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

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

3. Having verified that the proposal for amendment meets the requirements of paragraph 2 of this Article, the Director-General shall promptly communicate the proposal, accompanied by any comments or suggestions deemed appropriate, to all Members of the Organization, with an invitation to them to transmit their observations or suggestions concerning the proposal within a period of six months or such other period (which shall not be less than three months nor more than nine months) prescribed by the Governing Body.

4. At the end of the period referred to in paragraph 3 of this Article, the proposal, accompanied by a summary of any observations or suggestions made under that paragraph, shall be transmitted to the Committee for consideration at a meeting. An amendment shall be considered adopted by the Committee if:
   (a) at least half the governments of Members that have ratified this Convention are represented in the meeting at which the proposal is considered; and
   (b) a majority of at least two-thirds of the Committee members vote in favour of the amendment; and
   (c) this majority comprises the votes in favour of at least half the government voting power, half the Shipowner voting power and half the Seafarer voting power of the Committee members registered at the meeting when the proposal is put to the vote.

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

6. Amendments approved by the Conference shall be notified by the Director-General to each of the Members whose ratifications of this Convention were registered before the date of such approval by the Conference. These Members are referred to below as “the ratifying Members”. The notification shall contain a reference to the present Article and shall prescribe the period for the communication of any formal disagreement. This period shall be two years from the date of the notification unless, at the time of approval, the Conference has set a different period, which shall be a period of at least one year. A copy of the notification shall be communicated to the other Members of the Organization for their information.

7. An amendment approved by the Conference shall be deemed to have been accepted unless, by the end of the prescribed period, formal expressions of disagreement have been received by the Director-General from more than 40 per cent of the Members which have ratified the Convention and which represent not less than 40 per cent of the gross tonnage of the ships of the Members which have ratified the Convention.

8. An amendment deemed to have been accepted shall come into force six months after the end of the prescribed period for all the ratifying Members except those which had formally expressed their disagreement in accordance with paragraph 7
of this Article and have not withdrawn such disagreement in accordance with para-
graph 11. However:

(a) before the end of the prescribed period, any ratifying Member may give notice to
the Director-General that it shall be bound by the amendment only after a sub-
sequent express notification of its acceptance; and
(b) before the date of entry into force of the amendment, any ratifying Member may
give notice to the Director-General that it will not give effect to that amendment
for a specified period.

9. An amendment which is the subject of a notice referred to in paragraph 8(a)
of this Article shall enter into force for the Member giving such notice six months after
the Member has notified the Director-General of its acceptance of the amendment or
on the date on which the amendment first comes into force, whichever date is later.

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

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

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

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

**AUTHORITATIVE LANGUAGES**

**Article XVI**

The English and French versions of the text of this Convention are equally
authoritative.
EXPLANATORY NOTE TO THE REGULATIONS AND CODE OF THE MARITIME LABOUR CONVENTION

1. This explanatory note, which does not form part of the Maritime Labour Convention, is intended as a general guide to the Convention.

2. The Convention comprises three different but related parts: the Articles, the Regulations and the Code.

3. The Articles and Regulations set out the core rights and principles and the basic obligations of Members ratifying the Convention. The Articles and Regulations can only be changed by the Conference in the framework of article 19 of the Constitution of the International Labour Organisation (see Article XIV of the Convention).

4. The Code contains the details for the implementation of the Regulations. It comprises Part A (mandatory Standards) and Part B (non-mandatory Guidelines). The Code can be amended through the simplified procedure set out in Article XV of the Convention. Since the Code relates to detailed implementation, amendments to it must remain within the general scope of the Articles and Regulations.

5. The Regulations and the Code are organized into general areas under five Titles:

Title 1: Minimum requirements for seafarers to work on a ship
Title 2: Conditions of employment
Title 3: Accommodation, recreational facilities, food and catering
Title 4: Health protection, medical care, welfare and social security protection
Title 5: Compliance and enforcement

6. Each Title contains groups of provisions relating to a particular right or principle (or enforcement measure in Title 5), with connected numbering. The first group in Title 1, for example, consists of Regulation 1.1, Standard A1.1 and Guideline B1.1, relating to minimum age.

7. The Convention has three underlying purposes:

(a) to lay down, in its Articles and Regulations, a firm set of rights and principles;
(b) to allow, through the Code, a considerable degree of flexibility in the way Members implement those rights and principles; and
(c) to ensure, through Title 5, that the rights and principles are properly complied with and enforced.

8. There are two main areas for flexibility in implementation: one is the possibility for a Member, where necessary (see Article VI, paragraph 3), to give effect to the detailed requirements of Part A of the Code through substantial equivalence (as defined in Article VI, paragraph 4).

9. 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, Members which have ratified this 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. For example, Standard A4.1 requires all ships to provide prompt access to the necessary medicines for medical care on board ship (paragraph 1(b)) and to “carry a medicine chest” (paragraph 4(a)). The fulfilment in good faith of this latter obligation clearly means something more than simply having a medicine chest on board each ship. A more precise indication of what is involved is provided in the corresponding Guideline B4.1.1 (paragraph 4) so as to ensure that the contents of the chest are properly stored, used and maintained.

10. Members which have ratified this Convention are not bound by the guidance concerned and, as indicated in the provisions in Title 5 on port State control, inspections would deal only with the relevant requirements of this Convention (Articles, Regulations and the Standards in Part A). However, Members are required under paragraph 2 of Article VI to give due consideration to implementing their responsibilities under Part A of the Code in the manner provided for in Part B. If, having duly considered the relevant Guidelines, a Member decides to provide for different arrangements which ensure the proper storage, use and maintenance of the contents of the medicine chest, to take the example given above, as required by the Standard in Part A, then that is acceptable. On the other hand, by following the guidance provided in Part B, the Member concerned, as well as the ILO bodies responsible for reviewing implementation of international labour Conventions, can be sure without further consideration that the arrangements the Member has provided for are adequate to implement the responsibilities under Part A to which the Guideline relates.
THE REGULATIONS AND THE CODE
1. Minimum requirements for seafarers to work on a ship

Regulation 1.1 – Minimum age

Purpose: To ensure that no under-age persons work on a ship

1. No person below the minimum age shall be employed or engaged or work on a ship.

2. The minimum age at the time of the initial entry into force of this Convention is 16 years.

3. A higher minimum age shall be required in the circumstances set out in the Code.

Standard A1.1 – Minimum age

1. The employment, engagement or work on board a ship of any person under the age of 16 shall be prohibited.

2. Night work of seafarers under the age of 18 shall be prohibited. For the purposes of this Standard, “night” shall be defined in accordance with national law and practice. It shall cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m.

3. An exception to strict compliance with the night work restriction may be made by the competent authority when:
   (a) the effective training of the seafarers concerned, in accordance with established programmes and schedules, would be impaired; or
   (b) the specific nature of the duty or a recognized training programme requires that the seafarers covered by the exception perform duties at night and the authority determines, after consultation with the shipowners’ and seafarers’ organizations concerned, 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 shall be prohibited where the work is likely to jeopardize their health or safety. The types of such work shall be determined by national laws or regulations or by the competent authority, after consultation with the shipowners’ and seafarers’ organizations concerned, in accordance with relevant international standards.

Guideline B1.1 – Minimum age

1. When regulating working and living conditions, Members should give special attention to the needs of young persons under the age of 18.
Regulation 1.2 – Medical certificate

Purpose: To ensure that all seafarers are medically fit to perform their duties at sea

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

2. Exceptions can only be permitted as prescribed in the Code.

Standard A1.2 – Medical certificate

1. The competent authority shall require that, prior to beginning work on a ship, seafarers hold a valid medical certificate attesting that they are medically fit to perform the duties they are to carry out at sea.

2. In order to ensure that medical certificates genuinely reflect seafarers’ state of health, in light of the duties they are to perform, the competent authority shall, after consultation with the shipowners’ and seafarers’ organizations concerned, and giving due consideration to applicable international guidelines referred to in Part B of this Code, prescribe the nature of the medical examination and certificate.

3. This Standard is without prejudice to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (“STCW”). A medical certificate issued in accordance with the requirements of STCW shall be accepted by the competent authority, for the purpose of Regulation 1.2. A medical certificate meeting the substance of those requirements, in the case of seafarers not covered by STCW, shall similarly be accepted.

4. The medical certificate shall be issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate. Practitioners must enjoy full professional independence in exercising their medical judgement in undertaking medical examination procedures.

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:

(a) 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

(b) 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 under STCW:

(a) a medical certificate shall be 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 shall be one year;

(b) a certification of colour vision shall be valid for a maximum period of six years.
8. In urgent cases the competent authority may permit a seafarer to work without a valid medical certificate until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that:
   (a) the period of such permission does not exceed three months; and
   (b) 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 medical practitioner, 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.

Guideline B1.2 – Medical certificate

Guideline B1.2.1 – International guidelines

1. The competent authority, medical practitioners, examiners, shipowners, seafarers’ representatives and all other persons concerned with the conduct of medical fitness examinations of seafarer candidates and serving seafarers should follow the ILO/WHO Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers, including any subsequent versions, and any other applicable international guidelines published by the International Labour Organization, the International Maritime Organization or the World Health Organization.

Regulation 1.3 – Training and qualifications

Purpose: To ensure that seafarers are trained or qualified to carry out their duties on board ship

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 be permitted to work on a ship unless they have successfully completed training for personal safety on board ship.

3. Training and certification in accordance with the mandatory instruments adopted by the International Maritime Organization shall be considered as meeting the requirements of paragraphs 1 and 2 of this Regulation.

4. Any Member which, at the time of its ratification of this Convention, was bound by the Certification of Able Seamen Convention, 1946 (No. 74), shall continue to carry out the obligations under that Convention unless and until mandatory provisions covering its subject matter have been adopted by the International Maritime Organization and entered into force, or until five years have elapsed since the entry into force of this Convention in accordance with paragraph 3 of Article VIII, whichever date is earlier.
Regulation 1.4 – Recruitment and placement

Purpose: To ensure that seafarers have access to an efficient and well-regulated seafarer recruitment and placement system

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

2. Seafarer recruitment and placement services operating in a Member’s territory shall conform to the standards set out in the Code.

3. Each Member shall require, in respect of seafarers who work on ships that fly its flag, that shipowners who use seafarer recruitment and placement services that are based in countries or territories in which this Convention does not apply, ensure that those services conform to the requirements set out in the Code.

Standard A1.4 – Recruitment and placement

1. Each Member that operates a public seafarer recruitment and placement service shall ensure that the service is operated in an orderly manner that protects and promotes seafarers’ employment rights as provided in this Convention.

2. Where a Member has private seafarer recruitment and placement services operating in its territory whose primary purpose is the recruitment and placement of seafarers or which recruit and place a significant number of seafarers, they shall be operated only in conformity with a standardized system of licensing or certification or other form of regulation. This system shall be established, modified or changed only after consultation with the shipowners’ and seafarers’ organizations concerned. In the event of doubt as to whether this Convention applies to a private recruitment and placement service, the question shall be determined by the competent authority in each Member after consultation with the shipowners’ and seafarers’ organizations concerned. Undue proliferation of private seafarer recruitment and placement services shall not be encouraged.

3. The provisions of paragraph 2 of this Standard shall also apply – to the extent that they are determined by the competent authority, in consultation with the shipowners’ and seafarers’ organizations concerned, to be appropriate – in the context of recruitment and placement services operated by a seafarers’ organization in the territory of the Member for the supply of seafarers who are nationals of that Member to ships which fly its flag. The services covered by this paragraph are those fulfilling the following conditions:

   (a) the recruitment and placement service is operated pursuant to a collective bargaining agreement between that organization and a shipowner;
   (b) both the seafarers’ organization and the shipowner are based in the territory of the Member;
   (c) the Member has national laws or regulations or a procedure to authorize or register the collective bargaining agreement permitting the operation of the recruitment and placement service; and
   (d) the recruitment and placement service is operated in an orderly manner and measures are in place to protect and promote seafarers’ employment rights comparable to those provided in paragraph 5 of this Standard.
4. Nothing in this Standard or Regulation 1.4 shall be deemed to:

(a) prevent a Member from maintaining a free public seafarer recruitment and placement service for seafarers in the framework of a policy to meet the needs of seafarers and shipowners, whether the service forms part of or is coordinated with a public employment service for all workers and employers; or

(b) impose on a Member the obligation to establish a system for the operation of private seafarer recruitment or placement services in its territory.

5. A Member adopting a system referred to in paragraph 2 of this Standard shall, in its laws and regulations or other measures, at a minimum:

(a) prohibit seafarer recruitment and placement services from using means, mechanisms or lists intended to prevent or deter seafarers from gaining employment for which they are qualified;

(b) require that no fees or other charges for seafarer recruitment or placement or for providing employment to seafarers are borne directly or indirectly, in whole or in part, by 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

(c) ensure that seafarer recruitment and placement services operating in its territory:
   (i) maintain an up-to-date register of all seafarers recruited or placed through them, to be available for inspection by the competent authority;
   (ii) 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;
   (iii) 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;
   (iv) make sure, as far as practicable, that the shipowner has the means to protect seafarers from being stranded in a foreign port;
   (v) examine and respond to any complaint concerning their activities and advise the competent authority of any unresolved complaint;
   (vi) 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.

6. The competent authority shall closely supervise and control all seafarer recruitment and placement services operating in the territory of the Member concerned. Any licences or certificates or similar authorizations for the operation of private services in the territory 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 competent authority 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.

8. Each Member which has ratified 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. Measures taken to this effect by the Member that has ratified this Convention shall not be in contradiction with the principle of free movement of workers stipulated by the treaties to which the two States concerned may be parties.

9. Each Member which has ratified this Convention shall require that shipowners of ships that fly its flag, who use seafarer recruitment and placement services based in countries or territories in which this Convention does not apply, ensure, as far as practicable, that those services meet the requirements of this Standard.

10. Nothing in this Standard shall be understood as diminishing the obligations and responsibilities of shipowners or of a Member with respect to ships that fly its flag.

Guideline B1.4 – Recruitment and placement

Guideline B1.4.1 – Organizational and operational guidelines

1. When fulfilling its obligations under Standard A1.4, paragraph 1, the competent authority should consider:
   (a) taking the necessary measures to promote effective cooperation among seafarer recruitment and placement services, whether public or private;
   (b) the needs of the maritime industry at both the national and international levels, when developing training programmes for seafarers that form the part of the ship's crew that is responsible for the ship's safe navigation and pollution prevention operations, with the participation of shipowners, seafarers and the relevant training institutions;
   (c) making suitable arrangements for the cooperation of representative shipowners’ and seafarers’ organizations in the organization and operation of the public seafarer recruitment and placement services, where they exist;
   (d) determining, with due regard to the right to privacy and the need to protect confidentiality, the conditions under which seafarers’ personal data may be processed by seafarer recruitment and placement services, including the collection, storage, combination and communication of such data to third parties;
   (e) maintaining an arrangement for the collection and analysis of all relevant information on the maritime labour market, including the current and prospective supply of seafarers that work as crew classified by age, sex, rank and qualifications, and the industry’s requirements, the collection of data on age or sex being admissible only for statistical purposes or if used in the framework of a programme to prevent discrimination based on age or sex;
   (f) ensuring that the staff responsible for the supervision of public and private seafarer recruitment and placement services for ship's crew with responsibility for the ship's safe navigation and pollution prevention operations have had adequate...
Minimum requirements for seafarers to work on a ship

training, including approved sea-service experience, and have relevant knowledge of the maritime industry, including the relevant maritime international instruments on training, certification and labour standards;

(g) prescribing operational standards and adopting codes of conduct and ethical practices for seafarer recruitment and placement services; and

(h) exercising supervision of the licensing or certification system on the basis of a system of quality standards.

2. In establishing the system referred to in Standard A1.4, paragraph 2, each Member should consider requiring seafarer recruitment and placement services, established in its territory, to develop and maintain verifiable operational practices. These operational practices for private seafarer recruitment and placement services and, to the extent that they are applicable, for public seafarer recruitment and placement services should address the following matters:

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

(b) 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:

(i) the seafarers’ qualifications;

(ii) record of employment;

(iii) personal data relevant to employment; and

(iv) medical data relevant to employment;

(c) 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;

(d) 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;

(e) 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;

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

(g) 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;

(h) 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;

(i) 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;

(j) 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
(k) 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.

3. Consideration should be given to encouraging international cooperation between Members and relevant organizations, such as:

(a) the systematic exchange of information on the maritime industry and labour market on a bilateral, regional and multilateral basis;

(b) the exchange of information on maritime labour legislation;

(c) the harmonization of policies, working methods and legislation governing recruitment and placement of seafarers;

(d) the improvement of procedures and conditions for the international recruitment and placement of seafarers; and

(e) workforce planning, taking account of the supply of and demand for seafarers and the requirements of the maritime industry.
TITLE 2. CONDITIONS OF EMPLOYMENT

Regulation 2.1 – Seafarers’ employment agreements

Purpose: To ensure that seafarers have a fair employment agreement

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 the Code.

2. Seafarers’ employment agreements shall be agreed to by the seafarer 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. To the extent compatible with the Member’s national law and practice, seafarers’ employment agreements shall be understood to incorporate any applicable collective bargaining agreements.

Standard A2.1 – Seafarers’ employment agreements

1. Each Member shall adopt laws or regulations requiring that ships that fly its flag comply with the following requirements:

(a) seafarers working on ships that fly its flag 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 Convention;

(b) 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;

(c) the shipowner and seafarer concerned shall each have a signed original of the seafarers’ employment agreement;

(d) measures shall be taken to ensure that clear information as to the conditions of their 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

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

2. 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):

(a) a copy of a standard form of the agreement; and
(b) the portions of the collective bargaining agreement that are subject to a port State inspection under Regulation 5.2.

3. The document referred to in paragraph 1(e) of this Standard 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 determined by national law.

4. Each Member shall adopt laws and regulations specifying the matters that are to be included in all seafarers’ employment agreements governed by its national law. Seafarers’ employment agreements shall in all cases contain the following particulars:

(a) the seafarer’s full name, date of birth or age, and birthplace;
(b) the shipowner’s name and address;
(c) the place where and date when the seafarers’ employment agreement is entered into;
(d) the capacity in which the seafarer is to be employed;
(e) the amount of the seafarer’s wages or, where applicable, the formula used for calculating them;
(f) the amount of paid annual leave or, where applicable, the formula used for calculating it;
(g) the termination of the agreement and the conditions thereof, including:
   (i) 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;
   (ii) if the agreement has been made for a definite period, the date fixed for its expiry; and
   (iii) 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;
(h) the health and social security protection benefits to be provided to the seafarer by the shipowner;
(i) the seafarer’s entitlement to repatriation;
(j) reference to the collective bargaining agreement, if applicable; and
(k) any other particulars which national law may require.

5. Each Member shall adopt laws or regulations establishing minimum notice periods to be given by the seafarers and shipowners for the early termination of a seafarers’ employment agreement. The duration of these minimum periods shall be determined after consultation with the shipowners’ and seafarers’ organizations concerned, but shall not be shorter than seven days.

6. A notice period shorter than the minimum may be given in circumstances which are recognized under national law or regulations or applicable collective bargaining agreements as justifying termination of the employment agreement at shorter notice or without notice. In determining those circumstances, each Member shall
ensure that the need of the seafarer to terminate, without penalty, the employment agreement on shorter notice or without notice for compassionate or other urgent reasons is taken into account.

Guideline B2.1 – Seafarers’ employment agreements

Guideline B2.1.1 – Record of employment

1. In determining the particulars to be recorded in the record of employment referred to in Standard A2.1, paragraph 1(e), each Member should ensure that this document contains sufficient information, with a translation in English, to facilitate the acquisition of further work or to satisfy the sea-service requirements for upgrading or promotion. A seafarers’ discharge book may satisfy the requirements of paragraph 1(e) of that Standard.

Regulation 2.2 – Wages

Purpose: To ensure that seafarers are paid for their services

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

Standard A2.2 – Wages

1. Each Member shall require that payments due to seafarers working on ships that fly its flag are made at no greater than monthly intervals and in accordance with any applicable collective agreement.

2. 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.

3. Each Member shall require that shipowners take measures, such as those set out in paragraph 4 of this Standard, to provide seafarers with a means to transmit all or part of their earnings to their families or dependants or legal beneficiaries.

4. Measures to ensure that seafarers are able to transmit their earnings to their families include:
   (a) 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
   (b) 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 Standard shall be reasonable in amount, and the rate of currency exchange, unless otherwise provided, shall, in accordance with national laws or regulations, be at the prevailing market rate or the official published rate and not unfavourable to the seafarer.

6. Member that adopts national laws or regulations governing seafarers’ wages shall give due consideration to the guidance provided in Part B of the Code.
Guideline B2.2 – Wages

Guideline B2.2.1 – Specific definitions

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

(a) **able seafarer** means any seafarer who is deemed competent to perform any duty which may be required of a rating serving in the deck department, other than the duties of a supervisory or specialist rating, or who is defined as such by national laws, regulations or practice, or by collective agreement;

(b) **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;

(c) **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;

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

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

Guideline B2.2.2 – Calculation and payment

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

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

(b) for the purpose of calculating overtime, the number of normal hours per week covered by the basic pay or wages should be prescribed by national laws or regulations, if not determined by collective agreements, but should not exceed 48 hours per week; collective agreements may provide for a different but not less favourable treatment;

(c) the rate or rates of compensation for overtime, which should be not less than one and one-quarter times the basic pay or wages per hour, should be prescribed by national laws or regulations or by collective agreements, if applicable; and

(d) 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.

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

(a) 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;

(b) 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 one-quarter times the basic rate corresponding to the normal hours of work as defined in paragraph 1 of this Guideline; the same principle should be applied to the overtime hours included in the consolidated wage;
remuneration for that portion of the fully or partially consolidated wage representing the normal hours of work as defined in paragraph 1(a) of this Guideline should be no less than the applicable minimum wage; and

for seafarers whose wages are partially consolidated, records of all overtime worked should be maintained and endorsed as provided for in paragraph 1(d) of this Guideline.

3. National laws or regulations or collective agreements may provide for compensation for overtime or for work performed on the weekly day of rest and on public holidays by at least equivalent time off duty and off the ship or additional leave in lieu of remuneration or any other compensation so provided.

4. National laws and regulations adopted after consulting the representative shipowners’ and seafarers’ organizations or, as appropriate, collective agreements should take into account the following principles:

(a) 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;

(b) 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;

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

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

(e) 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;

(f) wages should be paid directly to seafarers’ designated bank accounts unless they request otherwise in writing;

(g) subject to subparagraph (h) of this paragraph, the shipowner should impose no limit on seafarers’ freedom to dispose of their remuneration;

(h) deduction from remuneration should be permitted only if:

(i) there is an express provision in national laws or regulations or in an applicable collective agreement and the seafarer has been informed, in the manner deemed most appropriate by the competent authority, of the conditions for such deductions; and

(ii) the deductions do not in total exceed the limit that may have been established by national laws or regulations or collective agreements or court decisions for making such deductions;

(i) no deductions should be made from a seafarer’s remuneration in respect of obtaining or retaining employment;

(j) monetary fines against seafarers other than those authorized by national laws or regulations, collective agreements or other measures should be prohibited;
(k) the competent authority should 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; and

(l) to the extent that seafarers’ claims for wages and other sums due in respect of their employment are not secured in accordance with the provisions of the International Convention on Maritime Liens and Mortgages, 1993, such claims should be protected in accordance with the Protection of Workers’ Claims (Employer’s Insolvency) Convention, 1992 (No. 173).

5. Each Member should, after consulting with representative shipowners’ and seafarers’ organizations, have procedures to investigate complaints relating to any matter contained in this Guideline.

Guideline B2.2.3 – Minimum wages

1. Without prejudice to the principle of free collective bargaining, each Member should, after consulting representative shipowners’ and seafarers’ organizations, establish procedures for determining minimum wages for seafarers. Representative shipowners’ and seafarers’ organizations should participate in the operation of such procedures.

2. When establishing such procedures and in fixing minimum wages, due regard should be given to international labour standards concerning minimum wage fixing, as well as the following principles:

   (a) 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

   (b) the level of minimum wages should be adjusted to take into account changes in the cost of living and in the needs of seafarers.

3. The competent authority should ensure:

   (a) by means of a system of supervision and sanctions, that wages are paid at not less than the rate or rates fixed; and

   (b) 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.

Guideline B2.2.4 – Minimum monthly basic pay or wage figure for able seafarers

1. The basic pay or wages for a calendar month of service for an able seafarer should be no less than the amount periodically set by the Joint Maritime Commission or another body authorized by the Governing Body of the International Labour Office. Upon a decision of the Governing Body, the Director-General shall notify any revised amount to the Members of the Organization.

2. Nothing in this Guideline should be deemed to prejudice arrangements agreed between shipowners or their organizations and seafarers’ organizations with regard to the regulation of standard minimum terms and conditions of employment, provided such terms and conditions are recognized by the competent authority.

Regulation 2.3 – Hours of work and hours of rest

Purpose: To ensure that seafarers have regulated hours of work or hours of rest

1. Each Member shall ensure that the hours of work or hours of rest for seafarers are regulated.

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2. Each Member shall establish maximum hours of work or minimum hours of rest over given periods that are consistent with the provisions in the Code.

_Standard A2.3 – Hours of work and hours of rest_

1. For the purpose of this Standard, the term:
   (a) _hours of work_ means time during which seafarers are required to do work on account of the ship;
   (b) _hours of rest_ means time outside hours of work; this term does not include short breaks.

2. Each Member shall within the limits set out in paragraphs 5 to 8 of this Standard fix either a maximum number of hours of work which shall not be exceeded in a given period of time, or a minimum number of hours of rest which shall be provided in a given period of time.

3. Each Member acknowledges that the normal working hours’ standard for seafarers, like that for other workers, 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 the Member from having procedures to authorize or register a collective agreement which determines seafarers’ normal working hours on a basis no less favourable than this Standard.

4. In determining the national standards, each Member shall take account of the danger posed by the fatigue of seafarers, especially those whose duties involve navigational safety and the safe and secure operation of the ship.

5. The limits on hours of work or rest shall be as follows:
   (a) maximum hours of work shall not exceed:
      (i) 14 hours in any 24-hour period; and
      (ii) 72 hours in any seven-day period;
   or
   (b) minimum hours of rest shall not be less than:
      (i) ten hours in any 24-hour period; and
      (ii) 77 hours in any seven-day period.

6. 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.

7. 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.

8. 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.

9. If no collective agreement or arbitration award exists or if the competent authority determines that the provisions in the agreement or award in respect of paragraph 7 or 8 of this Standard are inadequate, the competent authority shall determine such provisions to ensure the seafarers concerned have sufficient rest.
10. Each Member shall require the posting, in an easily accessible place, of a table with the shipboard working arrangements, which shall contain for every position at least:
   (a) the schedule of service at sea and service in port; and
   (b) the maximum hours of work or the minimum hours of rest required by national laws or regulations or applicable collective agreements.

11. The table referred to in paragraph 10 of this Standard shall be established in a standardized format in the working language or languages of the ship and in English.

12. Each Member shall require that records of seafarers’ daily hours of work or of their daily hours of rest be maintained to allow monitoring of compliance with paragraphs 5 to 11 inclusive of this Standard. The records shall be in a standardized format established by the competent authority taking into account any available guidelines of the International Labour Organization or shall be in any standard format prepared by the Organization. They shall be in the languages required by paragraph 11 of this Standard. 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.

13. Nothing in paragraphs 5 and 6 of this Standard shall prevent a Member from having national laws or regulations or a procedure for the competent authority to authorize or register collective agreements permitting exceptions to the limits set out. Such exceptions shall, as far as possible, follow the provisions of this Standard but may take account of more frequent or longer leave periods or the granting of compensatory leave for watchkeeping seafarers or seafarers working on board ships on short voyages.

14. Nothing in this Standard 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.

Guideline B2.3 – Hours of work and hours of rest

Guideline B2.3.1 – Young seafarers

1. At sea and in port the following provisions should apply to all young seafarers under the age of 18:
   (a) 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;
   (b) 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
   (c) a 15-minute rest period as soon as possible following each two hours of continuous work should be allowed.

2. Exceptionally, the provisions of paragraph 1 of this Guideline need not be applied if:
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(a) they are impracticable for young seafarers in the deck, engine room and catering departments assigned to watchkeeping duties or working on a rostered shift-work system; or
(b) the effective training of young seafarers in accordance with established programmes and schedules would be impaired.

3. Such exceptional situations should be recorded, with reasons, and signed by the master.

4. Paragraph 1 of this Guideline does not exempt young seafarers from the general obligation on all seafarers to work during any emergency as provided for in Standard A2.3, paragraph 14.

Regulation 2.4 – Entitlement to leave

Purpose: To ensure that seafarers have adequate leave

1. Each Member shall require that seafarers employed on ships that fly its flag are given paid annual leave under appropriate conditions, in accordance with the provisions in the Code.

2. Seafarers shall be granted shore leave to benefit their health and well-being and consistent with the operational requirements of their positions.

Standard A2.4 – Entitlement to leave

1. Each Member shall adopt laws and regulations determining the minimum standards for annual leave for seafarers serving on ships that fly its flag, taking proper account of the special needs of seafarers with respect to such leave.

2. Subject to any collective agreement or laws or regulations providing for an appropriate method of calculation that takes account of the special needs of seafarers in this respect, the annual leave with pay entitlement shall be calculated on the basis of a minimum of 2.5 calendar days per month of employment. The manner in which the length of service is calculated shall be determined by the competent authority or through the appropriate machinery in each country. Justified absences from work shall not be considered as annual leave.

3. Any agreement to forgo the minimum annual leave with pay prescribed in this Standard, except in cases provided for by the competent authority, shall be prohibited.

Guideline B2.4 – Entitlement to leave

Guideline B2.4.1 – Calculation of entitlement

1. Under conditions as determined by the competent authority or through the appropriate machinery in each country, service off-articles should be counted as part of the period of service.

2. Under conditions as determined by the competent authority or in an applicable collective agreement, absence from work to attend an approved maritime vocational training course or for such reasons as illness or injury or for maternity should be counted as part of the period of service.
3. 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.

4. The following should not be counted as part of annual leave with pay:
   (a) public and customary holidays recognized as such in the flag State, whether or not they fall during the annual leave with pay;
   (b) periods of incapacity for work resulting from illness or injury or from maternity, under conditions as determined by the competent authority or through the appropriate machinery in each country;
   (c) temporary shore leave granted to a seafarer while under an employment agreement; and
   (d) compensatory leave of any kind, under conditions as determined by the competent authority or through the appropriate machinery in each country.

Guideline B2.4.2 – Taking of annual leave

1. The time at which annual leave is to be taken should, unless it is fixed by regulation, collective agreement, arbitration award or other means consistent with national practice, be determined by the shipowner after consultation and, as far as possible, in agreement with the seafarers concerned or their representatives.

2. Seafarers should in principle 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 except under the provisions of a seafarers’ employment agreement or of national laws or regulations.

3. If seafarers are required to take their annual leave from a place other than that permitted by paragraph 2 of this Guideline, they should be 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.

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

Guideline B2.4.3 – Division and accumulation

1. 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, may be authorized by the competent authority or through the appropriate machinery in each country.

2. Subject to paragraph 1 of this Guideline and unless otherwise provided in an agreement applicable to the shipowner and the seafarer concerned, the annual leave with pay recommended in this Guideline should consist of an uninterrupted period.

Guideline B2.4.4 – Young seafarers

1. 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
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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 could 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.

**Regulation 2.5 – Repatriation**

*Purpose: To ensure that seafarers are able to return home*

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

2. Each Member shall require ships that fly its flag to provide financial security to ensure that seafarers are duly repatriated in accordance with the Code.

**Standard A2.5.1 – Repatriation**

1. Each Member shall ensure that seafarers on ships that fly its flag are entitled to repatriation in the following circumstances:
   (a) if the seafarers’ employment agreement expires while they are abroad;
   (b) when the seafarers’ employment agreement is terminated:
      (i) by the shipowner; or
      (ii) by the seafarer for justified reasons; and also
   (c) 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.

2. Each Member shall ensure that there are appropriate provisions in its laws and regulations or other measures or in collective bargaining agreements, prescribing:
   (a) the circumstances in which seafarers are entitled to repatriation in accordance with paragraph 1(b) and (c) of this Standard;
   (b) the maximum duration of service periods on board following which a seafarer is entitled to repatriation – such periods to be less than 12 months; and
   (c) the precise entitlements to be accorded by shipowners 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.

3. Each Member shall prohibit shipowners 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 accordance with national laws or regulations or other measures or applicable collective bargaining agreements, to be in serious default of the seafarer’s employment obligations.

4. National laws and regulations shall not prejudice any right of the shipowner to recover the cost of repatriation under third-party contractual arrangements.

5. If a shipowner fails to make arrangements for or to meet the cost of repatriation of seafarers who are entitled to be repatriated:
   (a) the competent authority of the Member whose flag the ship flies shall arrange for repatriation of the seafarers concerned; if it fails to do so, the State from which
the seafarers are to be repatriated or the State of which they are a national may arrange for their repatriation and recover the cost from the Member whose flag the ship flies;

(b) costs incurred in repatriating seafarers shall be recoverable from the shipowner by the Member whose flag the ship flies;

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

6. Taking into account applicable international instruments, including the International Convention on Arrest of Ships, 1999, a Member which has paid the cost of repatriation pursuant to this Code may detain, or request the detention of, the ships of the shipowner concerned until the reimbursement has been made in accordance with paragraph 5 of this Standard.

7. Each Member shall facilitate the repatriation of seafarers serving on ships which call at its ports or pass through its territorial or internal waters, as well as their replacement on board.

8. In particular, a Member 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.

9. Each Member shall require that ships that fly its flag carry and make available to seafarers a copy of the applicable national provisions regarding repatriation written in an appropriate language.

**Standard A2.5.2 – Financial security**

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

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

(a) fails to cover the cost of the seafarer’s repatriation; or

(b) has left the seafarer without the necessary maintenance and support; or

(c) has otherwise unilaterally severed their ties with the seafarer including failure to pay contractual wages for a period of at least two months.

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

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

5. For the purposes of paragraph 2(b) of this Standard, necessary maintenance and support of seafarers shall include: adequate food, accommodation, drinking water supplies, essential fuel for survival on board the ship and necessary medical care.
6. Each Member shall require that ships that fly its flag, and to which paragraph 1 or 2 of Regulation 5.1.3 applies, carry on board a certificate or other documentary evidence of financial security issued by the financial security provider. A copy shall be posted in a conspicuous place on board where it is available to the seafarers. Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.

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

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

9. Having regard to Regulations 2.2 and 2.5, assistance provided by the financial security system shall be sufficient to cover the following:
   (a) outstanding wages and other entitlements due from the shipowner to the seafarer under their employment agreement, the relevant collective bargaining agreement or the national law of the flag State, limited to four months of any such outstanding wages and four months of any such outstanding entitlements;
   (b) all expenses reasonably incurred by the seafarer, including the cost of repatriation referred to in paragraph 10; and
   (c) the essential needs of the seafarer including such items as: adequate food, clothing where necessary, accommodation, drinking water supplies, essential fuel for survival on board the ship, necessary medical care and any other reasonable costs or charges from the act or omission constituting the abandonment until the seafarer’s arrival at home.

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

11. The financial security shall not cease before the end of the period of validity of the financial security unless the financial security provider has given prior notification of at least 30 days to the competent authority of the flag State.

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

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

14. The provisions in this Standard are not intended to be exclusive or to prejudice any other rights, claims or remedies that may also be available to compensate seafarers who are abandoned. National laws and regulations may provide that any amounts payable under this Standard can be offset against amounts received from other sources arising from any rights, claims or remedies that may be the subject of compensation under the present Standard.
Guideline B2.5 – Repatriation

Guideline B2.5.1 – Entitlement

1. Seafarers should be entitled to repatriation:
   (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;
   (b) in the cases covered by Standard A2.5, paragraph 1(b) and (c):
       (i) in the event of illness or injury or other medical condition which requires their repatriation when found medically fit to travel;
       (ii) in the event of shipwreck;
       (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 by reason of insolvency, sale of ship, change of ship’s registration or any other similar reason;
       (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
       (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.

2. In determining the maximum duration of service periods on board following which a seafarer is entitled to repatriation, in accordance with this Code, account should be taken of factors affecting the seafarers’ working environment. Each Member should seek, wherever possible, to reduce these periods in the light of technological changes and developments and might be guided by any recommendations made on the matter by the Joint Maritime Commission.

3. The costs to be borne by the shipowner for repatriation under Standard A2.5 should include at least the following:
   (a) passage to the destination selected for repatriation in accordance with paragraph 6 of this Guideline;
   (b) accommodation and food from the moment the seafarers leave the ship until they reach the repatriation destination;
   (c) 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;
   (d) transportation of 30 kg of the seafarers’ personal luggage to the repatriation destination; and
   (e) medical treatment when necessary until the seafarers are medically fit to travel to the repatriation destination.

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

5. Shipowners should be required to continue to cover the costs of repatriation until the seafarers concerned are landed at a destination prescribed pursuant to this
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6. Each Member should require that shipowners take responsibility for repatriation arrangements by appropriate and expeditious means. The normal mode of transport should be by air. The Member should prescribe the destinations to which seafarers may be repatriated. The destinations should include the countries with which seafarers may be deemed to have a substantial connection including:
   (a) the place at which the seafarer agreed to enter into the engagement;
   (b) the place stipulated by collective agreement;
   (c) the seafarer’s country of residence; or
   (d) such other place as may be mutually agreed at the time of engagement.

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

8. The entitlement to repatriation may lapse if the seafarers concerned do not claim it within a reasonable period of time to be defined by national laws or regulations or collective agreements.

Guideline B2.5.2 – Implementation by Members

1. Every possible practical assistance should be given to a seafarer stranded in a foreign port pending repatriation and in the event of delay in the repatriation of the seafarer, the competent authority in the foreign port should ensure that the consular or local representative of the flag State and the seafarer’s State of nationality or State of residence, as appropriate, is informed immediately.

2. Each Member should have regard to whether proper provision is made:
   (a) for the return of seafarers employed on a ship that flies the flag of a foreign country who are put ashore in a foreign port for reasons for which they are not responsible:
      (i) to the port at which the seafarer concerned was engaged; or
      (ii) to a port in the seafarer’s State of nationality or State of residence, as appropriate; or
      (iii) to another port agreed upon between the seafarer and the master or shipowner, with the approval of the competent authority or under other appropriate safeguards;
   (b) for medical care and maintenance of seafarers employed on a ship that flies the flag of a foreign country who are put ashore in a foreign port in consequence of sickness or injury incurred in the service of the ship and not due to their own wilful misconduct.

3. 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.
Guideline B2.5.3 – Financial security

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

Regulation 2.6 – Seafarer compensation for the ship’s loss or foundering

Purpose: To ensure that seafarers are compensated when a ship is lost or has foundered

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

Standard A2.6 – Seafarer compensation for the ship’s loss or foundering

1. Each Member shall make rules ensuring that, 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.

2. The rules referred to in paragraph 1 of this Standard shall be without prejudice to any other rights a seafarer may have under the national law of the Member concerned for losses or injuries arising from a ship’s loss or foundering.

Guideline B2.6 – Seafarer compensation for the ship’s loss or foundering

Guideline B2.6.1 – Calculation of indemnity against unemployment

1. 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.

2. Each Member should ensure that seafarers have the same legal remedies for recovering such indemnities as they have for recovering arrears of wages earned during the service.

Regulation 2.7 – Manning levels

Purpose: To ensure that seafarers work on board ships with sufficient personnel for the safe, efficient and secure operation of the ship

1. Each Member shall require that all ships that fly its flag 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.

Standard A2.7 – Manning levels

1. Each Member shall require that all ships that fly its flag have a sufficient number of seafarers on board to ensure that ships are operated safely, efficiently and
with due regard to security. 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 or an equivalent issued by the competent authority, and to comply with the standards of this Convention.

2. When determining, approving or revising manning levels, the competent authority 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, especially those of the International Maritime Organization, on manning levels.

3. When determining manning levels, the competent authority shall take into account all the requirements within Regulation 3.2 and Standard A3.2 concerning food and catering.

**Guideline B2.7 – Manning levels**

**Guideline B2.7.1 – Dispute settlement**

1. Each Member should maintain, or satisfy itself that there is maintained, efficient machinery for the investigation and settlement of complaints or disputes concerning the manning levels on a ship.

2. Representatives of shipowners’ and seafarers’ organizations should participate, with or without other persons or authorities, in the operation of such machinery.

**Regulation 2.8 – Career and skill development and opportunities for seafarers’ employment**

*Purpose: To promote career and skill development and employment opportunities for seafarers*

1. Each Member shall have national policies to promote employment in the maritime sector and to encourage career and skill development and greater employment opportunities for seafarers domiciled in its territory.

**Standard A2.8 – Career and skill development and employment opportunities for seafarers**

1. Each Member shall have 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 Standard shall be to help seafarers strengthen their competencies, qualifications and employment opportunities.

3. Each Member 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.
Guideline B2.8 – Career and skill development and employment opportunities for seafarers

Guideline B2.8.1 – Measures to promote career and skill development and employment opportunities for seafarers

1. Measures to achieve the objectives set out in Standard A2.8 might include:
   (a) agreements providing for career development and skills training with a shipowner or an organization of shipowners; or
   (b) arrangements for promoting employment through the establishment and maintenance of registers or lists, by categories, of qualified seafarers; or
   (c) 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.

Guideline B2.8.2 – Register of seafarers

1. Where registers or lists govern the employment of seafarers, these registers or lists should include all occupational categories of seafarers in a manner determined by national law or practice or by collective agreement.

2. Seafarers on such a register or list should have priority of engagement for seafaring.

3. Seafarers on such a register or list should be required to be available for work in a manner to be determined by national law or practice or by collective agreement.

4. To the extent that national laws or regulations permit, the number of seafarers on such registers or lists should be periodically reviewed so as to achieve levels adapted to the needs of the maritime industry.

5. When a reduction in the number of seafarers on such a register or list becomes necessary, all appropriate measures should be taken to prevent or minimize detrimental effects on seafarers, account being taken of the economic and social situation of the country concerned.
**Title 3. Accommodation, recreational facilities, food and catering**

**Regulation 3.1 – Accommodation and recreational facilities**

*Purpose: To ensure that seafarers have decent accommodation and recreational facilities on board*

1. Each Member shall ensure that ships that fly its flag 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. The requirements in the Code implementing this Regulation which relate to ship construction and equipment apply only to ships constructed on or after the date when this Convention comes into force for the Member concerned. For ships constructed before that date, the requirements relating to ship construction and equipment that are set out in the Accommodation of Crews Convention (Revised), 1949 (No. 92), and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), shall continue to apply to the extent that they were applicable, prior to that date, under the law or practice of the Member concerned. A ship shall be deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction.

3. Unless expressly provided otherwise, any requirement under an amendment to the Code relating to the provision of seafarer accommodation and recreational facilities shall apply only to ships constructed on or after the amendment takes effect for the Member concerned.

**Standard A3.1 – Accommodation and recreational facilities**

1. Each Member shall adopt laws and regulations requiring that ships that fly its flag:
   (a) 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 Standard; and
   (b) are inspected to ensure initial and ongoing compliance with those standards.

2. In developing and applying the laws and regulations to implement this Standard, the competent authority, after consulting the shipowners’ and seafarers’ organizations concerned, shall:
   (a) take into account Regulation 4.3 and the associated Code provisions on health and safety protection and accident prevention, in light of the specific needs of seafarers that both live and work on board ship; and
   (b) give due consideration to the guidance contained in Part B of this Code.

3. The inspections required under Regulation 5.1.4 shall be carried out when:
   (a) a ship is registered or re-registered; or
   (b) the seafarer accommodation on a ship has been substantially altered.
4. The competent authority shall pay particular attention to ensuring implementation of the requirements of this Convention relating to:
   (a) the size of rooms and other accommodation spaces;
   (b) heating and ventilation;
   (c) noise and vibration and other ambient factors;
   (d) sanitary facilities;
   (e) lighting; and
   (f) hospital accommodation.

5. The competent authority of each Member shall require that ships that fly its flag meet the minimum standards for on-board accommodation and recreational facilities that are set out in paragraphs 6 to 17 of this Standard.

6. With respect to general requirements for accommodation:
   (a) 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; the competent authority may permit some limited reduction in headroom in any space, or part of any space, in such accommodation where it is satisfied that such reduction:
      (i) is reasonable; and
      (ii) will not result in discomfort to the seafarers;
   (b) the accommodation shall be adequately insulated;
   (c) in ships other than passenger ships, as defined in Regulation 2(e) and (f) of the International Convention for the Safety of Life at Sea, 1974, as amended (the “SOLAS Convention”), 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;
   (d) in passenger ships, and in special ships constructed in compliance with the IMO Code of Safety for Special Purpose Ships, 1983, and subsequent versions (hereinafter called “special purpose ships”), the competent authority may, on condition that satisfactory arrangements are made for lighting and ventilation, permit the location of sleeping rooms below the load line, but in no case shall they be located immediately beneath working alleyways;
   (e) 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;
   (f) 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;
   (g) proper lighting and sufficient drainage shall be provided; and
   (h) accommodation and recreational and catering facilities shall meet the requirements in Regulation 4.3, and the related provisions in the Code, 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 on-board living environment for seafarers.

7. With respect to requirements for ventilation and heating:
   (a) sleeping rooms and mess rooms shall be adequately ventilated;
   (b) 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;
   (c) all sanitary spaces shall have ventilation to the open air, independently of any other part of the accommodation; and
   (d) 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:
   (a) 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, exemptions from this requirement may be granted by the competent authority after consultation with the shipowners’ and seafarers’ organizations concerned;
   (b) separate sleeping rooms shall be provided for men and for women;
   (c) sleeping rooms shall be of adequate size and properly equipped so as to ensure reasonable comfort and to facilitate tidiness;
   (d) a separate berth for each seafarer shall in all circumstances be provided;
   (e) the minimum inside dimensions of a berth shall be at least 198 centimetres by 80 centimetres;
   (f) in single berth seafarers’ sleeping rooms the floor area shall not be less than:
      (i) 4.5 square metres in ships of less than 3,000 gross tonnage;
      (ii) 5.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;
      (iii) 7 square metres in ships of 10,000 gross tonnage or over;
   (g) 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 competent authority may allow a reduced floor area;
   (h) 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;
   (i) 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:
      (i) 7.5 square metres in rooms accommodating two persons;
      (ii) 11.5 square metres in rooms accommodating three persons;
      (iii) 14.5 square metres in rooms accommodating four persons;
(j) 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;

(k) 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:

(i) 7.5 square metres in ships of less than 3,000 gross tonnage;
(ii) 8.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;
(iii) 10 square metres in ships of 10,000 gross tonnage or over;

(l) 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;

(m) 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 may be exempted by the competent authority from this requirement after consultation with the shipowners’ and seafarers’ organizations concerned;

(n) 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;

(o) 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:

(a) 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 may be exempted by the competent authority from this requirement after consultation with the shipowners’ and seafarers’ organizations concerned; and

(b) 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:

(a) 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;

(b) 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 may be exempted by the competent authority from this
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requirement after consultation with the shipowners’ and seafarers’ organizations concerned;
(c) 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;
(d) 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;
(e) in passenger ships normally engaged on voyages of not more than four hours’ duration, consideration may be given by the competent authority to special arrangements or to a reduction in the number of facilities required; and
(f) 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 competent authority may relax this requirement for ships engaged in coastal trade; in approving on-board hospital accommodation, the competent authority shall ensure that the accommodation will, 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 may be exempted by the competent authority from this requirement after consultation with the shipowners’ and seafarers’ organizations concerned.

16. Ships regularly trading to mosquito-infested ports shall be fitted with appropriate devices as required by the competent authority.

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 Regulation 4.3 and the associated Code provisions on health and safety protection and accident prevention.

18. The competent authority shall require frequent inspections to be carried 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.

19. In the case of ships where there is need to take account, without discrimination, of the interests of seafarers having differing and distinctive religious and social practices, the competent authority may, after consultation with the shipowners’ and seafarers’ organizations concerned, permit fairly applied variations in respect of this Standard on condition that such variations do not result in overall facilities less favourable than those which would result from the application of this Standard.
20. Each Member may, after consultation with the shipowners’ and seafarers’ organizations concerned, exempt ships of less than 200 gross tonnage where it is reasonable to do so, taking account of the size of the ship and the number of persons on board in relation to the requirements of the following provisions of this Standard:
(a) paragraphs 7(b), 11(d) and 13; and
(b) paragraph 9(f) and (h) to (l) inclusive, with respect to floor area only.

21. Any exemptions with respect to the requirements of this Standard may be made only where they are expressly permitted in this Standard and only for particular circumstances in which such exemptions can be clearly justified on strong grounds and subject to protecting the seafarers’ health and safety.

Guideline B3.1 – Accommodation and recreational facilities

Guideline B3.1.1 – Design and construction
1. External bulkheads of sleeping rooms and mess rooms should be adequately insulated. All machinery casings and all boundary bulkheads of galleys and other spaces in which heat is produced should be adequately insulated where there is a possibility of resulting heat effects in adjoining accommodation or passageways. Measures should also be taken to provide protection from heat effects of steam or hot-water service pipes or both.

2. Sleeping rooms, mess rooms, recreation rooms and alleyways in the accommodation space should be adequately insulated to prevent condensation or overheating.

3. The bulkhead surfaces and deckheads should be of material with a surface easily kept clean. No form of construction likely to harbour vermin should be used.

4. The bulkhead surfaces and deckheads in sleeping rooms and mess rooms should be capable of being easily kept clean and light in colour with a durable, non-toxic finish.

5. The decks in all seafarer accommodation should be of approved material and construction and should provide a non-slip surface impervious to damp and easily kept clean.

6. Where the floorings are made of composite materials, the joints with the sides should be profiled to avoid crevices.

Guideline B3.1.2 – Ventilation
1. The system of ventilation for sleeping rooms and mess rooms should be controlled so as to maintain the air in a satisfactory condition and to ensure a sufficiency of air movement in all conditions of weather and climate.

2. Air-conditioning systems, whether of a centralized or individual unit type, should be designed to:
(a) maintain the air at a satisfactory temperature and relative humidity as compared to outside air conditions, ensure a sufficiency of air changes in all air-conditioned spaces, take account of the particular characteristics of operations at sea and not produce excessive noises or vibrations; and
(b) facilitate easy cleaning and disinfection to prevent or control the spread of disease.
3. Power for the operation of the air conditioning and other aids to ventilation required by the preceding paragraphs of this Guideline should be available at all times when seafarers are living or working on board and conditions so require. However, this power need not be provided from an emergency source.

Guideline B3.1.3 – Heating

1. The system of heating the seafarer accommodation should be in operation at all times when seafarers are living or working on board and conditions require its use.

2. In all ships in which a heating system is required, the heating should be by means of hot water, warm air, electricity, steam or equivalent. However, within the accommodation area, steam should not be used as a medium for heat transmission. The heating system should be capable of maintaining the temperature in seafarer accommodation at a satisfactory level under normal conditions of weather and climate likely to be met within the trade in which the ship is engaged. The competent authority should prescribe the standard to be provided.

3. Radiators and other heating apparatus should be placed and, where necessary, shielded so as to avoid risk of fire or danger or discomfort to the occupants.

Guideline B3.1.4 – Lighting

1. In all ships, electric light should be provided in the seafarer accommodation. If there are not two independent sources of electricity for lighting, additional lighting should be provided by properly constructed lamps or lighting apparatus for emergency use.

2. In sleeping rooms an electric reading lamp should be installed at the head of each berth.

3. Suitable standards of natural and artificial lighting should be fixed by the competent authority.

Guideline B3.1.5 – Sleeping rooms

1. There should be adequate berth arrangements on board, making it as comfortable as possible for the seafarer and any partner who may accompany the seafarer.

2. Where the size of the ship, the activity in which it is to be engaged and its layout make it reasonable and practicable, sleeping rooms should be planned and equipped with a private bathroom, including a toilet, so as to provide reasonable comfort for the occupants and to facilitate tidiness.

3. As far as practicable, sleeping rooms of seafarers should be so arranged that watches are separated and that no seafarers working during the day share a room with watchkeepers.

4. In the case of seafarers performing the duty of petty officers there should be no more than two persons per sleeping room.

5. Consideration should be given to extending the facility referred to in Standard A3.1, paragraph 9(m), to the second engineer officer when practicable.
6. Space occupied by berths and lockers, chests of drawers and seats should be included in the measurement of the floor area. Small or irregularly shaped spaces which do not add effectively to the space available for free movement and cannot be used for installing furniture should be excluded.

7. Berths should not be arranged in tiers of more than two; in the case of berths placed along the ship’s side, there should be only a single tier where a sidelight is situated above a berth.

8. The lower berth in a double tier should be not less than 30 centimetres above the floor; the upper berth should be placed approximately midway between the bottom of the lower berth and the lower side of the deckhead beams.

9. The framework and the lee-board, if any, of a berth should be of approved material, hard, smooth, and not likely to corrode or to harbour vermin.

10. If tubular frames are used for the construction of berths, they should be completely sealed and without perforations which would give access to vermin.

11. Each berth should be fitted with a comfortable mattress with cushioning bottom or a combined cushioning mattress, including a spring bottom or a spring mattress. The mattress and cushioning material used should be made of approved material. Stuffing of material likely to harbour vermin should not be used.

12. When one berth is placed over another, a dust-proof bottom should be fitted beneath the bottom mattress or spring bottom of the upper berth.

13. The furniture should be of smooth, hard material not liable to warp or corrode.

14. Sleeping rooms should be fitted with curtains or equivalent for the sidelights.

15. Sleeping rooms should be fitted with a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.

Guideline B3.1.6 – Mess rooms

1. Mess room facilities may be either common or separate. The decision in this respect should be taken after consultation with seafarers’ and shipowners’ representatives and subject to the approval of the competent authority. Account should be taken of factors such as the size of the ship and the distinctive cultural, religious and social needs of the seafarers.

2. Where separate mess room facilities are to be provided to seafarers, then separate mess rooms should be provided for:
   (a) master and officers; and
   (b) petty officers and other seafarers.

3. On ships other than passenger ships, the floor area of mess rooms for seafarers should be not less than 1.5 square metres per person of the planned seating capacity.

4. In all ships, mess rooms should be equipped with tables and appropriate seats, fixed or movable, sufficient to accommodate the greatest number of seafarers likely to use them at any one time.
5. There should be available at all times when seafarers are on board:
   (a) a refrigerator, which should be conveniently situated and of sufficient capacity for
       the number of persons using the mess room or mess rooms;
   (b) facilities for hot beverages; and
   (c) cool water facilities.

6. Where available pantries are not accessible to mess rooms, adequate lockers
   for mess utensils and proper facilities for washing utensils should be provided.

7. The tops of tables and seats should be of damp-resistant material.

Guideline B3.1.7 – Sanitary accommodation

1. Washbasins and tub baths should be of adequate size and constructed of
   approved material with a smooth surface not liable to crack, flake or corrode.

2. All toilets should be of an approved pattern and provided with an ample flush
   of water or with some other suitable flushing means, such as air, which are available at
   all times and independently controllable.

3. Sanitary accommodation intended for the use of more than one person should
   comply with the following:
   (a) floors should be of approved durable material, impervious to damp, and should
       be properly drained;
   (b) bulkheads should be of steel or other approved material and should be watertight
       up to at least 23 centimetres above the level of the deck;
   (c) the accommodation should be sufficiently lit, heated and ventilated;
   (d) toilets should be situated convenient to, but separate from, sleeping rooms and
       wash rooms, without direct access from the sleeping rooms or from a passage be-
       tween sleeping rooms and toilets to which there is no other access; this require-
       ment does not apply where a toilet is located in a compartment between two
       sleeping rooms having a total of not more than four seafarers; and
   (e) where there is more than one toilet in a compartment, they should be sufficiently
       screened to ensure privacy.

4. The laundry facilities provided for seafarers’ use should include:
   (a) washing machines;
   (b) drying machines or adequately heated and ventilated drying rooms; and
   (c) irons and ironing boards or their equivalent.

Guideline B3.1.8 – Hospital accommodation

1. The hospital accommodation should be designed so as to facilitate con-
   sultation and the giving of medical first aid and to help prevent the spread of infec-
   tious diseases.

2. The arrangement of the entrance, berths, lighting, ventilation, heating and
   water supply should be designed to ensure the comfort and facilitate the treatment of
   the occupants.
3. The number of hospital berths required should be prescribed by the competent authority.

4. Sanitary accommodation should be provided for the exclusive use of the occupants of the hospital accommodation, either as part of the accommodation or in close proximity thereto. Such sanitary accommodation should comprise a minimum of one toilet, one washbasin and one tub or shower.

Guideline B3.1.9 – Other facilities

1. Where separate facilities for engine department personnel to change their clothes are provided, they should be:
   (a) located outside the machinery space but with easy access to it; and
   (b) fitted with individual clothes lockers as well as with tubs or showers or both and washbasins having hot and cold running fresh water.

Guideline B3.1.10 – Bedding, mess utensils and miscellaneous provisions

1. Each Member should consider applying the following principles:
   (a) clean bedding and mess utensils should be supplied by the shipowner to all seafarers for use on board during service on the ship, and such seafarers should be responsible for their return at times specified by the master and on completion of service in the ship;
   (b) bedding should be of good quality, and plates, cups and other mess utensils should be of approved material which can be easily cleaned; and
   (c) towels, soap and toilet paper for all seafarers should be provided by the shipowner.

Guideline B3.1.11 – Recreational facilities, mail and ship visit arrangements

1. Recreational facilities and services should be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, operational and other developments in the shipping industry.

2. Furnishings for recreational facilities should as a minimum include a bookcase and facilities for reading, writing and, where practicable, games.

3. In connection with the planning of recreation facilities, the competent authority should give consideration to the provision of a canteen.

4. Consideration should also be given to including the following facilities at no cost to the seafarer, where practicable:
   (a) a smoking room;
   (b) television viewing and the reception of radio broadcasts;
   (c) showing of films, the stock of which should be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;
   (d) sports equipment including exercise equipment, table games and deck games;
   (e) where possible, facilities for swimming;
   (f) a library containing vocational and other books, the stock of which should be adequate for the duration of the voyage and changed at reasonable intervals;
   (g) facilities for recreational handicrafts;
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(h) electronic equipment such as a radio, television, video recorders, DVD/CD player, personal computer and software and cassette recorder/player;

(i) where appropriate, the provision of bars on board for seafarers unless these are contrary to national, religious or social customs; and

(j) reasonable access to ship-to-shore telephone communications, and email and Internet facilities, where available, with any charges for the use of these services being reasonable in amount.

5. Every effort should be given to ensuring that the forwarding of seafarers’ mail is as reliable and expeditious as possible. Efforts should also be considered for avoiding seafarers being required to pay additional postage when mail has to be readdressed owing to circumstances beyond their control.

6. Measures should be considered to ensure, subject to any applicable national or international laws or regulations, that whenever possible and reasonable seafarers are expeditiously granted permission to have their partners, relatives and friends as visitors on board their ship when in port. Such measures should meet any concerns for security clearances.

7. Consideration should be given to the possibility of allowing seafarers to be accompanied by their partners on occasional voyages where this is practicable and reasonable. Such partners should carry adequate insurance cover against accident and illness; the shipowners should give every assistance to the seafarer to effect such insurance.

Guideline B3.1.12 – Prevention of noise and vibration

1. Accommodation and recreational and catering facilities should be located as far as practicable from the engines, steering gear rooms, deck winches, ventilation, heating and air-conditioning equipment and other noisy machinery and apparatus.

2. Acoustic insulation or other appropriate sound-absorbing materials should be used in the construction and finishing of bulkheads, deckheads and decks within the sound-producing spaces as well as self-closing noise-isolating doors for machinery spaces.

3. Engine rooms and other machinery spaces should be provided, wherever practicable, with soundproof centralized control rooms for engine-room personnel. Working spaces, such as the machine shop, should be insulated, as far as practicable, from the general engine-room noise and measures should be taken to reduce noise in the operation of machinery.

4. The limits for noise levels for working and living spaces should be in conformity with the ILO international guidelines on exposure levels, including those in the ILO code of practice entitled *Ambient factors in the workplace*, 2001, and, where applicable, the specific protection recommended by the International Maritime Organization, and with any subsequent amending and supplementary instruments for acceptable noise levels on board ships. A copy of the applicable instruments in English or the working language of the ship should be carried on board and should be accessible to seafarers.

5. No accommodation or recreational or catering facilities should be exposed to excessive vibration.
**Regulation 3.2 – Food and catering**

*Purpose: To ensure that seafarers have access to good quality food and drinking water provided under regulated hygienic conditions*

1. Each Member shall ensure that ships that fly its flag 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. Seafarers employed as ships’ cooks with responsibility for food preparation must be trained and qualified for their position on board ship.

**Standard A3.2 – Food and catering**

1. Each Member shall adopt laws and regulations or other measures to provide minimum 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.

2. Each Member shall ensure that ships that fly its flag meet the following minimum standards:
   (a) 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;
   (b) 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
   (c) catering staff shall be properly trained or instructed for their positions.

3. Shipowners shall ensure that seafarers who are engaged as ships’ cooks are trained, qualified and found competent for the position in accordance with requirements set out in the laws and regulations of the Member concerned.

4. The requirements under paragraph 3 of this Standard shall include a completion of a training course approved or recognized by the competent authority, which covers practical cookery, food and personal hygiene, food storage, stock control, and environmental protection and catering health and safety.

5. On ships operating with a prescribed manning of less than ten which, by virtue of the size of the crew or the trading pattern, may not be required by the competent authority 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.

6. In circumstances of exceptional necessity, the competent authority may issue a dispensation permitting a non-fully qualified cook to serve in a specified ship for a
specified limited period, until the next convenient port of call or for a period not exceeding one month, provided that the person to whom the dispensation is issued is 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 Title 5, the competent authority shall require that frequent documented inspections be carried out on board ships, by or under the authority of the master, with respect to:
   (a) supplies of food and drinking water;
   (b) all spaces and equipment used for the storage and handling of food and drinking water; and
   (c) 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.

Guideline B3.2 – Food and catering

Guideline B3.2.1 – Inspection, education, research and publication

1. The competent authority should, in cooperation with other relevant agencies and organizations, 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 or at reasonable cost, to manufacturers of and traders in ships’ food supplies and equipment, masters, stewards and cooks, and to shipowners’ and seafarers’ organizations concerned. Appropriate forms of publicity, such as manuals, brochures, posters, charts or advertisements in trade journals, should be used for this purpose.

2. The competent authority should issue recommendations to avoid wastage of food, facilitate the maintenance of a proper standard of hygiene, and ensure the maximum practicable convenience in working arrangements.

3. The competent authority should work with relevant agencies and organizations to develop educational materials and on-board information concerning methods of ensuring proper food supply and catering services.

4. The competent authority should work in close cooperation with the shipowners’ and seafarers’ organizations concerned and with national or local authorities dealing with questions of food and health, and may where necessary utilize the services of such authorities.

Guideline B3.2.2 – Ships’ cooks

1. Seafarers should only be qualified as ships’ cooks if they have:
   (a) served at sea for a minimum period to be prescribed by the competent authority, which could be varied to take into account existing relevant qualifications or experience;
   (b) passed an examination prescribed by the competent authority or passed an equivalent examination at an approved training course for cooks.
2. The prescribed examination may be conducted and certificates granted either directly by the competent authority or, subject to its control, by an approved school for the training of cooks.

3. The competent authority should provide for the recognition, where appropriate, of certificates of qualification as ships’ cooks issued by other Members, which have ratified this Convention or the Certification of Ships’ Cooks Convention, 1946 (No. 69), or other approved body.
Title 4. Health protection, medical care, welfare and social security protection

Regulation 4.1 – Medical care on board ship and ashore

Purpose: To protect the health of seafarers and ensure their prompt access to medical care on board ship and ashore

1. Each Member shall ensure that all seafarers on ships that fly its flag are covered by adequate measures for the protection of their health and that they have access to prompt and adequate medical care whilst working on board.

2. The protection and care under paragraph 1 of this Regulation shall, in principle, be provided at no cost to the seafarers.

3. Each Member shall ensure that seafarers on board ships in its territory who are in need of immediate medical care are given access to the Member’s medical facilities on shore.

4. The requirements for on-board health protection and medical care set out in the Code 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.

Standard A4.1 – Medical care on board ship and ashore

1. Each Member shall ensure that measures providing for health protection and medical care, including essential dental care, for seafarers working on board a ship that flies its flag are adopted which:

   a) ensure the application to seafarers of any general provisions on occupational health protection and medical care relevant to their duties, as well as of special provisions specific to work on board ship;

   b) ensure that seafarers are given health 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;

   c) give seafarers the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable;

   d) ensure that, to the extent consistent with the Member’s national law and practice, medical care and health protection services while a seafarer is on board ship or landed in a foreign port are provided free of charge to seafarers; and

   e) are not limited to treatment of sick or injured seafarers but include measures of a preventive character such as health promotion and health education programmes.
2. The competent authority shall adopt a standard medical report form for use by the ships’ masters and relevant onshore and on-board medical personnel. The form, when completed, and its contents shall be kept confidential and shall only be used to facilitate the treatment of seafarers.

3. Each Member shall adopt laws and regulations establishing requirements for on-board hospital and medical care facilities and equipment and training on ships that fly its flag.

4. National laws and regulations shall as a minimum provide for the following requirements:
   (a) all ships shall carry a medicine chest, medical equipment and a medical guide, the specifics of which shall be prescribed and subject to regular inspection by the competent authority; the national requirements shall take into account the type of ship, the number of persons on board and the nature, destination and duration of voyages and relevant national and international recommended medical standards;
   (b) 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; national laws or regulations shall also specify which other ships shall be required to carry a medical doctor, taking into account, inter alia, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board;
   (c) 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 that meets the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (“STCW”); seafarers designated to provide medical first aid shall have satisfactorily completed training in medical first aid that meets the requirements of STCW; national laws or regulations shall specify the level of approved training required taking into account, inter alia, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board; and
   (d) the competent authority shall ensure by a prearranged system that medical advice by radio or satellite communication to ships at sea, including specialist advice, is available 24 hours a day; medical advice, including the onward transmission of medical messages by radio or satellite communication between a ship and those ashore giving the advice, shall be available free of charge to all ships irrespective of the flag that they fly.

Guideline B4.1 – Medical care on board ship and ashore

Guideline B4.1.1 – Provision of medical care

1. When determining the level of medical training to be provided on board ships that are not required to carry a medical doctor, the competent authority should require that:
(a) ships which ordinarily are capable of reaching qualified medical care and med-
cal facilities within eight hours should have at least one designated seafarer
with the approved medical first-aid training required by STCW which will enable
such persons to take immediate, effective action in case of accidents or illnesses
likely to occur on board a ship and to make use of medical advice by radio or
satellite communication; and
(b) all other ships should have at least one designated seafarer with approved train-
ing in medical care required by STCW, including practical training and training
in life-saving techniques such as intravenous therapy, which will enable the per-
sons concerned to participate effectively in coordinated schemes for medical as-
sistance to ships at sea, and to provide the sick or injured with a satisfactory
standard of medical care during the period they are likely to remain on board.

2. The training referred to in paragraph 1 of this Guideline should be based on
the contents of the most recent editions of the *International Medical Guide for Ships*,
the *Medical First Aid Guide for Use in Accidents Involving Dangerous Goods*, the
*Document for Guidance – An International Maritime Training Guide*, and the medical
section of the *International Code of Signals* as well as similar national guides.

3. Persons referred to in paragraph 1 of this Guideline and such other seafarers
as may be required by the competent authority should undergo, at approximately
five-year intervals, refresher courses to enable them to maintain and increase their
knowledge and skills and to keep up-to-date with new developments.

4. 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 competent
authority, 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. In adopting or reviewing the ship’s medical guide used nationally, and in
determining the contents of the medicine chest and medical equipment, the competent
authority should take into account international recommendations in this field, includ-
ing the latest edition of the *International Medical Guide for Ships*, and other guides
mentioned in paragraph 2 of this Guideline.

5. Where a cargo which is classified dangerous has not been included in the most
recent edition of the *Medical First Aid Guide for Use in Accidents Involving Dangerous
Goods*, the necessary information on the nature of the substances, the risks involved,
the necessary personal protective devices, the relevant medical procedures and spe-
cific antidotes should be made 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 oc-
cupational safety and health described in Regulation 4.3 and related Code provisions.

6. All ships 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 com-
munication, 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.
Guideline B4.1.2 – Medical report form

1. The standard medical report form for seafarers required under Part A of this Code should be designed to facilitate the exchange of medical and related information concerning individual seafarers between ship and shore in cases of illness or injury.

Guideline B4.1.3 – Medical care ashore

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

2. Measures should be taken to ensure that seafarers have access when in port to:
   (a) outpatient treatment for sickness and injury;
   (b) hospitalization when necessary; and
   (c) facilities for dental treatment, especially in cases of emergency.

3. Suitable measures should be taken 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.

Guideline B4.1.4 – Medical assistance to other ships and international cooperation

1. Each Member should give due consideration to participating in international cooperation in the area of assistance, programmes and research in health protection and medical care. Such cooperation might cover:
   (a) developing and coordinating search and rescue efforts and arranging prompt medical help and evacuation at sea for the seriously ill or injured on board a ship through such means as periodic ship position reporting systems, rescue coordination centres and emergency helicopter services, in conformity with the International Convention on Maritime Search and Rescue, 1979, as amended, and the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual;
   (b) making optimum use of all ships carrying a doctor and stationing ships at sea which can provide hospital and rescue facilities;
   (c) compiling and maintaining an international list of doctors and medical care facilities available worldwide to provide emergency medical care to seafarers;
   (d) landing seafarers ashore for emergency treatment;
   (e) repatriating seafarers hospitalized abroad as soon as practicable, in accordance with the medical advice of the doctors responsible for the case, which takes into account the seafarer’s wishes and needs;
   (f) arranging personal assistance for seafarers during repatriation, in accordance with the medical advice of the doctors responsible for the case, which takes into account the seafarer’s wishes and needs;
   (g) endeavouring to set up health centres for seafarers to:
      (i) conduct research on the health status, medical treatment and preventive health care of seafarers; and
(ii) train medical and health service staff in maritime medicine;

(h) collecting and evaluating statistics concerning occupational accidents, diseases and fatalities of seafarers and integrating and harmonizing the statistics with any existing national system of statistics on occupational accidents and diseases covering other categories of workers;

(i) organizing international exchanges of technical information, training material and personnel, as well as international training courses, seminars and working groups;

(j) providing all seafarers with special curative and preventive health and medical services in port, or making available to them general health, medical and rehabilitation services; and

(k) arranging for the repatriation of the bodies or ashes of deceased seafarers, in accordance with the wishes of the next of kin and as soon as practicable.

2. International cooperation in the field of health protection and medical care for seafarers should be based on bilateral or multilateral agreements or consultations among Members.

Guideline B4.1.5 – Dependants of seafarers

1. Each Member should adopt measures to secure proper and sufficient medical care for the dependants of seafarers domiciled in its territory pending the development of a medical care service which would include within its scope workers generally and their dependants where such services do not exist and should inform the International Labour Office concerning the measures taken for this purpose.

Regulation 4.2 – Shipowners’ liability

Purpose: To ensure that seafarers are protected from the financial consequences of sickness, injury or death occurring in connection with their employment

1. Each Member shall ensure that measures, in accordance with the Code, are in place on ships that fly its flag to provide seafarers employed on the ships with a right to material assistance and support from the shipowner 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 Regulation does not affect any other legal remedies that a seafarer may seek.

Standard A4.2.1 – Shipowners’ liability

1. Each Member shall adopt laws and regulations requiring that shipowners of ships that fly its flag are responsible for health protection and medical care of all seafarers working on board the ships in accordance with the following minimum standards:

(a) shipowners shall be liable to 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;
(b) 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;

(c) shipowners shall be liable to 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

(d) shipowners shall be liable to pay the cost of burial expenses in the case of death occurring on board or ashore during the period of engagement.

2. National laws or regulations may limit the liability of the shipowner to defray the expense of medical care and board and lodging to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.

3. Where the sickness or injury results in incapacity for work the shipowner shall be liable:

(a) to 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 Convention; and

(b) to pay wages in whole or in part as prescribed by national laws or regulations or as provided for in collective agreements from the time when the seafarers are repatriated or landed until their recovery or, if earlier, until they are entitled to cash benefits under the legislation of the Member concerned.

4. National laws or regulations may limit the liability of the shipowner to pay wages in whole or in part in respect of a seafarer no longer on board to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.

5. National laws or regulations may exclude the shipowner from liability in respect of:

(a) injury incurred otherwise than in the service of the ship;

(b) injury or sickness due to the wilful misconduct of the sick, injured or deceased seafarer; and

(c) sickness or infirmity intentionally concealed when the engagement is entered into.

6. National laws or regulations may exempt the shipowner from liability to defray the expense of medical care and board and lodging and burial expenses in so far as such liability is assumed by the public authorities.

7. 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.

8. National laws and regulations shall provide that the system of financial security to assure compensation as provided by paragraph 1(b) of this Standard for contractual claims, as defined in Standard A4.2.2, meet the following minimum requirements:
the contractual compensation, where set out in the seafarer’s employment agree-
ment and without prejudice to subparagraph (c) of this paragraph, shall be paid
in full and without delay;
(b) there shall be no pressure to accept a payment less than the contractual amount;
(c) where the nature of the long-term disability of a seafarer makes it difficult to as-
sess the full compensation to which the seafarer may be entitled, an interim pay-
ment or payments shall be made to the seafarer so as to avoid undue hardship;
(d) in accordance with Regulation 4.2, paragraph 2, the seafarer shall receive pay-
ment without prejudice to other legal rights, but such payment may be offset by
the shipowner against any damages resulting from any other claim made by the
seafarer against the shipowner and arising from the same incident; and
(e) the claim for contractual compensation may be brought directly by the seafarer
concerned, or their next of kin, or a representative of the seafarer or designated
beneficiary.
9. National laws and regulations shall ensure that seafarers receive prior notifi-
cation if a shipowner’s financial security is to be cancelled or terminated.
10. National laws and regulations shall ensure that the competent authority of
the flag State is notified by the provider of the financial security if a shipowner’s finan-
cial security is cancelled or terminated.
11. Each Member shall require that ships that fly its flag carry on board a certifi-
cate or other documentary evidence of financial security issued by the financial security
provider. A copy shall be posted in a conspicuous place on board where it is available
to the seafarers. Where more than one financial security provider provides cover, the
document provided by each provider shall be carried on board.
12. The financial security shall not cease before the end of the period of validity
of the financial security unless the financial security provider has given prior notifi-
cation of at least 30 days to the competent authority of the flag State.
13. The financial security shall provide for the payment of all contractual claims
covered by it which arise during the period for which the document is valid.
14. The certificate or other documentary evidence of financial security shall
contain the information required in Appendix A4-I. It shall be in English or accom-
panied by an English translation.

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

1. For the purposes of Standard A4.2.1, paragraph 8, and the present Standard,
the term “contractual claim” means any claim which relates to death or long-term dis-
ability of seafarers due to an occupational injury, illness or hazard as set out in national
law, the seafarers’ employment agreement or collective agreement.

2. The system of financial security, as provided for in Standard A4.2.1, para-
graph 1(b), may be in the form of a social security scheme or insurance or fund or other
similar arrangements. Its form shall be determined by the Member after consultation
with the shipowners’ and seafarers’ organizations concerned.

3. National laws and regulations shall ensure that effective arrangements are in
place to receive, deal with and impartially settle contractual claims relating to compensa-
tion referred to in Standard A4.2.1, paragraph 8, through expeditious and fair procedures.
Guideline B4.2.1 – Shipowners’ liability

1. The payment of full wages required by Standard A4.2.1, paragraph 3(a), may be exclusive of bonuses.

2. National laws or regulations may provide that a 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.

3. National laws or regulations may provide that 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.

Guideline B4.2.2 – Treatment of contractual claims

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

Regulation 4.3 – Health and safety protection and accident prevention

Purpose: To ensure that seafarers’ work environment on board ships promotes occupational safety and health

1. Each Member shall ensure that seafarers on ships that fly its flag are provided with occupational health protection and live, work and train on board ship in a safe and hygienic environment.

2. Each Member shall develop and promulgate national guidelines for the management of occupational safety and health on board ships that fly its flag, after consultation with representative shipowners’ and seafarers’ organizations and taking into account applicable codes, guidelines and standards recommended by international organizations, national administrations and maritime industry organizations.

3. Each Member shall adopt laws and regulations and other measures addressing the matters specified in the Code, taking into account relevant international instruments, and set standards for occupational safety and health protection and accident prevention on ships that fly its flag.

Standard A4.3 – Health and safety protection and accident prevention

1. The laws and regulations and other measures to be adopted in accordance with Regulation 4.3, paragraph 3, shall include the following subjects:

(a) the adoption and effective implementation and promotion of occupational safety and health policies and programmes on ships that fly the Member’s flag, including risk evaluation as well as training and instruction of seafarers;

(b) reasonable precautions to prevent occupational accidents, injuries and diseases on board ship, including measures to reduce and prevent the risk of exposure to harmful levels of ambient factors and chemicals as well as the risk of injury or disease that may arise from the use of equipment and machinery on board ships;
(c) on-board programmes for the prevention of occupational accidents, injuries and diseases and for continuous improvement in occupational safety and health protection, involving seafarers’ representatives and all other persons concerned in their implementation, taking account of preventive measures, including engineering and design control, substitution of processes and procedures for collective and individual tasks, and the use of personal protective equipment; and

(d) requirements for inspecting, reporting and correcting unsafe conditions and for investigating and reporting on-board occupational accidents.

2. The provisions referred to in paragraph 1 of this Standard shall:

(a) take account of relevant international instruments dealing with occupational safety and health protection in general and with specific risks, and address all matters relevant to the prevention of occupational accidents, injuries and diseases that may be applicable to the work of seafarers and particularly those which are specific to maritime employment;

(b) clearly specify the obligation of shipowners, seafarers and others concerned to comply with the applicable standards and with the ship’s occupational safety and health policy and programme with special attention being paid to the safety and health of seafarers under the age of 18;

(c) specify the duties of the master or a person designated by the master, or both, to take specific responsibility for the implementation of and compliance with the ship’s occupational safety and health policy and programme; and

(d) specify the authority of the ship’s seafarers appointed or elected as safety representatives to participate in meetings of the ship’s safety committee. Such a committee shall be established on board a ship on which there are five or more seafarers.

3. The laws and regulations and other measures referred to in Regulation 4.3, paragraph 3, shall be regularly reviewed in consultation with the representatives of the shipowners’ and seafarers’ organizations and, if necessary, revised to take account of changes in technology and research in order to facilitate continuous improvement in occupational safety and health policies and programmes and to provide a safe occupational environment for seafarers on ships that fly the Member’s flag.

4. Compliance with the requirements of applicable international instruments on the acceptable levels of exposure to workplace hazards on board ships and on the development and implementation of ships’ occupational safety and health policies and programmes shall be considered as meeting the requirements of this Convention.

5. The competent authority shall ensure that:

(a) occupational accidents, injuries and diseases are adequately reported, taking into account the guidance provided by the International Labour Organization with respect to the reporting and recording of occupational accidents and diseases;

(b) comprehensive statistics of such accidents and diseases are kept, analysed and published and, where appropriate, followed up by research into general trends and into the hazards identified; and

(c) occupational accidents are investigated.

6. Reporting and investigation of occupational safety and health matters shall be designed to ensure the protection of seafarers’ personal data, and shall take account of the guidance provided by the International Labour Organization on this matter.
7. The competent authority shall cooperate with shipowners’ and seafarers’ organizations to take measures to bring to the attention of all seafarers information concerning particular hazards on board ships, for instance, by posting official notices containing relevant instructions.

8. The competent authority shall require that shipowners conducting risk evaluation in relation to management of occupational safety and health refer to appropriate statistical information from their ships and from general statistics provided by the competent authority.

Guideline B4.3 – Health and safety protection and accident prevention

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

1. The provisions required under Standard A4.3 should take into account the ILO code of practice entitled *Accident prevention on board ship at sea and in port*, 1996, and subsequent versions and other related ILO and other international standards and guidelines and codes of practice regarding occupational safety and health protection, including any exposure levels that they may identify. Account should also be taken of the latest version of the *Guidance on eliminating shipboard harassment and bullying* jointly published by the International Chamber of Shipping and the International Transport Workers’ Federation.

2. The competent authority should ensure that the national guidelines for the management of occupational safety and health address the following matters, in particular:

(a) general and basic provisions;

(b) structural features of the ship, including means of access and asbestos-related risks;

(c) machinery;

(d) the effects of the extremely low or high temperature of any surfaces with which seafarers may be in contact;

(e) the effects of noise in the workplace and in shipboard accommodation;

(f) the effects of vibration in the workplace and in shipboard accommodation;

(g) the effects of ambient factors, other than those referred to in subparagraphs (e) and (f), in the workplace and in shipboard accommodation, including tobacco smoke;

(h) special safety measures on and below deck;

(i) loading and unloading equipment;

(j) fire prevention and fire-fighting;

(k) anchors, chains and lines;

(l) dangerous cargo and ballast;

(m) personal protective equipment for seafarers;

(n) work in enclosed spaces;

(o) physical and mental effects of fatigue;

(p) the effects of drug and alcohol dependency;
(q) HIV/AIDS protection and prevention; and
(r) emergency and accident response.

3. The assessment of risks and reduction of exposure on the matters referred to in paragraph 2 of this Guideline should 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. The necessary measures should take due account 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 non-dangerous or the less dangerous, have precedence over personal protective equipment for seafarers.

4. In addition, the competent authority should ensure that the implications for health and safety are taken into account, particularly in the following areas:
(a) emergency and accident response;
(b) the effects of drug and alcohol dependency;
(c) HIV/AIDS protection and prevention; and
(d) harassment and bullying.

Guideline B4.3.2 – Exposure to noise

1. The competent authority, in conjunction with the competent international bodies and with representatives of shipowners’ and seafarers’ organizations concerned, should review on an ongoing basis the problem of noise on board ships with the objective of improving the protection of seafarers, in so far as practicable, from the adverse effects of exposure to noise.

2. The review referred to in paragraph 1 of this Guideline should take account of the adverse effects of exposure to excessive noise on the hearing, health and comfort of seafarers and the measures to be prescribed or recommended to reduce shipboard noise to protect seafarers. The measures to be considered should include the following:
(a) 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;
(b) provision of approved hearing protection equipment to seafarers where necessary; and
(c) 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.

Guideline B4.3.3 – Exposure to vibration

1. The competent authority, in conjunction with the competent international bodies and with representatives of shipowners’ and seafarers’ organizations concerned, and taking into account, as appropriate, relevant international standards, should review on an ongoing basis the problem of vibration on board ships with the objective of improving the protection of seafarers, in so far as practicable, from the adverse effects of vibration.
2. The review referred to in paragraph 1 of this Guideline should cover the effect of exposure to excessive vibration on the health and comfort of seafarers and the measures to be prescribed or recommended to reduce shipboard vibration to protect seafarers. The measures to be considered should include the following:

(a) instruction of seafarers in the dangers to their health of prolonged exposure to vibration;
(b) provision of approved personal protective equipment to seafarers where necessary; and
(c) assessment of risks and reduction of exposure to vibration in all accommodation and recreational and catering facilities by adopting measures in accordance with the guidance provided by the ILO code of practice entitled *Ambient factors in the workplace*, 2001, and any subsequent revisions, taking account of the difference between exposure in those areas and in the workplace.

Guideline B4.3.4 – Obligations of shipowners

1. Any obligation on the shipowner to provide protective equipment or other accident prevention safeguards should, in general, be accompanied by provisions requiring their use by seafarers and by a requirement for seafarers to comply with the relevant accident prevention and health protection measures.

2. Account should also be taken of Articles 7 and 11 of the Guarding of Machinery Convention, 1963 (No. 119), and the corresponding provisions of the Guarding of Machinery Recommendation, 1963 (No. 118), under which the obligation to ensure compliance with the requirement that machinery in use is properly guarded, and its use without appropriate guards prevented, rests on the employer, while there is an obligation on the worker not to use machinery without the guards being in position nor to make inoperative the guards provided.

Guideline B4.3.5 – Reporting and collection of statistics

1. All occupational accidents and occupational injuries and diseases should be reported so that they can be investigated and comprehensive statistics can be kept, analysed and published, taking account of protection of the personal data of the seafarers concerned. Reports should not be limited to fatalities or to accidents involving the ship.

2. The statistics referred to in paragraph 1 of this Guideline should record the numbers, nature, causes and effects of occupational accidents and occupational injuries and diseases, with a clear indication, as applicable, of the department on board a ship, the type of accident and whether at sea or in port.

3. Each Member should have due regard to any international system or model for recording accidents to seafarers which may have been established by the International Labour Organization.

Guideline B4.3.6 – Investigations

1. The competent authority should undertake investigations into the causes and circumstances of all occupational accidents and occupational injuries and diseases resulting in loss of life or serious personal injury, and such other cases as may be specified in national laws or regulations.
2. Consideration should be given to including the following as subjects of investigation:
(a) working environment, such as working surfaces, layout of machinery, means of access, lighting and methods of work;
(b) incidence in different age groups of occupational accidents and occupational injuries and diseases;
(c) special physiological or psychological problems created by the shipboard environment;
(d) problems arising from physical stress on board a ship, in particular as a consequence of increased workload;
(e) problems arising from and effects of technical developments and their influence on the composition of crews;
(f) problems arising from any human failures; and
(g) problems arising from harassment and bullying.

Guideline B4.3.7 – National protection and prevention programmes

1. In order to provide a sound basis for measures to promote occupational safety and health protection and prevention of accidents, injuries and diseases which are due to particular hazards of maritime employment, research should be undertaken into general trends and into such hazards as are revealed by statistics.

2. The implementation of protection and prevention programmes for the promotion of occupational safety and health should be so organized that the competent authority, shipowners and seafarers or their representatives and other appropriate bodies may play an active role, including through such means as information sessions, on-board guidelines on maximum exposure levels to potentially harmful ambient workplace factors and other hazards or outcomes of a systematic risk evaluation process. In particular, national or local joint occupational safety and health protection and accident prevention committees or ad hoc working parties and on-board committees, on which shipowners’ and seafarers’ organizations concerned are represented, should be established.

3. Where such activity takes place at company level, the representation of seafarers on any safety committee on board that shipowner’s ships should be considered.

Guideline B4.3.8 – Content of protection and prevention programmes

1. Consideration should be given to including the following in the functions of the committees and other bodies referred to in Guideline B4.3.7, paragraph 2:
(a) the preparation of national guidelines and policies for occupational safety and health management systems and for accident prevention provisions, rules and manuals;
(b) the organization of occupational safety and health protection and accident prevention training and programmes;
(c) the organization of publicity on occupational safety and health protection and accident prevention, including films, posters, notices and brochures; and
(d) the distribution of literature and information on occupational safety and health protection and accident prevention so that it reaches seafarers on board ships.
2. Relevant provisions or recommendations adopted by the appropriate national authorities or organizations or international organizations should be taken into account by those preparing texts of occupational safety and health protection and accident prevention measures or recommended practices.

3. In formulating occupational safety and health protection and accident prevention programmes, each Member should have due regard to any code of practice concerning the safety and health of seafarers which may have been published by the International Labour Organization.

Guideline B4.3.9 – Instruction in occupational safety and health protection and the prevention of occupational accidents

1. The curriculum for the training referred to in Standard A4.3, paragraph 1(a), should be reviewed periodically and brought up to date in the light of development in types and sizes of ships and in their equipment, as well as changes in manning practices, nationality, language and the organization of work on board ships.

2. There should be continuous occupational safety and health protection and accident prevention publicity. Such publicity might take the following forms:
   (a) educational audiovisual material, such as films, for use in vocational training centres for seafarers and where possible shown on board ships;
   (b) display of posters on board ships;
   (c) inclusion in periodicals read by seafarers of articles on the hazards of maritime employment and on occupational safety and health protection and accident prevention measures; and
   (d) special campaigns using various publicity media to instruct seafarers, including campaigns on safe working practices.

3. The publicity referred to in paragraph 2 of this Guideline should take account of the different nationalities, languages and cultures of seafarers on board ships.

Guideline B4.3.10 – Safety and health education of young seafarers

1. Safety and health regulations should refer to any general provisions on medical examinations before and during employment and on the prevention of accidents and the protection of health in employment, which may be applicable to the work of seafarers. Such regulations should specify measures which will minimize occupational dangers to young seafarers in the course of their duties.

2. Except where a young seafarer is recognized as fully qualified in a pertinent skill by the competent authority, the regulations should specify restrictions on young seafarers undertaking, without appropriate supervision and instruction, certain 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. In determining the types of work to be restricted by the regulations, the competent authority might consider in particular work involving:
   (a) the lifting, moving or carrying of heavy loads or objects;
   (b) entry into boilers, tanks and cofferdams;
   (c) exposure to harmful noise and vibration levels;
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(d) operating hoisting and other power machinery and tools, or acting as signallers to operators of such equipment;
(e) handling mooring or tow lines or anchoring equipment;
(f) rigging;
(g) work aloft or on deck in heavy weather;
(h) nightwatch duties;
(i) servicing of electrical equipment;
(j) exposure to potentially harmful materials, or harmful physical agents such as dangerous or toxic substances and ionizing radiations;
(k) the cleaning of catering machinery; and
(l) the handling or taking charge of ships’ boats.

3. Practical measures should be taken by the competent authority or through the appropriate machinery to 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.

4. Education and training of young seafarers both ashore and on board ships should include guidance on the detrimental effects on their health and well-being of the abuse of alcohol and drugs and other potentially harmful substances, and the risk and concerns relating to HIV/AIDS and of other health risk related activities.

Guideline B4.3.11 – International cooperation

1. Members, with the assistance as appropriate of intergovernmental and other international organizations, should endeavour, in cooperation with each other, to achieve the greatest possible uniformity of action for the promotion of occupational safety and health protection and prevention of accidents.

2. In developing programmes for promoting occupational safety and health protection and prevention of accidents under Standard A4.3, each Member should have due regard to relevant codes of practice published by the International Labour Organization and the appropriate standards of international organizations.

3. Members should have regard to the need for international cooperation in the continuous promotion of activity related to occupational safety and health protection and prevention of occupational accidents. Such cooperation might take the form of:
(a) bilateral or multilateral arrangements for uniformity in occupational safety and health protection and accident prevention standards and safeguards;
(b) exchange of information on particular hazards affecting seafarers and on means of promoting occupational safety and health protection and preventing accidents;
(c) assistance in testing of equipment and inspection according to the national regulations of the flag State;
(d) collaboration in the preparation and dissemination of occupational safety and health protection and accident prevention provisions, rules or manuals;
(e) collaboration in the production and use of training aids; and
(f) joint facilities for, or mutual assistance in, the training of seafarers in occupational safety and health protection, accident prevention and safe working practices.

**Regulation 4.4 – Access to shore-based welfare facilities**

**Purpose:** To ensure that seafarers working on board a ship have access to shore-based facilities and services to secure their health and well-being

1. Each Member shall ensure that shore-based welfare facilities, where they exist, are easily accessible. The Member shall also promote the development of welfare facilities, such as those listed in the Code, in designated ports to provide seafarers on ships that are in its ports with access to adequate welfare facilities and services.

2. The responsibilities of each Member with respect to shore-based facilities, such as welfare, cultural, recreational and information facilities and services, are set out in the Code.

**Standard A4.4 – Access to shore-based welfare facilities**

1. Each Member shall require, where welfare facilities exist on its territory, that they are available for the use of all seafarers, 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. Each Member shall promote the development of welfare facilities in appropriate ports of the country and determine, after consultation with the shipowners’ and seafarers’ organizations concerned, which ports are to be regarded as appropriate.

3. Each Member shall encourage the establishment of welfare boards which shall regularly review welfare facilities and services to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, operational and other developments in the shipping industry.

**Guideline B4.4 – Access to shore-based welfare facilities**

**Guideline B4.4.1 – Responsibilities of Members**

1. Each Member should:

   (a) take measures to ensure that adequate welfare facilities and services are provided for seafarers in designated ports of call and that adequate protection is provided to seafarers in the exercise of their profession; and

   (b) take into account, in the implementation of these measures, the special needs of seafarers, especially when in foreign countries and when entering war zones, in respect of their safety, health and spare-time activities.

2. Arrangements for the supervision of welfare facilities and services should include participation by representative shipowners’ and seafarers’ organizations concerned.

3. Each Member should take measures designed to expedite the free circulation among ships, central supply agencies and welfare establishments of welfare materials such as films, books, newspapers and sports equipment for use by seafarers on board their ships and in welfare centres ashore.
4. Members should cooperate with one another in promoting the welfare of seafarers at sea and in port. Such cooperation should include the following:
   (a) consultations among competent authorities aimed at the provision and improvement of seafarers’ welfare facilities and services, both in port and on board ships;
   (b) agreements on the pooling of resources and the joint provision of welfare facilities in major ports so as to avoid unnecessary duplication;
   (c) organization of international sports competitions and encouragement of the participation of seafarers in sports activities; and
   (d) organization of international seminars on the subject of welfare of seafarers at sea and in port.

Guideline B4.4.2 – Welfare facilities and services in ports

1. Each Member should provide or ensure the provision of such welfare facilities and services as may be required, in appropriate ports of the country.

2. Welfare facilities and services should be provided, in accordance with national conditions and practice, by one or more of the following:
   (a) public authorities;
   (b) shipowners’ and seafarers’ organizations concerned under collective agreements or other agreed arrangements; and
   (c) voluntary organizations.

3. Necessary welfare and recreational facilities should be established or developed in ports. These should include:
   (a) meeting and recreation rooms as required;
   (b) facilities for sports and outdoor facilities, including competitions;
   (c) educational facilities; and
   (d) where appropriate, facilities for religious observances and for personal counseling.

4. These facilities may be provided by making available to seafarers in accordance with their needs facilities designed for more general use.

5. Where large numbers of seafarers of different nationalities require facilities such as hotels, clubs and sports facilities in a particular port, the competent authorities or bodies of the countries of origin of the seafarers and of the flag States, as well as the international associations concerned, should consult and cooperate with the competent authorities and bodies of the country in which the port is situated and with one another, with a view to the pooling of resources and to avoiding unnecessary duplication.

6. Hotels or hostels suitable for seafarers should be available where there is need for them. They 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.

7. These accommodation facilities should be open to all seafarers, 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. Without in any way infringing this principle, it may be necessary in certain ports to provide several types of facilities, comparable in standard but adapted to the customs and needs of different groups of seafarers.

8. Measures should be taken to ensure that, as necessary, technically competent persons are employed full time in the operation of seafarers’ welfare facilities and services, in addition to any voluntary workers.

Guideline B4.4.3 – Welfare boards

1. Welfare boards should be established, at the port, regional and national levels, as appropriate. Their functions should include:
   (a) keeping under review the adequacy of existing welfare facilities and monitoring the need for the provision of additional facilities or the withdrawal of under-utilized facilities; and
   (b) assisting and advising those responsible for providing welfare facilities and ensuring coordination between them.

2. Welfare boards should include among their members representatives of shipowners’ and seafarers’ organizations, the competent authorities and, where appropriate, voluntary organizations and social bodies.

3. As appropriate, consuls of maritime States and local representatives of foreign welfare organizations should, in accordance with national laws and regulations, be associated with the work of port, regional and national welfare boards.

Guideline B4.4.4 – Financing of welfare facilities

1. In accordance with national conditions and practice, financial support for port welfare facilities should be made available through one or more of the following:
   (a) grants from public funds;
   (b) levies or other special dues from shipping sources;
   (c) voluntary contributions from shipowners, seafarers, or their organizations; and
   (d) voluntary contributions from other sources.

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

Guideline B4.4.5 – Dissemination of information and facilitation measures

1. Information should be disseminated 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.

2. Adequate means of transport at moderate prices should be available at any reasonable time in order to enable seafarers to reach urban areas from convenient locations in the port.

3. All suitable measures should be taken by the competent authorities to make known to shipowners and to seafarers entering port any special laws and customs, the contravention of which may jeopardize their freedom.
4. Port areas and access roads should be provided by the competent authorities with adequate lighting and signposting and regular patrols for the protection of seafarers.

Guideline B4.4.6 – Seafarers in a foreign port

1. For the protection of seafarers in foreign ports, measures should be taken to facilitate:
   (a) access to consuls of their State of nationality or State of residence; and
   (b) effective cooperation between consuls and the local or national authorities.

2. Seafarers who are detained in a foreign port should be dealt with promptly under due process of law and with appropriate consular protection.

3. Whenever a seafarer is detained for any reason in the territory of a Member, the competent authority should, if the seafarer so requests, immediately inform the flag State and the State of nationality of the seafarer. The competent authority should 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 competent authority should allow consular officers of these States immediate access to the seafarer and regular visits thereafter so long as the seafarer is detained.

4. Each Member should take measures, whenever necessary, to ensure the safety of seafarers from aggression and other unlawful acts while ships are in their territorial waters and especially in approaches to ports.

5. Every effort should be made by those responsible in port and on board a ship to facilitate shore leave for seafarers as soon as possible after a ship’s arrival in port.

Regulation 4.5 – Social security

Purpose: To ensure that measures are taken with a view to providing seafarers with access to social security protection

1. Each Member shall ensure that all seafarers and, to the extent provided for in its national law, their dependants have access to social security protection in accordance with the Code without prejudice however to any more favourable conditions referred to in paragraph 8 of article 19 of the Constitution.

2. Each Member undertakes to take steps, according to its national circumstances, individually and through international cooperation, to achieve progressively comprehensive social security protection for seafarers.

3. Each Member shall ensure that seafarers who are subject to its social security legislation, and, to the extent provided for in its national law, their dependants, are entitled to benefit from social security protection no less favourable than that enjoyed by shoreworkers.

Standard A4.5 – Social security

1. The branches to be considered with a view to achieving progressively comprehensive social security protection under Regulation 4.5 are: 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 Regulations 4.1, on medical care, and 4.2, on shipowners’ liability, and under other titles of this Convention.

2. At the time of ratification, the protection to be provided by each Member in accordance with Regulation 4.5, paragraph 1, shall include at least three of the nine branches listed in paragraph 1 of this Standard.

3. Each Member shall take steps according to its national circumstances to provide the complementary social security protection referred to in paragraph 1 of this Standard to all seafarers ordinarily resident in its territory. This responsibility could be satisfied, for example, through appropriate bilateral or multilateral agreements or contribution-based systems. The resulting protection shall be no less favourable than that enjoyed by shoreworkers resident in their territory.

4. Notwithstanding the attribution of responsibilities in paragraph 3 of this Standard, Members may determine, through bilateral and multilateral agreements and through provisions adopted in the framework of regional economic integration organizations, other rules concerning the social security legislation to which seafarers are subject.

5. Each Member’s responsibilities with respect to seafarers on ships that fly its flag shall include those provided for by Regulations 4.1 and 4.2 and the related provisions of the Code, as well as those that are inherent in its general obligations under international law.

6. Each Member shall give consideration to the various ways in which comparable benefits will, in accordance with national law and practice, be provided to seafarers in the absence of adequate coverage in the branches referred to in paragraph 1 of this Standard.

7. The protection under Regulation 4.5, paragraph 1, may, as appropriate, be contained in laws or regulations, in private schemes or in collective bargaining agreements or in a combination of these.

8. To the extent consistent with their national law and practice, Members shall cooperate, through bilateral or multilateral agreements or other arrangements, to ensure the maintenance of social security rights, provided through contributory or non-contributory schemes, which have been acquired, or are in the course of acquisition, by all seafarers regardless of residence.

9. Each Member shall establish fair and effective procedures for the settlement of disputes.

10. Each Member shall at the time of ratification specify the branches for which protection is provided in accordance with paragraph 2 of this Standard. It shall subsequently notify the Director-General of the International Labour Office when it provides social security protection in respect of one or more other branches stated in paragraph 1 of this Standard. The Director-General shall maintain a register of this information and shall make it available to all interested parties.

11. The reports to the International Labour Office pursuant to article 22 of the Constitution, shall also include information regarding steps taken in accordance with Regulation 4.5, paragraph 2, to extend protection to other branches.
Guideline B4.5 – Social security

1. The protection to be provided at the time of ratification in accordance with Standard A4.5, paragraph 2, should at least include the branches of medical care, sickness benefit and employment injury benefit.

2. In the circumstances referred to in Standard A4.5, paragraph 6, comparable benefits may be provided through insurance, bilateral and multilateral agreements or other effective means, taking into consideration the provisions of relevant collective bargaining agreements. Where such measures are adopted, seafarers covered by such measures should be advised of the means by which the various branches of social security protection will be provided.

3. Where seafarers are subject to more than one national legislation covering social security, the Members concerned should cooperate in order to determine by mutual agreement which legislation is to apply, taking into account such factors as the type and level of protection under the respective legislations which is more favourable to the seafarer concerned as well as the seafarer’s preference.

4. The procedures to be established under Standard A4.5, paragraph 9, should be designed to cover all disputes relevant to the claims of the seafarers concerned, irrespective of the manner in which the coverage is provided.

5. Each Member which has national seafarers, non-national seafarers or both serving on ships that fly its flag should provide the social security protection in the Convention as applicable, and should periodically review the branches of social security protection in Standard A4.5, paragraph 1, with a view to identifying any additional branches appropriate for the seafarers concerned.

6. 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.

7. The Member whose flag the ship flies should, in effectively exercising its jurisdiction over social matters, satisfy itself that the shipowners’ responsibilities concerning social security protection are met, including making the required contributions to social security schemes.
TITLE 5. COMPLIANCE AND ENFORCEMENT

1. The Regulations in this Title specify each Member’s responsibility to fully implement and enforce the principles and rights set out in the Articles of this Convention as well as the particular obligations provided for under its Titles 1, 2, 3 and 4.

2. Paragraphs 3 and 4 of Article VI, which permit the implementation of Part A of the Code through substantially equivalent provisions, do not apply to Part A of the Code in this Title.

3. In accordance with paragraph 2 of Article VI, each Member shall implement its responsibilities under the Regulations in the manner set out in the corresponding Standards of Part A of the Code, giving due consideration to the corresponding Guidelines in Part B of the Code.

4. The provisions of this Title shall be implemented bearing in mind that seafarers and shipowners, like all other persons, are equal before the law and are entitled to the equal protection of the law and shall not be subject to discrimination in their access to courts, tribunals or other dispute resolution mechanisms. The provisions of this Title do not determine legal jurisdiction or a legal venue.

Regulation 5.1 – Flag State responsibilities

Purpose: To ensure that each Member implements its responsibilities under this Convention with respect to ships that fly its flag

Regulation 5.1.1 – General principles

1. Each Member is responsible for ensuring implementation of its obligations under this Convention on ships that fly its flag.

2. Each Member shall establish an effective system for the inspection and certification of maritime labour conditions, in accordance with Regulations 5.1.3 and 5.1.4 ensuring that the working and living conditions for seafarers on ships that fly its flag meet, and continue to meet, the standards in this Convention.

3. In establishing an effective system for the inspection and certification of maritime labour conditions, a Member may, where appropriate, authorize public institutions or other organizations (including those of another Member, if the latter agrees) which it recognizes as competent and independent to carry out inspections or to issue certificates or to do both. In all cases, the Member shall remain fully responsible for the inspection and certification of the working and living conditions of the seafarers concerned on ships that fly its flag.

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.

5. Information about the system referred to in paragraph 2 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member’s reports to the International Labour Office pursuant to article 22 of the Constitution.

**Standard A5.1.1 – General principles**

1. Each Member shall establish clear objectives and standards covering the administration of its inspection and certification systems, as well as adequate overall procedures for its assessment of the extent to which those objectives and standards are being attained.

2. Each Member shall require all ships that fly its flag to have a copy of this Convention available on board.

**Guideline B5.1.1 – General principles**

1. The competent authority should make appropriate arrangements to promote effective cooperation between public institutions and other organizations, referred to in Regulations 5.1.1 and 5.1.2, concerned with seafarers’ shipboard working and living conditions.

2. In order to better ensure cooperation between inspectors and shipowners, seafarers and their respective organizations, and to maintain or improve seafarers’ working and living conditions, the competent authority should consult the representatives of such organizations at regular intervals as to the best means of attaining these ends. The manner of such consultation should be determined by the competent authority after consulting with shipowners’ and seafarers’ organizations.

**Regulation 5.1.2 – Authorization of recognized organizations**

1. The public institutions or other organizations referred to in paragraph 3 of Regulation 5.1.1 (“recognized organizations”) shall have been recognized by the competent authority as meeting the requirements in the Code regarding competency and independence. The inspection or certification functions which the recognized organizations may be authorized to carry out shall come within the scope of the activities that are expressly mentioned in the Code as being carried out by the competent authority or a recognized organization.

2. The reports referred to in paragraph 5 of Regulation 5.1.1 shall contain information regarding any recognized organization, the extent of authorizations given and the arrangements made by the Member to ensure that the authorized activities are carried out completely and effectively.

**Standard A5.1.2 – Authorization of recognized organizations**

1. For the purpose of recognition in accordance with paragraph 1 of Regulation 5.1.2, the competent authority shall review the competency and independence of the organization concerned and determine whether the organization has demonstrated, to the extent necessary for carrying out the activities covered by the authorization conferred on it, that the organization:
(a) has the necessary expertise in the relevant aspects of this Convention and an appropriate knowledge of ship operations, including the minimum requirements for seafarers to work on a ship, conditions of employment, accommodation, recreational facilities, food and catering, accident prevention, health protection, medical care, welfare and social security protection;

(b) has the ability to maintain and update the expertise of its personnel;

(c) has the necessary knowledge of the requirements of this Convention as well as of applicable national laws and regulations and relevant international instruments; and

(d) is of the appropriate size, structure, experience and capability commensurate with the type and degree of authorization.

2. Any authorizations granted with respect to inspections shall, as a minimum, empower the recognized organization to require the rectification of deficiencies that it identifies in seafarers’ working and living conditions and to carry out inspections in this regard at the request of a port State.

3. Each Member shall establish:

(a) a system to ensure the adequacy of work performed by recognized organizations, which includes information on all applicable national laws and regulations and relevant international instruments; and

(b) procedures for communication with and oversight of such organizations.

4. Each Member shall provide the International Labour Office with a current list of any recognized organizations authorized to act on its behalf and it shall keep this list up to date. The list shall specify the functions that the recognized organizations have been authorized to carry out. The Office shall make the list publicly available.

Guideline B5.1.2 – Authorization of recognized organizations

1. The organization seeking recognition should demonstrate the technical, administrative and managerial competence and capacity to ensure the provision of timely service of satisfactory quality.

2. In evaluating the capability of an organization, the competent authority should determine whether the organization:

(a) has adequate technical, managerial and support staff;

(b) has sufficient qualified professional staff to provide the required service, representing an adequate geographical coverage;

(c) has proven ability to provide a timely service of satisfactory quality; and

(d) is independent and accountable in its operations.

3. The competent authority should conclude a written agreement with any organization that it recognizes for purposes of an authorization. The agreement should include the following elements:

(a) scope of application;

(b) purpose;

(c) general conditions;

(d) the execution of functions under authorization;

(e) legal basis of the functions under authorization;
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(f) reporting to the competent authority;

(g) specification of the authorization from the competent authority to the recognized organization; and

(h) the competent authority's supervision of activities delegated to the recognized organization.

4. Each Member should require the recognized organizations to develop a system for qualification of staff employed by them as inspectors to ensure the timely updating of their knowledge and expertise.

5. Each Member should require the recognized organizations to maintain records of the services performed by them such that they are able to demonstrate achievement of the required standards in the items covered by the services.

6. In establishing the oversight procedures referred to in Standard A5.1.2, paragraph 3(b), each Member should take into account the Guidelines for the Authorization of Organizations Acting on Behalf of the Administration, adopted in the framework of the International Maritime Organization.

Regulation 5.1.3 – Maritime labour certificate and declaration of maritime labour compliance

1. This Regulation applies to ships of:

(a) 500 gross tonnage or over, engaged in international voyages; and

(b) 500 gross tonnage or over, flying the flag of a Member and operating from a port, or between ports, in another country.

For the purpose of this Regulation, “international voyage” means a voyage from a country to a port outside such a country.

2. This Regulation also applies to any ship that flies the flag of a Member and is not covered by paragraph 1 of this Regulation, at the request of the shipowner to the Member concerned.

3. Each Member shall require ships that fly its flag to 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 4 of this Regulation, have been inspected and meet the requirements of national laws or regulations or other measures implementing this Convention.

4. Each Member shall require ships that fly its flag to carry and maintain a declaration of maritime labour compliance stating the national requirements implementing this Convention 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.

5. The maritime labour certificate and the declaration of maritime labour compliance shall conform to the model prescribed by the Code.

6. Where the competent authority of the Member or a recognized organization duly authorized for this purpose has ascertained through inspection that a ship that flies the Member’s flag meets or continues to meet the standards of this Convention, it
shall issue or renew a maritime labour certificate to that effect and maintain a publicly available record of that certificate.

7. Detailed requirements for the maritime labour certificate and the declaration of maritime labour compliance, including a list of the matters that must be inspected and approved, are set out in Part A of the Code.

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

1. The maritime labour certificate shall be issued to a ship by the competent authority, or by a recognized organization duly authorized for this purpose, for a period which shall not exceed five years. A list of matters that must be inspected and found to meet national laws and regulations or other measures implementing the requirements of this Convention regarding the working and living conditions of seafarers on ships before a maritime labour certificate can be issued is found in Appendix A5-I.

2. The validity of the maritime labour certificate shall be subject to an intermediate inspection by the competent authority, or by a recognized organization duly authorized for this purpose, to ensure continuing compliance with the national requirements implementing this Convention. If only one intermediate inspection is carried out and the period of validity of the certificate is five years, it shall take place 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.

3. Notwithstanding paragraph 1 of this Standard, 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. 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.

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

5. A maritime labour certificate may be issued on an interim basis:
   (a) to new ships on delivery;
   (b) when a ship changes flag; or
   (c) when a shipowner assumes responsibility for the operation of a ship which is new to that shipowner.
6. An interim maritime labour certificate may be issued for a period not exceeding six months by the competent authority or a recognized organization duly authorized for this purpose.

7. An interim maritime labour certificate may only be issued following verification that:
   (a) the ship has been inspected, as far as reasonable and practicable, for the matters listed in Appendix A5-I, taking into account verification of items under subparagraphs (b), (c) and (d) of this paragraph;
   (b) the shipowner has demonstrated to the competent authority or recognized organization that the ship has adequate procedures to comply with this Convention;
   (c) the master is familiar with the requirements of this 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.

8. A full inspection in accordance with paragraph 1 of this Standard 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 6 of this Standard. A declaration of maritime labour compliance need not be issued for the period of validity of the interim certificate.

9. 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 Appendix A5-II.

10. The declaration of maritime labour compliance shall be attached to the maritime labour certificate. It shall have two parts:
   (a) Part I shall be drawn up by the competent authority which shall: (i) identify the list of matters to be inspected in accordance with paragraph 1 of this Standard; (ii) identify the national requirements embodying the relevant provisions of this Convention by providing a reference to the relevant national legal provisions as well as, to the extent necessary, concise information on the main content of the national requirements; (iii) refer to ship-type specific requirements under national legislation; (iv) record any substantially equivalent provisions adopted pursuant to paragraph 3 of Article VI; and (v) clearly indicate any exemption granted by the competent authority as provided in Title 3; and
   (b) Part II shall be drawn up by the shipowner and shall identify the measures adopted to ensure ongoing compliance with the national requirements between inspections and the measures proposed to ensure that there is continuous improvement.

The competent authority or recognized organization duly authorized for this purpose shall certify Part II and shall issue the declaration of maritime labour compliance.

11. 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, together with the date when the deficiencies were found to have been remedied. This record, accompanied by an English-language translation where it is not in English, shall, in accordance with national laws or regulations, be inscribed upon or appended to the declaration of maritime labour compliance or
made available in some other way to seafarers, flag State inspectors, authorized offic-
ers in port States and shipowners’ and seafarers’ representatives.

12. A current valid maritime labour certificate and declaration of maritime la-
bour compliance, accompanied by an English-language translation where it is not in
English, 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 in accord-
ance with national laws and regulations, upon request, to seafarers, flag State inspect-
ors, authorized officers in port States, and shipowners’ and seafarers’ representatives.

13. The requirement for an English-language translation in paragraphs 11 and
12 of this Standard does not apply in the case of a ship not engaged in an international
voyage.

14. A certificate issued under paragraph 1 or 5 of this Standard shall cease to
be valid in any of the following cases:
(a) if the relevant inspections are not completed within the periods specified under
paragraph 2 of this Standard;
(b) if the certificate is not endorsed in accordance with paragraph 2 of this Standard;
(c) when a ship changes flag;
(d) when a shipowner ceases to assume the responsibility for the operation of a ship;
and
(e) when substantial changes have been made to the structure or equipment covered
in Title 3.

15. In the case referred to in paragraph 14(c), (d) or (e) of this Standard, a new
certificate shall only be issued when the competent authority or recognized organiza-
tion issuing the new certificate is fully satisfied that the ship is in compliance with the
requirements of this Standard.

16. A maritime labour certificate shall be withdrawn by the competent author-
ity or the recognized organization duly authorized for this purpose by the flag State,
if there is evidence that the ship concerned does not comply with the requirements of
this Convention and any required corrective action has not been taken.

17. When considering whether a maritime labour certificate should be withdrawn
in accordance with paragraph 16 of this Standard, the competent authority or the rec-
ognized organization shall take into account the seriousness or the frequency of the
deficiencies.

Guideline B5.1.3 – Maritime labour certificate and declaration
of maritime labour compliance

1. The statement of national requirements in Part I of the declaration of maritime
labour compliance should include or be accompanied by references to the legislative
provisions relating to seafarers’ working and living conditions in each of the matters
listed in Appendix A5-I. Where national legislation precisely follows the requirements
stated in this Convention, a reference may be all that is necessary. Where a provision
of the Convention is implemented through substantial equivalence as provided under
Article VI, paragraph 3, this provision should be identified and a concise explanation
should be provided. Where an exemption is granted by the competent authority as
provided in Title 3, the particular provision or provisions concerned should be clearly indicated.

2. The measures referred to in Part II of the declaration of maritime labour compliance, drawn up by the shipowner, should, in particular, indicate the occasions on which ongoing compliance with particular national requirements will be verified, the persons responsible for verification, the records to be taken, as well as the procedures to be followed where non-compliance is noted. Part II may take a number of forms. It could make reference to other more comprehensive documentation covering policies and procedures relating to other aspects of the maritime sector, for example documents required by the International Safety Management (ISM) Code or the information required by Regulation 5 of the SOLAS Convention, Chapter XI-1 relating to the ship’s Continuous Synopsis Record.

3. The measures to ensure ongoing compliance should include general international requirements for the shipowner and master to keep themselves informed of the latest advances in technology and scientific findings concerning workplace design, taking into account the inherent dangers of seafarers’ work, and to inform the seafarers’ representatives accordingly, thereby guaranteeing a better level of protection of the seafarers’ working and living conditions on board.

4. The declaration of maritime labour compliance should, above all, be drafted in clear terms designed to help all persons concerned, such as flag State inspectors, authorized officers in port States and seafarers, to check that the requirements are being properly implemented.

5. An example of the kind of information that might be contained in a declaration of maritime labour compliance is given in Appendix B5-I.

6. When a ship changes flag as referred to in Standard A5.1.3, paragraph 14(c), and where both States concerned have ratified this Convention, the Member whose flag the ship was formerly entitled to fly should, as soon as possible, transmit to the competent authority of the other Member copies of the maritime labour certificate and the declaration of maritime labour compliance carried by the ship before the change of flag and, if applicable, copies of the relevant inspection reports if the competent authority so requests within three months after the change of flag has taken place.

**Regulation 5.1.4 – Inspection and enforcement**

1. Each Member shall verify, through an effective and coordinated system of regular inspections, monitoring and other control measures, that ships that fly its flag comply with the requirements of this Convention as implemented in national laws and regulations.

2. Detailed requirements regarding the inspection and enforcement system referred to in paragraph 1 of this Regulation are set out in Part A of the Code.

**Standard A5.1.4 – Inspection and enforcement**

1 Each Member shall maintain a system of inspection of the conditions for seafarers on ships that fly its flag which shall include verification that the measures
relating to working and living conditions as set out in the declaration of maritime labour compliance, where applicable, are being followed, and that the requirements of this Convention are met.

2. The competent authority shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under paragraph 1 of this Standard. Where recognized organizations have been authorized to carry out inspections, the Member shall require that personnel carrying out the inspection are qualified to undertake these duties and shall provide them with the necessary legal authority to perform their duties.

3. Adequate provision shall be made to ensure that the inspectors have the training, competence, terms of reference, powers, status and independence necessary or desirable so as to enable them to carry out the verification and ensure the compliance referred to in paragraph 1 of this Standard.

4. Inspections shall take place at the intervals required by Standard A5.1.3, where applicable. The interval shall in no case exceed three years.

5. If a Member receives a complaint which it does not consider manifestly unfounded or obtains evidence that a ship that flies its flag does not conform to the requirements of this Convention or that there are serious deficiencies in the implementation of the measures set out in the declaration of maritime labour compliance, the Member shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found.

6. Adequate rules shall be provided and effectively enforced by each Member in order to guarantee that inspectors have the status and conditions of service to ensure that they are independent of changes of government and of improper external influences.

7. Inspectors, issued with clear guidelines as to the tasks to be performed and provided with proper credentials, shall be empowered:
   (a) to board a ship that flies the Member’s flag;
   (b) 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; and
   (c) 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 Convention (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.

8. Any action taken pursuant to paragraph 7(c) of this Standard shall be subject to any right of appeal to a judicial or administrative authority.

9. Inspectors shall have the discretion to give advice instead of instituting or recommending proceedings when there is no clear breach of the requirements of this Convention that endangers the safety, health or security of the seafarers concerned and where there is no prior history of similar breaches.

10. Inspectors shall treat as confidential the source of any grievance or complaint alleging a danger or deficiency in relation to seafarers’ working and living conditions or a violation of laws and regulations and give no intimation to the shipowner, the shipowner’s representative or the operator of the ship that an inspection was made as a consequence of such a grievance or complaint.
11. Inspectors shall not be 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 shall:

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

(b) subject to appropriate sanctions or disciplinary measures, 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.

12. Inspectors shall submit a report of each inspection to the competent authority. One copy of the report in English or in the working language of the ship 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.

13. The competent authority of each Member shall maintain records of inspections of the conditions for seafarers on ships that fly its flag. It shall publish an annual report on inspection activities within a reasonable time, not exceeding six months, after the end of the year.

14. In the case of an investigation pursuant to a major incident, the report shall be submitted to the competent authority as soon as practicable, but not later than one month following the conclusion of the investigation.

15. When an inspection is conducted or when measures are taken under this Standard, all reasonable efforts shall be made to avoid a ship being unreasonably detained or delayed.

16. Compensation shall be payable in accordance with national laws and regulations 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.

17. Adequate penalties and other corrective measures for breaches of the requirements of this Convention (including seafarers’ rights) and for obstructing inspectors in the performance of their duties shall be provided for and effectively enforced by each Member.

Guideline B5.1.4 – Inspection and enforcement

1. The competent authority and any other service or authority wholly or partly concerned with the inspection of seafarers’ working and living conditions should have the resources necessary to fulfil their functions. In particular:

(a) each Member should take the necessary measures so that duly qualified technical experts and specialists may be called upon, as needed, to assist in the work of inspectors; and

(b) inspectors should be provided with conveniently situated premises, equipment and means of transport adequate for the efficient performance of their duties.

2. The competent authority should develop a compliance and enforcement policy to ensure consistency and otherwise guide inspection and enforcement activities related to this Convention. Copies of this policy should be provided to all inspectors.
and relevant law-enforcement officials and should be made available to the public and shipowners and seafarers.

3. The competent authority should establish simple procedures to enable it to receive information in confidence concerning possible breaches of the requirements of this Convention (including seafarers’ rights) presented by seafarers directly or by representatives of the seafarers, and permit inspectors to investigate such matters promptly, including:

(a) enabling masters, seafarers or representatives of the seafarers to request an inspection when they consider it necessary; and

(b) supplying technical information and advice to shipowners and seafarers and organizations concerned as to the most effective means of complying with the requirements of this Convention and of bringing about a continual improvement in seafarers’ on-board conditions.

4. Inspectors should be fully trained and sufficient in numbers to secure the efficient discharge of their duties with due regard to:

(a) the importance of the duties which the inspectors have to perform, in particular the number, nature and size of ships subject to inspection and the number and complexity of the legal provisions to be enforced;

(b) the resources placed at the disposal of the inspectors; and

(c) the practical conditions under which inspections must be carried out in order to be effective.

5. Subject to any conditions for recruitment to the public service which may be prescribed by national laws and regulations, inspectors should have qualifications and adequate training to perform their duties 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.

6. Measures should be taken to provide inspectors with appropriate further training during their employment.

7. All inspectors should have a clear understanding of the circumstances in which an inspection should be carried out, the scope of the inspection to be carried out in the various circumstances referred to and the general method of inspection.

8. Inspectors provided with proper credentials under the national law should at a minimum be empowered:

(a) 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;

(b) 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 laws and regulations, in the presence of any witness that the person may have requested;

(c) 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 the national laws and regulations implementing this Convention;
Compliance and enforcement

(d) to enforce the posting of notices required under the national laws and regulations implementing this Convention;

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

(f) 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;

(g) to alert the competent authority and, if applicable, the recognized organization to any deficiency or abuse not specifically covered by existing laws or regulations and submit proposals to them for the improvement of the laws or regulations; and

(h) 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.

9. When a sample referred to in paragraph 8(e) of this Guideline is being taken or removed, the shipowner or the shipowner’s representative, and where appropriate a seafarer, should be notified or should be present at the time the sample is taken or removed. The quantity of such a sample should be properly recorded by the inspector.

10. The annual report published by the competent authority of each Member, in respect of ships that fly its flag, should contain:

(a) 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;

(b) details of the organization of the system of inspection;

(c) statistics of ships or other premises subject to inspection and of ships and other premises actually inspected;

(d) statistics on all seafarers subject to its national laws and regulations;

(e) statistics and information on violations of legislation, penalties imposed and cases of detention of ships; and

(f) statistics on reported occupational injuries and diseases affecting seafarers.

Regulation 5.1.5 – On-board complaint procedures

1. Each Member shall require that ships that fly its flag have on-board procedures for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of this Convention (including seafarers’ rights).

2. Each Member shall prohibit and penalize any kind of victimization of a seafarer for filing a complaint.

3. The provisions in this Regulation and related sections of the Code are without prejudice to a seafarer’s right to seek redress through whatever legal means the seafarer considers appropriate.

Standard A5.1.5 – On-board complaint procedures

1. Without prejudice to any wider scope that may be given in national laws or regulations or collective agreements, the on-board procedures may be used by seafarers to lodge complaints relating to any matter that is alleged to constitute a breach of the requirements of this Convention (including seafarers’ rights).
2. Each Member shall ensure that, in its laws or regulations, appropriate on-board complaint procedures are in place to meet the requirements of Regulation 5.1.5. Such procedures shall seek to resolve complaints at the lowest level possible. However, in all cases, seafarers shall have a right to complain directly to the master and, where they consider it necessary, to appropriate external authorities.

3. The on-board complaint procedures shall include the right of the seafarer to be accompanied or represented during the complaint 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.

4. In addition to a copy of their seafarers’ employment agreement, all seafarers shall be provided with a copy of the on-board complaint procedures applicable on the ship. 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.

Guideline B5.1.5 – On-board complaint procedures

1. Subject to any relevant provisions of an applicable collective agreement, the competent authority should, in close consultation with shipowners’ and seafarers’ organizations, develop a model for fair, expeditious and well-documented on-board complaint-handling procedures for all ships that fly the Member’s flag. In developing these procedures the following matters should be considered:

(a) many complaints may relate specifically to those individuals to whom the complaint is to be made or even to the master of the ship. In all cases seafarers should also be able to complain directly to the master and to make a complaint externally; and

(b) in order to help avoid problems of victimization of seafarers making complaints about matters under this Convention, the procedures should encourage the nomination of a person on board who can advise seafarers on the procedures available to them and, if requested by the complainant seafarer, also attend any meetings or hearings into the subject matter of the complaint.

2. At a minimum the procedures discussed during the consultative process referred to in paragraph 1 of this Guideline should include the following:

(a) complaints should be addressed to the head of the department of the seafarer lodging the complaint or to the seafarer’s superior officer;

(b) the head of department or superior officer should then attempt to resolve the matter within prescribed time limits appropriate to the seriousness of the issues involved;

(c) if the head of department or superior officer cannot resolve the complaint to the satisfaction of the seafarer, the latter may refer it to the master, who should handle the matter personally;

(d) 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;
(e) all complaints and the decisions on them should be recorded and a copy provided to the seafarer concerned;

(f) if a complaint cannot be resolved on board, the matter should be referred ashore to the shipowner, who should be given an appropriate time limit for resolving the matter, where appropriate, in consultation with the seafarers concerned or any person they may appoint as their representative; and

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

Regulation 5.1.6 – Marine casualties

1. Each Member shall hold an official inquiry into any serious marine casualty, leading to injury or loss of life, that involves a ship that flies its flag. The final report of an inquiry shall normally be made public.

2. Members shall cooperate with each other to facilitate the investigation of serious marine casualties referred to in paragraph 1 of this Regulation.

Standard A5.1.6 – Marine casualties

(No provisions)

Guideline B5.1.6 – Marine casualties

(No provisions)

Regulation 5.2 – Port State responsibilities

Purpose: To enable each Member to implement its responsibilities under this Convention regarding international cooperation in the implementation and enforcement of the Convention standards on foreign ships

Regulation 5.2.1 – Inspections in port

1. Every foreign ship calling, in the normal course of its business or for operational reasons, in the port of a Member may be the subject of inspection in accordance with paragraph 4 of Article V for the purpose of reviewing compliance with the requirements of this Convention (including seafarers’ rights) relating to the working and living conditions of seafarers on the ship.

2. Each Member shall accept the maritime labour certificate and the declaration of maritime labour compliance required under Regulation 5.1.3 as prima facie evidence of compliance with the requirements of this Convention (including seafarers’ rights). Accordingly, the inspection in its ports shall, except in the circumstances specified in the Code, 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 the Code and other applicable international arrangements governing port State control inspections in the Member. Any such inspection shall be limited to verifying that the matter inspected is in conformity with the relevant requirements set out in the Articles and Regulations of this Convention and in Part A only of the Code.
4. Inspections that may be carried out in accordance with this Regulation shall be based on an effective port State inspection and monitoring system to help ensure that the working and living conditions for seafarers on ships entering a port of the Member concerned meet the requirements of this Convention (including seafarers’ rights).

5. Information about the system referred to in paragraph 4 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member’s reports pursuant to article 22 of the Constitution.

Standard A5.2.1 – Inspections in port

1. 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:

   (a) 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 Convention or are otherwise invalid; or
   
   (b) there are clear grounds for believing that the working and living conditions on the ship do not conform to the requirements of this Convention; or
   
   (c) there are reasonable grounds to believe that the ship has changed flag for the purpose of avoiding compliance with this Convention; or
   
   (d) there is a complaint alleging that specific working and living conditions on the ship do not conform to the requirements of this Convention;

   a more detailed inspection may 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 Convention (including seafarers’ rights).

2. Where a more detailed inspection is carried out on a foreign ship in the port of a Member by authorized officers in the circumstances set out in subparagraph (a), (b) or (c) of paragraph 1 of this Standard, it shall in principle cover the matters listed in Appendix A5-III.

3. In the case of a complaint under paragraph 1(d) of this Standard, the inspection shall generally be limited to matters within the scope of the complaint, although a complaint, or its investigation, may provide clear grounds for a detailed inspection in accordance with paragraph 1(b) of this Standard. For the purpose of paragraph 1(d) of this Standard, “complaint” means information submitted by a seafarer, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest in safety or health hazards to seafarers on board.

4. Where, following a more detailed inspection, the working and living conditions on the ship are found not to conform to the requirements of this Convention, 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 by the authorized officer to be significant, or if they relate to a complaint made in accordance with paragraph 3 of this Standard, the authorized officer shall bring the deficiencies to the attention of the appropriate seafarers’ and ship-owners’ organizations in the Member in which the inspection is carried out, and may:
Compliance and enforcement

(a) notify a representative of the flag State;
(b) provide the competent authorities of the next port of call with the relevant information.

5. The Member in which the inspection is carried out shall have the right to transmit a copy of the officer's report, which must be accompanied by any reply received from the competent authorities of the flag State within the prescribed deadline, to the Director-General of the International Labour Office with a view to such action as may be considered appropriate and expedient in order to ensure that a record is kept of such information and that it is brought to the attention of parties which might be interested in availing themselves of relevant recourse procedures.

6. Where, following a more detailed inspection by an authorized officer, the ship is found not to conform to the requirements of this Convention and:
(a) the conditions on board are clearly hazardous to the safety, health or security of seafarers; or
(b) the non-conformity constitutes a serious or repeated breach of the requirements of this Convention (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 (a) or (b) 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. 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 the port State in which the inspection was carried out.

7. Each Member shall ensure that its authorized officers are given guidance, of the kind indicated in Part B of the Code, as to the kinds of circumstances justifying detention of a ship under paragraph 6 of this Standard.

8. When implementing their responsibilities under this Standard, each Member shall make all possible efforts to avoid a ship being unduly detained or delayed. If a ship is found to be unduly detained or delayed, compensation shall be paid for any loss or damage suffered. The burden of proof in each case shall be on the complainant.

Guideline B5.2.1 – Inspections in port

1. The competent authority should develop an inspection policy for authorized officers carrying out inspections under Regulation 5.2.1. The objective of the policy should be to ensure consistency and to otherwise guide inspection and enforcement activities related to the requirements of this Convention (including seafarers’ rights). Copies of this policy should be provided to all authorized officers and should be available to the public and shipowners and seafarers.

2. When developing a policy relating to the circumstances warranting a detention of the ship under Standard A5.2.1, paragraph 6, the competent authority should consider that, with respect to the breaches referred to in Standard A5.2.1, paragraph 6(b), the seriousness could be due to the nature of the deficiency concerned. This would be particularly relevant in the case of the violation of fundamental rights and principles or seafarers’ employment and social rights under Articles III and IV.
For example, the employment of a person who is under age should be considered as a serious breach even if there is only one such person on board. In other cases, the number of different defects found during a particular inspection should be taken into account: for example, several instances of defects relating to accommodation or food and catering which do not threaten safety or health might be needed before they should be considered as constituting a serious breach.

3. Members should cooperate with each other to the maximum extent possible in the adoption of internationally agreed guidelines on inspection policies, especially those relating to the circumstances warranting the detention of a ship.

**Regulation 5.2.2 – Onshore seafarer complaint-handling procedures**

1. Each Member shall ensure that seafarers on ships calling at a port in the Member’s territory who allege a breach of the requirements of this Convention (including seafarers’ rights) have the right to report such a complaint in order to facilitate a prompt and practical means of redress.

**Standard A5.2.2 – Onshore seafarer complaint-handling procedures**

1. A complaint by a seafarer alleging a breach of the requirements of this Convention (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.

2. Where appropriate, given the nature of the complaint, the initial investigation shall include consideration of whether the on-board complaint procedures provided under Regulation 5.1.5 have been explored. The authorized officer may also conduct a more detailed inspection in accordance with Standard A5.2.1.

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

4. In the event that the investigation or the inspection provided under this Standard reveals a non-conformity that falls within the scope of paragraph 6 of Standard A5.2.1, the provisions of that paragraph shall be applied.

5. Where the provisions of paragraph 4 of this Standard 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.

6. Where the complaint has not been resolved following action taken in accordance with paragraph 5 of this Standard, the port State shall transmit a copy of the authorized officer’s report to the Director-General. The report must be accompanied by any reply received within the prescribed deadline from the competent authority of the flag State. The appropriate shipowners’ and seafarers’ organizations in the port State shall be similarly informed. In addition, statistics and information regarding complaints that have been resolved shall be regularly submitted by the port State to the Director-General. Both such submissions are provided in order that, on the basis of such action as may be considered appropriate and expedient, a record is kept of such information.
and is brought to the attention of parties, including shipowners’ and seafarers’ organizations, which might be interested in availing themselves of relevant recourse procedures.

7. Appropriate steps shall be taken to safeguard the confidentiality of complaints made by seafarers.

Guideline B5.2.2 – Onshore seafarer complaint-handling procedures

1. Where a complaint referred to in Standard A5.2.2 is dealt with by an authorized officer, the officer should first check whether the complaint is of a general nature which concerns all seafarers on the ship, or a category of them, or whether it relates only to the individual case of the seafarer concerned.

2. If the complaint is of a general nature, consideration should be given to undertaking a more detailed inspection in accordance with Standard A5.2.1.

3. If the complaint relates to an individual case, an examination of the results of any on-board complaint procedures for the resolution of the complaint concerned should be undertaken. If such procedures have not been explored, the authorized officer should suggest that the complainant take advantage of any such procedures available. There should be good reasons for considering a complaint before any on-board complaint procedures have been explored. These would include the inadequacy of, or undue delay in, the internal procedures or the complainant’s fear of reprisal for lodging a complaint.

4. In any investigation of a complaint, the authorized officer should give the master, the shipowner and any other person involved in the complaint a proper opportunity to make known their views.

5. In the event that the flag State demonstrates, in response to the notification by the port State in accordance with paragraph 5 of Standard A5.2.2, that it will handle the matter, and that it has in place effective procedures for this purpose and has submitted an acceptable plan of action, the authorized officer may refrain from any further involvement with the complaint.

Regulation 5.3 – Labour-supplying responsibilities

Purpose: To ensure that each Member implements its responsibilities under this Convention as pertaining to seafarer recruitment and placement and the social protection of its seafarers

1. Without prejudice to the principle of each Member’s responsibility for the working and living conditions of seafarers on ships that fly its flag, the Member also has a responsibility to ensure the implementation of the requirements of this Convention 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, to the extent that such responsibility is provided for in this Convention.

2. Detailed requirements for the implementation of paragraph 1 of this Regulation are found in the Code.

3. Each Member shall establish an effective inspection and monitoring system for enforcing its labour-supplying responsibilities under this Convention.
4. Information about the system referred to in paragraph 3 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member’s reports pursuant to article 22 of the Constitution.

**Standard A5.3 – Labour-supplying responsibilities**

1. Each Member shall enforce the requirements of this Convention applicable to the operation and practice of seafarer recruitment and placement services established on its territory through a system of inspection and monitoring and legal proceedings for breaches of licensing and other operational requirements provided for in Standard A1.4.

**Guideline B5.3 – Labour-supplying responsibilities**

1. Private seafarer recruitment and placement services established in the Member’s territory and securing the services of a seafarer for a shipowner, wherever located, should be required to assume obligations to ensure the proper fulfilment by shipowners of the terms of their employment agreements concluded with seafarers.
APPENDIX A2-I

Evidence of financial security under Regulation 2.5, paragraph 2

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

(a) name of the ship;
(b) port of registry of the ship;
(c) call sign of the ship;
(d) IMO number of the ship;
(e) name and address of the provider or providers of the financial security;
(f) contact details of the persons or entity responsible for handling seafarers’ requests for relief;
(g) name of the shipowner;
(h) period of validity of the financial security; and
(i) an attestation from the financial security provider that the financial security meets the requirements of Standard A2.5.2.
APPENDIX A4-I

Evidence of financial security under Regulation 4.2

The certificate or other documentary evidence of financial security required under Standard A4.2.1, paragraph 14, shall include the following information:

(a) name of the ship;
(b) port of registry of the ship;
(c) call sign of the ship;
(d) IMO number of the ship;
(e) name and address of the provider or providers of the financial security;
(f) contact details of the persons or entity responsible for handling seafarers’ contractual claims;
(g) name of the shipowner;
(h) period of validity of the financial security; and
(i) an attestation from the financial security provider that the financial security meets the requirements of Standard A4.2.1.

APPENDIX B4-I

Model Receipt and Release Form
referred to in Guideline B4.2.2

Ship (name, port of registry and IMO number): .................................................................

Incident (date and place): ..................................................................................................

Seafarer/legal heir and/or dependant: ..............................................................................

Shipowner:..........................................................................................................................

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

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

* Delete as appropriate.
Dated:

Seafarer/legal heir and/or dependant:

Signed:

*For acknowledgement:*

Shipowner/Shipowner representative:

Signed:

Financial security provider:

Signed:
Appendix A5-I

The working and living conditions of seafarers that must be inspected and approved by the flag State before certifying a ship in accordance with Standard A5.1.3, paragraph 1:

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
Financial security for repatriation
Financial security relating to shipowners’ liability
APPENDIX A5-II

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:

........................................................................................................................................................................................................................................................................................................................................................................

(full designation of the State whose flag the ship is entitled to fly)

by .................................................................................................................................................................................

(full designation and address of the competent authority or recognized organization duly authorized under the provisions of the Convention)

Particulars of the ship

Name of ship: ...........................................................................................................................................................................

Distinctive number or letters: .............................................................................................................................................................................

Port of registry: ....................................................................................................................................................................................

Date of registry: ......................................................................................................................................................................................

Gross tonnage: \(^1\) .........................................................................................................................................................................................

IMO number: .........................................................................................................................................................................................

Type of ship: .........................................................................................................................................................................................

Name and address of the shipowner: \(^2\) ...........................................................................................................................................................

........................................................................................................................................................................................................................................................................................................................................................................

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\(^1\) 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.

\(^2\) 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)  

Extension after renewal inspection (if required)  

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

Completion date of the renewal inspection on which this extension is based was:  
..............................................................................................................................................  
Signed: ...........................................................................  
(Signature of authorized official)  
..............................................................................  
Place: ...........................................................................  
Date: .........................................................................  
(Seal or stamp of the authority,  
as appropriate)
Maritime Labour Convention, 2006

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: .................... (insert name of competent authority as defined in Article II, paragraph 1(a), of the Convention)

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

<table>
<thead>
<tr>
<th>Name of ship</th>
<th>IMO number</th>
<th>Gross tonnage</th>
</tr>
</thead>
</table>

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
(e) 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) ...................................................................................
15. Financial security for repatriation (Regulation 2.5) ...........................................................
16. Financial security relating to shipowners’ liability (Regulation 4.2) ..............................

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: ................................................................

Appendix A5-II
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)

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)
15. Financial security for repatriation (Regulation 2.5) □

........................................................................................................................................

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

........................................................................................................................................

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:..........................................................

......................................................................................

Company address:..........................................................

......................................................................................

Name of the authorized signatory:

......................................................................................

Title:............................................................................

Signature of the authorized signatory:

......................................................................................

Date: .................................................................
(Stamp or seal of the shipowner\(^1\))

The above measures have been reviewed by (insert name of competent authority or duly recognized organization) 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)

\(^1\) *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:

(full designation of the State whose flag the ship is entitled to fly)

by ..................................................................................................................................................

(full designation and address of the competent authority or recognized organization duly authorized under the provisions of the Convention)

Particulars of the ship

Name of ship: ................................................................................................................................

Distinctive number or letters: ....................................................................................................

Port of registry: ............................................................................................................................

Date of registry: ...........................................................................................................................

Gross tonnage: ............................................................................................................................

IMO number: ...............................................................................................................................

Type of ship: ................................................................................................................................

Name and address of the shipowner: ..........................................................................................

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.

1 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.

2 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)
Appendix A5-III

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 Standard A5.2.1:

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
Financial security for repatriation
Financial security relating to shipowners’ liability
Appendix B5-I – Example of a national Declaration

See Guideline B5.1.3, paragraph 5

Maritime Labour Convention, 2006

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 Ministry of Maritime Transport of Xxxxxx

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

<table>
<thead>
<tr>
<th>Name of ship</th>
<th>IMO number</th>
<th>Gross tonnage</th>
</tr>
</thead>
<tbody>
<tr>
<td>M.S. EXAMPLE</td>
<td>12345</td>
<td>1,000</td>
</tr>
</tbody>
</table>

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

(e) any ship-type specific requirements under national legislation are also referenced under the requirements concerned.

1. Minimum age (Regulation 1.1)

Shipping Law, No. 123 of 1905, as amended (“Law”), Chapter X; Shipping Regulations (“Regulations”), 2006, Rules 1111-1222.

Minimum ages are those referred to in the Convention

“Night” means 9 p.m. to 6 a.m. unless the Ministry of Maritime Transport (“Ministry”) approves a different period.
Examples of hazardous work restricted to 18-year-olds or over are listed in Schedule A hereto. In the case of cargo ships, no one under 18 may work in the areas marked on the ship’s plan (to be attached to this Declaration) as “hazardous area”.

2. Medical certification (Regulation 1.2)
   Law, Chapter XI; Regulations, Rules 1223-1233.
   Medical certificates shall conform to the STCW requirements, where applicable; in other cases, the STCW requirements are applied with any necessary adjustments.
   Qualified opticians on list approved by Ministry may issue certificates concerning eyesight.
   Medical examinations follow the ILO/WHO Guidelines referred to in Guideline B1.2.1.
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) ✗
   Date of birth of each seafarer is noted against his/her name on the crew list.
   The list is checked at the beginning of each voyage by the master or officer acting on his or her behalf (“competent officer”), who records the date of such verification.
   Each seafarer under 18 receives, at the time of engagement, a note prohibiting him/her from performing night work or the work specifically listed as hazardous (see Part I, section 1, above) and any other hazardous work, and requiring him/her to consult the competent officer in case of doubt. A copy of the note, with the seafarer’s signature under “received and read”, and the date of signature, is kept by the competent officer.

2. Medical certification (Regulation 1.2) ✗
   The medical certificates are kept in strict confidence by the competent officer, together with a list, prepared under the competent officer’s responsibility and stating for each seafarer on board: the functions of the seafarer, the date of the current medical certificate(s) and the health status noted on the certificate concerned.
   In any case of possible doubt as to whether the seafarer is medically fit for a particular function or functions, the competent officer consults the seafarer’s doctor or another qualified practitioner and records a summary of the practitioner’s conclusions, as well as the practitioner’s name and telephone number and the date of the consultation.

.............................................................................................................................................................................................................................................................................................................
CONVENIO SOBRE EL TRABAJO MARÍTIMO, 2006,
en su versión enmendada
CONFERENCIA INTERNACIONAL DEL TRABAJO

CONVENIO SOBRE EL TRABAJO MARÍTIMO, 2006,
en su versión enmendada

Texto refundido preparado por la Oficina Internacional del Trabajo, con las enmiendas de 2014 y 2016 al Código del Convenio

2019
CONFERENCIA INTERNACIONAL DEL TRABAJO

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<td>B5-I</td>
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CONFERENCIA INTERNACIONAL DEL TRABAJO

CONVENIO SOBRE EL TRABAJO MARÍTIMO, 2006
en su versión enmendada

Adoptada por la Conferencia Internacional del Trabajo en su 94.ª reunión (2006)
Enmiendas aprobadas por la Conferencia Internacional del Trabajo en su 103.ª reunión (2014)

PREÁMBULO

La Conferencia General de la Organización Internacional del Trabajo,
Convocada en Ginebra por el Consejo de Administración de la Oficina Internacional del Trabajo, y congregada en dicha ciudad el 7 de febrero de 2006, en su nonagésima cuarta reunión;

Deseando elaborar un instrumento único y coherente que recoja en lo posible todas las normas actualizadas contenidas en los convenios y recomendaciones internacionales sobre el trabajo marítimo vigentes, así como los principios fundamentales que figuran en otros convenios internacionales del trabajo, y en particular en:

— el Convenio sobre el trabajo forzoso, 1930 (núm. 29);
— el Convenio sobre la libertad sindical y la protección del derecho de sindicación, 1948 (núm. 87);
— el Convenio sobre el derecho de sindicación y de negociación colectiva, 1949 (núm. 98);
— el Convenio sobre igualdad de remuneración, 1951 (núm. 100);
— el Convenio sobre la abolición del trabajo forzoso, 1957 (núm. 105);
— el Convenio sobre la discriminación (empleo y ocupación), 1958 (núm. 111);
— el Convenio sobre la edad mínima, 1973 (núm. 138), y
— el Convenio sobre las peores formas de trabajo infantil, 1999 (núm. 182);

Teniendo presente el mandato fundamental de la Organización, esto es, promover condiciones de trabajo decuentes;

Recordando la Declaración de la OIT relativa a los principios y derechos fundamentales en el trabajo, 1998;

Teniendo presente también que la gente de mar está amparada por las disposiciones de otros instrumentos de la OIT y tiene otros derechos reconocidos como derechos y libertades fundamentales que rigen para todas las personas;
Convenio sobre el trabajo marítimo, 2006, en su versión enmendada

Considerando que las actividades del sector marítimo se desarrollan en el mundo entero y que, por ende, la gente de mar necesita una protección especial;

Teniendo presentes también las normas internacionales relativas a la seguridad de los buques, la protección de las personas y la calidad de la gestión de los buques contenidas en el Convenio Internacional para la Seguridad de la Vida Humana en el Mar, 1974, enmendado, y el Convenio sobre el Reglamento Internacional para Prevenir los Abordajes, 1972, enmendado, así como los requisitos sobre formación y competencias de la gente de mar contenidos en el Convenio Internacional sobre Normas de Formación, Titulación y Guardia para la Gente de Mar, 1978, enmendado;

Recordando que la Convención de las Naciones Unidas sobre el Derecho del Mar, 1982, establece un marco jurídico general con arreglo al cual deben regirse todas las actividades que se realicen en los mares y océanos y tiene una importancia estratégica como base para la acción y cooperación en el sector marítimo en los planos nacional, regional y mundial, y que es necesario mantener la integridad de su contenido;

Recordando que el artículo 94 de la Convención de las Naciones Unidas sobre el Derecho del Mar, 1982, define los deberes y obligaciones de los Estados del pabellón en relación, entre otras cosas, con las condiciones de trabajo, la dotación y las cuestiones sociales en los buques que enarbolen su pabellón;

Recordando el párrafo 8 del artículo 19 de la Constitución de la Organización Internacional del Trabajo, según el cual en ningún caso podrá considerarse que la adopción de un convenio o de una recomendación por la Conferencia, o la ratificación de un convenio por cualquier Miembro, menoscabará cualquier ley, sentencia, costumbre o acuerdo que garantice a los trabajadores condiciones más favorables que las previstas en el convenio o la recomendación;

Decidida a procurar que este nuevo instrumento se formule de tal manera que tenga la mayor aceptación posible entre los gobiernos, los armadores y la gente de mar comprometidos con los principios del trabajo decente, que pueda actualizarse fácilmente y que facilite una aplicación y un control de la aplicación efectivos de sus disposiciones;

Después de haber decidido adoptar diversas proposiciones relativas a la elaboración de dicho instrumento, cuestión que constituye el único punto del orden del día de la reunión, y

Después de haber decidido que dichas proposiciones revistan la forma de un convenio internacional,

 adopta, con fecha veintitrés de febrero de dos mil seis, el siguiente Convenio, que podrá ser citado como el Convenio sobre el trabajo marítimo, 2006.
Convenio sobre el trabajo marítimo, 2006, en su versión enmendada

OBLIGACIONES GENERALES

Artículo I

1. Todo Miembro que ratifique el presente Convenio se compromete a dar pleno efecto a sus disposiciones de la manera prevista en el artículo VI para garantizar el derecho de toda la gente de mar a un empleo decente.

2. Los Miembros deberán cooperar entre sí para garantizar la aplicación y el control de la aplicación efectivos del presente Convenio.

DEFINICIONES Y ÁMBITO DE APLICACIÓN

Artículo II

1. A los efectos del presente Convenio, y a menos que en disposiciones específicas se estipule otra cosa:

a) la expresión autoridad competente designa al ministro, departamento gubernamental u otra autoridad facultada para dictar y controlar la aplicación de reglamentos, ordenanzas u otras instrucciones de obligado cumplimiento con respecto al contenido de la disposición de que se trate;

b) la expresión declaración de conformidad laboral marítima designa la declaración a que se hace referencia en la regla 5.1.3;

c) la expresión arqueo bruto designa el tonelaje bruto calculado de conformidad con los reglamentos sobre arqueo contenidos en el anexo I del Convenio Internacional sobre Arqueo de Buques, 1969, o en otro convenio que lo sustituya; en el caso de los buques a los que se aplica el sistema provisional de medición de arqueo adoptado por la Organización Marítima Internacional, el arqueo bruto será el que figura en el apartado «OBSERVACIONES» del Certificado Internacional de Arqueo (1969);

d) la expresión certificado de trabajo marítimo designa el certificado de trabajo marítimo a que se hace referencia en la regla 5.1.3;

e) la expresión requisitos del presente Convenio designa los requisitos contenidos en los artículos, así como en el Reglamento y en la parte A del Código del presente Convenio;

f) los términos gente de mar o marino designan a toda persona que esté empleada o contratada o que trabaje en cualquier puesto a bordo de un buque al que se aplique el presente Convenio;

g) la expresión acuerdo de empleo de la gente de mar abarca tanto el contrato de trabajo como el contrato de enrolamiento;

h) la expresión servicio de contratación y colocación de la gente de mar designa a toda persona, empresa, institución, agencia u otra entidad, pública o privada, cuya
actividad consiste en contratar gente de mar por cuenta de los armadores o en colocarla al servicio de los armadores;

i) el término buque designa a toda embarcación distinta de las que navegan exclusivamente en aguas interiores o en aguas situadas dentro de o en las inmediaciones de aguas abrigadas o de zonas en las que rijan reglamentaciones portuarias, y

j) el término armador designa al propietario de un buque o a cualquier otra organización o persona, como puede ser el administrador, el agente o el fletador a casco desnudo, que a efectos de la explotación del buque ha asumido la responsabilidad que incumbe al propietario o a otra entidad o persona y que, al hacerlo, ha aceptado cumplir con todos los deberes y las responsabilidades que incumben a los armadores en virtud del presente Convenio, independientemente de que otra organización o persona desempeñe algunos de los deberes o responsabilidades en nombre del armador.

2. Salvo que se disponga expresamente otra cosa, el presente Convenio se aplica a toda la gente de mar.

3. Cuando, a los efectos del presente Convenio, haya dudas sobre la condición de gente de mar de alguna categoría de personas, la cuestión será resuelta por la autoridad competente de cada Miembro, previa consulta con las organizaciones de armadores y de gente de mar interesadas.

4. Salvo que se disponga expresamente otra cosa, el presente Convenio se aplica a todos los buques, de propiedad pública o privada, que se dediquen habitualmente a actividades comerciales, con excepción de los buques dedicados a la pesca u otras actividades similares y de las embarcaciones de construcción tradicional, como los dhows y los juncos. El presente Convenio no se aplica a los buques de guerra y las unidades navales auxiliares.

5. Cuando haya dudas en cuanto a si el presente Convenio se aplica a un buque o a una categoría particular de buques, la cuestión será resuelta por la autoridad competente de cada Miembro, previa consulta con las organizaciones de armadores y de gente de mar interesadas.

6. Cuando la autoridad competente determine que no sería razonable o factible en el momento actual aplicar algunos elementos particulares del Código a que se refiere el artículo VI, párrafo 1, a un buque o ciertas categorías de buques que enarbolen el pabellón del Miembro, las disposiciones pertinentes del Código no serán aplicables siempre y cuando el tema de que se trate esté contemplado de manera diferente en la legislación nacional, en convenios colectivos o en otras medidas. Sólo podrá recurrirse a dicha posibilidad en consulta con las organizaciones de armadores y de gente de mar interesadas y únicamente respecto de buques con un arqueo bruto inferior a 200 que no efectúen viajes internacionales.

7. Toda decisión que un Miembro adopte de conformidad con los párrafos 3, 5 ó 6 del presente artículo deberá comunicarse al Director General de la Oficina Internacional del Trabajo, quien la notificará a los Miembros de la Organización.
8. A menos que se disponga otra cosa, toda referencia al presente Convenio constituye también una referencia al Reglamento y al Código.

**DERECHOS Y PRINCIPIOS FUNDAMENTALES**

*Artículo III*

Todo Miembro deberá verificar que las disposiciones de su legislación respetan, en el contexto del presente Convenio, los derechos fundamentales relativos a:

a) la libertad de asociación y la libertad sindical y el reconocimiento efectivo del derecho de negociación colectiva;

b) la eliminación de todas las formas de trabajo forzoso u obligatorio;

c) la abolición efectiva del trabajo infantil, y

d) la eliminación de la discriminación en el empleo y la ocupación.

**DERECHOS EN EL EMPLEO Y DERECHOS SOCIALES DE LA GENTE DE MAR**

*Artículo IV*

1. Toda la gente de mar tiene derecho a un lugar de trabajo seguro y protegido en el que se cumplan las normas de seguridad.

2. Toda la gente de mar tiene derecho a condiciones de empleo justas.

3. Toda la gente de mar tiene derecho a condiciones decentes de trabajo y de vida a bordo.

4. Toda la gente de mar tiene derecho a la protección de la salud, a la atención médica, a medidas de bienestar y a otras formas de protección social.

5. Todo Miembro, dentro de los límites de su jurisdicción, deberá asegurar que los derechos en el empleo y los derechos sociales de la gente de mar enunciados en los párrafos anteriores de este artículo se ejerzan plenamente, de conformidad con los requisitos del presente Convenio. A menos que en el Convenio se disponga específicamente otra cosa, dicho ejercicio podrá asegurarse mediante la legislación nacional, los convenios colectivos aplicables, la práctica u otras medidas.

**RESPONSABILIDADES EN MATERIA DE APLICACIÓN Y CONTROL DE LA APLICACIÓN**

*Artículo V*

1. Todo Miembro deberá aplicar y controlar la aplicación de la legislación o de otras medidas que haya adoptado para cumplir las obligaciones contraídas en virtud del presente Convenio por lo que se refiere a los buques y la gente de mar bajo su jurisdicción.
2. Todo Miembro deberá ejercer efectivamente su jurisdicción y control sobre los buques que enarbolen su pabellón, estableciendo un sistema para garantizar el cumplimiento de los requisitos del presente Convenio, lo cual incluye la realización de inspecciones periódicas, la presentación de informes, la aplicación de medidas de supervisión y el recurso a los procedimientos judiciales previstos por la legislación aplicable.

3. Todo Miembro deberá velar por que los buques que enarbolen su pabellón lleven un certificado de trabajo marítimo y una declaración de conformidad laboral marítima, según lo dispuesto en el presente Convenio.

4. Todo buque al que se aplique el presente Convenio podrá, de conformidad con la legislación internacional, ser sometido a inspección por un Miembro distinto del Estado del pabellón cuando el buque se encuentre en uno de los puertos de dicho Miembro, a fin de determinar si el buque cumple los requisitos del presente Convenio.

5. Todo Miembro deberá ejercer efectivamente su jurisdicción y control sobre los servicios de contratación y colocación de gente de mar que se hayan establecido en su territorio.

6. Todo Miembro deberá prohibir las infracciones de los requisitos del presente Convenio y, de conformidad con la legislación internacional, establecer sanciones o exigir, en virtud de su propia legislación, la adopción de medidas correctivas adecuadas para desalentar tales infracciones.

7. Todo Miembro deberá cumplir sus responsabilidades en virtud del presente Convenio de tal manera que se asegure que los buques de los Estados que no hayan ratificado el presente Convenio no reciban un trato más favorable que los buques que enarbolan el pabellón de Estados que sí lo hayan ratificado.

REGLAMENTO Y PARTES A Y B DEL CÓDIGO

Artículo VI

1. El Reglamento y las disposiciones de la parte A del Código son obligatorias. Las disposiciones de la parte B del Código no son obligatorias.

2. Todo Miembro se compromete a respetar los principios y derechos enunciados en el Reglamento y a aplicar cada regla en la forma prevista en las disposiciones correspondientes contenidas en la parte A del Código. Asimismo, los Miembros darán debida consideración al cumplimiento de sus responsabilidades en la forma prevista en la parte B del Código.

3. Todo Miembro que no esté en condiciones de aplicar los principios y derechos en la forma prevista en la parte A del Código podrá aplicar esta parte A mediante disposiciones de su legislación u otras medidas que sean sustancialmente equivalentes a las disposiciones de dicha parte A, a menos que en el presente Convenio se disponga expresamente otra cosa.
4. Sólo a efectos del párrafo 3 del presente artículo, se considerará que toda ley, reglamento, convenio colectivo u otra medida de aplicación es sustancialmente equivalente, en el contexto de este Convenio, si el Miembro verifica que:

a) favorece la realización plena del objeto y propósito general de la disposición o las disposiciones pertinentes de la parte A del Código, y

b) da efecto a la disposición o las disposiciones pertinentes de la parte A del Código.

CONSULTAS CON LAS ORGANIZACIONES DE ARMADORES Y DE GENTE DE MAR

Artículo VII

En los casos en que en un Miembro no existan organizaciones representativas de los armadores y de la gente de mar, toda excepción, exención o aplicación flexible del presente Convenio respecto de la cual éste exija la celebración de consultas con dichas organizaciones sólo podrá ser objeto de una decisión de ese Miembro previa consulta con el Comité a que se hace referencia en el artículo XIII.

ENTRADA EN VIGOR

Artículo VIII

1. Las ratificaciones formales del presente Convenio deberán ser comunicadas, para su registro, al Director General de la Oficina Internacional del Trabajo.

2. El presente Convenio obligará únicamente a aquellos Miembros de la Organización Internacional del Trabajo cuyas ratificaciones haya registrado el Director General.

3. El presente Convenio entrará en vigor doce meses después de la fecha en que se hayan registrado las ratificaciones de al menos 30 Miembros que en conjunto posean como mínimo el 33 por ciento del arqueo bruto de la flota mercante mundial.

4. En lo sucesivo, el presente Convenio entrará en vigor para cada Miembro doce meses después de la fecha en que se haya registrado su ratificación.

DENUNCIA

Artículo IX

1. Todo Miembro que haya ratificado el presente Convenio podrá denunciarlo después de que haya expirado un período de diez años contado a partir de la fecha en que se haya puesto inicialmente en vigor, mediante un acta comunicada, para su registro, al Director General de la Oficina Internacional del Trabajo. La denuncia no surtirá efecto hasta un año después de la fecha en que se haya registrado.

2. Todo Miembro que, en el plazo de un año después de la expiración del período de diez años mencionado en el párrafo precedente, no haga uso del derecho de denuncia previsto en este artículo quedará obligado durante un nuevo período de
diez años, y en lo sucesivo podrá denunciar el presente Convenio cuando expire cada período de diez años, en las condiciones previstas en este artículo.

EFFECTOS DE LA ENTRADA EN VIGOR

Artículo X

El presente Convenio revisa los convenios siguientes:
Convenio sobre la edad mínima (trabajo marítimo), 1920 (núm. 7)
Convenio sobre las indemnizaciones de desempleo (naufragio), 1920 (núm. 8)
Convenio sobre la colocación de la gente de mar, 1920 (núm. 9)
Convenio sobre el examen médico de los menores (trabajo marítimo), 1921 (núm. 16)
Convenio sobre el contrato de enrolamiento de la gente de mar, 1926 (núm. 22)
Convenio sobre la repatriación de la gente de mar, 1926 (núm. 23)
Convenio sobre los certificados de capacidad de los oficiales, 1936 (núm. 53)
Convenio sobre las vacaciones pagadas de la gente de mar, 1936 (núm. 54)
Convenio sobre las obligaciones del armador en caso de enfermedad o accidentes de la gente de mar, 1936 (núm. 55)
Convenio sobre el seguro de enfermedad de la gente de mar, 1936 (núm. 56)
Convenio sobre las horas de trabajo a bordo y la dotación, 1936 (núm. 57)
Convenio (revisado) sobre la edad mínima (trabajo marítimo), 1936 (núm. 58)
Convenio sobre la alimentación y el servicio de fonda (tripulación de buques), 1946 (núm. 68)
Convenio sobre el certificado de aptitud de los cocineros de buque, 1946 (núm. 69)
Convenio sobre la seguridad social de la gente de mar, 1946 (núm. 70)
Convenio sobre las vacaciones pagadas de la gente de mar, 1946 (núm. 72)
Convenio sobre el examen médico de la gente de mar, 1946 (núm. 73)
Convenio sobre el certificado de marinero preferente, 1946 (núm. 74)
Convenio sobre el alojamiento de la tripulación, 1946 (núm. 75)
Convenio sobre los salarios, las horas de trabajo a bordo y la dotación, 1946 (núm. 76)
Convenio sobre las vacaciones pagadas de la gente de mar (revisado), 1949 (núm. 91)
Convenio sobre el alojamiento de la tripulación (revisado), 1949 (núm. 92)
Convenio sobre salarios, horas de trabajo a bordo y dotación (revisado), 1949 (núm. 93)
Convenio sobre salarios, horas de trabajo a bordo y dotación (revisado), 1958 (núm. 109)
Convenio sobre el alojamiento de la tripulación (disposiciones complementarias), 1970 (núm. 133)
Convenio sobre la prevención de accidentes (gente de mar), 1970 (núm. 134)
Convenio sobre la continuidad del empleo (gente de mar), 1976 (núm. 145)
Convenio sobre las vacaciones anuales pagadas (gente de mar), 1976 (núm. 146)
Convenio sobre la marina mercante (normas mínimas), 1976 (núm. 147)
Protocolo de 1996 relativo al Convenio sobre la marina mercante (normas mínimas), 1976 (núm. 147)
Convenio sobre el bienestar de la gente de mar, 1987 (núm. 163)
Convenio sobre la protección de la salud y la asistencia médica (gente de mar), 1987 (núm. 164)
Convenio sobre la seguridad social de la gente de mar (revisado), 1987 (núm. 165)
Convenio sobre la repatriación de la gente de mar (revisado), 1987 (núm. 166)
Convenio sobre la inspección del trabajo (gente de mar), 1996 (núm. 178)
Convenio sobre la contratación y la colocación de la gente de mar, 1996 (núm. 179)
Convenio sobre las horas de trabajo a bordo y la dotación de los buques, 1996 (núm. 180).

FUNCIONES DE DEPOSITARIO

Artículo XI

1. El Director General de la Oficina Internacional del Trabajo notificará a todos los Miembros de la Organización Internacional del Trabajo el registro de todas las ratificaciones, aceptaciones y denuncias del presente Convenio.

2. Cuando se hayan cumplido las condiciones enunciadas en el párrafo 3 del artículo VIII, el Director General señalará a la atención de los Miembros de la Organización la fecha en que entrará en vigor el presente Convenio.

Artículo XII

El Director General de la Oficina Internacional del Trabajo comunicará al Secretario General de las Naciones Unidas, a efectos de su registro de conformidad con el artículo 102 de la Carta de las Naciones Unidas, una información completa
sobre todas las ratificaciones, aceptaciones y denuncias registradas en virtud del presente Convenio.

COMITÉ TRIPARTITO ESPECIAL

Artículo XIII

1. El Consejo de Administración de la Oficina Internacional del Trabajo examinará continuamente la aplicación del presente Convenio a través de un comité establecido por el Consejo de Administración con competencias específicas en el ámbito de las normas sobre el trabajo marítimo.

2. Para tratar de las cuestiones concernientes al presente Convenio, este Comité estará compuesto por dos representantes designados por el gobierno de cada uno de los Miembros que hayan ratificado el presente Convenio y por los representantes de los armadores y de la gente de mar que designe el Consejo de Administración, previa celebración de consultas con la Comisión Paritaria Marítima.

3. Los representantes gubernamentales de los Miembros que no hayan ratificado aún el presente Convenio podrán participar en el Comité, pero no tendrán derecho a voto respecto de ninguna cuestión que se aborde en virtud del presente Convenio. El Consejo de Administración podrá invitar a otras organizaciones o entidades a hacerse representar por observadores en el Comité.

4. Los derechos de voto de los representantes de los armadores y de la gente de mar en el Comité serán ponderados para garantizar que cada uno de estos Grupos tenga la mitad de los derechos de voto atribuidos al número total de los gobiernos representados en la reunión de que se trate y autorizados a votar en ella.

ENMIENDAS AL PRESENTE CONVENIO

Artículo XIV

1. La Conferencia General de la Organización Internacional del Trabajo podrá adoptar enmiendas a cualesquiera disposiciones del presente Convenio, de conformidad con el artículo 19 de la Constitución de la Organización Internacional del Trabajo y con las normas y procedimientos de la Organización para la adopción de convenios. También podrán adoptarse enmiendas al Código con arreglo a los procedimientos previstos en el artículo XV.

2. El texto de las enmiendas se remitirá, para su ratificación, a los Miembros cuyos instrumentos de ratificación del presente Convenio hayan sido registrados antes de la adopción de dichas enmiendas.

3. En el caso de los demás Miembros de la Organización, el texto del Convenio en su forma enmendada se les remitirá para su ratificación de conformidad con el artículo 19 de la Constitución.

4. Se considerará que las enmiendas han sido aceptadas en la fecha en que se hayan registrado las ratificaciones — de la enmienda o del Convenio en su forma
Convenio sobre el trabajo marítimo, 2006, en su versión enmendada

enmendada, según el caso — de al menos 30 Miembros que en conjunto posean como mínimo el 33 por ciento del arqueo bruto de la flota mercante mundial.

5. Las enmiendas que se adopten de conformidad con el artículo 19 de la Constitución serán obligatorias únicamente para los Miembros de la Organización cuyas ratificaciones hayan sido registradas por el Director General de la Oficina Internacional del Trabajo.

6. En lo que atañe a los Miembros a que se refiere el párrafo 2 del presente artículo, las enmiendas entrarán en vigor doce meses después de la fecha de aceptación mencionada en el párrafo 4 supra o doce meses después de la fecha en que se haya registrado su ratificación de la enmienda, si esta fecha fuera posterior.

7. En lo que atañe a los Miembros a que se refiere el párrafo 3 del presente artículo, y a reserva de lo dispuesto en el párrafo 9 del mismo, el Convenio en su forma enmendada entrará en vigor doce meses después de la fecha de aceptación mencionada en el párrafo 4 supra o doce meses después de la fecha en que se haya registrado su ratificación del Convenio, si esta fecha fuera posterior.

8. El presente Convenio permanecerá en vigor en su forma y contenido no enmendados para los Miembros cuya ratificación del Convenio se haya registrado antes de la adopción de la enmienda de que se trate, pero que no hayan ratificado dicha enmienda.

9. Todo Miembro cuya ratificación del presente Convenio se registre después de la adopción de la enmienda pero antes de la fecha a que se refiere el párrafo 4 del presente artículo podrá especificar, en una declaración anexa al instrumento de ratificación, que su ratificación se refiere al Convenio sin la enmienda en cuestión. En el caso de una ratificación que venga acompañada de dicha declaración, el Convenio entrará en vigor para el Miembro de que se trate doce meses después de la fecha en que se haya registrado la ratificación. Cuando el instrumento de ratificación no venga acompañado de dicha declaración o cuando la ratificación se registre en la fecha o después de la fecha a que se refiere el párrafo 4, el Convenio entrará en vigor para el Miembro de que se trate doce meses después de la fecha en que se haya registrado la ratificación; después de su entrada en vigor de conformidad con el párrafo 7 del presente artículo, el Miembro en cuestión quedará obligado a respetar la enmienda, salvo que en dicha enmienda se estipule otra cosa.

ENMIENDAS AL CÓDIGO

Artículo XV

1. El Código podrá ser enmendado ya sea mediante el procedimiento estipulado en el artículo XIV o, salvo que se indique expresamente otra cosa, de conformidad con el procedimiento descrito en el presente artículo.

2. El gobierno de cualquier Miembro de la Organización o el grupo de representantes de los armadores o el grupo de representantes de la gente de mar que hayan sido designados para formar parte del Comité mencionado en el artículo XIII
poderán proponer al Director General de la OIT enmiendas al Código. Toda enmienda propuesta por un gobierno deberá haber sido propuesta o apoyada al menos por cinco gobiernos Miembros que hayan ratificado el Convenio o por el grupo de representantes de los armadores o de la gente de mar a que se hace referencia en el presente párrafo.

3. Después de verificar que la propuesta de enmienda cumple con los requisitos del párrafo 2 que antecede, el Director General deberá comunicarla sin demora, junto con los comentarios o sugerencias que se consideren oportunos, a todos los Miembros de la Organización, invitándoles a enviar sus observaciones o sugerencias sobre la propuesta en un plazo de seis meses o cualquier otro plazo que fije el Consejo de Administración (que no podrá ser inferior a tres meses ni superior a nueve meses).

4. Al finalizar el plazo a que se refiere el párrafo 3 que antecede, la propuesta, acompañada de un resumen de cualesquiera observaciones o sugerencias hechas con arreglo a dicho párrafo, se remitirá al Comité para su examen en una reunión. Se considerará que una enmienda ha sido adoptada por el Comité si:

   a) por lo menos la mitad de los gobiernos de los Miembros que hayan ratificado el presente Convenio están representados en la reunión en que se examine la propuesta;

   b) una mayoría de por lo menos dos tercios de los miembros del Comité vota a favor de la enmienda, y

   c) esta mayoría de votos favorables incluye por lo menos la mitad de los votos atribuidos a los gobiernos, la mitad de los votos atribuidos a los armadores y la mitad de los votos atribuidos a la gente de mar en su calidad de miembros del Comité inscritos en la reunión en que se someta a votación la propuesta.

5. Las enmiendas adoptadas de conformidad con el párrafo 4 que antecede deberán presentarse a la siguiente reunión de la Conferencia para su aprobación. Tal aprobación requerirá una mayoría de dos tercios de los votos emitidos por los delegados presentes. Si no se obtiene esa mayoría, la enmienda propuesta deberá remitirse al Comité para que éste la reexamine, si así lo estima conveniente.

6. Las enmiendas aprobadas por la Conferencia deberán ser notificadas por el Director General a cada uno de los Miembros cuya ratificación del presente Convenio se haya registrado antes de la fecha de la aprobación de la enmienda por la Conferencia. Estos Miembros son mencionados más adelante como «Miembros ratificantes». La notificación deberá contener una referencia al presente artículo y fijar el plazo que regirá para la comunicación de cualquier desacuerdo formal. Este plazo será de dos años a partir de la fecha de la notificación, a menos que, en el momento de la aprobación, la Conferencia haya fijado un plazo diferente, el cual será de por lo menos un año. A los demás Miembros de la Organización se les remitirá una copia de la notificación, con fines de información.

7. Toda enmienda aprobada por la Conferencia deberá considerarse aceptada, a menos que, al término del plazo fijado, el Director General haya recibido
expresiones formales de desacuerdo de más del 40 por ciento de los Miembros que hayan ratificado el Convenio y que representen como mínimo el 40 por ciento del arqueo bruto de la flota mercante de los Miembros que hayan ratificado el Convenio.

8. Toda enmienda que se considere aceptada entrará en vigor seis meses después del vencimiento del plazo fijado para todos los Miembros ratificantes, excepto para los que hubieren expresado formalmente su desacuerdo con arreglo al párrafo 7 que antecede y no hubieren retirado tal desacuerdo de conformidad con el párrafo 11. Ello no obstante:

a) antes del vencimiento del plazo fijado, todo Miembro ratificante podrá comunicar al Director General que la enmienda entrará en vigor para dicho Miembro sólo después de que éste haya remitido una notificación expresa de su aceptación, y

b) antes de la fecha de entrada en vigor de la enmienda, todo Miembro ratificante podrá comunicar al Director General que se declara exento de la aplicación de dicha enmienda durante un período determinado.

9. Las enmiendas que estén sujetas a la notificación señalada en el apartado a) del párrafo 8 supra entrarán en vigor, para el Miembro que envíe dicha notificación, seis meses después de que éste haya comunicado al Director General su aceptación de la enmienda, o en la fecha en que la enmienda entre en vigor por primera vez, si esta fecha fuera posterior.

10. El período a que se refiere el apartado b) del párrafo 8 supra no deberá exceder de un año desde la fecha de entrada en vigor de la enmienda ni superar cualquier otro plazo más largo que pueda haber fijado la Conferencia en el momento de la aprobación de la enmienda.

11. Todo Miembro que haya expresado formalmente su desacuerdo con una enmienda podrá retirarlo en todo momento. Si el Director General recibe la comunicación de ese retiro después de la entrada en vigor de la enmienda, ésta entrará en vigor para dicho Miembro seis meses después de la fecha en que se haya registrado dicha comunicación.

12. Después de la entrada en vigor de una enmienda, el Convenio sólo podrá ser ratificado en su forma enmendada.

13. En la medida en que un certificado de trabajo marítimo se refiera a cuestiones comprendidas en una enmienda al presente Convenio que haya entrado en vigor:

a) todo Miembro que haya aceptado dicha enmienda no estará obligado a hacer extensivos los privilegios del presente Convenio en lo que atañe a los certificados de trabajo marítimo expedidos a buques que enarbolen el pabellón de otro Miembro que:

i) en virtud del párrafo 7 del presente artículo, haya expresado formalmente su desacuerdo con la enmienda y no haya retirado dicho desacuerdo, o
ii) en virtud del apartado a) del párrafo 8 del presente artículo, haya anunciado que la aceptación está supeditada a su aprobación expresa ulterior y no haya aceptado la enmienda, y

b) todo Miembro que haya aceptado dicha enmienda deberá hacer extensivos los privilegios del Convenio en lo que atañe a los certificados de trabajo marítimo expedidos a buques que enarbolen el pabellón de otro Miembro que, en virtud del apartado b) del párrafo 8 supra, haya notificado que no aplicará la enmienda durante un período determinado, con arreglo al párrafo 10 del presente artículo.

IDIOMAS AUTÉNTICOS

Artículo XVI

Las versiones inglesa y francesa del texto del presente Convenio son igualmente auténticas.
NOTA EXPLICATIVA SOBRE EL REGLAMENTO Y EL CÓDIGO DEL CONVENIO SOBRE EL TRABAJO MARÍTIMO

1. El objeto de la presente nota explicativa, que no forma parte del Convenio sobre el trabajo marítimo, es servir de guía respecto del Convenio en general.

2. El Convenio consta de tres partes diferentes, pero relacionadas entre sí, a saber, los artículos, el Reglamento y el Código.

3. Los artículos y el Reglamento establecen los derechos y principios fundamentales y las obligaciones básicas de los Miembros ratificantes del presente Convenio. Los artículos y el Reglamento sólo pueden ser modificados por la Conferencia en el marco del artículo 19 de la Constitución de la Organización Internacional del Trabajo (véase el artículo XIV del Convenio).

4. En el Código se detalla la aplicación del Reglamento. Comprende la parte A (normas obligatorias) y la parte B (pautas no obligatorias). El Código puede enmendarse a través del procedimiento simplificado establecido en el artículo XV del Convenio. En vista de que el Código contiene los detalles de la aplicación, las enmiendas que se le hagan deberán estar en conformidad con el alcance general de los artículos y del Reglamento.

5. El Reglamento y el Código están organizados por temas generales, en cinco Títulos:
   - Título 1: Requisitos mínimos para trabajar a bordo de buques
   - Título 2: Condiciones de empleo
   - Título 3: Alojamiento, instalaciones de esparcimiento, alimentación y servicio de fonda
   - Título 4: Protección de la salud, atención médica, bienestar y protección social
   - Título 5: Cumplimiento y control de la aplicación

6. Cada Título contiene grupos de disposiciones relativas a un principio o derecho particular (o a una medida de control de la aplicación, en el caso del Título 5), al que se ha asignado un número de referencia. El primer grupo del Título 1, por ejemplo, consta de la regla 1.1, la norma A1.1 y la pauta B1.1 (sobre la edad mínima).

7. El Convenio tiene tres objetivos principales:
   a) establecer (en sus artículos y Reglamento) un conjunto sólido de principios y derechos;
   b) permitir (a través del Código) que los Miembros tengan un grado considerable de flexibilidad en la manera de aplicar esos principios y derechos, y
   c) asegurar que el cumplimiento y el control de la aplicación de los principios y derechos se haga de manera apropiada (a través del Título 5).

8. Hay dos medios principales para hacer posible una aplicación flexible del instrumento: el primero consiste en que los Miembros, cuando sea necesario (véase el artículo VI, párrafo 3), pueden dar efecto a las disposiciones detalladas de la parte A del Código aplicando medidas de equivalencia sustancial (conforme a la definición contenida en el artículo VI, párrafo 4).
9. El segundo medio consiste en formular de manera más general muchas de las disposiciones obligatorias de la parte A, lo cual dejaría un margen discrecional más amplio para decidir las acciones precisas que se han de adoptar en el plano nacional. En esos casos, se dan orientaciones sobre la aplicación en la parte B del Código, no obligatoria. De esta manera, los Miembros que hayan ratificado el presente Convenio pueden determinar qué tipo de acciones podría esperarse de ellos en virtud de la obligación general correspondiente contenida en la parte A, y qué acciones no sería necesario emprender. Por ejemplo, la norma A4.1 exige que todos los buques faciliten un rápido acceso a los medicamentos necesarios para la atención médica a bordo (párrafo 1, b)) y que lleven «un botiquín» (párrafo 4, a)). El cumplimiento de buena fe de esta última obligación implica claramente que no basta con llevar un botiquín a bordo de cada buque. En la pauta B4.1.1 correspondiente (párrafo 4) se da una indicación más precisa de lo que esto implica para garantizar que el contenido del botiquín sea correctamente almacenado, utilizado y mantenido.

10. Los Miembros que hayan ratificado el presente Convenio no están vinculados por las orientaciones y, como se indica en las disposiciones del Título 5 relativas al control por el Estado del puerto, las inspecciones tratarían únicamente sobre los requisitos pertinentes del presente Convenio (artículos, reglas y normas de la parte A). Sin embargo, se exige a los Miembros, en virtud del párrafo 2 del artículo VI, que tengan debidamente en cuenta el cumplimiento de sus responsabilidades en virtud de la parte A del Código de la manera prevista en la parte B. Si, después de haber tomado debidamente en consideración las pautas pertinentes, un Miembro decide adoptar otras disposiciones diferentes que garanticen el almacenamiento, la utilización y el mantenimiento apropiados del contenido del botiquín, para retomar el ejemplo citado más arriba, según lo prescrito en la norma de la parte A, es aceptable que lo haga. Por otra parte, si sigue las orientaciones previstas en la parte B, el Miembro interesado, al igual que los órganos de la OIT encargados de verificar la aplicación de los convenios internacionales del trabajo, podrá estar seguro, sin más consideraciones, de que las medidas adoptadas por el Miembro son adecuadas para cumplir las responsabilidades enunciadas en las disposiciones pertinentes de la parte A.
El Reglamento y el Código
Título 1. Requisitos mínimos para trabajar a bordo de buques

Regla 1.1 – Edad mínima

Finalidad: Asegurar que en los buques no trabajen personas menores de una determinada edad mínima

1. Ninguna persona menor de una determinada edad mínima podrá ser empleada o contratada o trabajar a bordo de un buque.

2. La edad mínima en el momento de la entrada en vigor inicial del presente Convenio es de 16 años.

3. Se exigirá una edad mínima superior para trabajar en las circunstancias especificadas en el Código.

Norma A1.1 – Edad mínima

1. Se deberá prohibir que personas menores de 16 años sean empleadas o contratadas o trabajen a bordo de buques.

2. Deberá prohibirse el trabajo nocturno a la gente de mar menor de 18 años. A efectos de la presente norma, el término «noche» se definirá en conformidad con la legislación y la práctica nacionales. Comprenderá un período de al menos nueve horas contado a más tardar desde la medianoche, el cual no podrá terminar antes de las cinco horas de la madrugada.

3. La autoridad competente podrá hacer una excepción al cumplimiento estricto de la restricción del trabajo nocturno cuando:
   a) la formación eficaz de la gente de mar interesada, impartida con arreglo a programas y planes de estudio establecidos, pudiera verse comprometida, o
   b) la naturaleza específica de la tarea o un programa de formación reconocido requiera que la gente de mar a la que se aplique la excepción realice trabajos de noche y la autoridad, previa consulta con las organizaciones de armadores y de gente de mar interesadas, determine que dicho trabajo no perjudicará su salud ni su bienestar.

4. Se deberá prohibir que gente de mar menor de 18 años sea empleada o contratada o realice trabajos cuando éstos puedan resultar peligrosos para su salud o su seguridad. Esos tipos de trabajo serán determinados por normas de la legislación nacional o por la autoridad competente, previa consulta con las organizaciones de armadores y de gente de mar interesadas, de conformidad con las normas internacionales pertinentes.

Pauta B1.1 – Edad mínima

1. Al reglamentar las condiciones de trabajo y de vida, los Miembros deberían prestar una atención especial a las necesidades de los jóvenes menores de 18 años.
Regla 1.2 – Certificado médico

Finalidad: Asegurar que toda la gente de mar tenga la aptitud física para desempeñar sus tareas en el mar

1. La gente de mar no deberá trabajar a bordo de un buque si no posee un certificado médico válido que acredite su aptitud física para desempeñar sus funciones.

2. Podrán permitirse excepciones sólo con arreglo a las condiciones establecidas en el Código.

Norma A1.2 – Certificado médico

1. La autoridad competente deberá exigir a la gente de mar que, antes de prestar servicios a bordo de un buque, presente un certificado médico válido que acredite su aptitud física para desempeñar las tareas que se le hayan de encomendar a bordo.

2. A fin de garantizar que los certificados médicos reflejen fielmente el estado de salud de la gente de mar, habida cuenta de las tareas que ha de desempeñar, la autoridad competente, previa consulta con las organizaciones de armadores y de gente de mar interesadas y teniendo debidamente en cuenta las pautas internacionales aplicables mencionadas en la parte B del presente Código, podrá prescribir la naturaleza del examen médico y del certificado.

3. La presente norma se aplicará sin perjuicio del Convenio internacional sobre normas de formación, titulación y guardia para la gente de mar, 1978, enmendado (Convenio de Formación). La autoridad competente deberá aceptar todo certificado médico expedido con arreglo a los requisitos del Convenio de Formación, a los efectos de la regla 1.2. También deberá aceptar todo certificado médico que cumpla en sustancia esos requisitos, en el caso de la gente de mar no amparada por el Convenio de Formación.

4. El certificado médico deberá ser expedido por un médico debidamente calificado o, en el caso de un certificado que se refiera únicamente a la vista, por una persona calificada reconocida por la autoridad competente para expedir dicho certificado. Los médicos deben gozar de plena independencia profesional en el ejercicio de sus funciones por lo que se refiere a los procedimientos de examen médico.

5. La gente de mar a la que se haya denegado un certificado o a la que se haya impuesto una limitación respecto de su capacidad para trabajar, en particular en cuanto al horario, al campo de trabajo o a la esfera de actividad, deberá tener la oportunidad de someterse a un nuevo examen a cargo de otro médico o árbitro médico independiente.

6. En el certificado médico deberá constar en particular que:
   a) el oído y la vista del interesado son satisfactorios y, cuando se trate de una persona que vaya a ser empleada en servicios en los que su aptitud para el trabajo que
debe efectuar pueda ser disminuida por el daltonismo, que su percepción de los colores es también satisfactoria, y

b) el interesado no sufre ninguna afección que pueda agravarse con el servicio en el mar o que lo incapacite para realizar dicho servicio, o que pueda constituir un peligro para la salud de otras personas a bordo.

7. A menos que se exija un período más corto debido a las tareas específicas que ha de desempeñar la gente de mar interesada o que así lo exija el Convenio de Formación:

a) el certificado médico deberá ser válido durante un período máximo de dos años, a menos que el marino sea menor de 18 años, en cuyo caso el período máximo de validez será de un año, y

b) los certificados de percepción de los colores deberán ser válidos por un período máximo de seis años.

8. En casos urgentes, la autoridad competente podrá permitir que un marino trabaje sin un certificado médico válido hasta la fecha de llegada al próximo puerto de escala donde pueda obtener un certificado médico de un médico calificado, a condición de que:

a) el permiso no exceda de tres meses, y

b) el marino interesado tenga un certificado médico vencido de fecha reciente.

9. Si el período de validez de un certificado expira durante una travesía, el certificado seguirá siendo válido hasta la fecha de llegada al próximo puerto de escala donde el marino interesado pueda obtener un certificado médico de un médico calificado, a condición de que esta prolongación de validez no exceda de tres meses.

10. Los certificados médicos de la gente de mar que trabaja a bordo de buques que realizan habitualmente viajes internacionales deben ser expedidos al menos en inglés.

Pauta B1.2 – Certificado médico

Pauta B1.2.1 – Directrices internacionales

1. Debería exigirse a las autoridades competentes, médicos, examinadores médicos, armadores, representantes de la gente de mar y toda otra persona relacionada con los reconocimientos médicos de los candidatos a marino y de los marinos en servicio que apliquen las Directrices para la realización de reconocimientos médicos periódicos y previos al embarque de los marinos, OIT/OMS, con inclusión de todas sus versiones ulteriores, así como todas las demás directrices internacionales aplicables publicadas por la Organización Internacional del Trabajo, la Organización Marítima Internacional y la Organización Mundial de la Salud.
**Regla 1.3 – Formación y calificaciones**

**Finalidad:** Asegurar que la gente de mar tenga la formación o las calificaciones necesarias para ejercer sus funciones a bordo de buques

1. La gente de mar no deberá trabajar a bordo de un buque si no ha sido formada para ello o no posee un certificado que acredite que tiene las competencias profesionales u otras calificaciones para ejercer sus funciones.

2. No deberá permitirse que trabaje en un buque gente de mar que no haya completado con éxito una formación sobre seguridad individual a bordo.

3. Deberá considerarse que la formación y los certificados que estén en conformidad con los instrumentos de carácter obligatorio adoptados por la Organización Marítima Internacional cumplen los requisitos establecidos en los párrafos 1 y 2 de la presente regla.

4. Todo Miembro que, en el momento de ratificar el presente Convenio, estuviera obligado por el Convenio sobre el certificado de marinero preferente, 1946 (núm. 74), deberá seguir cumpliendo las obligaciones previstas en ese Convenio, salvo si la Organización Marítima Internacional ha adoptado disposiciones obligatorias que traten sobre el mismo tema y hayan entrado en vigor, o si han transcurrido cinco años desde la entrada en vigor del presente Convenio, de conformidad con el párrafo 3 del artículo VIII, si esta fecha fuera posterior.

**Regla 1.4 – Contratación y colocación**

**Finalidad:** Asegurar que los marineros tengan acceso a un sistema eficiente y bien reglamentado de contratación y colocación de la gente de mar

1. Toda la gente de mar tendrá acceso, sin costo alguno, a un sistema eficaz, adecuado y sujeto a responsabilidad que le permita encontrar empleo a bordo de un buque.

2. Los servicios de contratación y de colocación de gente de mar que operen en el territorio de un Miembro deberán estar en conformidad con las normas establecidas en el Código.

3. Por lo que se refiere a la gente de mar que trabaje en buques que enarbolan su pabellón, los Miembros deberán exigir que los armadores que recurran a servicios de contratación y colocación de gente de mar basados en países o territorios en los que no se aplique el presente Convenio se aseguren de que esos servicios estén en conformidad con los requisitos establecidos en el Código.

**Norma A1.4 – Contratación y colocación**

1. Todo Miembro que mantenga un servicio público de contratación y colocación de gente de mar deberá asegurarse de que este servicio opere de una
manera ordenada que proteja y promueva los derechos en el empleo de la gente de mar previstos en el presente Convenio.

2. Cuando un Miembro tenga servicios privados de contratación y colocación de gente de mar en su territorio cuyo principal propósito sea la contratación y colocación de la gente de mar o que contrate y coloque a un número significativo de marinos, éstos sólo deberán operar en conformidad con un sistema normalizado de licencias o certificación u otra forma de reglamentación. Dicho sistema sólo podrá establecerse, modificarse o cambiarse previa consulta con las organizaciones de armadores y de gente de mar interesadas. Cuando haya dudas en cuanto a si el presente Convenio se aplica a un servicio privado de contratación y colocación, la cuestión será resuelta por la autoridad competente de cada Miembro, previa consulta con las organizaciones de armadores y de gente de mar interesadas. No se alentará la proliferación indebida de servicios privados de contratación y colocación de gente de mar.

3. Las disposiciones del párrafo 2 de la presente norma se aplicarán también — en la medida en que la autoridad competente, en consulta con las organizaciones de armadores y de gente de mar interesadas, determine que son apropiadas — en el contexto del servicio de contratación y colocación que una organización de la gente de mar mantenga en el territorio de un Miembro con el fin de poner marinos nacionales de este Miembro a disposición de buques que enarbolen su pabellón. Los servicios a que se refiere ese párrafo son los que reúnan las condiciones siguientes:
   a) el servicio de contratación y colocación opere con arreglo a un convenio colectivo suscrito entre dicha organización y un armador;
   b) tanto la organización de la gente de mar como el armador estén basados en el territorio del Miembro;
   c) el Miembro cuente con leyes o procedimientos para legalizar o registrar el convenio colectivo que autoriza el funcionamiento del servicio de contratación y colocación, y
   d) el servicio de contratación y colocación tenga un funcionamiento regular y haya previsto medidas de protección y promoción de los derechos de empleo de la gente de mar comparables a las que figuran en el párrafo 5 de la presente norma.

4. Ninguna disposición de esta norma o de la regla 1.4 deberá interpretarse como:
   a) un impedimento para que un Miembro mantenga un servicio de contratación y colocación público y gratuito para la gente de mar en el marco de una política destinada a atender las necesidades de la gente de mar y de los armadores, ya se trate de un servicio que forme parte de un servicio público de empleo para todos los trabajadores y empleadores o que funcione en coordinación con éste, o
   b) una obligación impuesta a un Miembro de establecer en su territorio un sistema de servicios privados de contratación y colocación para la gente de mar.
5. Todo Miembro que adopte en su legislación o en otras medidas un sistema como el mencionado en el párrafo 2 de esta norma deberá, como mínimo:

a) prohibir que los servicios de contratación y colocación de gente de mar empleen medios, mecanismos o listas destinados a impedir que la gente de mar obtenga un empleo para el cual está calificada, o a disuadirla de ello;

b) prohibir que se facturen a la gente de mar, directa o indirectamente y en su totalidad o en parte, los honorarios u otros emolumentos por concepto de contratación, colocación u obtención de un empleo, salvo los costos correspondientes a la obtención del certificado médico nacional obligatorio, de la libreta nacional de servicio y de un pasaporte o de otros documentos personales de viaje similares (sin embargo, no se incluirá el costo de los visados, cuya cuantía total se imputará al armador), y

c) velar por que los servicios de contratación y colocación de gente de mar que operen en su territorio:

i) lleven un registro actualizado de toda la gente de mar contratada o colocada por su mediación, el cual deberá ponerse a disposición de la autoridad competente con fines de inspección;

ii) se aseguren de que la gente de mar conozca los derechos y obligaciones previstos en sus acuerdos de empleo antes o durante el proceso de contratación, y de que se adopten las medidas apropiadas para que la gente de mar pueda estudiar sus acuerdos de empleo antes y después de haberlos firmado y reciba copia de los mismos;

iii) verifiquen que la gente de mar contratada o colocada por su mediación posea las calificaciones y los documentos necesarios para el empleo de que se trate, y que los acuerdos de empleo de la gente de mar sean conformes con la legislación aplicable y con todo convenio colectivo que forme parte de los acuerdos de empleo;

iv) se aseguren, en la medida en que sea factible, de que el armador tenga los medios necesarios para evitar que la gente de mar sea abandonada en un puerto extranjero;

v) examinen y contesten toda queja relativa a sus actividades y notifiquen toda queja pendiente a la autoridad competente;

vi) establezcan un sistema de protección, por medio de un seguro o de una medida apropiada equivalente, para indemnizar a la gente de mar las pérdidas pecuniarias que ésta podría tener a raíz del incumplimiento de las obligaciones que para con ella tenga el servicio de contratación o colocación o el armador en virtud del acuerdo de empleo de la gente de mar.

6. La autoridad competente deberá supervisar y controlar estrechamente todos los servicios de contratación y colocación de gente de mar que operen en el territorio del Miembro de que se trate. Las licencias o certificados o autorizaciones
similares para operar servicios privados en su territorio se concederán o renovarán sólo después de haber comprobado que dichos servicios de contratación y colocación de gente de mar cumplen las condiciones previstas en la legislación nacional.

7. La autoridad competente deberá velar por que existan mecanismos y procedimientos adecuados para investigar, de ser necesario, las quejas relativas a las actividades de los servicios de contratación y colocación de gente de mar, con el concurso, según proceda, de representantes de los armadores y de la gente de mar.

8. Todo Miembro que haya ratificado el presente Convenio deberá informar a sus nacionales, en la medida en que sea factible, sobre los problemas que puedan derivarse del enrolamiento en un buque que enarbole el pabellón de un Estado que no lo haya ratificado, mientras no haya comprobado que se aplican normas equivalentes a las fijadas en el presente Convenio. Las medidas que adopte con este fin el Miembro que haya ratificado este Convenio no deberán estar en contradicción con el principio de libre circulación de los trabajadores, estipulado en los tratados de los que ambos Estados puedan ser parte.

9. Todo Miembro que haya ratificado el presente Convenio deberá exigir a los armadores de buques que enarbolen su pabellón, que recurran a servicios de contratación y colocación de gente de mar y que estén establecidos en países o territorios en los que no se aplique el presente Convenio, que se aseguren de que, en la medida en que sea factible, esos servicios estén en conformidad con las disposiciones de la presente norma.

10. Ninguna disposición de la presente norma deberá interpretarse como una reducción de las obligaciones y responsabilidades que tienen los armadores o los Miembros respecto de los buques que enarbolen su pabellón.

Pauta B1.4 – Contratación y colocación

Pauta B1.4.1 – Pautas de organización y operación

1. Al cumplir las obligaciones en virtud del párrafo 1 de la norma A.1.4, la autoridad competente debería considerar la posibilidad de:

   a) adoptar las medidas necesarias para promover una cooperación eficaz entre los servicios de contratación y colocación de la gente de mar, ya sean públicos o privados;

   b) tomar en cuenta las necesidades del sector marítimo, tanto en el plano nacional como internacional, al desarrollar programas de formación para los marinos miembros de la tripulación que sean responsables de las operaciones de seguridad de la navegación y de prevención de la contaminación, con la participación de los armadores, de la gente de mar y de las instituciones de formación pertinentes;

   c) adoptar las medidas apropiadas para que las organizaciones representativas de los armadores y de la gente de mar cooperen en la organización y funcionamiento de los servicios públicos de contratación y colocación de la gente de mar, cuando existan;
d) especificar, teniendo debidamente en cuenta el derecho a la privacidad y la necesidad de proteger la confidencialidad, cuáles son las condiciones en que los datos personales de la gente de mar podrán ser tratados por los servicios de contratación y colocación de la gente de mar, incluso para fines de compilación, almacenamiento, combinación y comunicación de dichos datos a terceros;

e) crear un mecanismo para recopilar y analizar toda la información pertinente sobre el mercado de trabajo marítimo, con inclusión de la oferta actual y la oferta previsible de marinos para trabajar como miembros de tripulación, clasificados según su edad, sexo, rango y calificaciones, y según las necesidades del sector, en el entendimiento de que la recopilación de información sobre edad y sexo sólo podrá realizarse con fines estadísticos o si se emplea en el marco de un programa destinado a impedir la discriminación basada en la edad o el sexo;

f) asegurar que el personal responsable de la supervisión de los servicios públicos y privados de contratación y colocación de miembros de la tripulación encargados de las operaciones de seguridad de la navegación y de prevención de la contaminación tenga una formación idónea que comprenda una experiencia reconocida de servicio en el mar y un conocimiento apropiado del sector marítimo, con inclusión de los instrumentos marítimos internacionales pertinentes sobre formación, certificación y normas laborales;

g) establecer normas de funcionamiento y adoptar códigos de conducta y de prácticas éticas para los servicios de contratación y colocación de la gente de mar, y

h) supervisar el sistema de licencias o de certificación basado en un sistema de normas de calidad.

2. Al crear el sistema mencionado en el párrafo 2 de la norma A1.4, los Miembros deberían considerar la posibilidad de exigir que los servicios de contratación y colocación de la gente de mar establecidos en su territorio desarrollen y mantengan prácticas operacionales verificables. Estas prácticas operacionales para los servicios privados de contratación y colocación de la gente de mar y, en la medida en que sean aplicables, para los servicios públicos de contratación y colocación de la gente de mar deberían abordar las siguientes cuestiones:

a) los reconocimientos médicos, los documentos de identidad de la gente de mar y otros trámites que la gente de mar tenga que cumplir para obtener un empleo;

b) el mantenimiento, con arreglo a criterios de respeto de la privacidad y la confidencialidad, de registros completos y detallados de la gente de mar incluida en los sistemas de contratación y colocación, que deberían comprender por lo menos la siguiente información:
   i) las calificaciones de la gente de mar;
   ii) las hojas de servicios;
   iii) los datos personales relativos al empleo, y
   iv) los datos médicos relativos al empleo;
c) el mantenimiento de listas actualizadas de los buques a los que los servicios de contratación y colocación de la gente de mar proporcionan personal, asegurándose de que haya un medio para ponerse en contacto con estos servicios en todo momento en casos de urgencia;

d) la adopción de procedimientos para impedir que los servicios de contratación y colocación de la gente de mar o su personal exploten a los marinos con respecto a la oferta de contratación en un buque o en una empresa determinados;

e) la adopción de procedimientos para evitar las situaciones en que pueda explotarse a la gente de mar mediante el pago de anticipos sobre sus salarios o cualquier otro tipo de transacción económica entre el armador y la gente de mar que sean tratadas por los servicios de contratación y colocación de la gente de mar;

f) la necesidad de dar a conocer los gastos, si los hay, que la gente de mar deba sufragar por concepto del proceso de contratación;

g) la necesidad de velar por que la gente de mar esté informada acerca de cualquier condición especial aplicable al trabajo para el que ha de ser contratada, así como de las políticas particulares adoptadas por los armadores con respecto a su empleo;

h) la adopción de procedimientos que estén en conformidad con los principios de la justicia natural, con la legislación y la práctica nacionales y, cuando corresponda, con los convenios colectivos, para tratar los casos de incompetencia o indisciplina;

i) la adopción de procedimientos para asegurar, en la medida en que sea factible, que todos los certificados y documentos obligatorios presentados para obtener un empleo estén al día y no hayan sido obtenidos de manera fraudulenta, y que las referencias profesionales hayan sido verificadas;

j) la adopción de procedimientos para asegurar que las solicitudes de información o de asesoramiento formuladas por las familias de la gente de mar que se encuentre en alta mar sean atendidas con rapidez, comprensión y sin costos, y

k) la verificación de que las condiciones de trabajo en los buques en los que estos servicios colocan gente de mar estén en conformidad con los convenios colectivos aplicables concertados entre un armador y una organización representativa de la gente de mar, y el principio de que la colocación de marinos al servicio de los armadores sólo tendrá lugar si éstos ofrecen condiciones de empleo que se ajusten a la legislación o los convenios colectivos aplicables.

3. Debería considerarse la posibilidad de alentar la cooperación internacional entre los Miembros y las organizaciones pertinentes, por ejemplo, mediante:

a) el intercambio sistemático de información acerca del sector y del mercado de trabajo marítimos, a nivel bilateral, regional y multilateral;

b) el intercambio de información acerca de la legislación sobre el trabajo marítimo;

c) la armonización de las políticas, los métodos de trabajo y la legislación que rigen la contratación y la colocación de la gente de mar;
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d) la mejora de los procedimientos y las condiciones para la contratación y la colocación de la gente de mar en el plano internacional, y
e) la planificación de la mano de obra, teniendo en cuenta la oferta y la demanda de gente de mar y las necesidades del sector marítimo.
TÍTULO 2. CONDICIONES DE EMPLEO

Regla 2.1 – Acuerdos de empleo de la gente de mar

Finalidad: Asegurar a la gente de mar acuerdos de empleo justos

1. Las condiciones de empleo de la gente de mar deben quedar claramente definidas o mencionadas en un acuerdo escrito legalmente exigible, y estar en conformidad con las normas establecidas en el Código.

2. La aceptación de los acuerdos de empleo por la gente de mar debe hacerse en condiciones que garanticen que ésta tenga la oportunidad de examinar las condiciones previstas en los acuerdos, pedir asesoramiento sobre las mismas y aceptarlas libremente antes de firmarlos.

3. En la medida en que ello sea compatible con la legislación y la práctica nacionales del Miembro, se entenderá que los acuerdos de empleo de la gente de mar incluyen los convenios colectivos aplicables.

Norma A2.1 – Acuerdos de empleo de la gente de mar

1. Todo Miembro deberá adoptar una legislación que exija que los buques que enarbolen su pabellón cumplan los requisitos siguientes:
   a) cada marino que trabaje a bordo de buques que enarbolen su pabellón deberá tener un acuerdo de empleo de la gente de mar firmado por el marino y por el armador o un representante del armador (o, si no son asalariados, una prueba de su relación contractual o de una relación similar) que prevea condiciones de trabajo y de vida decentes a bordo, según los requisitos del presente Convenio;
   b) la gente de mar que firme un acuerdo de empleo deberá tener la oportunidad de examinar el acuerdo y pedir asesoramiento al respecto antes de firmarlo, y disponer de todas las facilidades necesarias para garantizar que ha concertado libremente un acuerdo habiendo comprendido cabalmente sus derechos y responsabilidades;
   c) el armador y la gente de mar interesados deberán conservar sendos originales firmados del acuerdo de empleo de la gente de mar;
   d) deberán adoptarse medidas para que la gente de mar, incluido el capitán del buque, pueda obtener fácilmente a bordo una información clara sobre las condiciones de su empleo, y para que los funcionarios de la autoridad competente, incluidos los de los puertos donde el buque haga escala, puedan también acceder a esa información, y en particular a una copia del acuerdo de empleo, para examinarla, y
   e) deberá proporcionarse a la gente de mar un documento que contenga una relación de su servicio a bordo.

2. Cuando el acuerdo de empleo de la gente de mar esté total o parcialmente constituido por un convenio colectivo, deberá disponerse de un ejemplar de dicho convenio a bordo. Cuando los acuerdos de empleo de la gente de mar y los convenios
colectivos aplicables no estén escritos en inglés, deberá disponerse también de las versiones en inglés de los siguientes documentos (excepto para los buques que sólo realicen viajes nacionales):

a) un ejemplar de un modelo de acuerdo, y

b) las partes del convenio colectivo que den lugar a inspecciones por el Estado rector del puerto en virtud de la regla 5.2 del presente Convenio.

3. El documento mencionado en el párrafo 1, apartado e), no deberá contener apreciación alguna sobre la calidad del trabajo de la gente de mar ni ninguna indicación sobre su salario. La legislación nacional deberá determinar la forma de este documento, los datos que en él deban asentarse y las modalidades para el establecimiento de éstos.

4. Todo Miembro deberá adoptar una legislación en la que se especifiquen las cuestiones que han de incluirse en todos los acuerdos de empleo de la gente de mar que se rijan por su legislación nacional. Los acuerdos de empleo de la gente de mar deberán contener en todos los casos los siguientes datos:

a) nombre completo de la gente de mar, fecha de nacimiento o edad, y lugar de nacimiento;

b) nombre y dirección del armador;

c) lugar y fecha en que se concierta el acuerdo de empleo de la gente de mar;

d) funciones que va a desempeñar el interesado;

e) importe de los salarios de la gente de mar o la fórmula utilizada para calcularlos, en los casos en que se utilice una fórmula para estos fines;

f) número de días de vacaciones anuales pagadas o la fórmula utilizada para calcularlo, en los casos en que se utilice una fórmula para estos fines;

g) condiciones para la terminación del acuerdo de empleo, con inclusión de los siguientes datos:

i) si el acuerdo se ha concertado para un período de duración indeterminada, las condiciones que deberán permitir que cualquiera de las dos partes lo terminen, así como el plazo de preaviso, que no deberá ser más corto para el armador que para la gente de mar;

ii) si el acuerdo se ha concertado para un período de duración determinada, la fecha de expiración, y

iii) si el acuerdo se ha concertado para una travesía, el puerto de destino y el plazo que deberá transcurrir después de la llegada a destino para poder poner fin a la contratación del marino;

h) las prestaciones de protección de la salud y de seguridad social que el armador ha de proporcionar a la gente de mar;

i) el derecho de repatriación de la gente de mar;

j) referencias al convenio colectivo, si procede, y
k) todo otro dato que pueda exigir la legislación nacional.

5. Todo Miembro deberá adoptar una legislación o una reglamentación que establezca los plazos mínimos de preaviso que han de dar la gente de mar y los armadores para poner fin anticipadamente a un acuerdo de empleo de la gente de mar. La duración de estos plazos mínimos se determinará previa consulta con las organizaciones de armadores y de gente de mar interesadas, pero no será inferior a siete días.

6. El plazo de preaviso podrá ser más corto en circunstancias reconocidas en la legislación nacional o en convenios colectivos aplicables en los que se justifique la terminación del acuerdo de empleo en un plazo más corto o sin preaviso. Al determinar estas circunstancias, los Miembros deberán velar por que se tenga en cuenta la necesidad de la gente de mar de poner fin al acuerdo de empleo en un plazo más corto o sin preaviso por razones humanitarias o por otras razones urgentes, sin exponerse a sanciones.

Pauta B2.1 – Acuerdos de empleo de la gente de mar

Pauta B2.1.1 – Relación de servicios

1. Al determinar los datos que han de asentarse en la relación de servicios a que se hace referencia en la norma A2.1, párrafo 1, apartado e), los Miembros deberían asegurar que dicho documento contenga una información suficiente, traducida al inglés, que facilite la obtención de otro empleo o que demuestre que se cumplen los requisitos de servicio en el mar exigidos a fines de reclasificación o ascenso. Una libreta marítima podría satisfacer los requisitos establecidos en el apartado e) del párrafo 1 de esta norma.

Regla 2.2 – Salarios

Finalidad: Asegurar que la gente de mar sea remunerada por sus servicios

1. Toda la gente de mar deberá percibir una remuneración periódica y completa por su trabajo, de conformidad con los acuerdos de empleo respectivos.

Norma A2.2 – Salarios

1. Todo Miembro deberá exigir que las remuneraciones adeudadas a la gente de mar empleada en buques que enarbolen su pabellón se paguen a intervalos no superiores a un mes, de conformidad con los convenios colectivos aplicables.

2. Deberá entregarse a la gente de mar un estado de cuenta mensual de los pagos adeudados y las sumas abonadas, con inclusión del salario, los pagos suplementarios y el tipo de cambio utilizado en los casos en que los abonos se hagan en una moneda o según un tipo de cambio distintos de lo convenido.

3. Todo Miembro deberá exigir a los armadores que adopten medidas, como las mencionadas en el párrafo 4 de la presente norma, para proporcionar a la gente
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de mar medios para transferir la totalidad o parte de sus ingresos a sus familias, a las personas a su cargo o a sus beneficiarios legales.

4. Entre las medidas destinadas a asegurar que la gente de mar pueda transferir sus ingresos a sus familias se incluyen:

a) un sistema que permita que la gente de mar, al inicio de su período de empleo o durante éste, destine, si lo desea, una parte de su salario para que sea remitido a intervalos periódicos a sus familias mediante transferencia bancaria o por medios similares, y

b) un requisito para que las remesas sean enviadas a tiempo y directamente a la persona o personas designadas por la gente de mar.

5. Todo gasto que se cobre por el servicio mencionado en los párrafos 3 y 4 de la presente norma deberá ser de una cuantía razonable y, a menos que se indique otra cosa, el tipo de cambio que se aplique deberá ser, en conformidad con la legislación nacional, el del mercado o el oficial y no deberá ser desfavorable para la gente de mar.

6. Todo Miembro que adopte una legislación nacional que rija los salarios de la gente de mar deberá tener debidamente en cuenta las orientaciones proporcionadas en la parte B del Código.

Pauta B2.2 – Salarios

Pauta B2.2.1 – Definiciones específicas

1. A los efectos de la presente pauta:

a) la expresión marinero preferente se aplica a todo marino que sea considerado competente para desempeñar cualquier trabajo, distinto de un trabajo de supervisión o de marinero especializado, que pueda exigirse a un miembro del personal subalterno destinado al servicio de cubierta o a todo marino que sea designado como tal por la legislación o la práctica nacionales o en virtud de un convenio colectivo;

b) los términos paga o salario básicos designan la remuneración, cualesquiera que sean los elementos que la componen, correspondiente a las horas normales de trabajo; no incluye pagos en concepto de horas extraordinarias, primas, asignaciones, vacaciones pagadas o cualquier otra remuneración adicional;

c) la expresión salario consolidado designa un sueldo o salario que comprende el salario básico y otras prestaciones relacionadas con el salario; el salario consolidado puede incluir la remuneración de las horas extraordinarias trabajadas y todas las demás prestaciones relacionadas con el salario, o bien puede incluir sólo algunas de estas prestaciones en una consolidación parcial;

d) la expresión horas de trabajo designa el tiempo durante el cual la gente de mar tiene que efectuar un trabajo para el buque, y
e) la expresión *horas extraordinarias* designa las horas trabajadas que exceden del número de horas normales de trabajo.

**Pauta B2.2.2 – Cálculo y pago**

1. En el caso de la gente de mar cuya remuneración incluya el pago diferenciado de las horas extraordinarias trabajadas:
   
   a) a efectos del cálculo del salario, las horas normales de trabajo en el mar y en el puerto no deberían exceder de ocho horas diarias;
   
   b) a efectos del cálculo de las horas extraordinarias, el número de horas normales de trabajo por semana correspondiente a la paga o salario básico debería determinarse en la legislación nacional, a menos que se fije por convenio colectivo, y no debería exceder de 48 horas por semana; en los convenios colectivos se podrá prever un trato diferente, pero no menos favorable;
   
   c) la tasa o las tasas de remuneración de las horas extraordinarias, que deberían ser por lo menos un 25 por ciento superiores a la paga o salario básico por hora, deberían fijarse en la legislación nacional o en los convenios colectivos, si procede, y
   
   d) el capitán, o la persona que éste designe, debería encargarse de llevar registros de todas las horas extraordinarias trabajadas; dichos registros deberían ser rubricados por la gente de mar a intervalos no superiores a un mes.

2. Por lo que se refiere a la gente de mar cuyo salario esté total o parcialmente consolidado:

   a) en el acuerdo de empleo debería especificarse claramente, cuando proceda, el número de horas de trabajo que se espera de la gente de mar a cambio de dicha remuneración, así como toda prestación adicional que pudiera debersele, además del salario consolidado, y las circunstancias en que ésta se deba;

   b) cuando deban pagarse horas extraordinarias que excedan del número de horas comprendido en el salario consolidado, la tasa horaria utilizada debería ser por lo menos un 25 por ciento superior a la tasa horaria básica correspondiente a las horas normales de trabajo definidas en el párrafo 1 de la presente pauta; debería aplicarse el mismo principio a las horas extraordinarias comprendidas en el salario consolidado;

   c) la remuneración de la parte del salario total o parcialmente consolidado correspondiente a las horas normales de trabajo, tal y como se definen en el párrafo 1, apartado a), de la presente pauta, no debería ser inferior al salario mínimo aplicable, y

   d) en el caso de la gente de mar cuyo salario esté parcialmente consolidado, se deberían llevar registros de todas las horas extraordinarias trabajadas, los cuales deberían ser rubricados conforme a lo previsto en el párrafo 1, apartado d), de la presente pauta.
3. En la legislación nacional o los convenios colectivos se podrá disponer que las horas extraordinarias o el trabajo realizado durante el día de descanso semanal y durante los días festivos oficiales se compensen con un período por lo menos equivalente de exención de servicio y presencia a bordo, o con vacaciones adicionales en lugar de la remuneración o de cualquier otra forma de compensación prevista.

4. En la legislación nacional que se adopte previa consulta con las organizaciones representativas de la gente de mar y de los armadores o, cuando proceda, en los convenios colectivos, deberían tenerse en cuenta los siguientes principios:

   a) la igualdad de remuneración por un trabajo de igual valor debería regir para toda la gente de mar empleada en el mismo buque, sin discriminación alguna por motivo de raza, color, sexo, religión, convicciones políticas, ascendencia nacional u origen social;

   b) el acuerdo de empleo de la gente de mar en el que se especifiquen los salarios o las tasas salariales aplicables debería llevarse a bordo del buque; debería facilitarse a cada marino la información relativa al importe del salario o a las tasas salariales, ya sea proporcionándole al menos una copia de la información pertinente, firmada y redactada en un idioma que el marino entienda, o colocando una copia del acuerdo en un lugar al que tengan acceso los marinos, o recurriendo a otro medio que se considere apropiado;

   c) los salarios deberían pagarse en moneda de curso legal; cuando proceda, el pago podría realizarse por transferencia bancaria, cheque bancario, cheque postal o giro postal;

   d) en el momento de la terminación del contrato, debería procederse sin demora indebida al pago de toda cantidad adeudada en concepto de remuneración;

   e) las autoridades competentes deberían imponer sanciones adecuadas o prever otras medidas de reparación apropiadas para los casos en que los armadores se atrasen indebidamente en el pago de toda la remuneración debida, o no la paguen;

   f) los salarios deberían abonarse directamente a la cuenta bancaria que indique la gente de mar, a menos que ésta solicite por escrito otra cosa;

   g) a reserva de lo dispuesto en el apartado h) de este párrafo, el armador no debería imponer límite alguno a la libertad de la gente de mar para disponer de su remuneración;

   h) sólo deberían permitirse deducciones de la remuneración en caso de que:

      i) en la legislación nacional o en un convenio colectivo aplicable exista una disposición expresa al respecto y se haya informado a la gente de mar, del modo que la autoridad competente considere más apropiado, acerca de las condiciones que rigen dichas deducciones, y
ii) el total de las deducciones no rebase el límite que pueda haberse fijado al respecto en la legislación nacional, en convenios colectivos o en decisiones judiciales;

i) de la remuneración de la gente de mar no debería deducirse ninguna cantidad destinada a la obtención de un empleo o a su conservación;

j) deberían prohibirse las multas contra la gente de mar que no sean las autorizadas en la legislación nacional, los convenios colectivos u otras disposiciones;

k) la autoridad competente debería estar facultada para inspeccionar los almacenes y servicios disponibles a bordo del buque, a fin de garantizar que se apliquen precios justos y razonables que redunden en beneficio de la gente de mar interesada, y

l) en la medida en que las sumas exigibles por la gente de mar respecto de sus salarios y de otras cuantías que se le adeuden en relación con su empleo no estén garantizadas con arreglo a las disposiciones del Convenio internacional sobre los privilegios marítimos y la hipoteca naval, 1993, dichas sumas deberían quedar garantizadas con arreglo a las disposiciones del Convenio sobre la protección de los créditos laborales en caso de insolvencia del empleador, 1992 (núm. 173).

5. Todo Miembro, previa consulta con las organizaciones de armadores y de gente de mar, debería disponer de procedimientos para investigar las quejas relativas a cualquiera de los asuntos de que trata la presente pauta.

Pauta B2.2.3 – Salarios mínimos

1. Sin perjuicio del principio de la libre negociación colectiva, todo Miembro, previa consulta con las organizaciones representativas de los armadores y de la gente de mar, debería establecer procedimientos para fijar el salario mínimo de la gente de mar. Las organizaciones representativas de armadores y de gente de mar deberían participar en la aplicación de esos procedimientos.

2. Cuando se establezcan dichos procedimientos y se fije el salario mínimo, deberían tenerse debidamente en cuenta las normas internacionales del trabajo en materia de fijación de los salarios mínimos, así como los principios siguientes:

a) el nivel del salario mínimo debería tener en cuenta las características propias del empleo marítimo, los niveles de dotación de los buques y las horas normales de trabajo de la gente de mar, y

b) el nivel del salario mínimo debería adaptarse a las variaciones del costo de la vida y de las necesidades de la gente de mar.

3. La autoridad competente debería garantizar:

a) mediante un sistema de supervisión y de sanciones, que la remuneración pagada no sea inferior a la tasa o tasas establecidas, y

b) que toda la gente de mar que haya sido remunerada a una tasa inferior al salario mínimo tenga la posibilidad de recuperar, ya sea a través de un procedimiento
judicial de bajo costo y rápido, ya sea por otro procedimiento, la cantidad que se le adeude.

Pauta B2.2.4 – Salario básico o remuneración mínima mensual para los marineros preferentes

1. La paga o salario básico correspondiente a un mes civil de servicio para un marinero preferente no debería ser inferior al importe que determine periódicamente la Comisión Paritaria Marítima u otro órgano autorizado por el Consejo de Administración. Una vez que el Consejo de Administración haya adoptado una decisión, el Director General de la OIT notificará toda revisión de dicho importe a los Miembros de la Organización Internacional del Trabajo.

2. Ninguna de las disposiciones recogidas en esta pauta debería interpretarse en perjuicio de los acuerdos suscritos entre los armadores o sus organizaciones y las organizaciones de gente de mar en lo que atañe a la reglamentación relativa a las condiciones mínimas de empleo, siempre que la autoridad competente reconozca dichas condiciones.

Regla 2.3 – Horas de trabajo y de descanso

Finalidad: Asegurar que la gente de mar tenga horarios de trabajo y de descanso reglamentados

1. Los Miembros deberán asegurarse de que se reglamenten las horas de trabajo o de descanso de la gente de mar.

2. Los Miembros deberán fijar un número máximo de horas de trabajo o un número mínimo de horas de descanso durante períodos determinados, en conformidad con las disposiciones del Código.

Norma A2.3 – Horas de trabajo y de descanso

1. A efectos de la presente norma:
   a) la expresión horas de trabajo designa el tiempo durante el cual la gente de mar está obligada a efectuar un trabajo para el buque, y
   b) la expresión horas de descanso designa el tiempo que no está comprendido en las horas de trabajo; esta expresión no abarca las pausas breves.

2. Todo Miembro deberá fijar, dentro de los límites establecidos en los párrafos 5 a 8 de la presente norma, ya sea el número máximo de horas de trabajo que no deberá sobrepasarse en un período determinado o el número mínimo de horas de descanso que deberá concederse en un período determinado.

3. Todo Miembro reconoce que la pauta en materia de horas normales de trabajo de la gente de mar, al igual que la de los demás trabajadores, deberá basarse en una jornada laboral de ocho horas, con un día de descanso semanal y los días de descanso que correspondan a los días festivos oficiales. Sin embargo, esto no deberá ser un impedimento para que los Miembros dispongan de procedimientos para
autorizar o registrar un convenio colectivo que determine las horas normales de trabajo de la gente de mar sobre una base no menos favorable que la de la presente norma.

4. Al establecer las normas nacionales, los Miembros deberán tener en cuenta el peligro que representa la fatiga de la gente de mar, sobre todo para los marinos que asumen funciones relacionadas con la seguridad de la navegación y la realización de las operaciones del buque en condiciones de seguridad.

5. Los límites para las horas de trabajo o de descanso serán los siguientes:

a) el número máximo de horas de trabajo no excederá de:
   i) 14 horas por cada período de 24 horas, ni de
   ii) 72 horas por cada período de siete días,

b) el número mínimo de horas de descanso no será inferior a:
   i) 10 horas por cada período de 24 horas, ni a
   ii) 77 horas por cada período de siete días.

6. Las horas de descanso podrán agruparse en dos períodos como máximo, uno de los cuales deberá ser de al menos seis horas ininterrumpidas, y el intervalo entre dos períodos consecutivos de descanso no excederá de 14 horas.

7. Los pases de revista, los ejercicios de lucha contra incendios y de salvamento y otros ejercicios similares que impongan la legislación nacional y los instrumentos internacionales deberán realizarse de forma que perturben lo menos posible los períodos de descanso y no provoquen fatiga.

8. Los marinos que deban permanecer en situación de disponibilidad, por ejemplo, cuando haya una sala de máquinas sin dotación permanente, tendrán derecho a un período de descanso compensatorio adecuado si, por requerirse sus servicios, resultara perturbado su período de descanso.

9. Cuando no exista un convenio colectivo o laudo arbitral, o cuando la autoridad competente determine que las disposiciones de un convenio o laudo relativas a las materias tratadas en los párrafos 7 y 8 de la presente norma son inadecuadas, la autoridad competente deberá adoptar medidas para garantizar que la gente de mar afectada disfrute de un período de descanso suficiente.

10. Todo Miembro deberá exigir la colocación, en un lugar fácilmente accesible, de un cuadro que describa la organización del trabajo a bordo y en el que figuren, por lo menos, para cada cargo:

a) el programa de servicio en el mar y en los puertos, y

b) el número máximo de horas de trabajo o el número mínimo de horas de descanso que fijen la legislación nacional o los convenios colectivos aplicables.
11. El cuadro a que se refiere el párrafo 10 de la presente norma deberá establecerse con arreglo a un formato normalizado, en el idioma o idiomas de trabajo del buque y en inglés.

12. Todo Miembro deberá exigir que se lleven registros de las horas diarias de trabajo o de las horas diarias de descanso de la gente de mar a fin de permitir el control del cumplimiento de lo dispuesto en los párrafos 5 a 11 de la presente norma. Los registros deberán tener un formato normalizado establecido por la autoridad competente teniendo en cuenta todas las directrices disponibles de la Organización Internacional del Trabajo o un formato normalizado preparado por la Organización, y sus asientos se redactarán en los idiomas señalados en el párrafo 11 de la presente norma. Cada marino recibirá una copia de los registros que le incumban, la que deberá ser rubricada por el capitán, o la persona que éste designe, y por el marino.

13. Ninguna disposición contenida en los párrafos 5 y 6 de la presente norma deberá ser un impedimento para que un Miembro cuente con medidas en la legislación nacional o con procedimientos que faculten a la autoridad competente para autorizar o registrar convenios colectivos que permitan excepciones a los límites establecidos. Tales excepciones deberán ajustarse, en la medida en que sea posible, a las disposiciones de la presente norma, pero podrán tomarse en cuenta la mayor frecuencia o duración de los períodos de licencia o el otorgamiento de licencias compensatorias a la gente de mar que realice guardias o que trabaje a bordo de buques dedicados a viajes de corta duración.

14. Ninguna disposición de la presente norma deberá interpretarse en menoscabo del derecho del capitán de un buque a exigir que un marino preste servicio durante el tiempo que sea necesario para garantizar la seguridad inmediata del buque, de las personas a bordo o de la carga, o para socorrer a otros buques o personas que corran peligro en el mar. Por consiguiente, el capitán podrá suspender los horarios normales de trabajo o de descanso y exigir que un marino preste servicio el tiempo que sea necesario hasta que se haya restablecido la normalidad. Tan pronto como sea factible, una vez restablecida la normalidad, el capitán deberá velar por que se conceda un período adecuado de descanso a todo marino que haya trabajado durante su horario normal de descanso.

Pauta B2.3 – Horas de trabajo y de descanso

Pauta B2.3.1 – Jóvenes marinos

1. Las disposiciones contenidas en los apartados siguientes deberían aplicarse tanto en el mar como en los puertos a todos los marinos menores de 18 años:

   a) el horario de trabajo no debería exceder de ocho horas diarias ni de 40 semanales, y los interesados sólo deberían trabajar horas extraordinarias cuando ello no pueda evitarse por razones de seguridad;

   b) debería concederse tiempo suficiente para todas las comidas, y una pausa de una hora como mínimo para la comida principal del día, y
c) los jóvenes marinos deberían disfrutar de un período de descanso de 15 minutos, lo antes posible, después de cada dos horas de trabajo ininterrumpido.

2. Excepcionalmente, las disposiciones del párrafo 1 de la presente pauta podrán no aplicarse cuando:
   a) no resulte posible ponerlas en práctica en el caso de los jóvenes marinos que trabajen en el puente, en la sala de máquinas o en los servicios de fonda, y que hayan sido asignados a turnos de vigilancia o trabajen según un sistema de turnos preestablecido, o
   b) la formación eficaz de los jóvenes marinos, realizada según programas y planes de estudio establecidos, pudiera verse comprometida.

3. Dichas excepciones deberían ser registradas, junto con los motivos que las justifiquen, y firmadas por el capitán.

4. Las disposiciones del párrafo 1 de la presente pauta no eximen a los jóvenes marinos de la obligación general que tiene toda la gente de mar, de trabajar en cualquier situación de emergencia con arreglo a lo dispuesto en el párrafo 14 de la norma A2.3.

Regla 2.4 – Derecho a vacaciones

**Finalidad: Asegurar que la gente de mar tenga vacaciones adecuadas**

1. Todo Miembro deberá exigir que la gente de mar empleada en buques que enarbolen su pabellón disfrute de vacaciones anuales pagadas en condiciones apropiadas, de conformidad con las disposiciones del Código.

2. Deberán concederse a la gente de mar permisos para bajar a tierra, con el fin de favorecer su salud y bienestar, que sean compatibles con las exigencias operativas de sus funciones.

Norma A2.4 – Derecho a vacaciones

1. Todo Miembro deberá adoptar una legislación que determine las normas mínimas para las vacaciones de la gente de mar que presta servicio en buques que enarbolen su pabellón, teniendo debidamente en cuenta las necesidades especiales de la gente de mar por lo que se refiere a las vacaciones.

2. A reserva de cualesquiera convenios colectivos o legislación que prevean un método de cálculo apropiado que tenga en cuenta las necesidades especiales de la gente de mar a este respecto, las vacaciones anuales pagadas deberán calcularse sobre la base de un mínimo de 2,5 días civiles por mes de empleo. El modo de cálculo del período de servicio deberá ser determinado por la autoridad competente o por medio de procedimientos apropiados en cada país. No deberán contarse como parte de las vacaciones anuales las ausencias del trabajo justificadas.
3. Se deberá prohibir todo acuerdo que implique renunciar a las vacaciones anuales pagadas mínimas definidas en la presente norma, salvo en los casos previstos por la autoridad competente.

**Pauta B2.4 – Derecho a vacaciones**

**Pauta B2.4.1 – Cálculo de las vacaciones**

1. Con arreglo a las condiciones que la autoridad competente o los procedimientos apropiados establezcan en cada país, los servicios prestados que no figuren en el contrato de enrolamiento deberían ser contados como períodos de servicio.

2. Con arreglo a las condiciones que establezca la autoridad competente o que se determinen en un convenio colectivo aplicable, deberían contarse como parte del período de servicio las ausencias del trabajo para asistir a cursos autorizados de formación profesional marítima o las ausencias por lesión o enfermedad o por maternidad.

3. El salario que se pague durante las vacaciones anuales debería ser del mismo nivel que el de la remuneración normal de la gente de mar prevista en la legislación nacional o en el acuerdo de empleo aplicable de la gente de mar. En lo que atañe a la gente de mar empleada por períodos inferiores a un año o en caso de terminación de la relación de trabajo, el derecho a vacaciones debería calcularse mediante prorrateo.

4. No deberían contarse como parte de las vacaciones anuales pagadas:
   a) los días feriados oficiales y los feriados establecidos por la costumbre que sean reconocidos como tales en el Estado del pabellón, coincidan o no con las vacaciones anuales pagadas;
   b) los períodos de incapacidad de trabajo por motivo de enfermedad o lesión o por maternidad, en las condiciones que la autoridad competente o los procedimientos apropiados establezcan en cada país;
   c) las licencias temporales en tierra concedidas a la gente de mar mientras esté en vigor el acuerdo de empleo, y
   d) los permisos compensatorios de cualquier clase, con arreglo a las condiciones que la autoridad competente o los procedimientos apropiados establezcan en cada país.

**Pauta B2.4.2 – Disfrute de las vacaciones anuales**

1. El período en que se han de tomar las vacaciones anuales debería ser determinado por el armador, previa consulta y, en la medida en que sea factible, en concertación con la gente de mar interesada o con sus representantes, a menos que dicho período se fije por reglamentos, convenios colectivos, laudos arbitrales o de otra manera compatible con la práctica nacional.
2. La gente de mar debería tener, en principio, el derecho a tomar sus vacaciones anuales en el lugar con el que tenga una relación sustancial, que normalmente sería el lugar al que tiene derecho de ser repatriada. No debería exigirse a la gente de mar, sin su consentimiento, que tome las vacaciones anuales en otro lugar, excepto en el caso de que así lo dispongan un acuerdo de empleo de la gente de mar o la legislación nacional.

3. La gente de mar que sea obligada a tomar sus vacaciones anuales cuando se encuentre en un lugar distinto del que se prevé en el párrafo 2 de la presente pauta debería tener derecho al transporte gratuito hasta el lugar de contratación o el lugar de reclutamiento más próximo a su domicilio; los viáticos y demás gastos relacionados directamente con su retorno deberían correr a cargo del armador; el tiempo de viaje correspondiente no debería ser deducido de las vacaciones anuales pagadas a que tenga derecho la gente de mar.

4. El regreso a bordo de la gente de mar que esté gozando de sus vacaciones anuales debería solicitarse únicamente en casos de extrema urgencia y con su consentimiento.

Pauta B2.4.3 – Fraccionamiento y acumulación de las vacaciones

1. El fraccionamiento de las vacaciones anuales pagadas o la acumulación de las vacaciones correspondientes a un año con las de un periodo ulterior podrían ser autorizados en cada país por la autoridad competente o mediante los procedimientos apropiados.

2. A reserva de lo dispuesto en el párrafo 1 de la presente pauta, y a menos que se disponga otra cosa en un acuerdo aplicable al armador y a la gente de mar interesados, las vacaciones anuales pagadas que se recomiendan en la presente pauta deberían consistir en un período ininterrumpido.

Pauta B2.4.4 – Jóvenes marinos

1. Debería considerarse la posibilidad de adoptar medidas especiales relativas a los jóvenes marinos menores de 18 años que hayan cumplido seis meses de servicio o un periodo de trabajo más corto con arreglo a un convenio colectivo o a un acuerdo de empleo de la gente de mar, sin haber disfrutado de vacaciones, en un buque con destino al extranjero que no haya vuelto al país de residencia de esos marinos en ese período ni vaya a volver a dicho país en el curso de los tres meses de viaje siguientes. Esas medidas podrían consistir en la repatriación de los marinos, sin gastos para ellos, al lugar en que fueron contratados originalmente en su país de residencia, con el fin de que tomen las vacaciones acumuladas durante el viaje.
Regla 2.5 – Repatriación

Finalidad: Asegurar que la gente de mar pueda regresar a su hogar

1. La gente de mar deberá tener derecho a ser repatriada sin costo para ella, en las circunstancias y de acuerdo con las condiciones especificadas en el Códigos.

2. Los Miembros deberán exigir que los buques que enarbolen su pabellón aporten garantías financieras para asegurar que la gente de mar sea debidamente repatriada con arreglo al Código.

Norma A2.5.1 – Repatriación

1. Todo Miembro deberá velar por que la gente de mar que trabaje en buques que enarbolen su pabellón tenga derecho a ser repatriada en las circunstancias siguientes:

   a) cuando el acuerdo de empleo de la gente de mar expire mientras ésta se encuentre en el extranjero;

   b) cuando pongan término al acuerdo de empleo de la gente de mar:

      i) el armador, o

      ii) la gente de mar, por causas justificadas, y

   c) cuando la gente de mar no pueda seguir desempeñando sus funciones en el marco del acuerdo de empleo que haya suscrito o no pueda esperarse que las cumpla en circunstancias específicas.

2. Todo Miembro deberá velar por que en su legislación, en otras medidas o en los convenios de negociación colectiva se recojan disposiciones apropiadas que prevean:

   a) las circunstancias en que la gente de mar tendrá derecho a repatriación de conformidad con el párrafo 1, apartados b) y c) de la presente norma;

   b) la duración máxima del período de servicio a bordo al término del cual la gente de mar tiene derecho a la repatriación (ese período deberá ser inferior a 12 meses), y

   c) los derechos precisos que los armadores han de conceder para la repatriación, incluidos los relativos a los destinos de repatriación, el medio de transporte, los gastos que sufragarán y otras disposiciones que tengan que adoptar los armadores.

3. Todo Miembro deberá prohibir a los armadores que exijan a la gente de mar, al comienzo de su empleo, cualquier anticipo con miras a sufragar el costo de su repatriación o que deduzcan dicho costo de la remuneración u otras prestaciones a que tenga derecho la gente de mar, excepto cuando, de conformidad con la legislación nacional, con otras medidas o con los convenios de negociación colectiva aplicables, se haya determinado que el marino interesado es culpable de una infracción grave de las obligaciones que entraña su empleo.
4. La legislación nacional no deberá menoscabar el derecho del armador a recuperar el costo de la repatriación en virtud de acuerdos contractuales con terceras partes.

5. Si un armador no toma las disposiciones necesarias para la repatriación de la gente de mar que tenga derecho a ella o no sufra el costo de la misma:
   a) la autoridad competente del Miembro cuyo pabellón enarbole el buque organizará la repatriación de la gente de mar interesada; en caso de no hacerlo, el Estado de cuyo territorio deba ser repatriada la gente de mar o el Estado del cual sea nacional la gente de mar podrá organizar la repatriación y recuperar su costo del Miembro cuyo pabellón enarbole el buque;
   b) el Miembro cuyo pabellón enarbole el buque podrá recuperar del armador los gastos ocasionados por la repatriación de la gente de mar, y
   c) los gastos de repatriación no correrán en ningún caso a cargo de la gente de mar, salvo en las condiciones estipuladas en el párrafo 3 de la presente norma.

6. Habida cuenta de los instrumentos internacionales aplicables, incluido el Convenio Internacional sobre el Embargo Preventivo de Buques, 1999, todo Miembro que haya pagado los gastos de repatriación de conformidad con el presente Código podrá inmovilizar o pedir la inmovilización de los buques del armador interesado hasta que le sean reembolsados esos gastos de conformidad con el párrafo 5 de la presente norma.

7. Todo Miembro deberá facilitar la repatriación de la gente de mar que presta servicio en buques que atracam en sus puertos o que atraviesan sus aguas territoriales o vías internas de navegación, así como su reemplazo a bordo.

8. En particular, los Miembros no deberán denegar el derecho de repatriación a ningún marino debido a las circunstancias financieras de los armadores o a la incapacidad o la falta de voluntad de éstos para reemplazar a un marino.

9. Los Miembros deberán exigir que los buques que enarbolan su pabellón lleven a bordo y pongan a disposición de la gente de mar una copia de las disposiciones nacionales aplicables a la repatriación, escritas en un idioma apropiado.

Norma A2.5.2 – Garantía financiera

1. En aplicación de la regla 2.5, párrafo 2, la presente norma establece los requisitos necesarios para garantizar la constitución de un sistema de garantía financiera rápido y eficaz para asistir a la gente de mar en caso de abandono.

2. A los efectos de la presente norma, se deberá considerar que un marino ha sido abandonado cuando, en violación de los requisitos del presente Convenio o de las condiciones del acuerdo de empleo de la gente de mar, el armador:
   a) no sufra el costo de la repatriación de la gente de mar;
   b) haya dejado a la gente de mar sin la manutención y el apoyo necesarios, o
c) de algún modo haya roto unilateralmente sus vínculos con la gente de mar e incluso no haya pagado los salarios contractuales como mínimo durante un período de dos meses.

3. Todo Miembro deberá velar por que exista, para los buques que enarbolen su pabellón, un sistema de garantía financiera que cumpla los requisitos estipulados en la presente norma. El sistema de garantía financiera podrá consistir en un régimen de seguridad social, un seguro o un fondo nacional u otro sistema similar. El Miembro determinará la modalidad del sistema, previa consulta con las organizaciones de armadores y de gente de mar interesadas.

4. El sistema de garantía financiera deberá proporcionar acceso directo, cobertura suficiente y asistencia financiera rápida, de conformidad con la presente norma, a toda la gente de mar abandonada a bordo de un buque que enarbole el pabellón del Miembro.

5. A los efectos del párrafo 2, b), de la presente norma, la manutención y el apoyo necesarios para la gente de mar deberán incluir: alimentación adecuada, alojamiento, abastecimiento de agua potable, el combustible imprescindible para la supervivencia a bordo del buque, y la atención médica necesaria.

6. Todo Miembro deberá exigir que los buques que enarbolen su pabellón, y a los que se apliquen los párrafos 1 ó 2 de la regla 5.1.3, lleven a bordo un certificado u otras pruebas documentales de la garantía financiera expedida por el proveedor de la misma. Una copia de dichos documentos deberá exponerse en un lugar bien visible y accesible a la gente de mar. Cuando exista más de un proveedor de garantía financiera que proporcione cobertura, deberá llevarse a bordo el documento expedido por cada proveedor.

7. El certificado u otras pruebas documentales de la garantía financiera deberán contener la información requerida en el anexo A2-I. Deberán estar redactados en inglés o ir acompañados de una traducción al inglés.

8. La asistencia prevista por el sistema de garantía financiera deberá prestarse sin demora a solicitud de la gente de mar o de su representante designado, y estar acompañada de la documentación necesaria que justifique el derecho a la prestación, de conformidad con el párrafo 2 supra.

9. Habida cuenta de las reglas 2.2 y 2.5, la asistencia proporcionada por el sistema de garantía financiera deberá ser suficiente para cubrir lo siguiente:

a) los salarios y otras prestaciones pendientes que el armador ha de pagar a la gente de mar en virtud del acuerdo de empleo, del convenio colectivo pertinente o de la legislación nacional del Estado del pabellón; la suma adeudada no deberá ser superior a cuatro meses de salarios pendientes y a cuatro meses en el caso de las demás prestaciones pendientes;

b) todos los gastos en que haya incurrido razonablemente la gente de mar, incluido el costo de la repatriación mencionado en el párrafo 10;
c) las necesidades esenciales de la gente de mar incluyen: alimentación adecuada, ropa, de ser necesario, alojamiento, abastecimiento de agua potable, el combustible imprescindible para la supervivencia a bordo del buque, la atención médica necesaria y cualquier otro costo o gasto razonable que se derive del acto o la omisión constitutivos del abandono hasta la llegada de la gente de mar a su hogar.

10. El costo de la repatriación comprenderá el viaje realizado por medios apropiados y expeditos, normalmente por transporte aéreo, e incluir el suministro de alimentos y alojamiento a la gente de mar desde el momento en que deja el buque hasta la llegada a su hogar, la atención médica necesaria, el viaje y el transporte de los efectos personales, así como cualquier otro costo o carga razonable derivados del abandono.

11. La garantía financiera no deberá finalizar a menos que el proveedor lo haya notificado con 30 días de antelación a la autoridad competente del Estado del pabellón.

12. Si el proveedor del seguro u otro mecanismo de garantía financiera ha efectuado algún pago a un marino de conformidad con la presente norma, dicho proveedor, de conformidad con la legislación aplicable, adquirirá por subrogación, cesión o por otros medios, por un monto equivalente como máximo a la suma pagada, los derechos de que hubiera gozado la gente de mar.

13. Ninguna disposición de la presente norma deberá menoscabar el derecho de recurso del asegurador o del proveedor de la garantía financiera contra terceros.

14. Las disposiciones de la presente norma no tienen por objeto ser exclusivas ni menoscabar cualquier otro derecho, reclamación o medida de reparación para compensar a la gente de mar que haya sido abandonada. La legislación nacional podrá disponer que todo importe pagadero en virtud de la presente norma sea deducido de los importes recibidos de otras fuentes y derivados de cualquier derecho, reclamación o medida de reparación que pueda dar lugar a una compensación en virtud de la presente norma.

Pauta B2.5 – Repatriación

Pauta B2.5.1 – Derecho a repatriación

1. La gente de mar debería tener derecho a ser repatriada:

   a) en el caso previsto en el párrafo 1, apartado a) de la norma A2.5, cuando expire el plazo de preaviso dado de conformidad con las disposiciones de su acuerdo de empleo;

   b) en los casos previstos en el párrafo 1, apartados b) y c) de la norma A2.5:

      i) en caso de enfermedad o de lesión o por cualquier otra razón médica que exija su repatriación, a reserva de la correspondiente autorización médica para viajar;
ii) en caso de naufragio;

iii) cuando el armador no pueda seguir cumpliendo sus obligaciones legales o contractuales como empleador de la gente de mar a causa de insolvencia, venta del buque, cambio de matrícula del buque o por cualquier otro motivo análogo;

iv) cuando el buque en que presta servicio se dirija hacia una zona de guerra, definida como tal en la legislación nacional o en los acuerdos de empleo de la gente de mar, a la cual la gente de mar no acepte ir, y

v) en caso de terminación o interrupción del empleo de la gente de mar como consecuencia de un laudo arbitral o de un convenio colectivo, o de terminación de la relación de trabajo por cualquier otro motivo similar.

2. Al determinar la duración máxima del período de servicio a bordo al término del cual la gente de mar tiene derecho a ser repatriada, de conformidad con el presente Código, deberían tenerse en cuenta los factores que afectan el medio ambiente de trabajo de la gente de mar. En la medida en que sea factible, todo Miembro debería esforzarse por reducir ese período en función de los cambios tecnológicos, y podría inspirarse en las recomendaciones formuladas por la Comisión Paritaria Marítima.

3. Los costos que debe sufragar el armador por la repatriación con arreglo a la norma A2.5 deberían incluir al menos lo siguiente:

a) el pasaje hasta el punto de destino elegido para la repatriación de conformidad con el párrafo 6 de la presente pauta;

b) el alojamiento y la alimentación desde el momento en que la gente de mar abandona el buque hasta su llegada al punto de destino elegido para la repatriación;

c) la remuneración y las prestaciones de la gente de mar desde el momento en que abandona el buque hasta su llegada al punto de destino elegido para la repatriación, si ello está previsto en la legislación nacional o en convenios colectivos;

d) el transporte de 30 kg de equipaje personal de la gente de mar hasta el punto de destino elegido para la repatriación, y

e) el tratamiento médico, si es necesario, hasta que el estado de salud de la gente de mar le permita viajar hasta el punto de destino elegido para la repatriación.

4. No debería descontarse de las vacaciones retribuidas devengadas por la gente de mar el tiempo transcurrido en espera de la repatriación ni la duración del viaje de repatriación.

5. Debería exigirse a los armadores que sigan sufragando los costos de repatriación hasta que la gente de mar interesada haya sido desembarcada en un punto de destino establecido de conformidad con el presente Código o hasta que se encuentre a la gente de mar un empleo conveniente a bordo de un buque que se dirija a alguno de esos puntos de destino.
6. Todo Miembro debería exigir que los armadores asuman la responsabilidad de organizar la repatriación por medios apropiados y rápidos. El medio de transporte normal debería ser la vía aérea. Cada Miembro debería fijar los puntos de destino a los que podría repatriarse a la gente de mar. Entre estos puntos de destino deberían incluirse los países con los que se considere que la gente de mar guarda una relación sustancial, y en particular:

   a) el lugar en el que la gente de mar aceptó la contratación;
   b) el lugar estipulado por convenio colectivo;
   c) el país de residencia de la gente de mar, o
   d) cualquier otro lugar convenido entre las partes en el momento de la contratación.

7. La gente de mar debería tener derecho a elegir, de entre los diferentes puntos de destino establecidos, el lugar al que desea ser repatriada.

8. El derecho a la repatriación podría expirar si la gente de mar interesada no lo reclama en un período de tiempo razonable, que se ha de determinar en la legislación nacional o en convenios colectivos.

Pauta B2.5.2 – Aplicación por los Miembros

1. Debería prestarse la máxima asistencia práctica posible a todo marino abandonado en un puerto extranjero, en espera de su repatriación, y en caso de demora en la repatriación del marino, la autoridad competente del puerto extranjero debería velar por que se informe de ello inmediatamente al representante consular o local del Estado cuyo pabellón enarbola el buque y del Estado del cual el marino es nacional o residente, según proceda.

2. Todo Miembro debería garantizar, en particular, que se adopten medidas apropiadas para:

   a) la repatriación de la gente de mar empleada en un buque que enarbole el pabellón de un país extranjero, y que haya sido desembarcada en un puerto extranjero por razones ajenas a su voluntad:
      i) al puerto en el que fue contratada;
      ii) a un puerto del Estado de la nacionalidad o del Estado de residencia de la gente de mar, según proceda, o
      iii) a otro puerto convenido entre la gente de mar interesada y el capitán o el armador, con la aprobación de la autoridad competente o con arreglo a otras garantías apropiadas, y
   b) la atención médica y la manutención de la gente de mar empleada en un buque que enarbole su pabellón, y que haya sido desembarcada en un puerto extranjero a causa de una enfermedad o una lesión sufrida mientras prestaba servicio en el buque, no imputable a una falta intencionada del interesado.

3. Si, después de que un marino menor de 18 años haya prestado servicio al menos durante cuatro meses en su primer viaje al extranjero a bordo de un buque,
Resulta obvio que este marino no es apto para la vida en el mar, debería tener la posibilidad de ser repatriado, sin gastos para él, en el primer puerto de escala apropiado donde haya servicios consulares, ya sea del Estado del pabellón, o del Estado de nacionalidad o de residencia del joven marino. Debería notificarse tal repatriación, y las razones que la motivaron, a la autoridad que expidió la documentación que permitió al joven marino embarcarse.

Pauta B2.5.3 – Garantía financiera

1. En aplicación del párrafo 8 de la norma A2.5.2, si se requiere más tiempo para comprobar la validez de ciertos aspectos de la solicitud presentada por la gente de mar o su representante designado, ello no debería impedir que la gente de mar reciba inmediatamente la parte de la asistencia solicitada que se ha reconocido está justificada.

Regla 2.6 – Indemnización de la gente de mar en caso de pérdida del buque o de naufragio

Finalidad: Asegurar que se indemnice a la gente de mar en caso de pérdida del buque o de naufragio

1. La gente de mar tiene derecho a recibir una indemnización adecuada en caso de lesión, pérdida o desempleo debido a la pérdida del buque o su naufragio.

Norma A2.6 – Indemnización de la gente de mar en caso de pérdida del buque o de naufragio

1. Todo Miembro deberá establecer reglas que aseguren que, en caso de pérdida o de naufragio de un buque, el armador pague a cada uno de los marinos a bordo una indemnización por el desempleo resultante de la pérdida del buque o del naufragio.

2. Las disposiciones mencionadas en el párrafo 1 de la presente norma no deberán ir en perjuicio de ningún otro derecho que la gente de mar pueda tener en virtud de la legislación nacional del Miembro interesado por las pérdidas o lesiones debidas a la pérdida o naufragio del buque.

Pauta B2.6 – Indemnización de la gente de mar en caso de pérdida del buque o de naufragio

Pauta B2.6.1 – Cálculo de la indemnización por desempleo

1. La indemnización por desempleo resultante del naufragio o de la pérdida de un buque debería pagarse por todos los días del período efectivo de desempleo de la gente de mar, con arreglo a la tasa del salario pagadero en virtud del acuerdo de empleo; sin embargo, el importe total de la indemnización pagadera a cada persona podrá limitarse a dos meses de salario.
2. Todo Miembro debería velar por que la gente de mar pueda recurrir para el cobro de dichas indemnizaciones a los mismos procedimientos jurídicos de que dispone para el cobro de los atrasos de salarios devengados durante su servicio.

Regla 2.7 – Niveles de dotación

Finalidad: Asegurar que la gente de mar trabaje a bordo de buques con una dotación suficiente a fin de que las operaciones del buque se hagan en condiciones de seguridad, eficiencia y protección

1. Los Miembros deberán exigir que todos los buques que enarbolen su pabellón empleen a bordo a un número suficiente de marinos para garantizar la seguridad, la eficiencia y la protección en las operaciones de los buques en todas las condiciones, teniendo en cuenta las preocupaciones relativas a la fatiga de la gente de mar, así como la naturaleza y las condiciones particulares del viaje.

Norma A2.7 – Niveles de dotación

1. Los Miembros deberán exigir que todos los buques que enarbolen su pabellón cuenten a bordo con un número suficiente de marinos para que las operaciones del buque se lleven a cabo de manera segura, eficiente y teniendo debidamente en cuenta la protección. Cada buque deberá contar con una dotación adecuada, por lo que se refiere al número y las calificaciones, para garantizar la seguridad y la protección del buque y de su personal, en todas las condiciones operativas, de conformidad con el documento sobre dotación mínima segura u otro documento equivalente expedido por la autoridad competente, y con las normas del presente Convenio.

2. Al determinar, aprobar o revisar los niveles de dotación, la autoridad competente deberá tener en cuenta la necesidad de evitar o de reducir al mínimo el exceso de horas de trabajo para asegurar un descanso suficiente y limitar la fatiga, así como los principios contenidos en los instrumentos internacionales aplicables (sobre todo los de la Organización Marítima Internacional) en materia de niveles de dotación.

3. Al determinar los niveles de dotación, la autoridad competente deberá tener en cuenta todos los requisitos previstos en la regla 3.2 y la norma A3.2, sobre alimentación y servicio de fonda.

Pauta B2.7 – Niveles de dotación

Pauta B2.7.1 – Resolución de conflictos

1. Todo Miembro debería establecer, o asegurarse de que existe, un mecanismo eficaz para la investigación y resolución de quejas o conflictos relativos a los niveles de dotación de un buque.
2. En el funcionamiento de dicho mecanismo deberían participar representantes de las organizaciones de armadores y de la gente de mar, con o sin el concurso de otras personas o autoridades.

**Regla 2.8 – Progresión profesional y desarrollo de las aptitudes y oportunidades de empleo de la gente de mar**

**Finalidad:** Promover la progresión profesional y el desarrollo de las aptitudes y las oportunidades de empleo de la gente de mar

1. Todo Miembro deberá contar con políticas nacionales para promover el empleo en el sector marítimo y alentar la progresión profesional y el desarrollo de las aptitudes, así como para incrementar las oportunidades de empleo para la gente de mar domiciliada en su territorio.

**Norma A2.8 – Progresión profesional y desarrollo de las aptitudes y oportunidades de empleo de la gente de mar**

1. Todo Miembro deberá contar con políticas nacionales que alienten la progresión profesional y el desarrollo de las aptitudes y las oportunidades de empleo de la gente de mar, a fin de proporcionar al sector marítimo una mano de obra estable y competente.

2. Las políticas a que se refiere el párrafo 1 de la presente norma deberán tener como objetivo ayudar a la gente de mar a reforzar sus competencias, sus calificaciones y sus oportunidades de empleo.

3. Todo Miembro, previa consulta con las organizaciones de armadores y de gente de mar interesadas, deberá establecer objetivos claros para la orientación profesional, la educación y la formación de la gente de mar cuyas tareas a bordo del buque están relacionadas principalmente con la seguridad de las operaciones y de la navegación del buque, incluida la formación permanente.

**Pauta B2.8 – Progresión profesional y desarrollo de las aptitudes y oportunidades de empleo de la gente de mar**

Pauta B2.8.1 – Medidas para promover la progresión profesional y el desarrollo de las aptitudes y las oportunidades de empleo de la gente de mar

1. Entre las medidas que se adopten para lograr los objetivos señalados en la norma A2.8 podrían figurar las siguientes:

   a) la celebración de acuerdos sobre progresión profesional y formación en materia de aptitudes profesionales con un armador o con una organización de armadores; o

   b) disposiciones para promover el empleo mediante el establecimiento y mantenimiento de registros o listas, por categorías, de gente de mar calificada, o
c) la promoción de oportunidades, a bordo y en tierra, para perfeccionar la formación y la educación de la gente de mar con objeto de desarrollar sus aptitudes profesionales y las competencias transferibles a fin de encontrar y conservar un trabajo decente, mejorar las perspectivas individuales de empleo y adaptarse a la evolución de la tecnología y de las condiciones del mercado de trabajo del sector marítimo.

Pauta B2.8.2 – Registro de la gente de mar

1. Cuando el empleo de la gente de mar se rija por registros o listas, dichos registros o listas deberían comprender todas las categorías profesionales de la gente de mar, en la forma que determinen la legislación o la práctica nacionales o los convenios colectivos.

2. La gente de mar inscrita en estos registros o listas debería tener prioridad para la contratación.

3. La gente de mar inscrita en estos registros o listas debería mantenerse disponible para el trabajo en la forma que determinen la legislación o la práctica nacionales o los convenios colectivos.

4. En la medida en que lo permita la legislación nacional, el número de marinos inscritos en tales registros o listas debería ser revisado periódicamente, a fin de mantenerlo en un nivel que corresponda a las necesidades del sector marítimo.

5. Cuando sea necesario reducir el número de marinos inscritos en uno de tales registros o listas, deberían adoptarse todas las medidas apropiadas para impedir o atenuar los efectos perjudiciales para la gente de mar, teniendo en cuenta la situación económica y social del país.
TÍTULO 3. ALOJAMIENTO, INSTALACIONES DE ESPARCIMIENTO, ALIMENTACIÓN Y SERVICIO DE FONDA

Regla 3.1 – Alojamiento y servicios de esparcimiento

Finalidad: Asegurar que la gente de mar tenga un alojamiento e instalaciones de esparcimiento decentes a bordo

1. Todo Miembro deberá velar por que en los buques que enarbolen su pabellón se faciliten y mantengan alojamientos e instalaciones de esparcimiento decentes para la gente de mar que trabaja o vive a bordo, o ambas cosas, conformes con la promoción de la salud y el bienestar de la gente de mar.

2. Los requisitos contenidos en el Código que dan cumplimiento a la presente regla y que se refieren a la construcción y el equipamiento de los buques se aplican únicamente a los buques construidos en la fecha de entrada en vigor del presente Convenio para el Miembro de que se trate, o después de ésta. En lo que atañe a los buques construidos antes de esa fecha, seguirán aplicándose los requisitos relativos a la construcción y el equipamiento de buques establecidos en el Convenio sobre el alojamiento de la tripulación (revisado), 1949 (núm. 92), y el Convenio sobre el alojamiento de la tripulación (disposiciones complementarias), 1970 (núm. 133), en la medida en que hubieran sido aplicables, antes de esa fecha, en virtud de la legislación o la práctica del Miembro interesado. Se considerará que un buque ha sido construido en la fecha en que se colocó su quilla o en la fecha en que el buque se hallaba en una fase análoga de construcción.

3. A menos que se disponga expresamente otra cosa, todo requisito contenido en una enmienda al Código que se refiera a la prestación de alojamiento y servicios de esparcimiento para la gente de mar se aplicará únicamente a los buques construidos a contar de la fecha en que la enmienda surta efectos para el Miembro de que se trate.

Norma A3.1 – Alojamiento y servicios de esparcimiento

1. Todo Miembro deberá adoptar una legislación que exija que los buques que enarbolen su pabellón:

a) cumplan unas normas mínimas para asegurar que todo espacio de alojamiento de la gente de mar, que trabaje o viva a bordo, o ambas cosas, sea seguro, decente y conforme con las disposiciones pertinentes de la presente norma, y

b) sean inspeccionados para garantizar el cumplimiento inicial y continuo de estas normas.

2. Al elaborar y aplicar la legislación destinada a dar efecto a la presente norma, la autoridad competente, previa consulta con las organizaciones de armadores y de gente de mar, deberá:

a) tener en cuenta la regla 4.3 y las disposiciones correspondientes del Código en materia de protección de la salud, seguridad y prevención de accidentes, a la luz
de las necesidades específicas de la gente de mar que vive y trabaja a bordo de buques, y

b) tomar debidamente en consideración las orientaciones de la parte B del presente Código.

3. Las inspecciones exigidas en virtud de la regla 5.1.4 del presente Convenio deberán efectuarse cuando:

a) un buque se matricule por primera vez o cuando se matricule de nuevo, o

b) los espacios de alojamiento de la gente de mar hayan sido objeto de modificaciones importantes.

4. La autoridad competente de cada Miembro deberá velar en particular por que se apliquen los requisitos del presente Convenio en relación con:

a) el tamaño de los dormitorios y otros espacios de alojamiento;

b) la calefacción y la ventilación;

c) el ruido y las vibraciones, y otros factores ambientales;

d) las instalaciones sanitarias;

e) la iluminación, y

f) la enfermería.

5. La autoridad competente de cada Miembro deberá exigir que los buques que enarbolen su pabellón cumplan las normas mínimas en relación con el alojamiento y las instalaciones de esparcimiento a bordo, que se enuncian en los párrafos 6 a 17 de la presente norma.

6. En lo que atañe a los requisitos generales sobre los espacios de alojamiento:

a) deberá haber suficiente altura libre en todos los espacios de alojamiento de la gente de mar; la altura libre mínima autorizada en todos los espacios de alojamiento de la gente de mar en donde sea necesario circular libremente no deberá ser inferior a 203 centímetros; la autoridad competente podrá permitir la reducción de la altura libre en cualquiera de dichos espacios, o partes de los mismos, cuando haya comprobado que tal reducción:

i) es razonable, y

ii) no causará incomodidad a la gente de mar;

b) los espacios de alojamiento deberán estar adecuadamente aislados;

c) en los buques que no sean buques de pasaje, conforme a las definiciones contenidas en la regla 2, apartados e) y f), del Convenio Internacional para la Seguridad de la Vida Humana en el Mar (Convenio SOLAS), 1974, enmendado, adoptado por la Organización Marítima Internacional en 1974, los dormitorios deberán estar situados por encima de la línea de carga, en el centro o en la popa del buque, pero en casos excepcionales, cuando no sea factible otra ubicación, debido al tamaño o al tipo del buque o al servicio para el que esté destinado, podrán estar ubicados en la proa del buque, pero nunca delante del mamparo de abordaje;
d) por lo que se refiere a los buques de pasaje y a los buques para fines especiales construidos de conformidad con el Código de seguridad aplicable a los buques para fines especiales, de la OMI, 1983, y de sus versiones ulteriores (en adelante, «buques especiales»), a reserva de que se adopten disposiciones satisfactorias para el alumbrado y la ventilación, la autoridad competente podrá permitir la instalación de dormitorios debajo de la línea de máxima carga, pero en ningún caso inmediatamente debajo de los pasadizos de servicio;

e) no deberá haber ninguna abertura directa que comunique los dormitorios con los espacios de carga y de máquinas, cocinas, pañoles, tendederos o instalaciones sanitarias comunes; las partes de los mamparos que separan estos lugares de los dormitorios y los mamparos exteriores estarán debidamente construidas con acero o con cualquier otro material aprobado, estanco al agua y al gas;

f) los materiales que se utilicen en la construcción de los mamparos interiores, paneles y vagras, pisos y juntas deberán ser adecuados para sus fines y para garantizar un entorno saludable;

h) los espacios de alojamiento y las instalaciones de esparcimiento y de fonda deberán cumplir con los requisitos contenidos en la regla 4.3 y con las disposiciones conexas del Código, relativas a la protección de la seguridad y la salud y la prevención de accidentes, en lo que atañe a la prevención de los riesgos de exposición a niveles peligrosos de ruido y de vibraciones así como de otros factores ambientales y químicos a bordo de los buques, y asegurar un entorno laboral y de vida a bordo aceptable para la gente de mar.

7. En lo que atañe a los requisitos sobre ventilación y calefacción:

a) los dormitorios y comedores deberán estar adecuadamente ventilados;

b) los buques, con excepción de aquellos que operan regularmente en regiones cuyas condiciones de clima templado no lo requieran, deberán estar provistos de aire acondicionado en los espacios de alojamiento de la gente de mar, así como en todo cuarto de radio separado y en toda sala de control central de máquinas;

c) para su ventilación, todos los espacios de aseo deberán tener una abertura directa al exterior, separada de cualquier otra parte del alojamiento, y

d) deberá proporcionarse un sistema de calefacción adecuado, salvo en los buques destinados exclusivamente a navegar en climas tropicales.

8. En lo que atañe a los requisitos sobre iluminación, a reserva de los arreglos especiales que puedan autorizarse en buques de pasaje, los dormitorios y los comedores deberán estar iluminados con luz natural y provistos de luz artificial apropiada.

9. Cuando se exija disponer de espacios de alojamiento a bordo de los buques, se aplicarán los siguientes requisitos en lo que atañe a los dormitorios:
Alojamiento, instalaciones de esparcimiento, alimentación y servicio de fonda

a) en buques que no sean de pasaje, se proporcionará un dormitorio individual a cada marino; por lo que se refiere a los buques de arqueo bruto inferior a 3.000 o a los buques especiales construidos de conformidad con el Código de seguridad aplicable a los buques para fines especiales, la autoridad competente, previa consulta con las organizaciones de armadores y de gente de mar interesadas, podrá eximirlos del cumplimiento de este requisito;

b) deberán proporcionarse dormitorios separados para hombres y mujeres;

c) los dormitorios deberán tener un tamaño adecuado y estar debidamente equipados para asegurar una comodidad razonable y facilitar la limpieza;

d) en todos los casos deberán proporcionarse literas individuales para cada marino;

e) las dimensiones interiores mínimas de toda litera deberán ser como mínimo de 198 por 80 centímetros;

f) en los dormitorios individuales de la gente de mar, la superficie disponible por cada marino no deberá ser inferior a:

   i) 4,50 metros cuadrados en los buques de arqueo bruto inferior a 3.000;
   ii) 5,50 metros cuadrados en los buques de arqueo bruto igual o superior a 3.000 pero inferior a 10.000, y
   iii) 7 metros cuadrados en los buques de arqueo bruto igual o superior a 10.000;

   g) no obstante, a fin de facilitar dormitorios individuales a bordo de buques de arqueo bruto inferior a 3.000, de buques de pasaje y de buques destinados a actividades especiales, la autoridad competente podrá permitir que se reduzca la superficie disponible;

   h) en los buques de arqueo bruto inferior a 3.000 distintos de los buques de pasaje y buques destinados a actividades especiales, los dormitorios podrán ser ocupados por un máximo de dos marinos; la superficie disponible de dichos dormitorios no deberá ser inferior a 7 metros cuadrados;

   i) en los buques de pasaje y los buques destinados a actividades especiales, la superficie disponible de los dormitorios de los marinos que no cumplan funciones de oficial de buque no deberá ser inferior a:

      i) 7,50 metros cuadrados en los dormitorios para dos personas;
      ii) 11,50 metros cuadrados en los dormitorios para tres personas, y
      iii) 14,50 metros cuadrados en los dormitorios para cuatro personas;

   j) en los buques destinados a actividades especiales, los dormitorios podrán ser ocupados por más de cuatro personas, y la superficie disponible de dichos dormitorios no deberá ser inferior a 3,60 metros cuadrados por persona;

   k) en los buques que no sean de pasaje ni estén destinados a actividades especiales, la superficie disponible por persona en los dormitorios de los marinos que cumplan funciones de oficial de buque, cuando no haya sala o salón privados, no deberá ser inferior a:
i) 7,50 metros cuadrados en los buques de arqueo bruto inferior a 3.000;
ii) 8,50 metros cuadrados en los buques de arqueo bruto igual o superior a 3.000 pero inferior a 10.000, y
iii) 10 metros cuadrados en los buques de arqueo bruto igual o superior a 10.000;

l) en los buques de pasaje o los buques que estén destinados a actividades especiales, la superficie disponible por persona para los marinos que cumplan funciones de oficial de buque, cuando no haya sala o salón privados, no deberá ser inferior a 7,50 metros cuadrados para los oficiales subalternos y a 8,50 metros cuadrados para los oficiales superiores; se entiende por oficial subalterno el que presta servicio a nivel operativo y por oficial superior el que presta servicio en el nivel de mando;

m) el capitán, el jefe de máquinas y el primer oficial deberán tener, además de su dormitorio, una sala o salón contiguos o un espacio adicional equivalente; la autoridad competente podrá eximir del cumplimiento de este requisito a los buques de arqueo bruto inferior a 3.000, previa consulta con las organizaciones de armadores y de gente de mar interesadas;

n) el mobiliario de cada ocupante deberá comprender un armario amplio (mínimo 475 litros) y un cajón o un espacio equivalente cuya capacidad no sea inferior a 56 litros; si el armario incluye un cajón, el volumen mínimo combinado del armario deberá ser de 500 litros; éste deberá estar provisto de un estante y de un dispositivo de cierre mediante candado que garantice la privacidad, y

o) cada dormitorio deberá estar provisto de una mesa o un escritorio de modelo fijo, de corredera o que permita bajar el tablero, así como del número de asientos cómodos que sea necesario.

10. En lo que atañe a los requisitos sobre comedores, éstos deberán:

a) estar separados de los dormitorios y ubicados lo más cerca posible de la cocina; la autoridad competente, previa consulta con las organizaciones de armadores y de gente de mar interesadas, podrá eximir del cumplimiento de este requisito a los buques de arqueo bruto inferior a 3.000, y

b) tener un tamaño adecuado, ser suficientemente cómodos y estar convenientemente amueblados y equipados (inclusive con máquinas expendedoras de bebidas y alimentos), teniendo en cuenta el número de marinos que pueden llegar a utilizarlos en un momento dado; cuando proceda, deberán facilitarse comedores separados o comunes.

11. En lo que atañe a los requisitos sobre instalaciones sanitarias:

a) toda la gente de mar a bordo deberá tener acceso adecuado a instalaciones sanitarias que cumplan las normas mínimas de salud e higiene y ofrezcan niveles razonables de comodidad; deberán proveerse instalaciones sanitarias separadas para hombres y mujeres;
b) deberá disponerse de instalaciones sanitarias fácilmente accesibles desde el puente de mando y desde el espacio de máquinas o cerca del centro de control de la sala de máquinas; la autoridad competente, previa consulta con las organizaciones de armadores y de gente de mar interesadas, podrá eximir del cumplimiento de este requisito a los buques de arqueo bruto inferior a 3.000;

c) todos los buques deberán disponer, como mínimo, en algún lugar adecuado, de un retrete, un lavabo, una bañera y/o una ducha por cada grupo de seis o menos personas que no dispongan de instalaciones individuales;

d) salvo en los buques de pasaje, cada dormitorio deberá contar con un lavabo con agua dulce corriente, caliente y fría, excepto cuando el lavabo esté situado en el cuarto de baño privado;

e) en el caso de los buques de pasaje utilizados normalmente en viajes cuya duración no exceda de cuatro horas, la autoridad competente podrá examinar la posibilidad de adoptar medidas especiales o de reducir el número de instalaciones sanitarias requeridas, y

f) en todas las instalaciones para el aseo personal deberá haber agua dulce, fría y caliente.

12. En lo que atañe a los requisitos sobre enfermería, los buques que lleven 15 o más marinos a bordo y que efectúen viajes de más de tres días deberán disponer de una enfermería independiente que se utilice exclusivamente con fines médicos. La autoridad competente podrá exceptuar de este requisito a los buques dedicados al cabotaje; al dar su aprobación a una enfermería independiente a bordo, la autoridad competente deberá velar por que, con buen o mal tiempo, se pueda acceder fácilmente a la enfermería y por que sus ocupantes puedan estar alojados cómodamente y recibir una atención rápida y adecuada.

13. Se deberán poner a disposición servicios de lavandería convenientemente situados y amueblados.

14. En todos los buques, habida cuenta de sus dimensiones y del número de gente de mar a bordo, se deberá reservar, en una cubierta abierta, un lugar o lugares suficientemente grandes, a los cuales tendrá acceso la gente de mar que no esté de servicio.

15. Todos los buques deberán disponer de oficinas separadas o de una oficina común para el servicio de cubierta y para el servicio de máquinas; la autoridad competente, previa consulta con las organizaciones de armadores y de gente de mar interesadas, podrá eximir del cumplimiento de este requisito a los buques con arqueo bruto interior a 3.000.

16. Los buques que naveguen regularmente hacia puertos infestados de mosquitos deberán estar equipados con dispositivos apropiados, según lo requiera la autoridad competente.

17. A bordo de los buques se deberán facilitar a toda la gente de mar instalaciones, comodidades y servicios de esparcimiento apropiados y adaptados
para atender a las necesidades específicas de la gente de mar que debe vivir y trabajar en los buques, que estén en conformidad con la regla 4.3 y las disposiciones del Código relativas a la protección de la seguridad y la salud y la prevención de accidentes.

18. La autoridad competente deberá exigir que se realicen inspecciones frecuentes a bordo de los buques, ya sea por el capitán o bajo sus órdenes, para garantizar que el alojamiento de la gente de mar esté limpio, en condiciones adecuadas de habitabilidad y se mantenga en buen estado. Los resultados de cada inspección deberán asentarse en un registro y estar disponibles para la verificación.

19. En el caso de los buques en los que hayan de tenerse en cuenta, sin discriminación alguna, los intereses de la gente de mar con prácticas religiosas y sociales diferentes, la autoridad competente, previa consulta con las organizaciones de armadores y de gente de mar interesadas, podrá permitir variantes de aplicación equitativa de esta norma, siempre y cuando tales variantes no tengan como consecuencia condiciones en general menos favorables que las que podrían resultar de la aplicación de las disposiciones de la presente norma.

20. Todo Miembro, previa celebración de consultas con las organizaciones de armadores y de gente de mar interesadas, podrá eximir del cumplimiento de los requisitos previstos en las disposiciones de la presente norma que se especifican a continuación a los buques de un arqueo bruto inferior a 200, cuando sea razonable hacerlo y teniendo en cuenta las dimensiones del buque y el número de personas a bordo:

a) párrafos 7, b), 11, d), y 13, y

b) párrafo 9, apartados f) y h) a l), únicamente con respecto a la superficie disponible.

21. Se podrán establecer exenciones a los requisitos contenidos en la presente norma únicamente cuando dichas exenciones estén expresamente autorizadas por la presente norma y sólo con respecto de circunstancias particulares en las que tales exenciones puedan justificarse claramente y sustentarse en motivos válidos, y a reserva de que se protejan la seguridad y la salud de la gente de mar.

**Pauta B3.1 – Alojamiento y servicios de esparcimiento**

Pauta B3.1.1 – Diseño y construcción

1. Los mamparos exteriores de los dormitorios y de los comedores deberían estar debidamente aislados. Todas las cubiertas de protección de las máquinas y todos los mamparos de contorno de las cocinas o de otros espacios que despidan calor deberían estar debidamente aislados en todos los casos en que dicho calor pueda resultar molesto en los compartimentos o pasadizos adyacentes. También se deberían adoptar medidas para proteger a la gente de mar de los efectos del calor despedido por las tuberías de vapor y/o de agua caliente.
2. Los dormitorios, comedores, salas de esparcimiento y pasadizos situados en el espacio reservado al alojamiento de la tripulación deberían estar convenientemente aislados para impedir toda condensación o calor excesivo.

3. Los revestimientos de los mamparos y los techos deberían ser de un material cuya superficie pueda mantenerse limpia fácilmente. No se debería usar ninguna forma de construcción susceptible de albergar parásitos.

4. Las superficies de los mamparos y los techos de los dormitorios y comedores se deberían poder mantener limpios fácilmente y ser de un color claro, con un acabado duradero y no tóxico.

5. Los materiales y la construcción del piso de todos los locales destinados al alojamiento de la gente de mar deberían estar en conformidad con las normas autorizadas, y la superficie de los pisos debería ser antideslizante e impermeable a la humedad y poder limpiarse fácilmente.

6. Cuando los pisos sean de un material compuesto, se deberían perfilar las juntas para evitar que haya grietas.

Pauta B3.1.2 – Ventilación

1. El sistema de ventilación de los dormitorios y los comedores debería poder regularse de forma que permita mantener el aire en condiciones satisfactorias y garantice una circulación suficiente de aire en cualquier condición atmosférica y climatológica.

2. Los sistemas de aire acondicionado, ya sean sistemas centralizados o unidades individuales, deberían concebirse para:
   a) mantener el aire a una temperatura y humedad relativa satisfactorias, en comparación con las condiciones del aire exterior, asegurar una suficiente renovación del aire exterior en todos los locales con aire acondicionado, tomar en cuenta las características particulares de la navegación marítima y no producir ruidos o vibraciones excesivos, y
   b) permitir su fácil limpieza y desinfección, a fin de impedir o controlar la propagación de enfermedades.

3. Debería disponerse de la electricidad necesaria para hacer funcionar el aire acondicionado y los sistemas de ventilación previstos en los párrafos precedentes de la presente pauta durante todo el tiempo en que la gente de mar esté viviendo o trabajando a bordo y cuando las circunstancias lo requieran. Empero, no es necesario que esta electricidad provenga de una fuente de emergencia.

Pauta B3.1.3 – Calefacción

1. El sistema de calefacción del alojamiento debería estar en funcionamiento durante todo el tiempo en que la gente de mar esté viviendo o trabajando a bordo y cuando las circunstancias lo requieran.
2. En todos los buques en que deba disponerse de un sistema de calefacción, éste debería funcionar con agua caliente, aire caliente, electricidad, vapor u otro medio equivalente. Sin embargo, en la zona de los espacios de alojamiento no debería utilizarse el vapor como medio para la transmisión de calor. El sistema de calefacción debería permitir que la temperatura del alojamiento de la gente de mar se mantenga a un nivel adecuado en las condiciones meteorológicas y climatológicas normales que quepa esperar en la ruta del buque. La autoridad competente debería establecer las normas que han de cumplirse.

3. Los radiadores y demás aparatos de calefacción deberían estar instalados y, cuando sea necesario, protegidos de forma que se evite el riesgo de incendio y no supongan un peligro o una incomodidad para los ocupantes de los locales.

Pauta B3.1.4 – Iluminación

1. En todos los buques, el alojamiento de la gente de mar debería disponer de luz eléctrica. Cuando no haya dos fuentes independientes de electricidad para la iluminación, se debería instalar un sistema adicional de alumbrado mediante lámparas debidamente construidas o aparatos de iluminación de emergencia.

2. En los dormitorios, todas las literas deberían estar provistas de una lámpara eléctrica de lectura situada en la cabecera.

3. La autoridad competente debería fijar normas adecuadas de iluminación natural y artificial.

Pauta B3.1.5 – Camarotes

1. Deberían facilitarse a bordo instalaciones de literas adecuadas para permitir el alojamiento en las condiciones más cómodas posibles de la gente de mar eventualmente acompañada por su pareja.

2. Cuando resulte razonable y factible, habida cuenta del tamaño del buque, su actividad prevista y su configuración, los dormitorios deberían estar diseñados y equipados incluyendo un cuarto de baño y retrete separados para proporcionar a sus ocupantes una comodidad razonable y facilitar la limpieza.

3. Siempre que sea factible, las literas de la gente de mar deberían estar distribuidas de forma que las personas que se ocupen de las guardias estén separadas y que ningún marino que trabaje durante el día comparta dormitorio con otro que haga guardia nocturna.

4. En los dormitorios de los marinos que cumplan las funciones de personal de maestranza no debería haber más de una o dos personas.

5. Se debería considerar la posibilidad de extender al segundo oficial de máquinas, cuando sea factible, la prestación a que se refiere el apartado m) del párrafo 9 de la norma A3.1.

6. En el cálculo de la superficie se debería incluir el espacio ocupado por las literas, armarios, cómodas y asientos. Los espacios reducidos o de forma irregular
que no aumenten de manera efectiva el espacio disponible para circular y que no puedan ser utilizados para colocar muebles deberían ser excluidos del cálculo.

7. No deberían superponerse más de dos literas; en el caso de que éstas se hallen colocadas a lo largo de la banda del buque, no deberían estar superpuestas si se encuentran colocadas debajo de un portillo.

8. En caso de que haya literas superpuestas, la litera inferior no debería estar colocada a menos de 30 centímetros del suelo; la litera superior debería estar colocada aproximadamente a media distancia del fondo de la litera inferior y la cara inferior de las vigas del techo.

9. La armazón de toda litera y la barandilla de protección, si hubiera alguna, deberían ser de un material autorizado, duro y liso, que no se corroa fácilmente y que no sea susceptible de albergar parásitos.

10. En caso de que se utilicen armazones tubulares para construir las literas, los tubos deberían estar herméticamente cerrados y no tener ninguna perforación que pueda permitir la entrada de parásitos.

11. Cada litera debería tener un colchón cómodo de fondo mullido o un conjunto colchón-somier. Tanto el colchón como el relleno deberían estar confeccionados con materiales autorizados. No deberían utilizarse materiales de relleno susceptibles de albergar parásitos.

12. Cuando haya literas superpuestas, debajo del colchón o del colchón-somier de la litera superior se debería colocar un fondo que no deje pasar el polvo.

13. El mobiliario debería estar construido con un material liso y duro que no se deforme ni corroa.

14. Los portillos de los dormitorios deberían estar provistos de cortinas o un dispositivo equivalente.

15. Los dormitorios deberían estar provistos de un espejo, de pequeñas alacenas para los artículos de aseo personal, de un estante para libros y de un número suficiente de ganchos para colgar ropa.

Pauta B3.1.6 – Comedores

1. Los comedores pueden ser comunes o separados. La decisión al respecto debería adoptarse previa consulta con los representantes de la gente de mar y de los armadores, a reserva de su aprobación por la autoridad competente. Deberían tomarse en consideración factores tales como el tamaño del buque y las diversas necesidades culturales, religiosas o sociales de la gente de mar.

2. Cuando deba disponerse de comedores separados para la gente de mar, debería disponerse de comedores separados para:
   a) el capitán y los oficiales, y
   b) el personal de maestranza y demás gente de mar.
3. En los buques que no sean de pasaje, la superficie disponible en los comedores para la gente de mar no debería ser inferior a 1,5 metros cuadrados por persona para el número de plazas previsto.

4. En todos los buques, los comedores deberían estar equipados con mesas y asientos apropiados, fijos o movibles, suficientes para acomodar al mayor número posible de gente de mar susceptible de utilizarlos al mismo tiempo.

5. Cuando la gente de mar esté a bordo, debería disponerse en todo momento de:
   a) un Refrigerador de fácil acceso y con capacidad suficiente para el número de personas que utilicen el comedor o comedores;
   b) máquinas de bebidas calientes, y
   c) máquinas de agua fresca.

6. Cuando no sea posible acceder a las antecocinas desde los comedores, deberían proporcionarse armarios adecuados para guardar los utensilios de mesa e instalaciones apropiadas para lavarlos.

7. La superficie de las mesas y de los asientos debería ser de un material resistente a la humedad.

Pauta B3.1.7 – Instalaciones sanitarias

1. Los lavabos y las bañeras deberían tener un tamaño adecuado y estar fabricados con un material autorizado, de superficie lisa, que no se agriete, descascarille ni corroa.

2. Todos los retretes deberían seguir un modelo autorizado y estar provistos de una descarga potente de agua, o de algún otro método de descarga idóneo, por ejemplo, aire, que funcione en todo momento y se controle de forma independiente.

3. Las instalaciones sanitarias destinadas a ser utilizadas por más de una persona deberían cumplir con lo siguiente:
   a) los suelos deberían estar fabricados con un material duradero autorizado, impermeable a la humedad, y estar provistos de un sistema adecuado de desagüe;
   b) los mamparos deberían ser de acero o de cualquier otro material cuyo empleo haya sido autorizado y ser estancos hasta una altura de por lo menos 23 centímetros a partir del suelo;
   c) los locales deberían tener iluminación, calefacción y ventilación suficientes;
   d) los retretes deberían estar ubicados en un lugar fácilmente accesible desde los dormitorios y desde las instalaciones de aseo personal, pero separados de ellos, y no tener comunicación directa ni con los dormitorios ni con un pasadizo entre los dormitorios y los retretes que carezca de otro acceso. Sin embargo, esta última disposición no se aplicará a los retretes ubicados entre dos dormitorios cuyo número total de ocupantes no exceda de cuatro, y
e) cuando haya varios retretes instalados en un mismo lugar, deberían estar separados por medio de tabiques que garanticen un aislamiento suficiente.

4. Las instalaciones de lavandería deberían disponer, entre otras cosas, de:
   a) máquinas de lavar;
   b) secadoras o tendederos con calefacción y ventilación adecuadas, y
   c) planchas y tablas de planchar o aparatos equivalentes.

**Pauta B3.1.8 – Enfermería**

1. La enfermería debería estar diseñada de manera que facilite las consultas y la prestación de primeros auxilios y ayude a impedir la propagación de enfermedades infecciosas.

2. La entrada, las literas, el alumbrado, la ventilación, la calefacción y el suministro de agua de la enfermería deberían disponerse de manera que aseguren la comodidad de sus ocupantes y faciliten sus tratamientos.

3. La autoridad competente debería fijar el número de literas en la enfermería.

4. Los ocupantes de la enfermería deberían disponer, para su uso exclusivo, de cuartos de aseo situados en las propias instalaciones o en un lugar cercano. Los cuartos de aseo deberían comprender como mínimo un retrete, un lavabo y una bañera o ducha.

**Pauta B3.1.9 – Otras instalaciones**

1. Cuando se proporcionen al personal de máquinas instalaciones independientes para cambiarse de ropa, éstas deberían estar:
   a) situadas fuera de la sala de máquinas, pero con fácil acceso desde ésta, y
   b) equipadas con armarios individuales, bañeras y/o duchas y lavabos, con agua dulce corriente caliente y fría.

**Pauta B3.1.10 – Suministro de ropa de cama, vajilla y artículos diversos**

1. Cada Miembro debería considerar la posibilidad de aplicar los principios siguientes:
   a) el armador debería proporcionar a la gente de mar ropa de cama y vajilla limpias, para que las utilice a bordo mientras esté al servicio del buque, y la gente de mar debería devolverlas cuando así lo disponga el capitán y cuando finalice su servicio a bordo;
   b) la ropa de cama debería ser de buena calidad, y los platos, vasos y demás artículos de vajilla deberían estar fabricados con un material autorizado y ser fáciles de limpiar, y
   c) el armador debería proporcionar toallas, jabón y papel higiénico a toda la gente de mar.
Pauta B3.1.11 – Instalaciones de esparcimiento, y disposiciones relativas al correo y a las visitas a los buques

1. Las instalaciones y servicios de esparcimiento se revisarán con frecuencia a fin de asegurar que son apropiados, habida cuenta de la evolución de las necesidades de la gente de mar como consecuencia de avances técnicos, funcionales o de otra índole que sobrevengan en la industria del transporte marítimo.

2. El mobiliario de las instalaciones de esparcimiento debería incluir, por lo menos, un estante para libros y lugares para leer y escribir y, cuando sea factible, para juegos.

3. En cuanto a la planificación de las instalaciones de esparcimiento, la autoridad competente debería examinar la posibilidad de instalar una cafetería.

4. Debería tenerse en cuenta la posibilidad de incluir las siguientes instalaciones, cuando resulte factible, sin que ello represente costo alguno para la gente de mar:
   a) una sala para fumar;
   b) un lugar donde ver la televisión y escuchar la radio;
   c) la proyección de películas o vídeos, cuya oferta debería adecuarse a la duración del viaje y, en caso necesario, renovarse a intervalos razonables;
   d) equipos de deporte, incluidos aparatos de ejercicios físicos, juegos de mesa y juegos de cubierta;
   e) cuando sea posible, instalaciones para practicar la natación;
   f) una biblioteca con obras de contenido profesional y de otra índole, en cantidad suficiente para la duración del viaje y renovadas a intervalos razonables;
   g) medios para realizar trabajos manuales de tipo recreativo;
   h) aparatos electrónicos tales como radios, televisores, vídeos, lectores de DVD/CD, computadoras personales y programas informáticos, y grabadoras/lectores de casetes;
   i) cuando sea apropiado, bares para la gente de mar a bordo de los buques, a menos que ello sea contrario a las costumbres nacionales, religiosas o sociales, y
   j) un acceso razonable a las comunicaciones telefónicas entre el buque y tierra, así como a los servicios de correo electrónico e Internet, cuando los haya, a precio razonable.

5. Deberían hacerse todos los esfuerzos necesarios para que el correo de la gente de mar llegue del modo más rápido y seguro posible. También habría que estudiar la forma de conseguir que la gente de mar no tenga que pagar un franqueo suplementario cuando haya que reexpedir su correo por causas ajenas a su voluntad.

6. A reserva de lo que dispongan la legislación nacional o internacional en la materia, debería considerarse la posibilidad de adoptar medidas para que, cuando sea posible y razonable, se conceda rápidamente a los marinos autorización para recibir a bordo la visita de sus parejas, parientes y amigos, mientras el buque se halle en
puerto. Tales medidas deberían estar supeditadas a que se cumplan satisfactoriamente los requisitos de seguridad.

7. Debería tomarse en consideración la posibilidad de autorizar a los marinos para que sus parejas los acompañen en viajes ocasionales, siempre que ello sea factible y razonable. Las parejas deberían estar adecuadamente aseguradas contra accidentes y enfermedades; los armadores deberían brindar toda la asistencia necesaria a la gente de mar para suscribir tal seguro.

Pauta B3.1.12 – Prevención del ruido y las vibraciones

1. Los dormitorios, instalaciones de esparcimiento y de servicios de fonda deberían estar situados lo más lejos posible de la sala de máquinas, la sala de aparatos de gobierno, los chigres de cubierta, los equipos de ventilación, calefacción y aire acondicionado y cualquier otra maquinaria o aparatos ruidosos.

2. Deberían utilizarse materiales de insonorización u otros aislantes acústicos adecuados en la construcción y el acabado de mamparos, techos y cubiertas, en los espacios ruidosos, y puertas de cerradura automática aislantes del ruido, en la sala de máquinas.

3. La sala de máquinas y otros locales de maquinaria deberían estar provistos, cuando sea factible, de salas insonorizadas de control centralizado de máquinas para el personal que trabaja en ellas. Los lugares de trabajo, tales como el taller de máquinas, deberían estar insonorizados, en la medida en que sea factible, del ruido general procedente de la sala de máquinas, y deberían adoptarse medidas para reducir el ruido del funcionamiento de la maquinaria.

4. Los límites del nivel de ruido en los espacios de trabajo y alojamiento deberían estar en conformidad con las directrices internacionales de la OIT relativas a los niveles de exposición, incluidas las del Repertorio de recomendaciones prácticas de la OIT sobre Factores ambientales en el lugar de trabajo, 2001, y, cuando proceda, con la protección específica recomendada por la Organización Marítima Internacional, y con todo instrumento de enmienda ulterior y complementario relativo a los niveles aceptables de ruido a bordo de buques. Debería llevarse a bordo y poner a disposición de la gente de mar una copia del instrumento aplicable en inglés o en el idioma de trabajo del buque.

5. Los dormitorios, instalaciones de esparcimiento y de servicios de fonda no deberían estar expuestos a vibraciones excesivas.

**Regla 3.2 – Alimentación y servicio de fonda**

**Finalidad: Asegurar que la gente de mar disponga de una alimentación y de agua potable de buena calidad suministradas en condiciones higiénicas reglamentadas**

1. Todo Miembro deberá asegurar que los buques que enarbolen su pabellón lleven a bordo y sirvan alimentos y agua potable de calidad, valor nutritivo y cantidad
Convenio sobre el trabajo marítimo, 2006, en su versión enmendada

Norma A3.2 – Alimentación y servicio de fonda

1. Los Miembros deberán adoptar una legislación u otras medidas que prevean normas mínimas respecto de la cantidad y calidad de los alimentos y el agua potable, así como en relación con el servicio de fonda, aplicables a las comidas que se sirven a la gente de mar a bordo de los buques que enarbolan su pabellón, y llevarán a cabo actividades educativas para promover el conocimiento y la aplicación de las normas a que se refiere el presente párrafo.

2. Los Miembros deberán velar por que los buques cumplan las normas mínimas siguientes:

   a) habida cuenta del número de marinos a bordo, de sus exigencias religiosas y prácticas culturales en relación con los alimentos, y de la duración y naturaleza de la travesía, el abastecimiento de víveres y agua potable deberá ser adecuado en cuanto a su cantidad, valor nutritivo, calidad y variedad;

   b) la organización y el equipo del servicio de fonda permitirán suministrar a la gente de mar comidas adecuadas, variadas y nutritivas, preparadas y servidas en condiciones higiénicas, y

   c) el personal del servicio de fonda deberá estar debidamente formado o haber recibido instrucciones adecuadas para el ejercicio de sus funciones.

3. Los armadores deberán garantizar que todo marino contratado como cocinero a bordo de un buque esté formado para ello y posea las cualificaciones y competencias exigidas para ejercer esta función, de conformidad con lo dispuesto por la legislación del Miembro de que se trate.

4. Los requisitos del párrafo 3 de la presente norma deberán incluir el haber completado un curso de formación aprobado o reconocido por la autoridad competente, que comprenda conocimientos prácticos de cocina, higiene alimentaria y personal, almacenamiento de los alimentos, gestión de las reservas, y la protección del medio ambiente y la seguridad y la salud del servicio de fonda.

5. En los buques que operen con una dotación prescrita de menos de diez tripulantes, que por razón del número de miembros de la tripulación o del área de navegación pudieran no estar obligados por la autoridad competente a llevar un cocinero plenamente calificado, se deberá impartir formación o instrucción a toda persona que prepare alimentos en cocinas en las áreas relacionadas con los alimentos...
y la higiene personal, así como con la manipulación y el almacenaje de alimentos a bordo de un buque.

6. En circunstancias de extrema necesidad, la autoridad competente podrá conceder una dispensa para permitir que un cocinero no plenamente calificado preste servicio en un buque específico durante un período determinado, hasta el próximo puerto de escala apropiado o durante un periodo no superior a un mes, a condición de que la persona beneficiaria de dicha exención haya recibido formación e instrucción en materias que incluyan la higiene alimentaria y la higiene personal, así como la manipulación y almacenaje de víveres a bordo.

7. Con arreglo a los procedimientos de cumplimiento continuo que se recogen en el Título 5 del presente Convenio, la autoridad competente deberá exigir que se realicen con frecuencia inspecciones documentadas a bordo de los buques, ya sea por el capitán o bajo sus órdenes, en relación con:
   a) las provisiones de víveres y agua potable;
   b) todos los locales y equipos utilizados para el almacenaje y manipulación de víveres y agua potable, y
   c) la cocina y demás instalaciones utilizadas para preparar y servir comidas.

8. Ningún marino menor de 18 años podrá ser empleado o contratado o trabajar como cocinero a bordo de un buque.

**Pauta B3.2 – Alimentación y servicio de fonda**

**Pauta B3.2.1 – Inspecciones, educación, investigaciones y publicaciones**

1. La autoridad competente, en cooperación con otros organismos y organizaciones pertinentes, debería reunir información reciente sobre la alimentación y los métodos para comprar, almacenar, conservar, cocinar y servir los alimentos, teniendo especialmente en cuenta los requisitos del servicio de fonda a bordo. Esta información debería facilitarse gratuitamente o a un precio razonable a los fabricantes y comerciantes especializados en el suministro de víveres y material para el servicio de fonda, a los capitanes, camareros y cocineros de buque, y a las organizaciones de armadores y de gente de mar interesadas. A estos efectos, se deberían utilizar medios apropiados de divulgación, como manuales, folletos, carteles, gráficos o anuncios en revistas profesionales.

2. La autoridad competente debería formular recomendaciones para evitar el desperdicio de víveres, facilitar el mantenimiento de un nivel adecuado de higiene y dar las mayores facilidades posibles en la organización del trabajo.

3. La autoridad competente debería cooperar con las organizaciones y organismos pertinentes para elaborar material didáctico e informaciones que se difundirán a bordo acerca de los métodos adecuados para garantizar un suministro de alimentos y unos servicios de fonda apropiados.
4. La autoridad competente debería colaborar estrechamente con las organizaciones de armadores y de gente de mar interesadas y con las autoridades nacionales o locales encargadas de las cuestiones relativas a la alimentación y la salud y, de ser necesario, podrá utilizar los servicios de dichas autoridades.

Pauta B3.2.2 – Cocinero del buque

1. La función de cocinero del buque debería asignarse únicamente a un marino que:
   a) haya prestado servicio en el mar durante el período mínimo que prescriba la autoridad competente, que podría variar en función de las calificaciones o experiencia pertinentes que posea el interesado, y
   b) haya aprobado el examen que prescriba la autoridad competente o un examen equivalente en un curso reconocido de formación de cocineros.

2. La aplicación del examen prescrito y la extensión de los certificados correspondientes podrán ser asumidas directamente por la autoridad competente o bien, bajo control suyo, por una escuela reconocida de cocineros.

3. La autoridad competente debería prever, cuando procediere, el reconocimiento de los certificados de aptitud de cocinero extendidos por otros Miembros que hayan ratificado el presente Convenio o el Convenio sobre el certificado de aptitud de los cocineros de buque, 1946 (núm. 69), o por otra institución reconocida.
TÍTULO 4. PROTECCIÓN DE LA SALUD, ATENCIÓN MÉDICA, BIENESTAR Y PROTECCIÓN SOCIAL

Regla 4.1 – Atención médica a bordo de buques y en tierra

Finalidad: Proteger la salud de la gente de mar y asegurar que tenga un acceso rápido a la atención médica a bordo del buque y en tierra

1. Todo Miembro deberá velar por que toda la gente de mar que trabaje en buques que enarbolen su pabellón esté cubierta por medidas adecuadas para la protección de su salud y de que tenga un acceso rápido y adecuado a la atención médica mientras estén trabajando a bordo.

2. La protección y la atención previstas en el párrafo 1 de la presente regla serán suministradas, en principio, sin costo alguno para la gente de mar.

3. Todos los Miembros deberán asegurarse de que la gente de mar que esté a bordo de buques que se encuentren en su territorio y que necesite una atención médica inmediata, tenga acceso a las instalaciones médicas del Miembro en tierra.

4. Los requisitos sobre la protección de la salud y la atención médica a bordo establecidos en el Código incluyen normas sobre medidas destinadas a proporcionar a la gente de mar una protección de la salud y una atención médica comparables en lo posible con las que se ofrece en general a los trabajadores en tierra.

Norma A4.1 – Atención médica a bordo de buques y en tierra

1. Los Miembros deberán velar por que se adopten medidas que proporcionen protección de la salud y atención médica a la gente de mar (incluida la atención dental esencial) que trabaje a bordo de buques que enarbolen su pabellón, que:

   a) garanticen la aplicación a la gente de mar de todas las disposiciones generales sobre protección de la salud en el trabajo y atención médica pertinentes para las tareas que realice, así como de las disposiciones especiales relativas al trabajo a bordo de buques;

   b) garanticen que se brinde a la gente de mar una protección de la salud y una atención médica comparables, lo más posible, con las que gozan generalmente los trabajadores en tierra, incluido el rápido acceso a los medicamentos necesarios, así como al equipo y los servicios médicos necesarios para el diagnóstico y tratamiento y a información y asesoramiento médicos;

   c) garanticen a la gente de mar el derecho de visitar sin demora a un médico o dentista calificado en los puertos de escala, cuando ello sea factible;

   d) garanticen que, en la medida en que ello sea compatible con la legislación y la práctica nacionales del Miembro, los servicios de atención médica y protección sanitaria se presten gratuitamente a la gente de mar a bordo de buques o cuando desembarque en un puerto extranjero, y
e) que no se limiten al tratamiento de la gente de mar enferma o accidentada, sino que abarquen también medidas de carácter preventivo tales como programas de promoción de la salud y de educación sanitaria.

2. La autoridad competente deberá adoptar un formulario normalizado de informe médico para uso de los capitanes de buque y del personal médico pertinente en tierra y a bordo. Una vez rellenado, el formulario y su contenido deberán tener carácter confidencial y sólo deberán utilizarse para facilitar el tratamiento de la gente de mar.

3. Todo Miembro deberá adoptar una legislación que establezca los requisitos aplicables a las instalaciones, el equipo y la formación de enfermería y atención médica a bordo de los buques que enarbolen su pabellón.

4. Las legislaciones nacionales deberán como mínimo prever los siguientes requisitos:

a) todos los buques deberán llevar un botiquín, equipo médico y una guía médica, cuyas especificaciones deberá prescribir y someter a inspecciones periódicas la autoridad competente. En los requisitos nacionales deberán tenerse en cuenta el tipo de buque, el número de personas a bordo y la naturaleza, el destino y la duración de las travesías y las normas médicas pertinentes recomendadas a nivel nacional e internacional;

b) todos los buques que lleven 100 o más personas a bordo y que habitualmente hagan travesías internacionales de más de tres días deberán llevar un médico calificado encargado de prestar atención médica. En la legislación nacional también deberá especificarse qué otros buques deben llevar un médico, teniendo en cuenta, entre otros factores, la duración, índole y condiciones de la travesía y el número de marinos a bordo;

c) todos los buques que no lleven ningún médico deberán llevar a bordo al menos un marino que esté a cargo de la atención médica y de la administración de medicamentos como parte de sus tareas ordinarias o al menos un marino competente para proporcionar primeros auxilios; las personas que estén a cargo de la atención médica a bordo y que no sean médicos deberán haber completado satisfactoriamente una formación en atención médica que esté en conformidad con los requisitos del Convenio Internacional sobre normas de formación, titulación y guardia para la gente de mar, 1978, enmendado (Convenio de Formación); la gente de mar designada para proporcionar primeros auxilios deberá haber completado satisfactoriamente una formación en primeros auxilios que reúna los requisitos del Convenio de Formación; las legislaciones nacionales deberán especificar el nivel de formación aprobada exigido teniendo en cuenta, entre otras cosas, factores tales como la duración, la naturaleza y las condiciones de la travesía y el número de marinos a bordo, y

d) la autoridad competente deberá garantizar, mediante un sistema preestablecido, que en cualquier hora del día o de la noche los buques en alta mar puedan efectuar consultas médicas por radio o por satélite, incluido el asesoramiento de
especialistas; las consultas médicas, incluida la transmisión de mensajes médicos por radio o por satélite entre un buque y las personas que desde tierra brindan el asesoramiento, deberán ser gratuitas para todos los buques, independientemente del pabellón que enarbolen.

Pauta B4.1 – Atención médica a bordo de buques y en tierra

Pauta B4.1.1 – Prestación de atención médica

1. Al determinar el nivel de formación médica que se deberá proporcionar a bordo de los buques a los que no exige que lleven un médico, la autoridad competente deberá exigir que:

   a) los buques que habitualmente puedan tener acceso en un plazo de ocho horas a una atención médica calificada y servicios médicos deberían designar al menos a un marino que haya seguido la formación en primeros auxilios autorizada exigida en el Convenio de Formación, que lo capacite para adoptar medidas inmediatas y eficaces en caso de accidentes o de enfermedades susceptibles de ocurrir a bordo y para seguir instrucciones médicas recibidas por radio o por satélite, y

   b) todos los demás buques deberían designar al menos a un marino que haya seguido la formación en atención médica autorizada, exigida en el Convenio de Formación, que abarque una formación práctica y una formación en técnicas de socorro, como la terapia intravenosa, que le permita participar eficazmente en programas coordinados de asistencia médica en buques que se encuentran navegando y proporcionar a los enfermos o lesionados un nivel satisfactorio de atención médica durante el período en que probablemente tengan que permanecer a bordo.

2. La formación a que se refiere el párrafo 1 de la presente pauta debería basarse en el contenido de las ediciones más recientes de la Guía médica internacional de a bordo, de la Guía de primeros auxilios para uso en caso de accidentes relacionados con mercancías peligrosas, del Documento que ha de servir de guía – Guía internacional para la formación de la gente de mar y de la sección médica del Código internacional de señales, así como de guías nacionales análogas.

3. Las personas a que se hace referencia en el párrafo 1 de la presente pauta y otra gente de mar que pueda designar la autoridad competente deberían seguir, a intervalos de cinco años aproximadamente, cursos de perfeccionamiento que les permitan repasar e incrementar sus conocimientos y competencias, así como mantenerse al corriente de los nuevos progresos.

4. El mantenimiento apropiado del botiquín y de su contenido, del equipo médico y de la guía médica a bordo, así como su inspección periódica a intervalos regulares no superiores a doce meses, deberían estar a cargo de personas responsables designadas por la autoridad competente, que deberían velar por el control del etiquetado, la fecha de caducidad y las condiciones de conservación de los medicamentos y de los prospectos correspondientes, así como por el funcionamiento adecuado del equipo. Al adoptar o revisar la guía médica de a bordo
utilizada a nivel nacional y al determinar el contenido del botiquín y el equipo médico, la autoridad competente debería tener en cuenta las recomendaciones internacionales en la materia, incluida la última edición de la Guía médica internacional de a bordo y otras guías mencionadas en el párrafo 2 de la presente pauta.

5. Cuando un cargamento clasificado como peligroso no haya sido incluido en la edición más reciente de la Guía de primeros auxilios para uso en caso de accidentes relacionados con mercancías peligrosas, debería suministrarse a la gente de mar la información necesaria sobre la índole de las sustancias, los riesgos que entrañan, los equipos de protección personal necesarios, los procedimientos médicos pertinentes y los antídotos específicos. Estos antídotos y los equipos de protección personal deberían llevarse a bordo cada vez que se transporten mercancías peligrosas. Esta información debería incluirse en políticas y programas sobre seguridad y salud en el trabajo a bordo, descritos en la regla 4.3 y en las disposiciones conexas del Código.

6. Todos los buques deberían llevar a bordo una lista completa y actualizada de las estaciones de radio a través de las cuales puedan hacerse consultas médicas; y, si están dotados de un sistema de comunicación por satélite, deberían llevar a bordo una lista completa y actualizada de las estaciones terrestres costeras a través de las cuales puedan hacerse consultas médicas. La gente de mar responsable de prestar atención médica o primeros auxilios a bordo debería recibir instrucciones sobre el uso de la guía médica de a bordo y de la sección médica de la edición más reciente del Código internacional de señales, a fin de que pueda comprender qué tipo de información necesita el médico consultado, y los consejos que éste le dé.

Pauta B4.1.2 – Formulario de informe médico

1. El formulario normalizado de informe médico para la gente de mar previsto en la parte A del presente Código debería estar diseñado para facilitar el intercambio de informaciones médicas e informaciones conexas relativas a marinos particulares entre el buque y tierra en casos de enfermedad o lesiones.

Pauta B4.1.3 – Atención médica en tierra

1. Los servicios médicos en tierra para la atención de la gente de mar deberían ser adecuados y contar con médicos, dentistas y otro personal sanitario debidamente calificado.

2. Deberían adoptarse medidas para asegurar que, durante su estancia en los puertos, la gente de mar tenga acceso a:

   a) tratamiento ambulatorio en caso de enfermedad o lesión;
   b) hospitalización, cuando sea necesario, y
   c) servicios de odontología, sobre todo en casos de urgencia.

3. El tratamiento de la gente de mar enferma debería facilitarse mediante la adopción de medidas adecuadas que comprendan, en particular, su rápida admisión.
Protección de la salud, atención médica, bienestar y protección social

en los hospitales y clínicas en tierra, sin dificultades ni distinciones por motivo de nacionalidad o de credo, y también, cada vez que sea posible, de disposiciones que aseguren, cuando sea necesario, la continuidad de los tratamientos con miras a complementar los servicios médicos a disposición de la gente de mar.

Pauta B4.1.4 – Asistencia médica a otros buques y cooperación internacional

1. Todo Miembro debería prestar la debida atención a su participación en actividades de cooperación internacional en materia de asistencia, programas e investigación sobre protección de la salud y atención médica. Tal cooperación podría comprender los siguientes ámbitos:

   a) desarrollar y coordinar los esfuerzos de búsqueda y salvamento y organizar una pronta asistencia médica y evacuación en el mar de personas gravemente enfermas o lesionadas a bordo de buques, utilizando medios tales como sistemas de señalización periódica de la posición de los buques, centros de coordinación de las operaciones de salvamento y servicios de helicópteros para casos de urgencia, de conformidad con las disposiciones del Convenio internacional de 1979 sobre búsqueda y salvamento marítimos y con el Manual Internacional de Búsqueda y Salvamento Aeronáutico y Marítimo (IAMSAR);

   b) aprovechar al máximo todos los buques con médico a bordo y los buques preposicionados en el mar que puedan ofrecer servicios hospitalarios y medios de salvamento;

   c) compilar y mantener al día una lista internacional de médicos y de centros de asistencia médica disponibles en todo el mundo para prestar atención médica de urgencia a la gente de mar;

   d) desembarcar a la gente de mar en tierra para que reciba un tratamiento de urgencia;

   e) repatriar, tan pronto como sea posible, a la gente de mar hospitalizada en el extranjero, de acuerdo con la opinión de los médicos responsables del caso y tomando debidamente en cuenta los deseos y necesidades de la gente de mar;

   f) tomar las disposiciones necesarias para aportar una asistencia personal a la gente de mar durante su repatriación, de acuerdo con la opinión de los médicos responsables del caso y tomando debidamente en cuenta los deseos y necesidades de la gente de mar;

   g) promover la creación de centros de salud para la gente de mar que:

      i) efectúen investigaciones sobre el estado de salud, el tratamiento médico y la atención sanitaria preventiva de la gente de mar, y

      ii) impartan formación sobre medicina marítima al personal médico y sanitario;

   h) compilar y evaluar estadísticas relativas a accidentes, enfermedades y muertes de origen profesional de la gente de mar, integrarlas y armonizarlas con los sistemas
nacionales existentes de estadísticas de accidentes del trabajo y enfermedades profesionales de otras categorías de trabajadores;

i) organizar intercambios internacionales de información técnica, material de formación y personal docente, así como cursos, seminarios y grupos de trabajo internacionales en materia de formación;

j) proporcionar a toda la gente de mar servicios de salud y servicios médicos especiales, de carácter curativo y preventivo, en los puertos, o poner a su disposición servicios generales de salud, médicos y de rehabilitación, y

k) adoptar disposiciones oportunas para repatriar lo antes posible los cuerpos o las cenizas de la gente de mar fallecida, de conformidad con los deseos que manifiesten sus parientes más próximos.

2. La cooperación internacional en la esfera de la protección de la salud y la asistencia médica de la gente de mar debería basarse en acuerdos bilaterales o multilaterales o en consultas entre Estados Miembros.

**Pauta B4.1.5 – Personas a cargo de la gente de mar**

1. Los Miembros deberían adoptar medidas para garantizar a las personas a cargo de la gente de mar domiciliadas en su territorio una asistencia médica apropiada y suficiente, en espera de que se cree un servicio de atención médica cuando no existan dichos servicios que incluya en su ámbito de acción a los trabajadores en general y a las personas a su cargo; además, deberían informar a la Oficina Internacional del Trabajo sobre las medidas adoptadas a estos efectos.

**Regla 4.2 – Responsabilidad del armador**

*Finalidad: Asegurar que la gente de mar esté protegida contra las consecuencias financieras de la enfermedad, las lesiones o la muerte que se produzcan en relación con el empleo* 

1. Todo Miembro deberá asegurar que en los buques que enarbolen su pabellón se adopten medidas, en conformidad con el Código, que concedan a la gente de mar empleada en los buques el derecho a recibir ayuda y apoyo material del armador en relación con las consecuencias financieras de una enfermedad, lesión o muerte ocurridas mientras preste servicio en virtud de un acuerdo de empleo de la gente de mar o que se deriven del empleo en virtud de ese acuerdo.

2. La presente regla no irá en perjuicio de ningún otro recurso legal al alcance de la gente de mar.

**Norma A4.2.1 – Responsabilidad del armador**

1. Todo Miembro deberá adoptar una legislación que exija que los armadores de los buques que enarbolen su pabellón sean responsables de la protección de la salud y de la atención médica de toda la gente de mar que preste servicio a bordo de buques de conformidad con las siguientes normas mínimas:
a) los armadores deberán sufragar los gastos por enfermedades o accidentes de la gente de mar empleada en sus buques ocurridos entre la fecha de comienzo del servicio y la fecha en que se considere que la gente de mar ha sido debidamente repatriada o que se deriven del empleo que desempeñaron entre esas fechas;

b) los armadores deberán constituir una garantía financiera para asegurar el pago de una indemnización en caso de muerte o discapacidad prolongada de la gente de mar como resultado de un accidente del trabajo, una enfermedad o un riesgo profesionales, de conformidad con lo dispuesto en la legislación nacional, en el acuerdo de empleo o en un convenio colectivo de la gente de mar;

c) los armadores deberán sufragar los gastos de atención médica, incluido el tratamiento médico, los medicamentos necesarios y aparatos terapéuticos, así como el alojamiento y alimentación fuera del hogar hasta la recuperación de la gente de mar enferma o herida, o hasta que se compruebe el carácter permanente de la enfermedad o de la discapacidad, y

d) los armadores deberán sufragar los gastos de sepelio en caso de muerte a bordo o en tierra durante el período de contratación.

2. La legislación nacional podrá limitar la responsabilidad del armador por lo que se refiere a los gastos de asistencia médica, alojamiento y alimentación a un período que no podrá ser inferior a 16 semanas a partir del día en que se produjo la lesión o del comienzo de la enfermedad.

3. Cuando la enfermedad o la lesión ocasionen una incapacidad para trabajar, el armador deberá pagar:

a) la totalidad del salario mientras la gente de mar enferma o lesionada permanezca a bordo hasta que la gente de mar haya sido repatriada de conformidad con el presente Convenio, y

b) la totalidad o una parte del salario, conforme a lo previsto en la legislación nacional o en convenios colectivos, desde el momento en que la gente de mar sea repatriada o desembarcada y hasta su curación o hasta que tenga derecho a prestaciones monetarias en virtud de la legislación del Miembro competente (si esto ocurre antes).

4. La legislación nacional puede limitar la responsabilidad del armador en cuanto al pago de la totalidad o parte del salario de la gente de mar desembarcada a un período que no podrá ser inferior a 16 semanas, contado a partir del día del accidente o del comienzo de la enfermedad.

5. La legislación nacional podrá eximir de responsabilidad a un armador con respecto a:

a) la lesión que no se haya producido en el servicio del buque;

b) la lesión o la enfermedad imputables a la conducta indebida deliberada de la gente de mar enferma, herida o fallecida, y

c) la enfermedad o deficiencia física disimuladas voluntariamente en el momento de la contratación.
6. La legislación nacional podrá eximir al armador de la obligación de sufragar los gastos en concepto de atención médica, alimentación y alojamiento, así como los gastos de sepelio, siempre y cuando los poderes públicos asuman dicha responsabilidad.

7. Los armadores o sus representantes deberán adoptar medidas para proteger los bienes dejados a bordo por la gente de mar enferma, lesionada o fallecida y devolvérselos a sus parientes más próximos.

8. La legislación nacional deberá prever que el sistema de garantía financiera destinado a asegurar que el pago de la indemnización prevista en el párrafo 1, b), de la presente norma resultante de reclamaciones contractuales, definidas en la norma A4.2.2 cumpla con los siguientes requisitos mínimos:

a) la indemnización contractual, cuando está prevista en el acuerdo de empleo de la gente de mar y sin perjuicio de lo dispuesto en el apartado c) del presente párrafo, se deberá pagar en su totalidad y sin demora;

b) no deberán ejercerse presiones para la aceptación de un pago inferior a la suma contractual;

c) cuando las características de la discapacidad prolongada de un marino dificulten evaluar la indemnización total a la que puede tener derecho, se deberán efectuar un pago o varios pagos provisionales para evitar que se encuentre en una situación de precariedad indebida;

d) de conformidad con la regla 4.2, párrafo 2, la gente de mar deberá recibir el pago sin perjuicio de otros derechos legales, pero el armador podrá deducir dicho pago de cualquier otra indemnización resultante de cualquier otra reclamación presentada por la gente de mar contra el armador y relacionada con el mismo incidente, y

e) toda reclamación contractual de indemnización podrá presentarla directamente la gente de mar interesada, o su pariente más cercano, un representante de la gente de mar o un beneficiario designado.

9. La legislación nacional deberá velar por que la gente de mar reciba un preaviso para notificar que se va a anular o rescindir la garantía financiera del armador.

10. La legislación nacional deberá velar por que el proveedor de la garantía financiera notifique a la autoridad competente del Estado del pabellón que se ha anulado o rescindido la garantía financiera del armador.

11. Todo Miembro deberá exigir que los buques que enarbolen su pabellón lleven a bordo un certificado u otras pruebas documentales de garantía financiera expedido por el proveedor de la misma. Una copia de dichos documentos deberá exponerse en un lugar bien visible y accesible a la gente de mar. Cuando exista más de un proveedor de garantía financiera que proporcione cobertura, deberá llevarse a bordo el documento expedido por cada proveedor.
12. La garantía financiera no deberá finalizar a menos que el proveedor lo haya notificado con 30 días de antelación a la autoridad competente del Estado del pabellón.

13. La garantía financiera deberá prever el pago de todas las reclamaciones contractuales incluidas en su cobertura que se presenten durante el periodo de validez del documento.

14. El certificado u otras pruebas documentales de la garantía financiera deben contener la información requerida en el anexo A4-I. Deberán estar redactados en inglés o ir acompañados de una traducción al inglés.

Norma A4.2.2 – Tramitación de las reclamaciones contractuales

1. A los efectos de la norma A4.2.1, párrafo 8, y de la presente norma, el término «reclamación contractual» designa toda reclamación relativa a los casos de muerte o discapacidad prolongada de la gente de mar como resultado de un accidente de trabajo, una enfermedad o un riesgo profesionales, de conformidad con lo dispuesto en la legislación nacional, en el acuerdo de empleo o en un convenio colectivo de la gente de mar.

2. El sistema de garantía financiera previsto en la norma A4.2.1, párrafo 1, b), podrá consistir en un régimen de seguridad social, un seguro o un fondo u otro régimen similar. El Miembro determinará la modalidad del sistema, previa consulta con las organizaciones de armadores y de la gente de mar interesadas.

3. La legislación nacional deberá velar por que existan disposiciones eficaces para la recepción, tramitación y resolución imparcial de las reclamaciones contractuales relacionadas con las indemnizaciones previstas en la norma A4.2.1, párrafo 8 a través de procedimientos rápidos y equitativos.

Pauta B4.2.1 – Responsabilidad del armador

1. Del pago de la totalidad del salario previsto en el párrafo 3, a), de la norma A4.2.1 podrán excluirse las bonificaciones.

2. La legislación nacional podrá establecer también que la responsabilidad del armador con respecto a la gente de mar enferma o lesionada cesará a partir del momento en que dicha gente de mar pueda reclamar la prestación de asistencia médica en virtud de un régimen de seguro obligatorio de enfermedad, de seguro obligatorio de accidente o de indemnización por accidentes del trabajo.

3. La legislación nacional podrá establecer que una institución de seguro reembolse los gastos de sepelio sufragados por el armador, en aquellos casos en que la legislación relativa al seguro social o de indemnización de los trabajadores prevea una prestación para gastos funerarios.
Pauta B4.2.2 – Tramitación de las reclamaciones contractuales

1. La legislación nacional debería prever que las partes que participen en el pago de una reclamación contractual podrán utilizar el modelo de finiquito y de recibo liberatorio que figura en el anexo B4-I.

**Regla 4.3 – Protección de la seguridad y la salud y prevención de accidentes**

**Finalidad: Asegurar que el entorno de trabajo de la gente de mar a bordo de los buques propicie la seguridad y la salud en el trabajo**

1. Todo Miembro deberá asegurarse de que la gente de mar que trabaje en buques que enarbolen su pabellón tenga protección de la salud en el trabajo y viva, trabaje y reciba formación a bordo del buque en un entorno seguro e higiénico.

2. Todo Miembro, previa consulta con las organizaciones representativas de los armadores y de la gente de mar, y teniendo en cuenta los códigos aplicables, junto con las pautas y normas recomendadas por las organizaciones internacionales, las administraciones nacionales y las organizaciones del sector marítimo, deberá elaborar y promulgar orientaciones nacionales para la gestión de la seguridad y la salud en el trabajo a bordo de los buques que enarbolen el pabellón del Estado Miembro.

3. Todo Miembro deberá adoptar una legislación y otras medidas que aborden las cuestiones especificadas en el Código, teniendo en cuenta instrumentos internacionales pertinentes, y estableciendo normas sobre protección de la seguridad y la salud y sobre la prevención de accidentes a bordo de buques que enarbolen su pabellón.

**Norma A4.3 – Protección de la seguridad y la salud y prevención de accidentes**

1. La legislación u otras medidas que se han de adoptar de conformidad con el párrafo 3 de la regla 4.3 deberán incluir lo siguiente:

   a) la adopción y la aplicación y promoción efectivas de políticas y programas de seguridad y salud en el trabajo a bordo de buques que enarbolen el pabellón del Miembro, incluida una evaluación de los riesgos, así como la formación e instrucción de la gente de mar;

   b) precauciones razonables para prevenir los accidentes del trabajo, las lesiones y las enfermedades profesionales a bordo de los buques, con inclusión de medidas para reducir y prevenir el riesgo de exposición a niveles perjudiciales de factores ambientales y de sustancias químicas, así como al riesgo de lesiones o enfermedades que puedan derivarse del uso del equipo y de la maquinaria a bordo de buques;

   c) programas a bordo para la prevención de accidentes del trabajo, lesiones y enfermedades profesionales y para lograr una mejora continua de la protección
de la seguridad y la salud en el trabajo, en la que participen representantes de la gente de mar y todas las demás personas interesadas en su aplicación, tomando en cuenta las medidas preventivas, que incluyen el control de ingeniería y de diseño, la sustitución de las tareas colectivas tanto como las individuales por procesos y procedimientos, y la utilización del equipo de protección personal, y

d) requisitos para inspeccionar, notificar y corregir las condiciones inseguras y para investigar y notificar los accidentes del trabajo a bordo.

2. Las disposiciones mencionadas en el párrafo 1 de la presente norma deberán:

a) tener en cuenta los instrumentos internacionales pertinentes que tratan sobre la protección de la seguridad y la salud en el trabajo en general y sobre riesgos específicos y deberán abordar todas las cuestiones relativas a la prevención de accidentes de trabajo, lesiones y enfermedades profesionales que sean aplicables al trabajo de la gente de mar y, en particular, los relacionados con el empleo marítimo;

b) especificar claramente la obligación de los armadores, la gente de mar y otras personas interesadas de cumplir las normas aplicables y los programas y políticas en materia de seguridad y salud en el trabajo a bordo de los buques prestando especial atención a la seguridad y la salud de la gente de mar menor de 18 años;

c) especificar los deberes del capitán y/o de la persona designada por el capitán para asumir la responsabilidad concreta en cuanto a la aplicación y el cumplimiento de las políticas y programas de seguridad y salud en el trabajo a bordo de los buques, y

d) especificar las atribuciones de los miembros de la tripulación del buque que han sido designados o elegidos representantes encargados de las cuestiones de seguridad a efectos de su participación en las reuniones del comité de seguridad del buque. Deberán crearse comités de esta índole en todo buque a bordo del cual haya por lo menos cinco marinos.

3. Las normas mencionadas en el párrafo 3 de la regla 4.3 deberán ser examinadas periódicamente en consulta con los representantes de las organizaciones de armadores y de gente de mar y, de ser necesario, revisadas para tener en cuenta la evolución de la tecnología y de las investigaciones a fin de facilitar una mejora continua de las políticas y programas de seguridad y salud en el trabajo y de proporcionar un entorno de trabajo seguro a la gente de mar en los buques que enarbolen el pabellón del Miembro.

4. El cumplimiento de los requisitos de los instrumentos internacionales aplicables sobre los niveles aceptables de exposición a riesgos en el lugar de trabajo a bordo de buques y sobre la elaboración y aplicación de políticas y programas de seguridad y salud en el trabajo a bordo de los buques será considerada conforme con los requisitos del presente Convenio.
5. La autoridad competente deberá asegurar que:

a) los accidentes del trabajo y las lesiones y enfermedades profesionales sean notificados de manera adecuada teniendo en cuenta la orientación proporcionada por la Organización Internacional del Trabajo respecto de la notificación y registro de los accidentes del trabajo y enfermedades profesionales;

b) se compilen, analicen y publiquen estadísticas completas de tales accidentes y enfermedades y, cuando sea necesario, de que se les dé seguimiento mediante investigaciones sobre las tendencias generales y sobre los riesgos señalados, y

c) se investiguen los accidentes del trabajo.

6. La autoridad competente deberá colaborar con las organizaciones de armadores y de gente de mar para adoptar medidas destinadas a señalar a la atención de la gente de mar que trabaja a bordo de sus buques información acerca de riesgos particulares a bordo, por ejemplo, por medios tales como avisos oficiales que contengan instrucciones pertinentes.

7. La autoridad competente deberá exigir que los armadores que procedan a una evaluación de los riesgos en relación con la gestión de la seguridad y la salud en el trabajo consulten la información estadística apropiada de sus buques y de las estadísticas generales proporcionadas por la autoridad competente.

Pauta B4.3 – Protección de la seguridad y la salud y prevención de accidentes

Pauta B4.3.1 – Disposiciones sobre accidentes del trabajo y lesiones y enfermedades profesionales

1. Las disposiciones exigidas en virtud de la norma A4.3 deberían tener en cuenta el Repertorio de recomendaciones prácticas de la OIT sobre Prevención de accidentes a bordo de los buques en el mar y en los puertos, 1996, y las versiones ulteriores y otras normas, pautas y repertorios de recomendaciones prácticas conexos de la OIT e internacionales relativos a la protección de la seguridad y la salud en el trabajo, incluidos los niveles de exposición que puedan indicar. También debería tenerse en cuenta la versión más reciente del documento Guidance on eliminating shipboard harassment and bullying (Directrices sobre la eliminación del acoso y la intimidación a bordo de los buques), publicado conjuntamente por la International Chamber of Shipping y la Federación Internacional de Trabajadores del Transporte.

2. La autoridad competente deberá velar por que, en las orientaciones nacionales relativas a la gestión de la seguridad y la salud en el trabajo, se aborden las cuestiones siguientes, en particular:

a) disposiciones generales y disposiciones básicas;
b) características estructurales del buque, incluidos los medios de acceso y los riesgos derivados del amianto;

c) máquinas;

d) los efectos de la temperatura extremadamente baja o extremadamente alta de toda superficie con la que los marinos puedan estar en contacto;

e) los efectos del ruido en el lugar de trabajo y en los alojamientos a bordo;

f) los efectos de las vibraciones en el lugar de trabajo y en los alojamientos a bordo;

g) los efectos de factores ambientales distintos de los previstos en los apartados e) y f) en el lugar de trabajo y en los alojamientos a bordo, incluido el humo del tabaco;

h) medidas especiales de seguridad sobre el puente y bajo el puente;

i) equipos de carga y descarga;

j) prevención y lucha contra incendios;

k) anclas, cadenas y cables;

l) cargas peligrosas y lastres;

m) equipo de protección personal para la gente de mar;

n) trabajo en espacios confinados;

o) los efectos físicos y mentales del cansancio;

p) los efectos de la dependencia de las drogas y el alcohol;

q) protección y prevención contra el VIH/SIDA, y

r) respuesta ante emergencias y accidentes.

3. En la evaluación de los riesgos y la reducción de la exposición respecto de las cuestiones a que se refiere el párrafo 2 de la presente pauta se deberían tener en cuenta los efectos de los factores físicos sobre la salud en el trabajo (con inclusión de la manipulación manual de cargas, el ruido y las vibraciones), los efectos de los factores químicos y biológicos en la salud en el trabajo, los efectos de los factores mentales en la salud en el trabajo, así como los efectos en la salud física y mental del cansancio y los accidentes del trabajo. Al adoptarse las medidas necesarias deberían tomarse debidamente en cuenta los principios de prevención, según los cuales se dispone, entre otras cosas, que la prevención del riesgo en su origen, la adaptación del trabajo al individuo, especialmente en lo que respecta al diseño de los lugares de trabajo y a la sustitución de elementos peligrosos por otros que no lo sean o que sean menos peligrosos, deben primar sobre los equipos de protección personal para la gente de mar.

4. Además, la autoridad competente debería asegurarse de que se tengan en cuenta las implicaciones para la seguridad y la salud en relación con las cuestiones siguientes, en particular:

a) respuesta ante emergencias y accidentes;
b) efectos de la dependencia de las drogas y el alcohol;

c) protección y prevención contra el VIH/SIDA, y

d) acoso e intimidación.

Pauta B4.3.2 – Exposición al ruido

1. La autoridad competente de cada Miembro, junto con los organismos internacionales competentes y representantes de organizaciones de armadores y de gente de mar interesadas, deberían examinar sobre una base permanente los problemas del ruido a bordo a fin de mejorar la protección de la gente de mar, en la medida en que sea factible, de los efectos nocivos del ruido.

2. En el examen a que se refiere el párrafo 1 de la presente pauta se deberían tener en cuenta los efectos nocivos que la exposición al ruido excesivo ejerce sobre la audición, la salud y la comodidad de la gente de mar que vive y trabaja a bordo de buques, así como las medidas que se han de prescribir o recomendar para reducir el ruido a bordo a fin de proteger a la gente de mar. Entre las medidas para reducir la exposición al ruido que han de considerarse deberían incluirse las siguientes:

   a) instruir a la gente de mar sobre los peligros para la audición y la salud de una exposición prolongada a ruidos muy intensos y sobre la forma de usar adecuadamente los equipos y aparatos de protección acústica;

   b) proporcionar equipo de protección auditiva a la gente de mar, cuando sea necesario, y

   c) evaluar los riesgos y reducir la exposición al ruido en los espacios de alojamiento y las instalaciones de esparcimiento y de fonda, así como en la sala de máquinas y otros locales de maquinaria.

Pauta B4.3.3 – Exposición a las vibraciones

1. La autoridad competente de cada Miembro, junto con los organismos internacionales pertinentes y representantes de organizaciones de armadores y de gente de mar interesadas, y teniendo en cuenta, cuando proceda, las normas internacionales pertinentes, deberían examinar de manera permanente el problema de las vibraciones a bordo de los buques con objeto de mejorar la protección de la gente de mar, en la medida en que sea factible, de los efectos nocivos de las vibraciones.

2. El examen a que se refiere el párrafo 1 de la presente pauta debería abarcar los efectos de la exposición excesiva a las vibraciones sobre la salud y la comodidad de la gente de mar y las medidas que se han de prescribir o recomendar para reducir las vibraciones a bordo a fin de proteger a la gente de mar. Entre las medidas que se han de tomar en consideración para reducir las vibraciones deberían incluirse las siguientes:

   a) dar instrucciones a la gente de mar sobre los peligros que representa para su salud la exposición prolongada a las vibraciones;
b) proporcionar a la gente de mar equipo de protección personal aprobado cuando sea necesario, y
c) evaluar los riesgos y reducir la exposición de los espacios de alojamiento y las instalaciones de esparcimiento y de fonda mediante la adopción de medidas en conformidad con las orientaciones proporcionadas por el Repertorio de recomendaciones prácticas de la OIT sobre Factores ambientales en el lugar del trabajo, 2001, y las versiones revisadas ulteriores, teniendo en cuenta la diferencia entre la exposición en los espacios de trabajo y en los espacios de alojamiento.

Pauta B4.3.4 – Obligaciones de los armadores

1. Toda obligación que incumba al armador de suministrar equipo de protección u otros dispositivos de prevención de accidentes debería ir acompañada, en general, de normas para la utilización de dicho equipo o de dichos dispositivos de protección por la gente de mar, así como de la obligación de ésta de acatar las medidas pertinentes en materia de prevención de accidentes y de protección de la salud.

2. Deberían tenerse en cuenta también los artículos 7 y 11 del Convenio sobre la protección de la maquinaria, 1963 (núm. 119), y las disposiciones correspondientes de la Recomendación sobre la protección de la maquinaria, 1963 (núm. 118), en virtud de los cuales, por una parte, incumbe al empleador la obligación de velar por que las máquinas utilizadas estén adecuadamente protegidas y por que se prohíba la utilización de máquinas desprovistas de dispositivos de protección adecuados, y, por otra parte, incumbe al trabajador la obligación de no utilizar una máquina sin que estén colocados en su lugar los dispositivos de protección de que vaya provista y de no inutilizar dichos dispositivos.

Pauta B4.3.5 – Notificación y compilación de estadísticas

1. Todos los accidentes del trabajo y las lesiones y enfermedades profesionales deberían notificarse a fin de que sean investigados y de que se compilen, analicen y publiquen estadísticas detalladas sobre los mismos teniendo en cuenta la protección de los datos personales de la gente de mar interesada. Los informes no deberían limitarse a los casos de muerte o a los accidentes que afecten al buque.

2. En las estadísticas a que se hace referencia en el párrafo 1 de la presente pauta deberían registrarse el número, la naturaleza, las causas y los efectos de los accidentes del trabajo y las lesiones y enfermedades profesionales, indicándose claramente en qué parte del buque se han producido, el tipo de cada accidente, y si han ocurrido en el mar o en puerto.

3. Los Miembros deberían tomar debidamente en cuenta todo sistema o modelo internacional de registro de los accidentes de la gente de mar que haya podido establecer la Organización Internacional del Trabajo.
Pauta B4.3.6 – Investigaciones

1. La autoridad competente debería emprender investigaciones sobre las causas y circunstancias de todos los accidentes del trabajo y lesiones y enfermedades profesionales mortales o que hubieren producido lesiones graves a la gente de mar, así como sobre otros accidentes que determine la legislación nacional.

2. Debería tenerse en cuenta la inclusión de los siguientes temas de investigación:
   a) medio en que se realiza el trabajo (por ejemplo, superficie de trabajo, disposición de las máquinas, medios de acceso y alumbrado) y métodos de trabajo;
   b) incidencia de los accidentes del trabajo y las lesiones y enfermedades profesionales por grupo de edad;
   c) problemas especiales de carácter fisiológico o psicológico creados por el ambiente a bordo;
   d) problemas resultantes del estrés físico a bordo de los buques, en particular como consecuencia del aumento del volumen de trabajo;
   e) problemas y efectos de la evolución técnica y su influencia en la composición de la tripulación;
   f) problemas derivados de fallos humanos, y
   g) problemas derivados del acoso y la intimidación.

Pauta B4.3.7 – Programas nacionales de protección y de prevención

1. A fin de disponer de una base sólida para adoptar medidas destinadas a promover la protección de la seguridad y la salud en el trabajo y la prevención de los accidentes del trabajo y las lesiones y enfermedades profesionales imputables a riesgos propios del empleo marítimo, deberían emprenderse estudios sobre las tendencias generales y los riesgos que pongan de manifiesto las estadísticas.

2. La puesta en práctica de programas para promover la protección de la seguridad y la salud en el trabajo y la prevención de los accidentes de trabajo debería organizarse de modo tal que puedan participar en ellos las autoridades competentes, los armadores, la gente de mar o sus representantes y otros organismos interesados inclusive por medios tales como avisos oficiales que contengan instrucciones pertinentes y reuniones de información, pautas sobre los niveles máximos de exposición a factores ambientales potencialmente peligrosos en el lugar de trabajo u otros peligros, o los resultados de un proceso sistemático de evaluación de los riesgos. En particular, en el plano nacional o local se deberían crear comisiones o grupos de trabajo especiales y comités de a bordo, de carácter mixto, encargados de la protección de la seguridad y la salud en el trabajo y la prevención de accidentes, en que estén representadas las organizaciones de armadores y de la gente de mar.

3. Cuando tales actividades tengan lugar a nivel de la empresa de un armador, debería considerarse la posibilidad de que la gente de mar esté representada en todo comité de seguridad de a bordo de los buques de dicho armador.
Pauta B4.3.8 – Contenido de los programas de protección y de prevención

1. Debería tenerse en cuenta la posibilidad de incluir entre las funciones de las comisiones y otros órganos mencionados en el párrafo 2 de la pauta B4.3.7 las siguientes:
   a) la preparación de pautas y políticas nacionales para los sistemas de gestión de la seguridad y la salud en el trabajo y para las disposiciones, normas y manuales sobre prevención de accidentes;
   b) la organización de cursos y programas de formación en materia de protección de la seguridad y la salud en el trabajo y la prevención de accidentes;
   c) la organización de publicidad sobre la protección de la seguridad y la salud en el trabajo y la prevención de accidentes, lo cual incluye películas, carteles, avisos y folletos, y
   d) la distribución de publicaciones e información sobre la protección de la seguridad y la salud en el trabajo y la prevención de accidentes, de manera que lleguen a la gente de mar a bordo de los buques.

2. Quienes tengan a su cargo la preparación de textos sobre medidas de protección de la seguridad y la salud en el trabajo y de prevención de accidentes o la elaboración de recomendaciones prácticas deberían tomar en consideración las disposiciones o recomendaciones pertinentes adoptadas por las autoridades u organizaciones nacionales interesadas o por las organizaciones marítimas internacionales competentes.

3. Al formular programas de protección de la seguridad y la salud en el trabajo y de prevención de accidentes, los Miembros deberían tener debidamente en cuenta los repertorios de recomendaciones prácticas sobre seguridad y salud en el trabajo marítimo que haya publicado la Organización Internacional del Trabajo.

Pauta B4.3.9 – Formación para la protección de la seguridad y la salud en el trabajo y la prevención de accidentes de trabajo

1. Los programas de formación a que se refiere el párrafo 1, a), de la norma A4.3 deberían revisarse periódicamente y ponerse al día según la evolución del tipo, las dimensiones y el equipamiento de los buques, así como en función de los cambios en la organización de la dotación, en las nacionalidades e idiomas y en la organización del trabajo a bordo.

2. La publicidad sobre la protección de la seguridad y la salud en el trabajo y la prevención de accidentes debería organizarse de forma permanente, y podría revestir las formas siguientes:
   a) material educativo audiovisual, como películas, para su utilización en los centros de formación profesional de la gente de mar y, cuando sea factible, proyección de películas a bordo de los buques;
   b) colocación de carteles a bordo de los buques;
c) inclusión de artículos sobre los riesgos del trabajo marítimo y las medidas de protección de la seguridad y la salud en el trabajo y la prevención de accidentes en las revistas destinadas a la gente de mar, y

d) campañas especiales en diversos medios de publicidad para instruir a la gente de mar, inclusive sobre las prácticas de trabajo seguras.

3. En la publicidad a que se refiere el párrafo 2 de la presente pauta se deberían tener en cuenta las diferencias de nacionalidad, idioma y costumbres entre la gente de mar a bordo de los buques.

Pauta B4.3.10 — Educación de los jóvenes marinos en materia de seguridad y salud

1. Los reglamentos sobre seguridad y salud deberían referirse a todas las disposiciones generales relativas a los reconocimientos médicos antes y durante el empleo, así como a la prevención de accidentes y la protección de la salud en el trabajo, que sean aplicables a las actividades laborales de la gente de mar. En esos reglamentos se deberían especificar medidas para minimizar los peligros a que estén expuestos los jóvenes marinos en su trabajo.

2. Excepto en los casos en que una autoridad competente haya reconocido que un joven marino está plenamente calificado para llevar a cabo determinadas tareas, en los reglamentos deberían establecerse restricciones a la ocupación de jóvenes marinos que no cuenten con una supervisión y una instrucción apropiadas en ciertos tipos de trabajo que comporten riesgos especiales de accidente o que entrañen consecuencias perjudiciales para su salud o desarrollo físico, o que exijan un determinado grado de madurez, experiencia o calificaciones. Al determinar los tipos de trabajo que deben ser objeto de restricciones en los reglamentos, las autoridades competentes podrían tener en cuenta, en particular, los trabajos que impliquen:

a) elevación, desplazamiento o transporte de cargas u objetos pesados;

b) entrada en calderas, tanques y coferdanes;

c) exposición a niveles nocivos de ruido y de vibraciones;

d) manipulación de dispositivos de izada y de otras máquinas o herramientas motrices, o trabajos como señalero para los operadores de dicho equipo;

e) manipulación de las estachas de amarre o de cabos de remolque o de equipo de anclaje;

f) aparejamiento;

g) trabajo en la arboladura o en el puente con mar gruesa;

h) guardias de noche;

i) mantenimiento del equipo eléctrico;

j) exposición a materiales potencialmente nocivos o a agentes físicos nocivos, tales como sustancias peligrosas o tóxicas y radiaciones ionizantes;
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k) limpieza de los aparatos de cocina, y

l) manipulación o la responsabilidad de las lanchas.

3. Deberían adoptarse medidas prácticas, ya sea por intermedio de las autoridades competentes o de otras entidades apropiadas, para proporcionar a los jóvenes marinos información sobre la prevención de accidentes y la protección de su salud en el trabajo a bordo de buques, recurriendo, por ejemplo, a una instrucción adecuada impartida en el marco de cursos, a la difusión entre los jóvenes de publicidad oficial sobre la prevención de accidentes, y a la instrucción profesional y la supervisión de los jóvenes marinos en el ejercicio de sus funciones a bordo.

4. La educación y la formación profesional impartidas a los jóvenes marinos, tanto en tierra como a bordo, deberían incluir orientaciones sobre los efectos nocivos para su salud y bienestar del consumo abusivo de alcohol, drogas y otras sustancias potencialmente nocivas, y sobre los riesgos y preocupaciones relacionados con el VIH/SIDA y otras actividades que implican riesgos para la salud.

Pauta B4.3.11 – Cooperación internacional

1. Los Miembros, con la asistencia, cuando proceda, de organizaciones intergubernamentales y otras organizaciones internacionales, deberían esforzarse por cooperar entre sí a fin de lograr la mayor uniformidad posible de las acciones para promover la protección y la prevención de la seguridad y la salud y los accidentes de trabajo.

2. Al formular programas para promover la protección de la seguridad y la salud en el trabajo y la prevención de accidentes de trabajo con arreglo a la norma A4.3, los Miembros deberían tomar debidamente en cuenta los repertorios de recomendaciones prácticas pertinentes publicados por la Organización Internacional del Trabajo y las normas apropiadas que hayan establecido las organizaciones internacionales.

3. Los Miembros deberían tener en cuenta también la necesidad de mantener una cooperación internacional para la promoción continua de actividades relacionadas con la protección de la seguridad y la salud en el trabajo y la prevención de los accidentes de trabajo; esta cooperación podría revestir las formas siguientes:

a) acuerdos bilaterales o multilaterales para lograr la uniformidad de las normas y los dispositivos de protección de la seguridad y la salud en el trabajo y de prevención de accidentes de trabajo;

b) intercambio de información sobre determinados riesgos a que está expuesta la gente de mar y sobre los medios de promover la protección de la seguridad y la salud en el trabajo y de prevenir los accidentes;

c) asistencia en la experimentación del equipo y en las actividades de inspección, de conformidad con la reglamentación nacional del país cuyo pabellón enarbole el buque;
d) colaboración en la elaboración y difusión de disposiciones, reglas o manuales de protección de la seguridad y la salud en el trabajo y prevención de accidentes;

e) colaboración en la producción y utilización de materiales didácticos, y

f) servicios comunes o asistencia mutua para impartir a la gente de mar formación en materia de protección de la seguridad y la salud en el trabajo, prevención de accidentes y prácticas de trabajo seguras.

**Regla 4.4 – Acceso a instalaciones de bienestar en tierra**

**Finalidad:** Asegurar que la gente de mar empleada a bordo de buques tenga acceso a instalaciones y servicios en tierra que protejan su salud y su bienestar

1. Los Miembros deberán velar por que las instalaciones de bienestar en tierra, si las hay, sean de fácil acceso. Los Miembros también deberán promover la construcción en determinados puertos de instalaciones de bienestar como las enumeradas en el Código, a fin de que la gente de mar a bordo de los buques que se encuentren en sus puertos tenga acceso a instalaciones y servicios de bienestar apropiados.

2. Las responsabilidades que incumben a los Miembros en relación con las instalaciones en tierra, tales como las instalaciones y servicios de bienestar, culturales, de esparcimiento e información, se enuncian en el Código.

**Norma A4.4 – Acceso a instalaciones de bienestar en tierra**

1. Todo Miembro deberá exigir que, cuando haya instalaciones de bienestar en su territorio, éstas puedan ser utilizadas por toda la gente de mar, sin distinción de nacionalidad, raza, color, sexo, religión, convicciones políticas u origen social e independientemente de cuál sea el Estado del pabellón del buque en que la gente de mar trabaje o esté empleada o contratada.

2. Todo Miembro deberá impulsar el desarrollo de instalaciones de bienestar en puertos apropiados del país y determinar, previa consulta con las organizaciones de armadores y de gente de mar interesadas, qué puertos deben considerarse apropiados.

3. Todo Miembro deberá alentar el establecimiento de comisiones de bienestar encargadas de examinar regularmente las instalaciones y servicios de bienestar a fin de cerciorarse de que sean apropiados, habida cuenta de la evolución de las necesidades de la gente de mar como consecuencia de los avances técnicos, operacionales o de otra índole que se registren en el sector del transporte marítimo.
Pauta B4.4 – Acceso a instalaciones de bienestar en tierra

Pauta B4.4.1 – Responsabilidades de los Miembros

1. Todo Miembro debería:
   a) adoptar medidas para asegurar que se faciliten instalaciones y servicios de bienestar adecuados a la gente de mar en puertos de escala seleccionados y que se les dispense una protección adecuada en el ejercicio de su profesión, y
   b) en la aplicación de estas medidas, tener en cuenta las necesidades especiales de la gente de mar por lo que se refiere a su seguridad, salud y esparcimiento, particularmente cuando se encuentre en el extranjero o en zonas de guerra.

2. Entre las medidas de control de las instalaciones y servicios de bienestar debería figurar la participación de organizaciones representativas de los armadores y de la gente de mar.

3. Los Miembros deberían adoptar medidas encaminadas a lograr que entre los buques, los organismos centrales de abastecimiento y las instituciones de bienestar se facilite la libre circulación de artículos tales como películas, libros, periódicos y equipo deportivo destinados a la gente de mar, ya sea a bordo de los buques o en los centros de bienestar en tierra.

4. Los Miembros deberían cooperar entre sí a fin de promover el bienestar de la gente de mar durante la navegación y en los puertos. Esta cooperación debería comprender:
   a) la celebración de consultas entre las autoridades competentes con miras a facilitar o mejorar las instalaciones y servicios de bienestar para la gente de mar, tanto en los puertos como a bordo de los buques;
   b) la celebración de acuerdos para aunar recursos en un fondo común y facilitar conjuntamente servicios de bienestar en los grandes puertos, a fin de evitar la duplicación inútil de esfuerzos;
   c) la organización de competiciones deportivas internacionales y el fomento de la participación de la gente de mar en actividades deportivas, y
   d) la organización de seminarios internacionales sobre el tema del bienestar de la gente de mar durante la navegación y en los puertos.

Pauta B4.4.2 – Instalaciones y servicios de bienestar en los puertos

1. Los Miembros deberían facilitar o asegurar que se faciliten las instalaciones y servicios de bienestar necesarios en los puertos apropiados del país de que se trate.

2. Las instalaciones y servicios de bienestar deberían estar a cargo, de conformidad con las condiciones y la práctica nacionales, de una o varias de las instituciones siguientes:
   a) las autoridades públicas;
b) las organizaciones de armadores y de gente de mar interesadas, con arreglo a convenios colectivos o a otras disposiciones adoptadas de común acuerdo, y
c) organizaciones benévolas.

3. Deberían crearse o ampliarse las instalaciones de bienestar y de esparcimiento necesarias en los puertos. Entre dichas instalaciones deberían figurar:
   a) salas de reunión y de esparcimiento, según las necesidades;
   b) instalaciones deportivas y otras instalaciones al aire libre, en particular para competiciones;
   c) instalaciones educativas, y
   d) cuando proceda, instalaciones para la práctica religiosa y los servicios de asesoramiento personal.

4. Estas instalaciones pueden proporcionarse poniendo a disposición de la gente de mar, en función de sus necesidades, instalaciones previstas para un uso más general.

5. Cuando un gran número de marinos de diferentes nacionalidades necesiten disponer en puertos de determinadas instalaciones, tales como hoteles, clubes o locales deportivos, las autoridades u organismos competentes de los países de origen de la gente de mar y de los Estados del pabellón, así como las asociaciones internacionales interesadas, deberían celebrar consultas y cooperar entre sí y con las autoridades y organismos competentes del país donde está situado el puerto, al objeto de aunar recursos y evitar la duplicación inútil de esfuerzos.

6. La gente de mar debería disponer de hoteles o albergues adecuados cada vez que los necesiten. Estos establecimientos deberían prestar servicios equivalentes a los ofrecidos por hoteles de buena clase, y estar en lo posible bien situados y no en la proximidad inmediata de los muelles. Dichos hoteles o albergues deberían estar sometidos a los controles adecuados, y sus precios deberían ser razonables; cuando fuese necesario y factible, deberían adoptarse disposiciones para alojar a las familias de los marinos.

7. Estas instalaciones de alojamiento deberían ponerse a disposición de toda la gente de mar, sin distinción de nacionalidad, raza, color, sexo, religión, convicciones políticas u origen social e independientemente de cuál sea el Estado del pabellón del buque en que la gente de mar trabaje o esté empleada o contratada. Sin infringir en modo alguno este principio, tal vez sea necesario que en determinados puertos se prevean diversos tipos de servicios, de nivel comparable pero adaptados a las costumbres y necesidades de diferentes grupos de gente de mar.

8. Deberían adoptarse medidas para asegurar que, según sea necesario, en la gestión de las instalaciones y los servicios de bienestar para la gente de mar se emplee a tiempo completo a personal técnicamente competente, además de los eventuales colaboradores voluntarios.
Pauta B4.4.3 – Comisiones de bienestar

1. Deberían crearse comisiones de bienestar en los puertos y a nivel regional o nacional, según proceda, encargadas en particular de las siguientes funciones:
   a) verificar que las instalaciones de bienestar existentes sigan siendo adecuadas y determinar si conviene crear otras o suprimir las que son subutilizadas, y
   b) ayudar y asesorar a los encargados de proporcionar instalaciones de bienestar y asegurar la coordinación entre ellos.

2. Las comisiones de bienestar deberían contar entre sus miembros a representantes de las organizaciones de armadores y de gente de mar, de las autoridades competentes y, si procede, de organizaciones benévolas y entidades sociales.

3. Cuando corresponda, se debería invitar a los cónsules de los Estados marítimos y a los representantes locales de organizaciones de bienestar extranjeras a que participen en la labor de las comisiones de bienestar en los puertos y a nivel regional y nacional, de conformidad con la legislación nacional.

Pauta B4.4.4 – Financiación de las instalaciones de bienestar

1. De acuerdo con las condiciones y la práctica nacionales, el apoyo financiero a las instalaciones de bienestar en los puertos debería proceder de una o varias de las fuentes siguientes:
   a) subvenciones públicas;
   b) gravámenes u otras contribuciones especiales provenientes de círculos marítimos;
   c) aportaciones voluntarias de los armadores, de la gente de mar o de sus organizaciones, y
   d) aportaciones voluntarias de otras fuentes.

2. Cuando se establezcan impuestos, gravámenes o contribuciones especiales para financiar las instalaciones de bienestar, estos recursos sólo deberían utilizarse para los fines con que se recaudaron.

Pauta B4.4.5 – Difusión de información y medidas de facilitación

1. Debería difundirse información entre la gente de mar sobre las instalaciones a disposición de todo el público en los puertos de escala, en particular, los medios de transporte, los servicios sociales, educativos y de esparcimiento y los lugares de culto, así como sobre las instalaciones destinadas específicamente a la gente de mar.

2. Debería disponerse de medios de transporte adecuados, a precios módicos y en circulación a horas razonables, a fin de que la gente de mar pueda desplazarse a las zonas urbanas desde puntos convenientemente situados en la zona portuaria.
3. Las autoridades competentes deberían adoptar todas las medidas adecuadas para informar a los armadores y a la gente de mar que llegue a un puerto sobre todas las leyes y costumbres especiales cuya infracción podría poner en peligro su libertad.

4. Las autoridades competentes deberían equipar adecuadamente las zonas portuarias y las carreteras de acceso a los puertos con alumbrado y carteles indicadores, y disponer que se efectúen en ellas patrullas regulares a fin de garantizar la protección de la gente de mar.

Pauta B4.4.6 – Gente de mar en un puerto extranjero

1. A fin de asegurar la protección de los marinos en puertos donde no son nacionales, deberían tomarse medidas para facilitar:
   a) el acceso a los cónsules del Estado de su nacionalidad o el Estado de residencia,
   y
   b) una cooperación eficaz entre dichos cónsules y las autoridades locales o nacionales.

2. La situación de la gente de mar detenida en un puerto extranjero debería ser tramitada sin demora con arreglo a las normas en materia de garantías procesales y con la protección consular apropiada.

3. Cada vez que, por un motivo cualquiera, se detenga a un marino en el territorio de un Miembro, la autoridad competente debería, a petición de la persona interesada, informar inmediatamente del particular al Estado del pabellón y al Estado del cual el marino es nacional. La autoridad competente debería informar sin demora al marino de su derecho a presentar dicha petición. El Estado del cual el marino es nacional debería, a su vez, informar rápidamente a sus parientes más cercanos. La autoridad competente debería permitir que los funcionarios consulares de esos Estados puedan entrevistarse inmediatamente con el marino y sigan visitándole regularmente mientras permanezca detenido.

4. Cada vez que sea necesario, los Miembros deberían adoptar medidas para garantizar la seguridad de la gente de mar contra agresiones y otros actos ilegales mientras los buques se hallan en sus aguas territoriales y, especialmente, mientras se aproximan a sus puertos.

5. Los responsables en los puertos y a bordo deberían esforzarse al máximo por que se autorice a la gente de mar a desembarcar tan pronto como sea posible tras la llegada del buque a puerto.

Regla 4.5 – Seguridad social

Finalidad: Asegurar que se adopten medidas que den acceso a la gente de mar a una protección en materia de seguridad social

1. Los Miembros deberán asegurar que toda la gente de mar y, en la medida en que lo prevea la legislación nacional, las personas a su cargo tengan acceso a una
protección en materia de seguridad social de conformidad con el Código, sin que ello menoscabe cualquier condición más favorable a que se hace referencia en el párrafo 8 del artículo 19 de la Constitución.

2. Los Miembros se comprometen a adoptar medidas, acordes con sus circunstancias nacionales, individualmente y por medio de una cooperación internacional, para lograr progresivamente una protección en materia de seguridad social completa para la gente de mar.

3. Los Miembros deberán asegurarse de que la gente de mar, sujeta a su legislación en materia de seguridad social, y, en la medida en que esté previsto en la legislación nacional, las personas a su cargo tengan derecho a beneficiarse de una protección en materia de seguridad social no menos favorable que la que gozan los trabajadores en tierra.

Norma A4.5 – Seguridad social

1. Las ramas que habrán de considerarse para lograr progresivamente una cobertura completa en materia de seguridad social de conformidad con la regla 4.5 son: la atención médica, las prestaciones de enfermedad, las prestaciones de desempleo, las prestaciones de vejez, las prestaciones por lesiones profesionales, las prestaciones familiares, las prestaciones de maternidad, las prestaciones de invalidez, y las prestaciones de supervivencia, que complementen la protección proporcionada de conformidad con las reglas 4.1, sobre atención médica, y 4.2, sobre la responsabilidad del armador, y con otros títulos del presente Convenio.

2. En el momento de la ratificación, la protección que ha de proporcionar cada Miembro de conformidad con el párrafo 1 de la regla 4.5 deberá incluir por lo menos tres de las nueve ramas enumeradas en el párrafo 1 de la presente norma.

3. Los Miembros deberán adoptar medidas acordes con sus circunstancias nacionales para proporcionar la protección complementaria en materia de seguridad social mencionada en el párrafo 1 de la presente norma a toda la gente de mar que tenga residencia habitual en su territorio. Esta responsabilidad podría cumplirse, por ejemplo, mediante la celebración de acuerdos bilaterales o multilaterales o de sistemas basados en cotizaciones. La protección resultante no deberá ser menos favorable que aquella de la que gozan los trabajadores en tierra que residen en su territorio.

4. No obstante la atribución de responsabilidades con arreglo al párrafo 3 de la presente norma, los Miembros podrán determinar, mediante acuerdos bilaterales y multilaterales y mediante disposiciones adoptadas en el marco de las organizaciones de integración económica regional, otras reglas sobre la legislación en materia de seguridad social a que esté sujeta la gente de mar.

5. Las responsabilidades de los Miembros respecto de la gente de mar que trabaja en buques que enarbolen su pabellón deberá incluir las previstas en las reglas 4.1 y 4.2 y en las disposiciones conexas del Código, así como las inherentes a sus obligaciones generales en virtud de la legislación internacional.
6. Los Miembros deberán tomar en consideración las distintas maneras en que, de conformidad con la legislación y la práctica nacionales, se proporcionarán a la gente de mar prestaciones comparables en los casos en que no exista una cobertura suficiente en las ramas mencionadas en el párrafo 1 de la presente norma.

7. La protección en virtud del párrafo 1 de la regla 4.5 podrá estar contenida, cuando proceda, en una ley o reglamento, en regímenes privados o en convenios de negociación colectiva o en una combinación de éstos.

8. En la medida en que ello sea compatible con la legislación y la práctica nacionales, los Miembros deberán cooperar, a través de acuerdos bilaterales o multilaterales o mediante otros acuerdos, para garantizar la conservación de los derechos en materia de seguridad social, otorgados mediante regímenes contributivos o no contributivos, adquiridos o en curso de adquisición de toda la gente de mar, independientemente de su lugar de residencia.

9. Los Miembros deberán establecer procedimientos justos y eficaces para la resolución de conflictos.

10. En el momento de la ratificación, todo Miembro deberá especificar en qué ramas se brinda protección de conformidad con el párrafo 2 de la presente norma. Ulteriormente deberá notificar al Director General de la Oficina Internacional del Trabajo cuándo proporciona protección en materia de seguridad social respecto de una o más ramas adicionales de las enumeradas en el párrafo 1 de la presente norma. El Director General deberá conservar un registro de esta información y deberá ponerlo a disposición de todas las partes interesadas.

11. Las memorias presentadas a la Oficina Internacional del Trabajo en virtud del artículo 22 de la Constitución también deberán incluir información acerca de las medidas adoptadas de conformidad con el párrafo 2 de la regla 4.5 para hacer extensiva la protección a otras ramas.

Pauta B4.5 – Seguridad social

1. La protección que se ha de brindar en el momento de la ratificación de conformidad con el párrafo 2 de la norma A4.5 debería incluir al menos las ramas de atención médica, prestaciones de enfermedad y prestaciones por lesiones profesionales.

2. En las circunstancias mencionadas en el párrafo 6 de la norma A4.5, pueden proporcionarse prestaciones comparables a través de seguros, acuerdos bilaterales y multilaterales u otros medios eficaces, teniendo en cuenta las disposiciones de los convenios de negociación colectiva pertinentes. En los casos en que se adopten esas medidas, debería informarse a la gente de mar cubierta por tales medidas por qué medios se proporcionará protección de las distintas ramas de la seguridad social.

3. En los casos en que la gente de mar esté sujeta a más de una legislación nacional sobre seguridad social, los Miembros interesados deberían cooperar para determinar por mutuo acuerdo cuál legislación se ha de aplicar, teniendo en cuenta factores tales como el tipo y el nivel de protección previstos por las legislaciones
respectivas que sean más favorables a la gente de mar interesada, así como las preferencias de la gente de mar.

4. Los procedimientos que se han de establecer en virtud del párrafo 9 de la norma A4.5 deberían estar diseñados para abarcar todos los conflictos relacionados con las quejas de la gente de mar interesada, independientemente de la manera en que se proporcione esa cobertura.

5. Todo Miembro cuyo pabellón enarbole el buque a bordo del cual presta servicio la gente de mar (nacionales, extranjeros o ambas categorías) debería proporcionar a la misma la protección en materia de seguridad social prevista en el Convenio, según proceda. Dicho Estado debería examinar periódicamente las ramas contempladas en el párrafo 1 de la norma A4.5 con miras a identificar toda rama adicional que redunde en beneficio de la gente de mar.

6. En el acuerdo de empleo de la gente de mar deberían indicarse los medios por los cuales el armador proporcionará a la gente de mar protección en las distintas ramas de la seguridad social, así como cualquier otra información pertinente a disposición del armador, por ejemplo las deducciones reglamentarias de los salarios de la gente de mar y las contribuciones de los armadores que puedan deducirse de conformidad con los requisitos establecidos por órganos autorizados identificados en aplicación de los regímenes de seguridad social nacionales pertinentes.

7. Al ejercer efectivamente su jurisdicción sobre las cuestiones sociales, el Miembro cuyo pabellón enarbole el buque debería comprobar que se cumplen las responsabilidades de los armadores en lo que atañe a la protección en materia de seguridad social, con inclusión del pago de las cotizaciones a los regímenes de seguridad social.
TÍTULO 5. CUMPLIMIENTO Y CONTROL DE LA APLICACIÓN

1. Las reglas contenidas en este Título describen la responsabilidad que incumbe a cada Miembro de cumplir plenamente y controlar la aplicación de los principios y derechos establecidos en los artículos, así como las obligaciones particulares previstas en los Títulos 1, 2, 3 y 4.

2. Los párrafos 3 y 4 del artículo VI, que permiten la aplicación de la parte A del Código a través de disposiciones sustancialmente equivalentes, no se aplican al presente Título de la parte A del Código.

3. De conformidad con lo dispuesto en el párrafo 2 del artículo VI del presente Convenio, todo Miembro deberá cumplir sus responsabilidades en virtud de las reglas y en la manera prevista en las normas correspondientes de la parte A del Código, prestando la debida consideración a las pautas correspondientes de la parte B del Código.

4. Las disposiciones del presente Título deberán aplicarse teniendo presente que los marinos y los armadores, al igual que todas las demás personas, son iguales ante la ley, tienen derecho a la misma protección jurídica y no deben ser objeto de discriminación por lo que respecta al acceso a los juzgados, tribunales u otros mecanismos de resolución de litigios. Las disposiciones del presente Título no determinan jurisdicción legal ni competencia territorial alguna.

Regla 5.1 – Responsabilidades del Estado del pabellón

Finalidad: Asegurar que cada Miembro dé cumplimiento a las responsabilidades que le incumben en virtud del presente Convenio con respecto a los buques que enarbolan su pabellón

Regla 5.1.1 – Principios generales

1. Todo Miembro es responsable de velar por el cumplimiento de sus obligaciones en virtud del presente Convenio a bordo de los buques que enarbolen su pabellón.

2. Los Miembros deberán establecer un sistema eficaz de inspección y certificación de las condiciones de trabajo marítimo, de conformidad con las reglas 5.1.3 y 5.1.4, velando por que las condiciones de trabajo y de vida de la gente de mar a bordo de los buques que enarbolen su pabellón cumplan, y sigan cumpliendo, las normas del presente Convenio.

3. Al establecer un sistema eficaz de inspección y certificación de las condiciones de trabajo marítimo todo Miembro puede facultar, cuando proceda, a instituciones públicas o a otras organizaciones (incluidas las de otro Miembro que haya ratificado el presente Convenio, si éste está de acuerdo) a las que reconozca como competentes e independientes para que efectúen esas inspecciones y/o expidan certificados. En todos los casos, los Miembros asumirán plenamente la
cumplimiento y control de la aplicación

responsabilidad de la inspección y certificación de las condiciones de trabajo y de vida de la gente de mar interesada a bordo de buques que enarbolen su pabellón.

4. El certificado de trabajo marítimo, complementado por una declaración de conformidad laboral marítima, tendrá valor de presunción, salvo prueba en contrario, de que el buque ha sido debidamente inspeccionado por el Miembro cuyo pabellón enarbolaba y de que cumple los requisitos relativos a las condiciones de trabajo y de vida de la gente de mar previstas en el presente Convenio en la medida que se especifica.

5. En las memorias presentadas por el Miembro a la Oficina Internacional del Trabajo en virtud del artículo 22 de la Constitución de la Organización Internacional del Trabajo deberá incluirse información sobre el sistema mencionado en el párrafo 2 de la presente regla, incluido el método utilizado para evaluar su eficacia.

Norma A5.1.1 – Principios generales

1. Todo Miembro deberá establecer normas y objetivos claros respecto a la administración de sus sistemas de inspección y de certificación, así como procedimientos generales adecuados para evaluar el grado de realización de dichos objetivos y de dichas normas.

2. Todo Miembro deberá exigir que todos los buques que enarbolen su pabellón tengan a bordo una copia disponible del presente Convenio.

Pauta B5.1.1 – Principios generales

1. La autoridad competente de cada Miembro debería adoptar medidas adecuadas para fomentar una cooperación efectiva entre las instituciones públicas y otras organizaciones que se ocupen de las condiciones de trabajo y de vida de la gente de mar a bordo.

2. A fin de asegurar la cooperación entre los inspectores, los armadores, la gente de mar y sus organizaciones respectivas, y con la finalidad de mantener o mejorar las condiciones de trabajo y de vida de la gente de mar a bordo, la autoridad competente debería celebrar consultas periódicas con los representantes de las citadas organizaciones en relación con las medidas más adecuadas para lograr dichos objetivos. La autoridad competente del Miembro debería determinar, previa consulta con las organizaciones de armadores y de gente de mar, la forma que deberían revestir dichas consultas.

Regla 5.1.2 – Autorización de las organizaciones reconocidas

1. Las instituciones públicas y otras organizaciones a que se refiere el párrafo 3 de la regla 5.1.1 (designadas como «organizaciones reconocidas») deberán contar con el reconocimiento de la autoridad competente en el sentido de que reúnen los requisitos contenidos en el Código en lo que respecta a la competencia e independencia. Las funciones de inspección y de certificación que las organizaciones reconocidas pueden estar autorizadas a realizar quedarán comprendidas en el ámbito
de las actividades que en el Código se indica expresamente que llevan a cabo la autoridad competente o una organización reconocida.

2. Las memorias mencionadas en el párrafo 5 de la regla 5.1.1 deberán contener información sobre la organización u organizaciones de que se trate, el alcance de las autorizaciones concedidas y las disposiciones adoptadas por el Miembro para garantizar que las actividades autorizadas se llevan a cabo de forma íntegra y eficaz.

**Norma A5.1.2 – Autorización de las organizaciones reconocidas**

1. A los efectos del reconocimiento de conformidad con el párrafo 1 de la regla 5.1.2, la autoridad competente deberá examinar la competencia e independencia de la organización interesada y determinar si dicha organización ha demostrado, en el grado necesario para llevar a cabo las actividades comprendidas en las facultades que se le hayan conferido, que:

   a) posee las competencias técnicas necesarias en los aspectos relevantes del presente Convenio y los conocimientos adecuados sobre el funcionamiento del buque, incluidos los requisitos mínimos para trabajar a bordo de buques, las condiciones de empleo, el alojamiento, las instalaciones de esparcimiento, la alimentación y el servicio de fonda, y la prevención de accidentes, la protección de la salud, la atención médica, el bienestar y la protección de la seguridad social;

   b) tiene la capacidad para mantener y actualizar las competencias profesionales de su personal;

   c) posee los conocimientos necesarios acerca de las disposiciones del Convenio así como de la legislación nacional aplicable y de los instrumentos internacionales pertinentes, y

   d) su tamaño, estructura, experiencia y capacidad están en consonancia con el tipo y grado de autorización.

2. Cualquier autorización que se conceda en relación con las inspecciones facultará a la organización para que, como mínimo, pueda exigir que se corrijan las deficiencias que se señalen en las condiciones de vida y de trabajo de la gente de mar y se realicen inspecciones a ese respecto cuando lo solicite un Estado del puerto.

3. Todo Miembro deberá establecer:

   a) un sistema que garantice la idoneidad de la labor desempeñada por las organizaciones reconocidas, que incluya información sobre toda la legislación nacional y los instrumentos internacionales aplicables, y

   b) procedimientos para la comunicación con dichas organizaciones y el control de las mismas.

4. Todo Miembro deberá proporcionar a la Oficina Internacional del Trabajo una lista actualizada de todas las organizaciones reconocidas que haya autorizado a actuar en su nombre y deberá mantener esta lista al día. En la lista han de indicarse
las funciones que las organizaciones reconocidas han sido autorizadas a desempeñar. La Oficina pondrá esta lista a disposición del público.

Pauta B5.1.2 – Autorización de las organizaciones reconocidas

1. La organización que solicie el reconocimiento debería demostrar su competencia y capacidad técnica, administrativa y directiva para garantizar una prestación de servicios oportuna y de calidad satisfactoria.

2. Al evaluar la capacidad de una organización, la autoridad competente debería determinar si la organización:
   a) tiene suficiente personal técnico, directivo y de apoyo;
   b) dispone de suficiente personal profesional calificado para prestar el servicio requerido, y tiene una cobertura geográfica adecuada;
   c) ha demostrado su capacidad para prestar puntualmente servicios de calidad, y
   d) es independiente y responsable en sus actividades.

3. La autoridad competente debería concertar un acuerdo escrito con toda organización que reconozca a los efectos de una autorización. El acuerdo debería contener los elementos siguientes:
   a) ámbito de aplicación;
   b) finalidad;
   c) condiciones generales;
   d) desempeño de las funciones objeto de la autorización;
   e) base jurídica de las funciones objeto de la autorización;
   f) presentación de informes a la autoridad competente;
   g) especificación de la autorización de la autoridad competente a la organización reconocida, y
   h) la supervisión de las actividades delegadas a la organización reconocida por la autoridad competente.

4. Todo Miembro debería exigir que las organizaciones reconocidas establezcan un sistema de calificación del personal que la organización emplee como inspectores para garantizar la actualización oportuna de sus conocimientos teóricos y prácticos.

5. Todo Miembro debería exigir que las organizaciones reconocidas lleven un registro de los servicios que prestan, a fin de que puedan demostrar que cumplen las normas exigidas en los ámbitos abarcados por los servicios.

6. Al establecer los procedimientos de control mencionados en el párrafo 3, apartado b), de la norma A5.1.2, el Miembro debería tener en cuenta las Directrices relativas a la autorización de las organizaciones que actúen en nombre de la administración, adoptadas en el marco de la Organización Marítima Internacional.
Regla 5.1.3 – Certificado de trabajo marítimo y declaración de conformidad laboral marítima

1. Esta regla se aplica a los buques:
   a) de arqueo bruto igual o superior a 500 que efectúen viajes internacionales, y
   b) de arqueo bruto igual o superior a 500 que enarbolen el pabellón de un Miembro y operen desde un puerto, o entre puertos, de otro país.

A efectos de esta regla, el término «viaje internacional» designa un viaje desde un país hasta un puerto situado fuera de dicho país.

2. Esta regla también se aplicará a todo buque que enarbole el pabellón de un Miembro y no esté sujeto a lo dispuesto en el párrafo 1 de esta regla, si el armador lo solicita al Miembro de que se trate.

3. Todo Miembro deberá exigir que en los buques que enarbolen su pabellón se lleve y se mantenga al día un certificado de trabajo marítimo que acredite que las condiciones de trabajo y de vida de la gente de mar a bordo del buque, incluidas las medidas destinadas a asegurar el cumplimiento continuo de las disposiciones adoptadas, que se han de indicar en la declaración de conformidad laboral marítima mencionada en el párrafo 4 infra, han sido inspeccionadas y satisfacen los requisitos previstos en la legislación nacional o en otras disposiciones relativas a la aplicación del presente Convenio.

4. Todo Miembro deberá exigir que en los buques que enarbolen su pabellón también se lleve y se mantenga al día una declaración de conformidad laboral marítima que indique las disposiciones nacionales por las que se aplica el presente Convenio en lo que atañe a las condiciones de trabajo y de vida de la gente de mar, y describa las medidas adoptadas por el armador para garantizar el cumplimiento de dichas disposiciones a bordo del buque o de los buques de que se trate.

5. El certificado de trabajo marítimo y la declaración de conformidad laboral marítima deberán ajustarse al modelo prescrito en el Código.

6. Cuando la autoridad competente del Miembro o un organismo reconocido debidamente autorizado a tal efecto hayan verificado mediante inspección que un buque que enarbola el pabellón del Miembro cumple o sigue cumpliendo las normas del presente Convenio, deberá expedir o renovar el certificado de trabajo marítimo correspondiente, y anotarlo en un registro accesible al público.

7. En la parte A del Código se enuncian de manera detallada los requisitos relativos al certificado de trabajo marítimo y a la declaración de conformidad laboral marítima, incluida una lista de las materias que deben ser objeto de inspección y aprobación.

Norma A5.1.3 – Certificado de trabajo marítimo y declaración de conformidad laboral marítima

1. La autoridad competente, o una organización debidamente autorizada a tal efecto, expedirá al buque el certificado de trabajo marítimo por un período no
superior a cinco años. En el anexo A5-I se recoge una lista de cuestiones que deben ser inspeccionadas y estar en conformidad con la legislación nacional u otras medidas por las que se apliquen las disposiciones del presente Convenio relativas a las condiciones de trabajo y de vida de la gente de mar a bordo de los buques, antes de que se pueda expedir un certificado de trabajo marítimo.

2. La validez del certificado de trabajo marítimo estará sujeta a una inspección intermedia de la autoridad competente, o de una organización reconocida debidamente autorizada a tal efecto, para garantizar que se siguen cumpliendo las disposiciones nacionales por las que se aplica el presente Convenio. Si se realiza una sola inspección intermedia y el período de validez del certificado de trabajo marítimo es de cinco años, dicha inspección deberá efectuarse entre la segunda y tercera fechas de vencimiento anuales del certificado de trabajo marítimo. Por fecha de vencimiento anual se entiende el día y el mes que correspondan, cada año, a la fecha de expiración del certificado de trabajo marítimo. El alcance y la profundidad de la inspección serán equivalentes a los de una inspección para la renovación de un certificado. El certificado de trabajo marítimo será refrendado si los resultados de la inspección intermedia son satisfactorios.

3. Sin perjuicio de lo dispuesto en el párrafo 1 de la presente norma, cuando la inspección para la renovación haya concluido dentro de los tres meses que preceden a la fecha de expiración del certificado en vigor, el nuevo certificado de trabajo marítimo será válido a partir de la fecha de finalización de la inspección por un período no superior a cinco años a partir de la fecha de expiración del certificado de trabajo marítimo en vigor. Cuando la inspección para la renovación haya concluido más de tres meses antes de la fecha de expiración del certificado en vigor, el nuevo certificado de trabajo marítimo será válido por un período no superior a cinco años contado a partir de la fecha de finalización de la inspección.

4. Sin perjuicio de lo dispuesto en el párrafo 1 de la presente norma, cuando, tras haberse concluido la inspección para la renovación antes de la fecha de expiración del certificado de trabajo marítimo, se determine que el buque sigue cumpliendo con la legislación nacional u otras medidas por las que se apliquen las disposiciones del presente Convenio, pero no es posible expedir y tener disponible a bordo inmediatamente un nuevo certificado, la autoridad competente, o la organización reconocida debidamente autorizada a tal efecto, podrá extender la validez del certificado por un período adicional no superior a cinco meses contados a partir de la fecha de expiración del certificado en vigor, y refrendar el certificado en consecuencia. El nuevo certificado será válido por un período no superior a cinco años contados a partir de la fecha prevista en el párrafo 3 de la presente norma.

5. Se podrá expedir un certificado de trabajo marítimo a título provisional:
   a) a los buques nuevos en el momento de su entrega;
   b) cuando un buque cambia de pabellón, o
   c) cuando un armador se hace cargo de la explotación de un buque que es nuevo para dicho armador.
6. Este certificado provisional de trabajo marítimo podrá ser expedido para un período no superior a seis meses por la autoridad competente o una organización reconocida debidamente autorizada a tal efecto.

7. Sólo se podrá expedir un certificado provisional de trabajo marítimo si se ha verificado previamente que:
   a) el buque ha sido inspeccionado, en la medida de lo razonable y factible, con respecto a las materias que figuran en el anexo A5-I, teniendo en cuenta la verificación de los aspectos señalados en los apartados b), c) y d) del presente párrafo;
   b) el armador ha demostrado a la autoridad competente o a una organización reconocida que el buque cuenta con procedimientos adecuados para dar cumplimiento al Convenio;
   c) el capitán conoce las disposiciones del Convenio y las responsabilidades de aplicación, y
   d) se ha presentado información pertinente a la autoridad competente o a una organización reconocida para la expedición de una declaración de conformidad laboral marítima.

8. De conformidad con el párrafo 1 de la presente norma, se realizará una inspección completa antes de la expiración del certificado provisional para poder expedir el certificado de trabajo marítimo para todo el período. No se podrá expedir ningún certificado marítimo provisional después de los seis meses iniciales a los que se hace referencia en el párrafo 6 de esta norma. No es necesario expedir una declaración de conformidad laboral marítima durante el período de validez del certificado provisional.

9. El certificado de trabajo marítimo, el certificado provisional de trabajo marítimo y la declaración de conformidad laboral marítima se redactarán conforme a los modelos facilitados en el anexo A5-II.

10. La declaración de conformidad laboral marítima deberá adjuntarse al certificado de trabajo marítimo. Constará de dos partes:
   a) la parte I deberá redactarla la autoridad competente, la cual deberá: i) señalar la lista de cuestiones que deberán inspeccionarse de conformidad con el párrafo 1 de la presente norma; ii) indicar los requisitos nacionales que incorporan las disposiciones pertinentes del presente Convenio, haciendo referencia a las disposiciones legales nacionales pertinentes y proporcionar, de ser necesario, información concisa sobre el contenido principal de los requisitos nacionales; iii) hacer referencia a los requisitos específicos para cada tipo de buque previstos en la legislación nacional; iv) recoger toda disposición sustancialmente equivalente adoptada en virtud del párrafo 3 del artículo VI, y v) indicar con claridad toda exención acordada por la autoridad competente de conformidad con lo previsto en el Título 3, y
b) la parte II deberá redactarla el armador y en ella deberán indicarse las medidas adoptadas para velar por el cumplimiento permanente de los requisitos nacionales durante los períodos comprendidos entre las inspecciones, así como las medidas propuestas para garantizar una mejora continua.

La autoridad competente o la organización reconocida debidamente autorizada a tal efecto deberá certificar la parte II y expedir la declaración de conformidad laboral marítima.

11. Los resultados de todas las inspecciones u otras verificaciones ulteriores que se realicen respecto del buque de que se trate y toda deficiencia importante que se detecte durante cualquiera de esas verificaciones deberán asentarse en un registro, así como la fecha en que se determinó que las deficiencias fueron subsanadas. De conformidad con la legislación nacional, este registro deberá incluirse, acompañado de una traducción al inglés en los casos en que no esté redactado en este idioma, dentro de la declaración de conformidad laboral marítima o figurar como anexo a la misma o ponerse de cualquier otra forma a disposición de la gente de mar, de los inspectores del Estado del pabellón, de los funcionarios habilitados del Estado del puerto y de los representantes de los armadores y la gente de mar.

12. En el buque deberá llevarse y exponerse en un lugar visible a bordo que sea accesible a la gente de mar un certificado de trabajo marítimo y una declaración de conformidad laboral marítima válidos y actualizados, junto con una traducción al inglés cuando el idioma de la documentación sea otro. De conformidad con la legislación nacional, cuando se solicite, se pondrá a disposición de la gente de mar, de los inspectores del Estado del pabellón, de los funcionarios habilitados del Estado del puerto y de los representantes de los armadores y de la gente de mar una copia de dichos documentos.

13. El requisito relativo a la traducción al inglés, mencionado en los párrafos 11 y 12 de la presente norma, no se aplicará en el caso de los buques que no efectúan viajes internacionales.

14. Un certificado expedido de conformidad con el párrafo 1 ó 5 de la presente norma dejará de tener validez en cualquiera de los siguientes casos:
   a) si las inspecciones pertinentes no se concluyen dentro de los períodos que se especifiquen en el párrafo 2 de la presente norma;
   b) si no se refrenda el certificado de conformidad con el párrafo 2 de la presente norma;
   c) cuando un buque cambie de pabellón;
   d) cuando un armador deje de asumir la responsabilidad de la explotación de un buque, y
   e) cuando se hayan incorporado modificaciones sustanciales a la estructura o el equipo a que se refiere el Título 3.

15. En los casos mencionados en el párrafo 14, apartados c), d) o e), de la presente norma, sólo se expedirá un nuevo certificado cuando la autoridad
competente o la organización reconocida encargada de expedir el nuevo certificado esté totalmente convencida de que el buque cumple con los requisitos de esta norma.

16. La autoridad competente o las organizaciones acreditadas por el Estado del pabellón a tales efectos procederán a retirar el certificado de trabajo marítimo si se comprueba que un determinado buque no cumple con los requisitos previstos en el presente Convenio y no se ha adoptado ninguna de las medidas correctivas prescritas.

17. Cuando se considere la posibilidad de retirar algún certificado de trabajo marítimo en virtud del párrafo 16 de la presente norma, la autoridad competente o la organización facultada para ello debería tener en cuenta la gravedad de las deficiencias o la frecuencia de las mismas.

Pauta B5.1.3 – Certificado de trabajo marítimo y declaración de conformidad laboral marítima

1. El enunciado de los requisitos nacionales que figuran en la parte I de la declaración de conformidad laboral marítima debería incluir o ir acompañado de referencias a las disposiciones legislativas relativas a las condiciones de trabajo y de vida de la gente de mar sobre cada una de las cuestiones que se enumeran en el anexo A5-I. Cuando la legislación nacional se ajuste exactamente a los requisitos indicados en el presente Convenio, bastará una referencia. Cuando una disposición del Convenio se aplique a través de equivalencias sustanciales según lo previsto en el párrafo 3 del artículo VI, dicha disposición debería identificarse y proporcionarse una explicación concisa. Cuando la autoridad competente conceda una exención según lo previsto en el Título 3, deberían indicarse con claridad la o las disposiciones de que se trate.

2. Las medidas mencionadas en la parte II de la declaración de conformidad laboral marítima redactada por el armador deberían indicar, en particular, en qué ocasiones se verificará el cumplimiento continuo con disposiciones nacionales específicas, las personas responsables de la verificación, los datos que se han de indicar en un registro, así como los procedimientos que se han de seguir si se indica que hay incumplimiento. La parte II podría revestir distintas formas. Podría hacer referencia a otra documentación más amplia que abarque políticas y procedimientos relativos a otros aspectos del sector marítimo, como, por ejemplo, los documentos requeridos por el Código internacional de gestión de la seguridad (Código IGS) o la información requerida por la Regla 5 del Convenio SOLAS, Capítulo XI-1 sobre el Registro de Sinopsis Continuo del buque.

3. Entre las medidas encaminadas a asegurar el cumplimiento continuo se deberían incluir disposiciones internacionales generales que obliguen al armador y al capitán a mantenerse informados de los últimos avances tecnológicos y hallazgos científicos relacionados con el diseño de los lugares de trabajo, teniendo en cuenta los peligros inherentes al trabajo marítimo, e informar al respecto a los representantes de la gente de mar que ejercen sus derechos de participación, de forma que puedan
garantizar un mayor nivel de protección de las condiciones de trabajo y de vida de la gente de mar a bordo.

4. La declaración de conformidad laboral marítima debería estar redactada, ante todo, en términos claros para que todas las personas interesadas, esto es, los inspectores del Estado del pabellón, los funcionarios habilitados en los Estados del puerto y la gente de mar, puedan verificar que las disposiciones se están aplicando debidamente.

5. En el anexo B5-I se proporciona un ejemplo del tipo de información que podría figurar en una declaración de conformidad laboral marítima.

6. Cuando un buque cambie de pabellón como en el caso a que se hace referencia en el párrafo 14, apartado c), de la norma A5.1.3, y ambos Estados hayan ratificado el presente Convenio, el Miembro cuyo pabellón enarbolaba anteriormente el buque debería transmitir, lo antes posible, a la autoridad competente del otro Miembro copias del certificado de trabajo marítimo y de la declaración de conformidad laboral marítima que el buque llevaba antes del cambio de pabellón y, si procede, copias de los informes de inspección pertinentes si la autoridad competente lo solicita en un plazo de tres meses después de que se haya producido el cambio de pabellón.

Regla 5.1.4 – Inspección y control de la aplicación

1. Todo Miembro deberá verificar, mediante un sistema eficaz y coordinado de inspecciones periódicas, seguimiento y otras medidas de control, que los buques que enarbolen su pabellón cumplan las disposiciones del presente Convenio tal como quedan recogidas en la legislación nacional.

2. En la parte A del Código se establecen de manera detallada los requisitos relativos al sistema de inspección y control de la aplicación mencionado en el párrafo 1 de la presente regla.

Norma A5.1.4 – Inspección y control de la aplicación

1. Todo Miembro deberá mantener un sistema de inspección de las condiciones de la gente de mar a bordo de los buques que enarbolen su pabellón que permitirá comprobar, entre otras cosas, que se cumplen, cuando corresponda, las medidas relativas a las condiciones de trabajo y de vida establecidas en la declaración de conformidad laboral marítima y las disposiciones del presente Convenio.

2. La autoridad competente del Estado Miembro deberá nombrar a un número suficiente de inspectores calificados para cumplir sus responsabilidades en virtud del párrafo 1 de la presente norma. Cuando se haya autorizado a organizaciones reconocidas a que efectúen esas inspecciones, el Miembro deberá exigir que el personal que realice la inspección esté calificado para cumplir estas funciones y les otorgará la autoridad jurídica necesaria para el desempeño de sus funciones.

3. Se adoptarán medidas adecuadas a fin de asegurar que los inspectores tengan la formación, competencia, mandato, atribuciones, condición jurídica e
independencia necesarios o convenientes para que puedan llevar a cabo la verificación y asegurar el cumplimiento a que se refiere el párrafo anterior.

4. Cuando proceda, las inspecciones deberán efectuarse en los intervalos que se indican en la norma A5.1.3. El intervalo no deberá exceder en ningún caso de tres años.

5. Si un Miembro recibe una queja que no considera manifiestamente infundada u obtiene pruebas de que un buque que enarbola su pabellón no está en conformidad con las disposiciones del presente Convenio o de que hay graves deficiencias en la aplicación de las medidas establecidas en la declaración de conformidad laboral marítima, el Miembro deberá adoptar las medidas necesarias para investigar el asunto y velar por que se adopten disposiciones para subsanar todas las deficiencias detectadas.

6. Todo Miembro deberá establecer normas adecuadas y controlar que se aplican eficazmente para velar por que los inspectores gocen de una condición jurídica y unas condiciones de servicio tales que garanticen su independencia respecto de los cambios de gobierno y de cualquier influencia exterior indebida.

7. Los inspectores, que dispondrán de directrices claras en cuanto a sus tareas y estarán debidamente acreditados, deberán estar facultados para:
   a) subir a bordo de un buque que enarbole el pabellón del Miembro;
   b) llevar a cabo cualquier examen, prueba o investigación que puedan considerar necesarios para cerciorarse del estricto cumplimiento de las normas, y
   c) exigir que todas las deficiencias del buque sean corregidas, y prohibir que éste abandone el puerto hasta que se hayan adoptado las medidas necesarias cuando tengan motivos para considerar que dichas deficiencias constituyen una infracción grave de los requisitos previstos en el presente Convenio (e incluso de los derechos de la gente de mar), o representan un gran peligro para la seguridad, la salud o la protección de la gente de mar.

8. Toda medida adoptada en virtud del párrafo 7, c), de la presente norma deberá estar sujeta a cualquier derecho de apelación ante una autoridad judicial o administrativa.

9. Los inspectores deberán tener la facultad discrecional de aconsejar en lugar de incoar o recomendar un procedimiento cuando no haya un incumplimiento claro de los requisitos del presente Convenio que ponga en peligro la seguridad, la salud o la protección de la gente de mar interesada y cuando no exista un historial de infracciones parecidas.

10. Los inspectores deberán considerar confidencial el origen de cualquier reclamación o queja acerca de la existencia presunta de un peligro o deficiencia en relación con las condiciones de trabajo y de vida de la gente de mar, o de una infracción de la legislación, y abstenerse de dar a entender al armador, a su representante, o al operador del buque que se procedió a una inspección como consecuencia de dicha reclamación o queja.
11. No deberá encomendarse a los inspectores funciones que, por su número o sus características, puedan interferir con una inspección eficaz o perjudicar de alguna manera la autoridad o imparcialidad de los mismos en sus relaciones con los armadores, la gente de mar u otras partes interesadas. En particular, los inspectores deberán:

a) tener prohibido cualquier interés directo o indirecto en las actividades que hayan de inspeccionar, y

b) estar obligados a no revelar, aun después de haber abandonado el servicio, cualquier secreto comercial, proceso de trabajo confidencial o información de carácter personal que pueda llegar a su conocimiento durante el desempeño de sus funciones, so pena de sufrir las sanciones o medidas disciplinarias correspondientes.

12. Los inspectores deberán presentar un informe de cada inspección a la autoridad competente. Se deberá facilitar al capitán del buque una copia del citado informe en inglés o en el idioma de trabajo del buque y otra copia deberá quedar expuesta en el tablón de anuncios del buque para información de la gente de mar y, cuando se solicite, deberá remitirse a sus representantes.

13. La autoridad competente de cada Miembro deberá llevar registros de las inspecciones sobre las condiciones de la gente de mar a bordo de buques que enarbolen su pabellón. Deberá publicar un informe anual sobre las actividades de inspección, en un plazo razonable, que no deberá exceder de seis meses, contado a partir del final del año.

14. Cuando se realice una investigación a raíz de un incidente grave, el informe deberá presentarse a la autoridad competente lo antes posible y, en cualquier caso, en el plazo máximo de un mes una vez finalizada la investigación.

15. Cuando se lleve a cabo una inspección o se adopten medidas en virtud de lo dispuesto en la presente norma, deberá hacerse todo lo posible por evitar cualquier inmovilización o demora injustificada del buque.

16. Se deberá pagar una indemnización de conformidad con la legislación nacional por toda pérdida o daño sufridos como consecuencia del ejercicio abusivo de las atribuciones de los inspectores. En cada caso, la carga de la prueba deberá recaer en el querellante.

17. Todo Miembro deberá prever y aplicar de forma efectiva sanciones adecuadas y otras medidas correctivas en caso de infracción de los requisitos del presente Convenio (e inclusive de los derechos de la gente de mar) y de obstrucción al ejercicio de las funciones de los inspectores.

Pauta B5.1.4 – Inspección y control de la aplicación

1. La autoridad competente y cualquier otro servicio o autoridad que sea total o parcialmente responsable de la inspección de las condiciones de trabajo y de vida de la gente de mar deberían disponer de los recursos necesarios para el desempeño de sus funciones. En particular:
a) todo Miembro debería adoptar las medidas oportunas para que pueda recurrirse a expertos y especialistas técnicos debidamente calificados con el fin de que, cuando sea necesario, presten ayuda a los inspectores en el desempeño de su trabajo, y

b) los inspectores deberían disponer de locales convenientemente ubicados, así como de equipos y medios de transporte adecuados que les permitan desempeñar con eficacia sus funciones.

2. La autoridad competente debería establecer una política en materia de conformidad y control de la aplicación para garantizar la coherencia y orientar además las actividades de inspección y de control relacionadas con el presente Convenio. Se deberían facilitar a los inspectores y a los funcionarios encargados de hacer cumplir la ley ejemplares de esta política, que también deberían estar disponibles para el público en general, los armadores y la gente de mar.

3. La autoridad competente debería establecer procedimientos simples que le permitan recibir de manera confidencial información que le transmita la gente de mar, ya sea directamente o a través de sus representantes, en relación con posibles infracciones de las disposiciones del presente Convenio (inclusive de los derechos de la gente de mar) y que permitan a los inspectores investigar tales cuestiones con celeridad, en particular:

a) habilitar a los capitanes, a la gente de mar y a los representantes de la gente de mar para que puedan solicitar una inspección cuando lo consideren necesario, y

b) facilitar información y asesoramiento técnicos a los armadores, a la gente de mar y a las organizaciones interesadas acerca de la manera más eficaz de cumplir con las disposiciones del presente Convenio y de seguir mejorando las condiciones de la gente de mar a bordo de buques.

4. Los inspectores deberían estar debidamente formados y su número debería ser suficiente para garantizar el desempeño efectivo de sus funciones, prestando la atención debida a:

a) la importancia de las funciones que tengan que desempeñar los inspectores y, en especial, el número, la naturaleza y el tamaño de los buques sujetos a inspección, así como el número y la complejidad de las disposiciones legales que hayan de aplicarse;

b) los recursos puestos a disposición de los inspectores, y

c) las condiciones prácticas en que habrán de llevarse a cabo las inspecciones para que sean eficaces.

5. A reserva de las disposiciones de la legislación nacional en materia de contratación de los funcionarios públicos, los inspectores deberían contar con calificaciones y formación adecuadas para el desempeño de sus funciones y, siempre que sea posible, deberían poseer una formación marítima o experiencia de marino. Deberían tener un conocimiento adecuado de las condiciones de vida y de trabajo de la gente de mar y del idioma inglés.
6. Deberían adoptarse medidas para facilitar a los inspectores una formación complementaria apropiada en el empleo.

7. Todos los inspectores deberían tener una visión clara de las circunstancias en las que se debería llevar a cabo la inspección, el alcance que ésta debería tener en las diversas circunstancias mencionadas y el método general que debería aplicarse.

8. Los inspectores debidamente acreditados de conformidad con la legislación nacional deberían por lo menos estar facultados para:

   a) subir a bordo de un buque libremente y sin previa notificación. Sin embargo, al iniciarse la inspección de un buque, los inspectores deberían notificar su presencia al capitán o a la persona que se encuentre a cargo y, cuando corresponda, a la gente de mar o a sus representantes;

   b) interrogar al capitán, a la gente de mar o a cualquier otra persona, incluidos el armador o su representante, acerca de cualquier cuestión relativa a la aplicación de las disposiciones según lo prescrito en la legislación, y ello en presencia de un testigo si así lo solicita la persona interrogada;

   c) exigir la presentación de cualquier libro, diario de navegación, registro, certificado u otro documento o información relacionados de manera directa con los asuntos sometidos a inspección, con el fin de verificar su conformidad con la legislación nacional en la que se recojan las disposiciones del presente Convenio;

   d) exigir la colocación de los avisos que requiera la legislación nacional en la que se recojan las disposiciones del presente Convenio;

   e) tomar o extraer muestras para el análisis de los productos, de la carga, del agua potable, de las provisiones y de los materiales y sustancias empleados o manipulados;

   f) una vez realizada la inspección, señalar directamente a la atención del armador, del operador del buque o del capitán las deficiencias que pueden afectar a la seguridad y la salud de quienes se encuentran a bordo;

   g) alertar a la autoridad competente y, si procede, a la organización reconocida acerca de cualquier deficiencia o abuso que no esté específicamente previsto en la legislación existente, y someter propuestas a la misma con miras a mejorar la legislación, y

   h) notificar a la autoridad competente cualquier accidente de trabajo o enfermedad profesional que afecte a la gente de mar, en los casos y de la forma prevista en la legislación.

9. Cuando se tome o extraiga una muestra, como se menciona en el párrafo 8, e), de la presente pauta, se debería notificar de ello al armador o a su representante y, en su caso, a la gente de mar o solicitar su presencia durante la toma o extracción. La cantidad de la muestra debería ser debidamente registrada por el inspector.

10. En el informe anual publicado por la autoridad competente de cada Miembro respecto de los buques que enarbolen su pabellón también debería incluirse:
a) una lista de la legislación vigente relativa a las condiciones de vida y de trabajo de la gente de mar, así como de las enmiendas que hayan entrado en vigor durante el año;

b) los detalles relativos a la organización del sistema de inspección;

c) estadísticas de los buques u otros locales que podrían ser inspeccionados, y de los buques y otros locales ya inspeccionados;

d) estadísticas relativas a toda la gente de mar que esté sujeta a la legislación nacional;

e) estadísticas e información acerca de las infracciones a la legislación, las sanciones impuestas y los casos de inmovilización de buques, y

f) estadísticas sobre accidentes de trabajo y enfermedades profesionales notificados que afectan a la gente de mar.

Regla 5.1.5 – Procedimientos de tramitación de quejas a bordo

1. Todo Miembro deberá exigir que los buques que enarbolen su pabellón cuenten a bordo con procedimientos para la tramitación justa, eficaz y rápida de las quejas de la gente de mar relativas a infracciones de las disposiciones contenidas en el presente Convenio (e inclusive de los derechos de la gente de mar).

2. Todo Miembro deberá prohibir y sancionar toda forma de hostigamiento en contra de los marinos que hayan presentado una queja.

3. Las disposiciones de la presente regla y de las secciones conexas del Código no irán en detrimento alguno del derecho de la gente de mar a reclamar reparación a través de los medios legales que estime apropiados.

Norma A5.1.5 – Procedimientos de tramitación de quejas a bordo

1. Sin perjuicio de que en la legislación nacional o en los convenios colectivos pudiera preverse un ámbito de aplicación más amplio, la gente de mar podrá recurrir a los procedimientos de tramitación de quejas a bordo para presentar reclamaciones con respecto a cualquier asunto que se alegue constituye una violación de las disposiciones del presente Convenio (e inclusive de los derechos de la gente de mar).

2. Todo Miembro deberá asegurar que en su legislación nacional se establezcan procedimientos apropiados de tramitación de quejas a bordo que cumplan los requisitos contenidos en la regla 5.1.5. Con dichos procedimientos se procurará resolver las quejas en el nivel más bajo posible. No obstante, la gente de mar tendrá en todos los casos derecho a presentar sus quejas directamente al capitán y, de ser necesario, a las autoridades competentes ajenas al buque.

3. El procedimiento de tramitación de quejas a bordo deberá incluir el derecho de los marinos a hacerse acompañar o representar durante el proceso de tramitación de la queja, así como la protección frente a todo posible hostigamiento de la gente de mar que presente quejas. El término «hostigamiento» designa toda acción lesiva
que cualquier persona emprenda contra un marino por haber presentado éste una queja que no sea manifiestamente abusiva ni malintencionada.

4. Junto con una copia del acuerdo de empleo de la gente de mar, deberá proporcionarse a todos los marinos una copia de los procedimientos de tramitación de quejas aplicables a bordo del buque. Se incluirán informaciones sobre cómo tomar contacto con la autoridad competente del Estado del pabellón y del país de residencia de la gente de mar, cuando no sea el mismo Estado, así como el nombre de una o varias personas embarcadas en el buque que puedan, a título confidencial, proporcionar asesoramiento imparcial a la gente de mar sobre sus quejas, así como asistencia respecto de los procedimientos de tramitación de quejas aplicables a bordo del buque.

Pauta B5.1.5 – Procedimientos de tramitación de quejas a bordo

1. A reserva de lo previsto en otras disposiciones pertinentes de un convenio colectivo aplicable, la autoridad competente, en estrecha consulta con las organizaciones de armadores y de gente de mar, debería establecer un modelo de procedimiento justo, rápido y bien documentado de tramitación de las quejas que se presenten a bordo de los buques que enarbolen el pabellón del Miembro. Cuando se establezcan estos procedimientos, deberían considerarse los siguientes aspectos:

   a) muchas quejas pueden referirse específicamente a las personas a quienes deban presentarse dichas quejas o incluso al capitán del buque; en todos los casos, la gente de mar debería poder quejarse directamente al capitán y formular quejas ante autoridades externas, y
   b) para evitar problemas de hostigamiento de la gente de mar que presente una queja sobre cualquiera de las materias objeto del presente Convenio, los procedimientos deberían alentar la designación de una persona a bordo que aconseje a la gente de mar sobre los recursos que tiene a su disposición y, si lo solicita el marino que presente la queja, que asista también a las reuniones o audiencias de examen del objeto de la queja.

2. Los procedimientos que se discutan durante el proceso de consultas a que se refiere el párrafo 1 de la presente pauta deberían abarcar, como mínimo, los siguientes extremos:

   a) las quejas deberían remitirse en primer lugar al jefe del servicio del marino que presente la queja o a su oficial superior;
   b) el jefe del servicio o el oficial superior deberían tratar de resolver el asunto en los plazos prescritos, conforme a la gravedad de las cuestiones planteadas;
   c) si el jefe del servicio o el oficial superior no pueden resolver la queja a satisfacción del marino, este último debería poder remitirla al capitán, quien debería ocuparse personalmente del asunto;
   d) los marinos deberían tener derecho en todo momento a hacerse acompañar y representar por otro marino de su elección a bordo del buque de que se trate;
e) deberían registrarse todas las quejas y decisiones que se adopten al respecto y proporcionarse una copia a la gente de mar interesada;

f) si una queja no puede resolverse a bordo, debería remitirse en tierra al armador, quien debería contar con un plazo adecuado para resolver el asunto, cuando corresponda, en consulta con la gente de mar interesada o con cualquier otra persona que la gente de mar designe como representante, y

g) en todos los casos, la gente de mar debería tener derecho a presentar una queja directamente al capitán y al armador, así como a las autoridades competentes.

**Regla 5.1.6 – Siniestros marítimos**

1. Todo Miembro deberá llevar a cabo una investigación oficial de cualquier siniestro marítimo grave que cause lesiones o la muerte, en el que esté implicado un buque que enarbole su pabellón. El informe final de la investigación deberá normalmente hacerse público.

2. Todos los Miembros deberán cooperar entre sí para facilitar la investigación de los siniestros marítimos graves mencionados en el párrafo 1 de la presente regla.

**Norma A5.1.6 – Siniestros marítimos**

(No contiene disposiciones)

**Pauta B5.1.6 – Siniestros marítimos**

(No contiene disposiciones)

**Regla 5.2 – Responsabilidades del Estado rector del puerto**

**Finalidad:** Permitir que todo Miembro cumpla las responsabilidades que le incumben con arreglo al presente Convenio en lo que atañe a la cooperación internacional necesaria para asegurar la puesta en práctica y el control de la aplicación de las normas de este Convenio a bordo de buques extranjeros

**Regla 5.2.1 – Inspecciones en los puertos**

1. Todo buque extranjero que, en el curso normal de su actividad o por razones operativas, haga escala en el puerto de un Miembro puede ser objeto de una inspección de conformidad con el párrafo 4 del artículo V, para comprobar el cumplimiento de los requisitos del presente Convenio (incluido el respeto de los derechos de la gente de mar) en relación con las condiciones de trabajo y de vida de la gente de mar a bordo del buque.

2. Todo Miembro deberá aceptar el certificado de trabajo marítimo y la declaración de conformidad laboral marítima exigidos en virtud de la regla 5.1.3
como presunción, salvo prueba en contrario, del cumplimiento de los requisitos del presente Convenio (incluido el respeto de los derechos de la gente de mar). Por consiguiente, salvo en las circunstancias especificadas en el Código, las inspecciones que se realicen en sus puertos deberán limitarse a examinar el certificado y la declaración.

3. Las inspecciones en puerto deberán ser efectuadas por funcionarios habilitados, con arreglo a las disposiciones del Código y de otros acuerdos internacionales que rijan las inspecciones de control por el Estado del puerto en el territorio del Miembro. Dichas inspecciones deberán limitarse a comprobar que los aspectos examinados están en conformidad con las disposiciones pertinentes contenidas en los artículos y reglas del presente Convenio y en la parte A del Código.

4. Las inspecciones que se lleven a cabo de conformidad con la presente regla deberán basarse en un sistema eficaz de inspección y control por el Estado rector del puerto que contribuya a garantizar que las condiciones de trabajo y de vida de la gente de mar a bordo de los buques que hagan escala en un puerto del Miembro se ajusten a los requisitos del presente Convenio (inclusive en lo que atañe al respeto de los derechos de la gente de mar).

5. En las memorias que presenten en virtud del artículo 22 de la Constitución, los Miembros deberán incluir información sobre el sistema mencionado en el párrafo 4 de la presente regla, con inclusión del método utilizado para evaluar su eficacia.

Norma A5.2.1 – Inspecciones en los puertos

1. Cuando, tras subir a bordo para efectuar una inspección y solicitar, si procede, el certificado de trabajo marítimo y la declaración de conformidad laboral marítima, un funcionario habilitado compruebe que:
   a) los documentos requeridos no se presentan, no están en regla o su contenido es falso, o los documentos presentados no incluyen la información exigida en el presente Convenio, o dichos documentos no son válidos por otros motivos; o
   b) hay motivos claros para creer que las condiciones de trabajo y de vida a bordo del buque no se ajustan a las disposiciones del presente Convenio; o
   c) hay motivos fundados para creer que se ha cambiado el pabellón del buque con el fin de sustraerlo al cumplimiento de las disposiciones del presente Convenio, o
   d) hay una queja en la que se alega que ciertas condiciones específicas de trabajo y de vida a bordo del buque no están en conformidad con las disposiciones del presente Convenio,

podrá llevarse a cabo una inspección más detallada a fin de verificar cuáles son las condiciones de trabajo y de vida a bordo del buque. En todo caso, tal inspección se llevará a cabo cuando las condiciones de trabajo y de vida que se consideren deficientes o se alegue que lo son puedan constituir claramente un peligro para la seguridad, la salud o la protección de la gente de mar, o cuando el funcionario
habilitado tenga motivos para creer que cualquiera de las deficiencias observadas constituye una infracción grave de los requisitos del presente Convenio (inclusive de los derechos de la gente de mar).

2. Cuando funcionarios habilitados efectúen una inspección más detallada a bordo de un buque extranjero en el puerto de un Miembro en las circunstancias establecidas en los apartados a), b) o c) del párrafo 1 de la presente norma, dicha inspección abarcará, en principio, las cuestiones enumeradas en el anexo A5-III.

3. Cuando se presente una queja en virtud de lo dispuesto en el apartado d) del párrafo 1 de la presente norma, la inspección deberá limitarse en general a las cuestiones objeto de la queja, a menos que de la queja misma, o de su investigación, se desprendan motivos razonables que justifiquen una inspección detallada, de conformidad con el apartado b) del párrafo 1 de la presente norma. A los efectos del apartado d) del párrafo 1 de la presente norma, se entenderá por «queja» la información presentada por un marino, una organización profesional, una asociación, un sindicato o, en general, cualquier persona a quien concierna la seguridad del buque, así como los riesgos para la seguridad o la salud de la gente de mar que trabaja a bordo.

4. Cuando tras realizarse una inspección más detallada se constate que las condiciones de trabajo y de vida a bordo del buque no se ajustan a lo previsto en el presente Convenio, el funcionario autorizado señalará de inmediato las deficiencias al capitán del buque, indicando un plazo para su rectificación. En el caso en que el funcionario autorizado considere que dichas deficiencias son importantes o están relacionadas con una queja presentada de conformidad con el párrafo 3 de esta norma, señalará las deficiencias a la atención de las organizaciones apropiadas de la gente de mar y de los armadores en el Miembro en el que se realice la inspección, y podrá proceder a:

a) notificar a un representante del Estado del pabellón, y

b) proporcionar la información pertinente a las autoridades competentes del siguiente puerto de escala.

5. El Miembro en cuyo territorio se lleve a cabo la inspección tendrá derecho a remitir al Director General de la Oficina Internacional del Trabajo una copia del informe del funcionario habilitado, la que deberá ir acompañada de las respuestas recibidas de las autoridades competentes del Estado del pabellón en el plazo prescrito, a fin de que se adopten las medidas que se consideren apropiadas y oportunas para asegurar que se lleve un registro de dicha información y que ésta sea comunicada a las partes a quienes pudiera interesarse acogerse a los procedimientos de recurso correspondientes.

6. Cuando, tras una inspección más detallada por un funcionario habilitado, se establezca que en el buque no se cumplen los requisitos del presente Convenio y que:

a) las condiciones a bordo constituyen un peligro evidente para la seguridad, la salud o la protección de la gente de mar, o
b) la no conformidad con estos requisitos constituye una infracción grave o recurrente de los mismos (inclusive de los derechos de la gente de mar), el funcionario habilitado deberá adoptar medidas para asegurar que el buque no navegará hasta que no se hayan corregido las deficiencias que determinaron la no conformidad, en virtud de lo dispuesto en los apartados a) o b) del presente párrafo, o hasta que el citado funcionario haya aceptado un plan de acción destinado a rectificar las faltas de conformidad y esté convencido de que dicho plan se llevará a la práctica con prontitud. Si se impide que el buque zarpe, el funcionario habilitado notificará de inmediato al Estado del pabellón a ese respecto, invitará a un representante de dicho Estado a estar presente, en la medida de lo posible y solicitará a ese Estado que responda a la notificación dentro de un plazo determinado. El funcionario habilitado informará además a las organizaciones pertinentes de la gente de mar y de los armadores del Estado del puerto donde se haya realizado la inspección.

7. Todo Miembro deberá asegurar que sus funcionarios habilitados reciban orientación, como la prevista en la parte B del Código, sobre el tipo de circunstancias que justifican la inmovilización de un buque, con arreglo al párrafo 6 de la presente norma.

8. Cuando cumplan con sus responsabilidades en virtud de la presente norma, los Miembros harán todo lo posible para evitar que el buque sea inmovilizado o demorado indebidamente. Si se demuestra que un buque ha sido indebidamente inmovilizado o demorado, deberá pagarse una indemnización por toda pérdida o daño sufridos. La carga de la prueba recaerá en el querellante.

Pauta B5.2.1 – Inspecciones en los puertos

1. La autoridad competente debería elaborar una política de inspección para los funcionarios habilitados que lleven a cabo las inspecciones en virtud de la regla 5.2.1. Esta política debería estar destinada a garantizar la coherencia en la puesta en práctica, y servir de orientación para las actividades de inspección y control de la aplicación relacionadas con los requisitos del presente Convenio (e inclusive con los derechos de la gente de mar). Deberían facilitarse ejemplares de esta política a los funcionarios habilitados y deberían ponerse también a disposición del público en general, de los armadores y de la gente de mar.

2. Al establecer una política en relación con las circunstancias que justifican la inmovilización de un buque, de conformidad con el párrafo 6 de la norma A5.2.1, la autoridad competente debería considerar que, en lo que respecta a las infracciones a que se hace referencia en el apartado b) del párrafo 6 de la norma A5.2.1, la gravedad puede deberse a la naturaleza de la deficiencia de que se trate. Esto sería especialmente pertinente en caso de violación de los principios y derechos fundamentales o de los derechos en el empleo y sociales de la gente de mar en virtud de los artículos III y IV. Por ejemplo, el empleo de una persona menor de edad debería considerarse una infracción grave, incluso cuando sólo haya una persona a bordo en esta situación. En otros casos, se debería tener en cuenta el número de
deficiencias diferentes detectadas durante una determinada inspección: por ejemplo, podría requerirse que se presentaran varias anomalías en relación con el alojamiento o la alimentación y el servicio de fonda que no supongan una amenaza para la seguridad o la salud para que se considere que constituyen una infracción grave.

3. Los Miembros deberían cooperar entre sí en el mayor grado posible en la adopción de directrices acordadas a nivel internacional sobre políticas de inspección, sobre todo las relativas a las circunstancias que requieran la inmovilización de un buque.

**Regla 5.2.2 – Procedimientos de tramitación de quejas en tierra**

1. Todo Miembro deberá velar por que la gente de mar embarcada en buques que hagan escala en puertos situados en su territorio que denuncien infracciones a los requisitos del presente Convenio (inclusive infracciones de los derechos de la gente de mar) tenga derecho a notificar sus quejas a fin de obtener medios que permitan solucionarlas de forma rápida y práctica.

**Norma A5.2.2 – Procedimientos de tramitación de quejas en tierra**

1. Las quejas de la gente de mar en las que se aleguen infracciones de los requisitos del presente Convenio (inclusive de los derechos de la gente de mar) pueden notificarse al funcionario habilitado a tal efecto, en el puerto en que haya hecho escala la gente de mar. En esos casos, dicho funcionario deberá emprender la investigación inicial.

2. Según proceda, y teniendo en cuenta la naturaleza de la queja, en el marco de la investigación inicial deberá determinarse si los procedimientos de tramitación de quejas a bordo establecidos en la regla 5.1.5 se han invocado y agotado. El funcionario habilitado también puede llevar a cabo una inspección más detallada de conformidad con la norma A5.2.1.

3. Según proceda, el funcionario habilitado deberá procurar que la queja se solucione a bordo del buque.

4. En el caso de que la investigación o la inspección previstas en la presente norma pongan de relieve que no hay conformidad con el párrafo 6 de la norma A5.2.1, se aplicarán las disposiciones de dicho párrafo.

5. En el caso de no aplicarse las disposiciones del párrafo 4 de esta norma, y de no solucionarse las quejas a bordo del buque, el funcionario habilitado notificará inmediatamente al Estado del pabellón, solicitando asesoramiento al mismo y la elaboración de un plan de acción correctivo en un plazo determinado.

6. Cuando la queja no se haya solucionado tras haber procedido de conformidad con lo dispuesto en el párrafo 5 de la presente norma, el Estado del puerto transmitirá al Director General de la Oficina Internacional del Trabajo una copia del informe del funcionario habilitado. Dicha copia deberá ir acompañada de toda respuesta que se haya recibido de las autoridades competentes del Estado del pabellón dentro del plazo establecido. Se informará también al respecto a las
organizaciones de armadores y de gente de mar correspondientes del Estado del puerto. Asimismo, el Estado del puerto deberá presentar periódicamente al Director General estadísticas e información relativas a las quejas que se hayan resuelto. Con ello se pretende que se tomen medidas apropiadas y oportunas para asegurar el registro de dicha información, y señalarlo a la atención de las partes, incluidas las organizaciones de armadores y de gente de mar que puedan estar interesadas en aprovechar los procedimientos de recurso pertinentes.

7. Deberán tomarse medidas apropiadas para asegurar el carácter confidencial de las quejas presentadas por la gente de mar.

Pauta B5.2.2 – Procedimientos de tramitación de quejas en tierra

1. Cuando el funcionario habilitado tramite una queja respecto de las disposiciones previstas en la norma A5.2.2, éste debería comprobar primero si la queja es de carácter general y se refiere a toda la gente de mar a bordo, o bien a una determinada categoría, o a casos individuales.

2. Si se trata de una queja de carácter general, debería contemplarse la posibilidad de efectuar una inspección más detallada, de conformidad con lo dispuesto en la norma A5.2.1.

3. Si la queja se refiere a un caso individual, se deberían examinar los resultados de cualquier procedimiento al que se haya recurrido a bordo para solucionarla. Si no se hubiere invocado dicho procedimiento o si éste todavía no se hubiere agotado, el funcionario habilitado debería proponer al querellante que recurra a los procedimientos disponibles a bordo. La deficiencia o la demora excesiva de los procedimientos internos, o el miedo legítimo del querellante a ser objeto de represalias por presentar una reclamación, constituirían razones de peso para que dicho funcionario atienda la queja.

4. Siempre que examine una queja, el funcionario habilitado debería proporcionar al capitán, al armador o cualquier otra persona implicada en la misma, la oportunidad de dar a conocer su posición.

5. El funcionario habilitado podría abstenerse de intervenir en mayor medida en la queja si el Estado del pabellón, en respuesta a la notificación que haya recibido del Estado del puerto, de conformidad con lo dispuesto en el párrafo 5 de la norma A5.2.2, demuestra que se ocupará del asunto, que cuenta con procedimientos eficaces para ello, y que ha presentado un plan de acción aceptable.

Regla 5.3 – Responsabilidades en relación con el suministro de mano de obra

Finalidad: Asegurar que todo Miembro cumpla sus responsabilidades en virtud del presente Convenio en relación con la contratación y colocación de gente de mar y con la protección social de la gente de mar

1. Sin perjuicio del principio de responsabilidad de un Miembro respecto de las condiciones de trabajo y de vida de la gente de mar a bordo de los buques que
enarbolen su pabellón, todo Miembro también tiene la responsabilidad de velar por la aplicación de las disposiciones del presente Convenio relativas a la contratación y colocación de la gente de mar, y a la protección de la seguridad social de la gente de mar que tenga su nacionalidad, sea residente o esté domiciliada de otro modo en su territorio, en la medida en que esa responsabilidad esté prevista en el presente Convenio.

2. En el Código se establecen de forma detallada los requisitos relativos a la aplicación del párrafo 1 de la presente regla.

3. Todo Miembro deberá establecer un sistema eficaz de inspección y supervisión para controlar la aplicación de sus responsabilidades en materia de suministro de mano de obra en virtud del presente Convenio.

4. En las memorias que presenten los Miembros en virtud del artículo 22 de la Constitución deberá incluirse información sobre el sistema mencionado en el párrafo 3 de la presente regla, incluido el método utilizado para evaluar su eficacia.

Norma A5.3 – Responsabilidades en relación con el suministro de mano de obra

1. Todo Miembro deberá controlar la aplicación de las disposiciones del presente Convenio aplicables a la operación y las prácticas de los servicios de contratación y colocación de la gente de mar establecidos en su territorio mediante un sistema de inspección y control y procedimientos judiciales por infracciones en materia de licencias y de otros requisitos operacionales previstos en la norma A1.4.

Pauta B5.3 – Responsabilidades en relación con el suministro de mano de obra

1. Los servicios privados de contratación y colocación de gente de mar que estén establecidos en el territorio del Miembro y pongan gente de mar a disposición de un armador, independientemente de su residencia, tendrían que estar obligados a velar por que el armador cumpla debidamente los términos de los acuerdos de empleo que ha concertado con la gente de mar.
Pruebas de garantía financiera en virtud del párrafo 2 de la regla 2.5

El certificado u otras pruebas documentales que se mencionan en el párrafo 7 de la norma A2.5.2 deberán incluir la siguiente información:

a) el nombre del buque;
b) el puerto de matrícula del buque;
c) el distintivo de llamada del buque;
d) el número OMI del buque;
e) el nombre y la dirección del proveedor o de los proveedores de la garantía financiera;
f) los datos de contacto de las personas o de la entidad responsables de tramitar las solicitudes de ayuda de la gente de mar;
g) el nombre del armador;
h) el período de validez de la garantía financiera, e
i) una atestación del proveedor de la garantía financiera, que indique que esta garantía cumple los requisitos de la norma A2.5.2.
El certificado u otras pruebas documentales de la garantía financiera exigidos con arreglo a lo dispuesto en el párrafo 14 de la norma A4.2.1 deberán incluir la siguiente información:

a) el nombre del buque;
b) el puerto de matrícula del buque;
c) el distintivo de llamada del buque;
d) el número OMI del buque;
e) el nombre y la dirección del proveedor o de los proveedores de la garantía financiera;

f) los datos de contacto de las personas o de la entidad responsable de tramitar las reclamaciones contractuales de la gente de mar;
g) el nombre del armador;

h) el período de validez de la garantía financiera, e

i) una atestación del proveedor de la garantía financiera que indique que esta garantía financiera cumple los requisitos de la norma A4.2.1.

ANEXO A4-I

Pruebas de garantía financiera en virtud de la regla 4.2
ANEXO B4-I

Modelo de finiquito y de recibo liberatorio
mentcionado en la pauta B4.2.2

Buque (nombre, puerto de matriculación y número OMI): ..............................................
Incidente (lugar y fecha): ........................................................................................................
Marino/heredero legítimo/persona a cargo: .............................................................................
Armador: .................................................................................................................................

El abajo firmante [marino] [heredero legítimo y/o persona a cargo del marino] *, reconoce por la presente haber recibido como finiquito la suma de [moneda e importe] en cumplimiento de la obligación del armador de pagar una indemnización contractual por lesión corporal y/o muerte en virtud de las condiciones [de su empleo] [del empleo del marino] * y por la presente hace constar que el armador queda eximido de sus obligaciones en virtud de dichas condiciones.

El pago se efectúa sin admisión de responsabilidad ante cualquier reclamación y se acepta sin perjuicio del derecho del abajo firmante [marino/heredero legítimo y/o persona a cargo del marino] * a presentar una reclamación por vía legal, por negligencia, daño o violación de una obligación legal o cualquier otra reparación legal que pueda invocarse a consecuencia del incidente arriba mencionado.

Fecha: .................................................................................................................................
Marino/heredero legítimo/persona a cargo del marino: .......................................................
Firma: ..................................................................................................................................

Aceptar:
Armador/representante del armador:
Firma: ..................................................................................................................................
Proveedor de la garantía financiera/representante del armador:
Firma: ..................................................................................................................................

* Táchese donde corresponda.
ANEXO A5-I

Las condiciones de trabajo y de vida de la gente de mar que deben ser inspeccionadas y aprobadas por el Estado del pabellón antes de expedir un certificado, de conformidad con el párrafo 1 de la norma A5.1.3, son las siguientes:

Edad mínima
Certificado médico
Calificaciones de la gente de mar
Acuerdos de empleo de la gente de mar
Utilización de un servicio privado de contratación y colocación autorizado, certificado o reglamentado
Horas de trabajo y de descanso
Niveles de dotación del buque
Alojamiento
Servicios de esparcimiento a bordo
Alimentación y servicio de fonda
Salud y seguridad y prevención de accidentes
Atención médica a bordo
Procedimientos de tramitación de quejas a bordo
Pago de los salarios
Garantía financiera para casos de repatriación
Garantía financiera relacionada con la responsabilidad de los armadores
ANEXO A5-II

Certificado de Trabajo Marítimo

(Nota: Al presente Certificado deberá adjuntarse una Declaración de Conformidad Laboral Marítima)

Expedido de conformidad con las disposiciones del artículo V y el Título 5 del Convenio sobre el trabajo marítimo, 2006 (en adelante, «el Convenio») y en virtud de la autoridad del Gobierno de:

..............................................................................................................................................................................................

(designación completa del Estado cuyo pabellón el buque esté autorizado a enarbolar)

por: ............................................................................................................................................................................................

(designación completa y dirección de la autoridad competente u organización reconocida debidamente autorizada en virtud de las disposiciones del Convenio)

DATOS DEL BUQUE

Nombre del buque: ............................................................................................................................................................

Letras o número distintivos: .............................................................................................................................................

Puerto de matrícula: ...........................................................................................................................................................

Fecha en que se matriculó el buque: .................................................................................................................................

Arqueo bruto ¹: .................................................................................................................................................................

Número OMI: ........................................................................................................................................................................

Tipo de buque: ...................................................................................................................................................................

Nombre y dirección del armador ²: ........................................................................................................................................
................................................................................................................................................................................................

____________________________________

¹ El arqueo bruto para los buques a los que se aplica el sistema provisional de medición de arqueo adoptado por la OMI será el que figura en la columna «OBSERVACIONES» del Certificado Internacional de Arqueo (1969). Véase el artículo II, párrafo 1, c), del Convenio.

² El término armador designa al propietario de un buque u otra entidad o persona, como puede ser el administrador, el agente o el fletador a casco desnudo, que ha asumido la responsabilidad de la explotación del buque por cuenta del propietario y que, al hacerlo, ha aceptado cumplir todos los deberes y responsabilidades que incumben a los armadores en virtud del presente Convenio, independientemente de que otra entidad o persona desempeñe
Se certifica que:

1. Este buque ha sido inspeccionado y se ha verificado su conformidad con los requisitos del Convenio y con las disposiciones de la Declaración de Conformidad Laboral Marítima adjunta.

2. Se consideró que las condiciones de trabajo y de vida de la gente de mar que se especifican en el anexo A5-1 del Convenio se ajustan a las disposiciones nacionales del país arriba indicado por las que se aplica el Convenio. En la Declaración de Conformidad Laboral Marítima, parte I, figura un resumen de estas disposiciones nacionales.

El presente Certificado es válido hasta .................................................., a reserva de las inspecciones que se efectúen de conformidad con las normas A5.1.3 y A5.1.4 del Convenio.

Este Certificado sólo es válido cuando se le adjunta la Declaración de Conformidad Laboral Marítima expedida en .................................................. el ..................................................

Fecha de finalización de la inspección en la que se basó el presente Certificado ..................................................

Expedito en .................................................. el ..................................................

Firma del funcionario debidamente habilitado que expide el Certificado ..................................................

(Sello o estampilla de la autoridad expedidora, según proceda)

Endosos del certificado de la inspección intermedia obligatoria y, si procede, de otras inspecciones adicionales

Se certifica que el buque fue inspeccionado de conformidad con las normas A5.1.3 y A5.1.4 del Convenio y que se determinó que las condiciones de trabajo y de vida de la gente de mar que se especifican en el anexo A5-I del Convenio se ajustan a las disposiciones nacionales del país arriba indicado por las que se aplica el Convenio.

Inspección intermedia: Firmado: ..................................................
(Se efectuará entre el segundo y el tercer año a partir de la fecha de expedición del certificado) (Firma del funcionario habilitado)

Lugar: ..................................................
Fecha: ..................................................
(Sello o estampilla de la autoridad, cuando proceda)

algunos de los deberes o responsabilidades en nombre del armador. Véase el artículo II, párrafo 1, j), del Convenio.
Endosos adicionales (si procede)

Se certifica que el buque fue objeto de una inspección adicional a fin de comprobar si seguía cumpliendo con las disposiciones nacionales por las que se aplica el Convenio, con arreglo a lo previsto en el párrafo 3 de la norma A3.1 del Convenio (nueva matrícula del buque o modificación importante del alojamiento) o por otros motivos.

**Inspección adicional:**
(sí procede)

| Firmado: .......................................................... |
| (Firma del funcionario habilitado) |

| Lugar: .......................................................... |

| Fecha: .......................................................... |

(Sello o estampilla de la autoridad, cuando proceda)

**Inspección adicional:**
(sí procede)

| Firmado: .......................................................... |
| (Firma del funcionario habilitado) |

| Lugar: .......................................................... |

| Fecha: .......................................................... |

(Sello o estampilla de la autoridad, cuando proceda)

**Inspección adicional:**
(sí procede)

| Firmado: .......................................................... |
| (Firma del funcionario habilitado) |

| Lugar: .......................................................... |

| Fecha: .......................................................... |

(Sello o estampilla de la autoridad, cuando proceda)

Prórroga tras la inspección para la renovación (si procede)

Se certifica que el buque fue objeto de una inspección para la renovación y que se determinó que seguía cumpliendo con la legislación nacional u otras medidas por las que se apliquen las disposiciones del Convenio. En consecuencia, se prorroga la validez del presente certificado con arreglo a lo dispuesto en el párrafo 4 de la norma A5.1.3, hasta…………………………(no superior a cinco meses contados a partir de la fecha de expiración en vigor), con el fin de permitir la expedición y la puesta a disposición a bordo del buque del nuevo certificado.

Fecha de finalización de la inspección para la renovación en la que se basó la presente prórroga:..........................................................

| Firmado: .......................................................... |
| (Firma del funcionario habilitado) |

| Lugar: .......................................................... |

| Fecha: .......................................................... |

(Sello o estampilla de la autoridad, cuando proceda)
Convenio sobre el trabajo marítimo, 2006

DECLARACIÓN DE CONFORMIDAD LABORAL MARÍTIMA – PARTE I

(Nota: la presente Declaración deberá adjuntarse al Certificado de Trabajo Marítimo del buque)

Expedida en virtud de la autoridad de: ..............................................

(insertar el nombre de la autoridad competente definida en el párrafo 1, a), del artículo II del Convenio)

En lo que respecta a las disposiciones del Convenio sobre el trabajo marítimo, 2006, el buque cuyas referencias se indican a continuación:

<table>
<thead>
<tr>
<th>Nombre del buque</th>
<th>Número OMI</th>
<th>Arqueo bruto</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

se mantiene en conformidad con la norma A5.1.3 del Convenio.

El/la que suscribe declara, en nombre de la autoridad competente antes mencionada, que:

a) las disposiciones del Convenio sobre el trabajo marítimo están plenamente incorporadas en los requisitos nacionales a que se hace referencia más abajo;

b) estos requisitos nacionales están recogidos en los requisitos nacionales a que se hace referencia más abajo; se facilitan explicaciones relativas al contenido de dichos requisitos cuando es necesario;

c) los detalles de toda disposición de equivalencia sustancial adoptada en virtud de los párrafos 3 y 4 del artículo VI se indican <frente a los epígrafes pertinentes de los requisitos nacionales enumerados a continuación> <más adelante, en el párrafo previsto a tal efecto> (sírvase tachar la descripción que no corresponde);

d) toda exención concedida por la autoridad competente de conformidad con el Título 3 se indicará con claridad en la sección que aparece más abajo a estos efectos, y

e) en el marco de dichos requisitos nacionales, también se hace referencia a todo requisito previsto en la legislación nacional para una categoría específica de buques.

1. Edad mínima (regla 1.1) ..................................................................
2. Certificado médico (regla 1.2) ........................................................
3. Calificaciones de la gente de mar (regla 1.3) ..................................
4. Acuerdos de empleo de la gente de mar (regla 2.1) ..........................
5. Utilización de todo servicio privado de contratación y colocación autorizado, certificado o reglamentado (regla 1.4).................................................................................................................................
6. Horas de trabajo y de descanso (regla 2.3) ..............................................................................................................................
7. Niveles de dotación del buque (regla 2.7) .............................................................................................................................
8. Alojamiento (regla 3.1) ............................................................................................................................................................
9. Servicios de esparcimiento a bordo (regla 3.1) .........................................................................................................................
10. Alimentación y servicio de fonda (regla 3.2) ..............................................................................................................................
11. Salud y seguridad y prevención de accidentes (regla 4.3) ........................................................................................................
12. Atención médica a bordo (regla 4.1) ..........................................................................................................................................
13. Procedimientos de tramitación de quejas a bordo (regla 5.1.5) .............................................................................................
14. Pago de los salarios (regla 2.2) ..............................................................................................................................................
15. Garantía financiera para casos de repatriación (regla 2.5) ....................................................................................................
16. Garantía financiera relacionada con la responsabilidad del armador (regla 4.2) ....

Nombre: ..............................................................................................
Cargo: .................................................................................................
Firma: .................................................................................................
Lugar: .................................................................................................
Fecha: .................................................................................................
(Sello o estampilla de la autoridad expedidora cuando proceda)

**Equivalencias sustanciales**

*(Nota: táchese el párrafo que no proceda)*

Conforme a lo previsto en los párrafos 3 y 4 del artículo VI del Convenio, se indican las siguientes disposiciones de equivalencia sustancial, con excepción de las que ya se han señalado en la lista que antecede (incluir una descripción, según proceda):

..............................................................................................................
..............................................................................................................
..............................................................................................................

No se aplica ninguna disposición de equivalencia sustancial.
Exenciones de conformidad con el Título 3

(Nota: táchese el párrafo que no proceda)

Conforme a lo previsto en el Título 3 del Convenio, se indican las siguientes exenciones aplicadas por la autoridad competente:

........................................................................................................................................................................
........................................................................................................................................................................

No se aplica ninguna disposición de equivalencia sustancial.

Nombre: .................................................................................................................................
Cargo: .................................................................................................................................
Firma: .................................................................................................................................
Lugar: .................................................................................................................................
Fecha: .................................................................................................................................
(Sello o estampilla de la autoridad expedidora cuando proceda)
DECLARACIÓN DE CONFORMIDAD LABORAL MARÍTIMA – PARTE II

Medidas adoptadas para asegurar el cumplimiento continuo entre las inspecciones

El armador, cuyo nombre figura en el Certificado de Trabajo Marítimo al que se adjunta la presente Declaración, ha adoptado las siguientes medidas para asegurar el cumplimiento continuo de las disposiciones del Convenio entre las inspecciones:

(Indique a continuación las medidas redactadas para asegurar el cumplimiento de cada uno de los puntos que figuran en la parte I.)

1. Edad mínima (regla 1.1)
2. Certificado médico (regla 1.2)
3. Calificaciones de la gente de mar (regla 1.3)
4. Acuerdos de empleo de la gente de mar (regla 2.1)
5. Utilización de todo servicio privado de contratación y colocación autorizado, certificado o reglamentado (regla 1.4)
6. Horas de trabajo y de descanso (regla 2.3)
7. Niveles de dotación del buque (regla 2.7)
8. Alojamiento (regla 3.1)
9. Servicios de esparcimiento a bordo (regla 3.1)
10. Alimentación y servicio de fonda (regla 3.2)
11. Salud y seguridad y prevención de accidentes (regla 4.3)
12. Atención médica a bordo (regla 4.1) .................................................................

13. Procedimientos de tramitación de quejas a bordo (regla 5.1.5) ........................................

14. Pago de los salarios (regla 2.2) .............................................................................

15. Garantía financiera para casos de repatriación (regla 2.5) ........................................

16. Garantía financiera relacionada con la responsabilidad del armador (regla 4.2) ........

Por la presente certifico que las medidas arriba mencionadas fueron redactadas para garantizar entre las inspecciones el cumplimiento continuo, de conformidad con los requisitos enumerados en la parte I.

Nombre del armador ¹: .................................................................

Dirección de la empresa: .................................................................

Nombre de la autoridad competente: .......................

Cargo: ......................................................................................

Firma de la autoridad competente: .......................

Fecha: ......................................................................................

(Sello o estampilla del armador) ¹

¹ El término armador designa al propietario de un buque u otra entidad o persona, como puede ser el administrador, el agente o el fletador a casco desnudo, que ha asumido la responsabilidad de la explotación del buque por cuenta del propietario y que, al hacerlo, ha aceptado cumplir todos los deberes y responsabilidades que incumben a los armadores en virtud del presente Convenio, independientemente de que otra entidad o persona desempeñe algunos de los deberes o responsabilidades en nombre del armador. Véase el artículo II, párrafo 1, j), del Convenio.
Las medidas antes mencionadas han sido examinadas por (insértese el nombre de la autoridad competente u organización debidamente reconocida) y, tras haberse inspeccionado el buque, se ha considerado que satisfacen los objetivos establecidos en el apartado b) del párrafo 10 de la norma A5.1.3, en relación con las medidas destinadas a asegurar el cumplimiento inicial y continuo de los requisitos estipulados en la parte I de la presente Declaración.

Nombre: ........................................................................
Cargo: ...........................................................................
Dirección de la empresa: ..............................................
.....................................................................................
Firma: ...........................................................................
Lugar: ...........................................................................
.....................................................................................
(Sello o estampilla de la autoridad)
CERTIFICADO PROVISIONAL DE TRABAJO MARÍTIMO

Expedido de conformidad con las disposiciones del artículo V y el Título 5 del Convenio sobre el trabajo marítimo, 2006 (en adelante, «el Convenio») en virtud de la autoridad del Gobierno de:

.................................................................

(designación completa del Estado cuyo pabellón el buque esté autorizado a enarbolar)

por ........................................................................................................................................

(designación completa y dirección de la autoridad competente o de la organización reconocida debidamente autorizada en virtud de las disposiciones del Convenio)

Datos del buque

Nombre del buque: ..............................................................

Letras o número distintivos: ..............................................................

Puerto de matrícula: ..............................................................

Fecha en que se matriculó el buque: ..............................................................

Arqueo bruto 1: ..............................................................

Número OMI: ..............................................................

Tipo de buque: ..............................................................

Nombre y dirección del armador 2: ..............................................................

Se certifica que, a los efectos del párrafo 7 de la norma A5.1.3 del Convenio:

a) este buque ha sido inspeccionado, en la medida de lo razonable y factible, con respecto a las materias que figuran en el anexo A5-I del Convenio, teniendo en cuenta la verificación de los aspectos señalados a continuación en b), c) y d);

1 El arqueo bruto para los buques a los que se aplica el sistema provisional de medición de arqueo adoptado por la OMI será el que figura en la columna «OBSERVACIONES» del Certificado Internacional de Arqueo (1969). Véase el artículo II, párrafo 1, c), del Convenio.

2 El término armador designa al propietario de un buque u otra entidad o persona, como puede ser el administrador, el agente o el fletador a casco desnudo, que ha asumido la responsabilidad de la explotación del buque por cuenta del propietario y que, al hacerlo, ha aceptado cumplir todos los deberes y responsabilidades que incumben a los armadores en virtud del presente Convenio, independientemente de que otra entidad o persona desempeñe algunos de los deberes o responsabilidades en nombre del armador. Véase el artículo II, párrafo 1, j), del Convenio.
b) el armador ha demostrado a la autoridad competente o a una organización reconocida que el buque cuenta con procedimientos adecuados para dar cumplimiento al Convenio;

c) el capitán conoce las disposiciones del Convenio y las responsabilidades de aplicación, y

d) se ha presentado información pertinente a la autoridad competente o a una organización reconocida para la expedición de una Declaración de Conformidad Laboral Marítima.

El presente Certificado es válido hasta ..........................................., a reserva de las inspecciones que se efectúen de conformidad con las normas A5.1.3 y A5.1.4.

La fecha de finalización de la inspección mencionada en el apartado a) supra fue el .................................................................

Expedido en .................................................. el ..........................................................

Firma del funcionario debidamente habilitado que expide el Certificado Provisional ..........................................................

(Sello o estampilla de la autoridad expedidora, según proceda)
ANEXO A5-III

Los ámbitos generales que han de ser objeto de una inspección más detallada por el funcionario habilitado del Estado del puerto que realiza la inspección de conformidad con la norma A5.2.1 son los siguientes:

Edad mínima
Certificado médico
Calificaciones de la gente de mar
Acuerdos de empleo de la gente de mar
Utilización de todo servicio privado de contratación y colocación autorizado, certificado o reglamentado
Horas de trabajo y de descanso
Niveles de dotación del buque
Alojamiento
Servicios de esparcimiento a bordo
Alimentación y servicio de fonda
Salud y seguridad y prevención de accidentes
Atención médica a bordo
Procedimientos de tramitación de quejas a bordo
Pago de los salarios
Garantía financiera para casos de repatriación
Garantía financiera relacionada con la responsabilidad del armador
ANEXO B5-I – EJEMPLO DE DECLARACIÓN NACIONAL

Véase la pauta B5.1.3, párrafo 5

Convenio sobre el trabajo marítimo, 2006
Declaración de Conformidad Laboral Marítima – Parte I

(Nota: la presente Declaración deberá adjuntarse al Certificado de Trabajo Marítimo del buque)

Expedida en virtud de la autoridad de: Ministerio de Transporte Marítimo de Xxxxx

En lo que respecta a las disposiciones del Convenio sobre el trabajo marítimo, 2006, el buque cuyas referencias se indican a continuación:

<table>
<thead>
<tr>
<th>Nombre del buque</th>
<th>Número OMI</th>
<th>Arqueo bruto</th>
</tr>
</thead>
<tbody>
<tr>
<td>M.S. EJEMPLO</td>
<td>12345</td>
<td>1.000</td>
</tr>
</tbody>
</table>

se mantiene en conformidad con la norma A5.1.3 del Convenio.

El/la que suscribe declara, en nombre de la autoridad competente antes mencionada, que:

a) las disposiciones del Convenio sobre el trabajo marítimo están plenamente incorporadas en los requisitos nacionales a que se hace referencia más abajo;

b) estos requisitos nacionales están recogidos en los requisitos nacionales a que se hace referencia más abajo; se facilitan explicaciones relativas al contenido de dichos requisitos cuando es necesario;

c) los detalles de toda disposición de equivalencia sustancial adoptada en virtud de los párrafos 3 y 4 del artículo VI se indican <frente a los epígrafes pertinentes de los requisitos nacionales enumerados a continuación> <más adelante, en el párrafo previsto a tal efecto> (sírvase tachar la descripción que no corresponde);

d) toda exención concedida por la autoridad competente de conformidad con el Título 3 se indicará con claridad en la sección que aparece más abajo a estos efectos, y

e) en el marco de dichos requisitos nacionales, también se hace referencia a todo requisito previsto en la legislación nacional para una categoría específica de buques.

1. Edad mínima (regla 1.1)

Ley del Transporte Marítimo (Shipping Law) núm. 123 de 1905, en su forma modificada («Ley»), capítulo X; Reglamento de transporte marítimo (Shipping Regulations) («Reglamento»), 2006, normas 1111 a 1222.

Las edades mínimas son aquéllas a las que se hace referencia en el Convenio.
Por «noche» se entiende las horas comprendidas entre las 21 horas y las 6 horas, a menos que el Ministerio de Transporte Marítimo («Ministerio») apruebe un periodo diferente.

En el anexo A adjunto se enumeran ejemplos de trabajo peligroso restringidos a personas mayores de 18 años. En el caso de los buques de carga, ninguna persona menor de 18 años puede trabajar en las zonas señaladas en el plano del buque (debe adjuntarse a esta Declaración) como «zona peligrosa».

2. Certificado médico (regla 1.2)

Ley, capítulo XI; Reglamento, normas 1223 a 1233

Los certificados médicos se ajustarán, cuando corresponda, a los requisitos establecidos en el Convenio de Formación; en los restantes casos, los requisitos fijados por dicho Convenio se aplicarán con los ajustes necesarios.

Los ópticos calificados incluidos en la lista aprobada por el Ministerio pueden expedir certificados de visión.

Los reconocimientos médicos siguen las Directrices OIT/OMI/OMS a que se hace referencia en la pauta B1.2.1.
DECLARACIÓN DE CONFORMIDAD LABORAL MARÍTIMA – PARTE II

Medidas adoptadas para asegurar el cumplimiento continuo entre las inspecciones

El armador, cuyo nombre figura en el Certificado de Trabajo Marítimo al que se adjunta la presente Declaración, ha adoptado las siguientes medidas para asegurar el cumplimiento continuo de las disposiciones del Convenio entre las inspecciones:

(Indique a continuación las medidas adoptadas para asegurar el cumplimiento de cada uno de los puntos que figuran en la parte I.)

1. Edad mínima (regla 1.1)
   La fecha de nacimiento de cada marino se indica junto a su nombre en el rol de tripulación.
   El rol es comprobado al comienzo de cada viaje por el capitán o el oficial que actúe en su nombre («oficial competente»), quienes registran la fecha de dicha verificación.
   Cada marino menor de 18 años recibe, en el momento de su contratación, una nota por la que se le prohíbe la realización de trabajo nocturno o de los trabajos que figuren en la lista específica de trabajos peligrosos (véase supra, parte I, sección 1), así como de cualquier otro trabajo peligroso, y por la que se le exige que consulte al oficial competente en caso de duda. El oficial competente conserva un ejemplar de dicha nota firmada por el marino bajo la frase «recibido y leído» y con la fecha de la firma.

2. Certificado médico (regla 1.2)
   Los certificados médicos son conservados por el oficial competente de forma estrictamente confidencial, junto con una lista establecida bajo su responsabilidad en la que se hacen constar por cada marino que se encuentre a bordo: las funciones del marino, la fecha del/de los certificado(s) médico(s) actual(es) y el estado de salud indicado en el/los certificado(s) en cuestión.
   Cuando haya dudas en cuanto a si el marino es físicamente apto para desempeñar una función o funciones específicas, el oficial competente consulta al médico del marino o a otro profesional calificado y registra un resumen de sus observaciones, así como su nombre y número de teléfono y la fecha de la consulta.

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E. A BILL TO INCORPORATE THE MARITIME LABOR CONVENTION, 2006 (MLC, 2006) AS AMENDED, INTO THE LAWS OF MEXICO
DECREE a Law to implement the Maritime Labor Convention, 2006, as amended, into the laws of Mexico

In the margin a stamp with the National Seal, that says the United Mexican States. Presidency of the Republic.

(NAME), CONSTITUTIONAL PRESIDENT OF THE UNITED MEXICAN STATES, to its inhabitants, makes known:

Considering that the Maritime Labor Convention, 2006, (as amended), was adopted on February 23, 2006, during the Tenth Maritime Session of the International Labor Conference, from now MLC, 2006, in order to establishes minimum working and living standards for all seafarers working on ships flaying the flags of ratifying countries. It is an essential step forward in ensuring a level-playing field for countries and shipowners who operate substandard ships.

The MLC, 2006 establishes that Members undertake to give full and complete effect to its provisions. In order to fulfill such undertaking State Members shall make mandatory for ships under their control to comply with the aforesaid provisions, including the Annexes to the MLC, 2006. In addition, State parties shall adopt effective measures to guarantee compliance.

DECREE

"THE GENERAL CONGRESS OF THE UNITED MEXICAN STATES, DECREES:
A LAW TO IMPLEMENT THE MARITIME LABOR CONVENTION, 2006, AS AMENDED INTO THE LAWS OF MEXICO.

TITLE FIRST
GENERAL PROVISIONS

Article 1. For the purposes of this Law, the following terms and acronyms shall be understood as follows:

I. **Able Seaman**: Any Sailor that is considered competent to perform any job, other than a supervisory job or as specialized seaman, which could be requested to any member of the subordinate personnel assigned to deck service, or to any sailor that is described as such by national laws or practice or by virtue of a collective agreement;

II. **Basic wages**: Amount that each worker receives in cash for a day’s labor; it does not include payments for overtime, bonuses, allowances, paid leave or any other additional remuneration;

III. **Cadet**: Any candidate for merchant fleet officer, whose training program includes the development of academic and professional competences, as well as education in behaviour and attitudes under observance and faithful compliance of the existing rules, regulations and orders;

IV. **Competent Authority(ies)**: The Secretariat of Labor and Social Welfare, the Secretariat of Communications and Transport, the Secretariat of the Navy, and the Mexican Institute of Social Security, in their respective jurisdictions, shall be the authorities appointed for regulating and applying the rules established in the Maritime Labor Convention, 2006;

V. **Complaint**: Is a complaint filed by a seafarer, professional organization, association, trade union, or in general, any person who is responsible for the ship and the health of the seafarers working aboard;
VI. **Consolidated wages**: Means of wage or salary which includes the basic wages and other wages-related benefits; a consolidated wage may include compensation for all overtime hours which are worked and all other pay-related benefits, or it may also include only certain benefits in a partial consolidation;

VII. **Crew List**: Book where all crew members are registered, including their personal information, seamen’s certificate or ID number, wages, duration of their contract, and port of disembarking;

VIII. **Declaration of Maritime Labor Compliance**: It is the document that shall be attached to the certificate of maritime labor and which establishes the measures adopted in order to ensure continuous compliance with the Maritime Labor Convention;

IX. **Employment contract per Voyage**: Consist of a time period counted from the boarding of the worker until the ship is unloaded or the disembarking of the passengers in the port that is stipulated;

X. **Force Majeure**: Situation produced by the actions of man that were impossible to oppose;

XI. **Gross Tonnage (GT)**: It is the gross tonnage calculated pursuant to the regulations concerning tonnage contained in the International Agreement on Tonnage Measurement of Ships, 1969 or any agreement that substitutes it;

XII. **Harassment**: The exercise of power in a relationship of real subordination of the victim before the aggressor within the labor environment that is expressed in verbal or physical conduct or both;

XIII. **Hours of rest**: Indicates the time not included within hours of work; this expression does not include short breaks. Short breaks are those that encompass less than an hour, or breaks for having meals, which shall not count as rest time;

XIV. **Hours of work**: Indicates the time during which seafarers are under the obligation to perform work for the ship;

XV. **ILO**: International Labor Organization;
XVI. IMO: International Maritime Organization;

XVII. International Voyage: Means a voyage from a country to a port outside such a country;

XVIII. ISPS Code: International Ship and Port Facilities Security Code;

XIX. Maritime Labor Certificate: It is the certificate issued by the Secretariat of Labor and Social Welfare, certifying that work and life conditions of seafarers aboard Ships with Mexican registration comply with the provisions of this Law;

XX. MODU: Mobile Offshore Drilling Units;

XXI. Nightshift: It is the period that starts at 20:00 hours and ends at 06:00 hours;

XXII. Overtime: Hours worked in excess of the normal working day;

XXIII. Recognized Organization: The entity or organization duly authorized by the Secretariat of Labor and Social Welfare in coordination with the Secretariat of the Navy to carry out inspections, audits, issue certificates on behalf of the United Mexican States and in general, to carry out any acts which the Secretariat of Labor and Social Welfare decides to delegate to it;

XXIV. Seafarer: Any person employed, hired or working in any position aboard a ship;

XXV. Seafarer’s Employment agreement: It refers to the labor contract or enrollment contract;

XXVI. Seafarer Recruitment and Placement Services: 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;

XXVII. Sheltered Waters: A maritime area that has safeguarding conditions, either natural or manmade, with the appropriate dimensions and depth for Ships to dock, stay and operate in;
XXVIII. **Shipowner**: Any natural person or legal entity who owns a ship, or any other organization, as for example the manager, the agent or bearboat charterer, who for the purposes of exploiting the ship has undertaken the responsibilities that concern the owner or another entity or person, and who, upon doing it, has accepted to comply with all the duties and responsibilities that correspond to shipowners by virtue of the Maritime Labor Convention, 2006 regardless of the organization or person who performs some of the duties or responsibilities on behalf of the shipowner;

XXIX. **SOLAS Convention**: International Convention for the Safety of Human Life at Sea, 1974, amended;


XXXI. **Ship**: Any ship or naval artifact other than those that navigates exclusively in internal waters or waters located inside or near sheltered waters or areas where port regulations apply. The master, deck and engineering officers, stewards and pursers, radio telegraph operators, boatswains, dredgers, sailors, maids, and kitchen personnel, those who are considered workers under the laws and provisions on travel over water and, in general, all persons who perform any work on board a ship on behalf of a ship fitter, ship owner, or cargo ship are subject to the provisions of this Law.

XXXII. **Vicinity of Sheltered Waters**: Those bodies of water that surround sheltered water areas, including a port’s internal canals, such as land, areas adjoining the coast and nearby geographical features;

XXXIII. **Wages**: Consist of the cash payments made for the basic wage, tips, compensation, lodging, bonuses, commissions, benefits and whatever other amount of benefit delivered to the worker for his labor;

XXXIV. **Welfare Commissions**: Those conformed by representatives of the shipowners’ and seafarers’ organizations, pertinent authorities, and, if applicable, charitable organizations and social entities in charge of inspecting welfare facilities regularly, in order to make sure that they are appropriate, considering the development of seafarers’ needs;
XXXV.  **Work accident:** Any organic injury or functional disturbance, immediate or subsequent, death or disappearance derived from a criminal act, suddenly occurring in the exercise or for reasons of seafarers’ work, whatever the place and time in which it is rendered. Included the accidents that occur during the transportation of the worker from his home to the place of employment and from the job to his home;

XXXVI.  **WHO:** World Health Organization;

XXXVII.  **24-Hour Period:** It is the period that starts at 00:00 hours and ends at 24:00 hours.

**Article 2.** This Law is the public interest, and applies to all ships with Mexican flag, 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 3.** This Law apply to all seafarers employed, hired or working in any position on board a ship, as defines in Article 1.

Exempt from complying with the preceding paragraph are:

I. port pilots; (they are under provisions of the 265, Chapter VIII)

II. port employees; (they are under provisions of the 265, Chapter VIII)

III. ship inspectors; and

IV. employees subject to the special labor regulations of the Secretariat of Labor and Social Welfare, Secretariat of Communications and Transport, and Secretariat of the Navy.

**Article 4.** The Competent Authorities shall implement, enforce, and verify the compliance and effective application of the rules established in this Law and any international convention in matters of maritime labor ratified by the United Mexican States and shall coordinate their proper execution with other agencies of the Federal Public Administration.
**Article 5.** All shipowners of ships with Mexican registration shall ensure equality of life and work conditions for both nationals as well as foreign who work on board of those ships.

**Article 6.** Any event not foreseen in this Law shall be resolved pursuant to the general standards of the Federal Labor Law, in the laws and the International Treaties of which the United Mexican States is party to.

**Article 7.** In case of conflict between two parties regarding the applicability or interpretation of regulatory or supplementary provisions or in International Conventions, the provision or interpretation most favourable to seafarers shall prevail.

**Article 8.** Any stipulations act or statement that indicate a reduction, adulteration, abandonment or waiver of rights established in favor of seafarers in this Law and in the International Treaties of which the United Mexican States is party to, are null and thus do not bind contracting parties, even if expressed in an agreement or any other contract.

**Article 9.** The competent authorities shall ensure that the ships that fly the flag of any State that as not ratified the Maritime Labor Convention, 2006 do not receive more favourable treatment than the ships that fly the flag of any State that has ratified it.

### TITLE SECOND

**MINIMUM REQUIREMENTS FOR WORKING ON BOARD SHIPS**

### CHAPTER I

**MINIMUM AGE FOR WORKING ON BOARD**

**Article 10.** No person below the minim age of 18 years may be employed, hired or work on board a ship with Mexican registration.
The foregoing, without prejudice to compliance with the provisions under the Maritime Labor Convention, 2006 relating to foreign minors working abroad foreign ships.

**CHAPTER II**

**MEDICAL CERTIFICATE**

**Article 11.** Seafarers employed on board ship shall have a valid health certificate, certifying their medically fit to perform the duties and emergency to carry out at sea. The medical certificate shall be issued by a duly qualified medical practitioner before the seafarer begins working on board a ship.

**Article 12.** The Secretariat of Communications and Transport shall regulate everything concerning the issuance, content and validity of the medical certificate pursuant to what is established by the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, amended (STCW), the Convention on Maritime Labor, 2006 and ILO/WHO Guidelines for Conducting Pre-Sea and Periodic Medical Fitness Examinations for seafarers the Directives for the carrying out of health examinations to Seafarers, including any subsequent versions, and any other applicable international guidelines published by the International Labor Organization, the International Maritime Organization or the World Health Organization (ILO/IMO/WHO), regarding to the issuance and regulation of medical certificates of seafarers.

**Article 13.** Without prejudice to what is established in the preceding Article, health certificates issued in accordance with the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, amended, shall be considered valid. Medical certificates that substantially meet those requirements should also be considered valid, in the case of seafarers not covered by the STCW.
**Article 14.** Medical certificates should state that the senses of hearing and sight of the interested party are suitable through hearing and eyesight tests, as well as a physical examination that determines that the interested party does not suffer from any condition that may worsen during Secretariat of Communications and Transport service at sea, or which may incapacitate to seafarer from carrying out said service, or that may constitute a danger for the health of other persons aboard.

Vision tests should include a test for the perception of colors, in the case of persons who are going to be employed for services in which their aptitude for the job should not be diminished by daltonism or a bad perception of colors.

**Article 15.** Unless a shorter period is required by reason of the specific duties to be performed by the seafarer concerned or is required in STCW:

I. a medical certificate shall be valid for a maximum period of two (2) years; and

II. a certification of colour vision shall be valid for a maximum period of six (6) years.

The content and format of the medical certificates will be promulgated through the Official Mexican Standards (NOM) in compliance with the provisions of the Maritime Labor Convention, 2006.

**Article 16.** In urgent cases, the competent authority may permit a Seafarer to work without a valid medical certificate until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that:

I. the period of such permission does not exceed three months; and

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

**Article 17.** When a medical certificate’s validity 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 medical practitioner, provided that the period shall not exceed three months.
Article 18. The medical certificates for seafarers shall be issued at least in English language.

CHAPTER III
TRAINING AND QUALIFICATIONS

Article 19. The Secretariat of Communications and Transport is the competent entity to ensure strict compliance and effective enforcement of the rules on training, certification and watchkeeping of seafarers established in the international conventions ratified by the United Mexican States; to regulate the norms regarding the adoption and aptitude of seafarers, to issue seafarers’ competence certificates and identity cards, necessary for working on board ships with Mexican registration, and which may impose sanctions in the event of violations or non-compliance with said regulations.

Article 20. Seafarers working on board ships with flying the Mexican flag shall have the appropriate training and qualifications and maintain on board a certificate that proves that they have the professional competences or other qualifications necessary to carry out their duties, duly issued or countersigned by the Competent Authority. All training and certification in accordance with the mandatory instrument adopted by the IMO.

Article 21. Seafarers shall successfully complete training for personal safety on board a ship, as well as any other requirements or conditions of international rules and conventions and national legislation in force.

Article 22. The educational institution together with the master or masters’ appointee shall be in charge of supervising the duties received by the cadet aboard, pursuant to what is established in the Articles 26, 31, and 32 of the Navigational Law and Maritime Commerce or in those regulatory or supplementary legal provision, or in the STCW.
CHAPTER IV
RECRUITMENT AND PLACEMENT

Article 23. Ships placement services shall not give rise to seafarers paying any compensation or bonus, directly or indirectly, for the service received. This action shall result in the cancellation of the operations license issued by the Secretariat of Labor and social Welfare through the National Employment Service, as the case may be.

Article 24. The Secretariat of Labor and social Welfare through the National Employment Service shall be the entity in charge of regulating providers of recruitment and placement services established within the territory of the United Mexican States, pursuant to what is established by the national legislation in force. Natural persons or legal entities interested in offering the services of recruitment and placement for seafarers in the United Mexican States, whose main purpose is the recruitment and placement of seafarers, or that recruit and place an important number of seafarers, should have an operation license granted by the Secretariat of Labor and social Welfare through the National Employment Service.

Article 25. What is established in the preceding Article shall also apply to seafarers’ organizations located within the territory of Mexico that wish to offer the services of recruitment and placement with the purpose of placing national seafarers at the disposal of ships with Mexican registration, as long as they meet the following conditions:

I. the service of recruitment and placement is operated pursuant to a collective bargaining agreement between the seafarers’ organization and the shipowner;

II. both the seafarers’ organization and the shipowner are based in the territory of Mexico;

III. the collective bargaining agreement permitting the operation of the recruitment and placement service provider has been legalized and registered with the competent authority; and
IV. the provider of recruitment and placement services shall operate regularly and shall have establish measures for the protection and promotion of seafarers’ employments rights comparable to those provided.

**Article 26.** Shipowners that use providers of seafarer recruitment and placement services that are established in countries or territories where the Convention on Maritime Labor, 2006 is not applied shall ensure that these service providers are in compliance with the provisions of Rule 1.4 of the Convention on Maritime Labor, 2006, and that the service providers have a system of qualifications that support the recruitment and placement of seafarers.

When shipowners use providers of seafarer recruitment and placement services that are established in countries or territories where the Convention on Maritime Labor, 2006 is not applied, the shipowner will be exclusively responsible in the event that the ship is detained upon inspection, whether by the Flag State or the Port State, as well as for any sanctions involved with the detention of the ship.

**Article 27.** Private and public providers of seafarer recruitment and placement services may establish themselves in the United Mexican States within a framework of a policy meant to serve the needs of seafarers and shipowners, whether it is a service that forms part of a National Employment Service for all workers and employers, or one that operates in coordination therewith, as long as they operate in an orderly fashion that protects and promotes seafarers’ work rights established in this Law.

The Secretariat of Labor and social Welfare through the National Employment Service shall prohibit providers of seafarer recruitment and placement services from using any means, mechanisms or lists meant to prevent Seafarers from obtaining jobs for which they are qualified, or to dissuade them from it.

**Article 28.** The costs of obtaining the mandatory national health certificate, the seafarers book, and a passport or a similar travel document shall be paid and invoiced to seafarers and shall not be considered a violation of the prohibition established in Article 23; however, the visa costs shall be borne by the shipowner.
Article 29. Providers of recruitment and placement services that operate in the territory of Mexico should comply with the following:

I. keep an updated record of all seafarers recruited or placed through their intermediation, which should be placed at the disposal of the authorities for the purpose of inspection;

II. ensure that seafarers know their rights and obligations established in the seafarer’s employment agreement before or during the recruiting process, and that the appropriate measures are adopted for seafarers to be able to review such employment agreements before and after the seafarers have been signed, and receive a copy of same;

III. verify that seafarers recruited or placed through their intermediation have the necessary qualifications and documents for the job in question, and that the seafarers’ employment agreements are in accordance with what is established in this Law and with every collective agreement that forms part of the employment agreement;

IV. ensure, if feasible, that shipowners have the necessary means to prevent seafarers from being abandoned in foreign ports;

V. examine and confirm every complaint regarding their activities and notify every complaint pending before the Competent Authority; and

VI. establish a protection system, by means of insurance or an equivalent appropriate measure, to compensate seafarers from pecuniary losses that may be suffered as a result of any non-compliance of the obligations that providers of recruitment and placement services or shipowners may have with them by virtue of the seafarers’ employment agreement.

Article 30. Natural persons or legal entities that carry out directly or indirectly procedures for the placement, recruitment or intermediation of seafarers in violation of the provisions of this Law shall be subject to all administrative penalties that apply.
Article 31. Seafarers working on board in any ship with Mexican flag shall have an seafarers’ employment agreement signed by the seafarer and the shipowner or a representative of the shipowner, which guarantees decent work and life conditions on board. Seafarers shall be given the opportunity to examine the conditions established in the seafarers’ employment agreement and seek advice before signing it, and to accept them freely.

Article 32. Shipowners and seafarers should each keep a signed original of the seafarers’ employment agreement. One original will remain in the possession of each party, one copy will be delivered to the Harbormaster or nearest Mexican Consul and another copy to the Office of Labor Inspection in the place stipulated. Shipowners should always keep on board and at the disposal of seafarers, including the ship’s master and any pertinent authority, including those in the ship’s ports of call, copies of the seafarers’ employment agreement of all seafarers onboard for review.

Article 33. In addition to what is established in the preceding Article, shipowners should keep onboard a copy of the collective bargaining agreement if the seafarers’ employment agreement is regulated by it. In case of ships dedicated to international voyages, when the seafarers’ employment agreement and the applicable collective bargaining agreements shall have an English version for further inspections developed by the Port State.
Article 34. The seafarers’ employment agreement shall contain the following particulars:

I. full name, date, place of birth or age, and birthplace of the seafarer.

II. name and address of the shipowner;

III. place where and date when the seafarers’ employment agreement is entered into;

IV. the capacity in which the seafarer is to be employed;

V. the mount of the seafarers’ wages or, where applicable, the formula used for calculating them;

VI. the amount of paid annual leave or, where applicable, the formula used for calculating it;

VII. the termination of the seafarers’ employment agreement and the conditions thereof, including:

   a) if the agreement has been made for an indefinite period, the conditions entitled either party to terminate it, as well as the required notice period, which shall not be less for the shipowner than the seafarer; the conditions for termination of the employment agreement established in this Law, as well as any prior notice period;

   b) if the agreement has been made for a definite period, the date fixed for its expiry; and

   c) if the agreement has been for voyage, the port of destination and the time that which as to expire after arrival before the seafarer should be discharged;

VIII. medical protection benefits that the shipowner should provide seafarers with, as well as social security benefits;

IX. seafarers’ entitlement to repatriation, pursuant to Chapter VIII of this Title;

X. maximum period of uninterrupted service on board, upon termination of which seafarers shall be entitled to be repatriated;

XI. reference to the collective agreement if applicable;

XII. rest hours;

XIII. additional benefits that seafarers earn, if any; and

XIV. manner of payment.
Article 35. Employment agreement with seafarers may be entered into force for indefinite periods, for definite periods or for a voyage.

Article 36. Employment agreement with seafarers that are for a definite period should always be in writing, and the duration period shall not be longer than eleven (11) months.

Article 37. Shipowners may end any work relationship that is for an indefinite period, giving the seafarer written notice at least fifteen (15) days in advance, and paying the salary for the services rendered, proportional vacations, repatriation, and the compensation established in this Law.

The advance notice period should be counted as of the first day following notification of the termination of the work relationship. If the shipowner does not notify regarding the termination of the work relationship fifteen days in advance, the shipowner should pay the seafarer the amount corresponding to the prior notice. The ship’s last voyage and its arrival at port should be considered when the prior notice given to a seafarer is concluded and becomes effective.

Article 38. Seafarers may end a work relationship that is for an indefinite period, giving the shipowner written notice at least fifteen (15) days prior. Seafarers should consider the above-mentioned period so that the indicated period concludes upon arrival at the port.

Article 39. In the event of obvious emergency and for humanitarian reasons, seafarers may give shorter notices than the one established, or not give any prior notice. In said case, seafarers shall not be under the obligation to pay the shipowner the amount equivalent to the prior notice.

Article 40. Having ended the work relationship, seafarers shall be entitled to receive from the shipowner a document stating seafarers’ service on board, containing sufficient information translated into English, that helps with the securing of another job or that shows that the seafarer meets the requirements of service at sea, stipulated with the purpose of
reclassification or promotion. Said document shall not mention the quality of service nor the salary received.
The seafarer’s book duly stamped by the shipowner may replace the document referred to in the prior paragraph.

**Article 41.** Every ship should keep on board a book called “Crew List” or an equivalent record, where the hiring of all crewmembers is established for the record.

**CHAPTER II**

**WAGES**

**Article 42.** Seafarers are entitled to receive periodic and complete remuneration for their work, pursuant to their corresponding seafarers’ employment agreement.

**Article 43.** Wages shall be paid as of the day on which the seafarers begin seafarers’ service on board. Nevertheless, if a seafarer shall travel from the recruiting place to reach the ship, the wage shall start counting as of the start of said trip.

**Article 44.** Wages and the type of currency shall be stipulated in the employment agreement and may only be fixed for a unit of time, for intervals no longer than one month.

**Article 45.** All seafarers are individually entitled to receive a monthly account statement indicating the wage agreed and the amount paid, including any supplementary payments, deductions and the type of exchange used in the event of payments in a currency or a type of exchange other that the one agreed.

**Article 46.** Shipowners should provide the facilities for seafarers to transfer the totality or part of their incomes to their families, people under their care, their legal beneficiaries, or any other persons designated by the seafarer, through bank wire or any other similar system. These transfers shall be sent on time and directly to the persons designated by the seafarer.
Article 47. Expenses incurred by shipowners for wiring services requested by seafarers shall be reasonable, and the type of exchange applied shall be in accordance with the market. The expenses or costs caused for wiring services shall be covered by the employer.

Article 48. The Secretariat of the Labor and Social Welfare, in accordance with its legal mechanisms, may impose fines if shipowners improperly delay payment of the wage agreed, do not pay it, or if the wage paid is less than the amount agreed. It shall proceed in the same manner, if the income that a seafarer has requested to be transferred to designated persons, are not delivered by the shipowner.

Article 49. Work carried out during the weekly day of rest or during official holidays shall be compensated with at least an equal period of exemption from work or presence on board, or with additional annual leave time, instead of salary remuneration, or in any other manner of compensation established.

Article 50. Seafarers are entitled to dispose freely over seafarers’ wage. Any provision or agreement contrary to this rule shall be void. Only the withholdings and deductions from seafarers’ salaries shall be allowed under the Article 110 of the Federal Labor Law.

Article 51. The legal minimum wage is non-attachable. Also, non-attachable is the full amount of the sums received by seafarers for vacations, retirements, pensions and compensations established by Law, individual and collective agreement contracts or agreements, and shipowner’s plans or practices.

Article 52. Any total or partial assignment of wages in favour of third parties shall be void, whether by means of invoices presented for collection, or by any other means, save for those expressly authorized by Law.
Article 53. Overtime work shall be remunerated with a 100% surcharge above the basic hourly wage. This surcharge shall also apply to overtime comprised in the consolidated wage, and to those exceeding those comprised within the consolidated wage.

Article 54. When wages applicable to seafarers is totally or partially consolidated, the number of work hours expected of the seafarer in exchange for said remuneration, as well as any additional benefits that may be owed to seafarers’, on top of the consolidated wage shall be clearly specified in the employment agreement.

Article 55. The part of the wage totally or partially consolidated that corresponds to the regular shift shall not be less than the applicable minimum wage.

Article 56. The master, or the person appointed the master, shall keep a record of all overtime worked, whether included or not in the consolidated wage. This record shall be signed by seafarers at intervals no longer than one month. Nevertheless, records of overtime may be kept electronically, if the seafarers approve them at intervals no longer than one month.

CHAPTER III
HOURS OF WORK

Article 57. A normal hour of work shall comprise a maximum of eight (8) daily hours, with one weekly day of rest, and those days of rest that correspond to official holidays, without detriment to any other more favorable rules established by collective agreements.

Article 58. The maximum hours of work hours shall not exceed:
   I. 14 hours in any 24-hour period, and
   II. 72 hours in any 7-day period.
Article 59. Official holidays for seafarers shall be governed by what is established in the employment agreement or in the applicable collective agreements in conformity with the Article 74 of the Federal Labor Law; nevertheless, the amount of fixed days shall not be less than four paid days per year.

CHAPTER IV
HOURS OF REST

Article 70. Hours of rest may be divided into no more than two periods, one of which shall be at least six (6) hours in length and the interval between consecutive periods of rest shall not exceed fourteen (14) hours.

Exceptions to the restrictions on seafarers’ limits set out shall be allowed pursuant to Rule 2.3.13 of the Convention on Maritime Labor 2006, if they are acknowledged in a collective agreement or they adjust to the provisions established in the STCW Convention. A longer frequency or duration of license periods or the granting of compensatory licenses to seafarers that perform watchkeeping duties, or that work on board ships dedicated to voyages may be considered.

Article 71. The master shall be entitled to interrupt and suspend seafarers’ rest hours if necessary, in order to:

I. guarantee the immediate safety of the ship, the persons on board, or the cargo, or to aid other ships or persons that are in danger at sea, until normality has been restored;

II. carry out periodic exercises such as firefighting, rescue or abandonment, or others imposed by national and international rules; these shall be carried out in a manner that disrupts rest hours as little as possible and do not cause fatigue;

III. carry out imperative operational tasks that are necessary and that cannot be postponed for safety or environmental reasons, or which were not possible to foresee at the start of the voyage; and
After normality has been restored, the master shall ensure that an adequate compensatory rest period is granted to every seafarer that worked during the rest hours. The time that this interruption lasts shall not be subject to remuneration.

**Article 72.** A posting describing how work is organized on board shall be kept in every ship, placed in an easily accessible place, and at the disposal of the competent authorities, in which shall contain for every position, at least the following shall be stated:

I. the schedule of service at sea and service in ports;

II. the maximum hours of work or the minimum hours of rest required by national laws or regulations or applicable collective agreements; and

III. entry for each position or rank.

The table shall be adapted to each type of ship and shall be prepared by the shipowner or the operator, following the Directives of the IMO/ILO, and shall be drafted in the working language or languages of the ship and the English language.

**Article 73** All ships shall require that records of the seafarers’ daily hours of work, which shall serve as documentary evidence that the minimum rest hours of seafarers are effectively complied with.

The Secretariat of Labor and Social Welfare shall adopt a standard format of daily rest hours following the Directives of the IMO/ILO in order to guarantee its control and compliance, however, shipowners or operators may develop or adapt the records of daily rest hours, including electronic records, as long as these meet the criteria and minimum information established in the IMO/ILO Directives. The content of the standard format of daily rest hours will be promulgated through the Official Mexican Standards (NOM).

Records of seafarer’s daily hours of rest shall be established in the working language or languages of the ship and the English language.
Article 74. Seafarers shall keep records of the daily hours of rest that concern them, which shall be signed by the master or the person authorized by the master, and by the seafarers. The content of the standard format record of daily rest hours will be promulgated through the Official Mexican Standards (NOM).

Article 75. The master or the person designated by the master shall be under the obligation to establish and maintain schedules for watchkeeping periods that are appropriate and effective, with the aim of guaranteeing that rest hours are complied with, avoiding fatigue and without risking the safety of the ship and the seafarers at all times.

CHAPTER V
ENTITLEMENT TO LEAVE

Article 76. Seafarers shall be entitled to paid annual leave at a rate of 2.5 calendar days per month of employment, without detriment of any more favourable provisions in any applicable collective agreements. Seafarers employed for periods shorter than eleven (11) months, or in the event of termination of the employment relationship, entitlement to leave shall be based on a minimum rate of 2.5 calendar days per month of employment.

Article 77. Justified work absences, to wit:
   I. hospitalization due to illness or accident;
   II. temporary licenses shore granted to seafarers while the employment agreement is in effect;
   III. compensatory permits of any kind; and
   IV. any other, as established in the applicable collective agreements shall not be counted as part of paid annual vacation.

Article 78. The time to take their annual leave shall be determined by the shipowner, after consulting with the seafarer.
Article 79. Seafarers shall be entitled to take their annual leave at the place with which they have a significant relationship, which will normally be the place to where they are entitled to be repatriated, unless the employment agreement or the collective agreement provides otherwise.

Article 80. Any seafarer is required to take seafarers’ annual leave from a place other than the permitted by this Law, shall be entitled to free transportation to the place where they were engaged, or recruited, whichever is nearer their home. All living expenses and other expenses directly related to seafarers’ return shall be for the account of the shipowner.

Article 81. During annual leave, shipowners may not request seafarers to return on board, except for cases of extreme urgency.

Article 82. Any waiver of the right to annual leave shall be void. The annual leave cannot be compensated or remunerated.
If the employment agreement or the collective agreement ends before eleven (11) months of service has been completed, the seafarer will have the right to compensation commensurate to the time worked.

Article 83. Annual leave may be divided, by mutual agreement of the parties.

Article 84. It is fully prohibited for shipowners to initiate, adopt or communicate any measures, fines or actions against seafarers during the time when seafarers are incapacitated or enjoying seafarers’ annual leave. For these purposes, during these periods, any terms of expiration and limitation shall be suspended.
CHAPTER VI
TERMINATION OF THE EMPLOYMENT AGREEMENT

Article 85. Employment agreement entered into force for a voyage, for a definite or an indefinite time, shall be rendered rescinded, with the right to receive payment of the work compensation applicable to seafarers, in the following events:

I. mutual agreement of the parties, if it is in writing, and does not imply the waiver of any rights;

II. unilateral decision of the shipowner or shipowners’ representative, pursuant to what is established in this Law;

III. unilateral decision of the seafarer, if it is in writing, and that seafarers’ resignation is recorded in the crew list;

IV. death of the seafarer;

V. loss of the ship, or its inability to navigate, whether real or assumed, pursuant to what is established in the existing insurance or charter contracts;

VI. suspension of the ship’s services or its non-use, if said suspension is for longer than 90 days;

VII. disembarking of the seafarers due to illness or injury, when a minimum of 16 weeks has passed, counted as from the start of the illness or the day of the accident. The termination of the work relationship for this reason shall not become effective until the end of the disability period, without detriment of the compensations that may apply for occupational risks;

VIII. transferring of the ship’s registration;

IX. change in the ship’s ownership; and

X. expiration of the term of a definite-time contract, or the conclusion of the voyage agreed.
Article 86. Seafarers may end a work relationship for just cause, being entitled to the compensations established in this Law, in the following events:

I. when the seafarer’s accommodation, food and water are unhealthy or deficient and the master fails to adopt the necessary measures to fix these deficiencies within a reasonable term;

II. due to mistreatment, harassment or abuse by the master or the person representing the master;

III. due to the shipowner’s or shipowners’ representative’s non-compliance with the safety, health and hygiene measures established by valid laws and regulations, if said deficiencies are known or have been reported to the master, and the master omitted taking any corrective measures within a reasonable term;

IV. when wages are not paid in the manner established by the law or the contract;

V. due to the shipowner or shipowners’ representative imprudence or serious carelessness that compromises the safety of the ship or the people on board;

VI. due to any actions of the shipowner or shipowners’ representative that have the aim of inducing the seafarers to commit an illegal act; and

VII. due to the unilateral change in the work conditions that affect seafarers.

Article 87. Seafarers’ rights to end their employment agreement for the causes indicated in the above Article expire after three months counted as of the date on which the events occurred, or when these constitute a crime, when the seafarers become aware of them.

Article 88. Just causes that authorize a shipowner to end a work relationship without prior notice are the following:

I. having been deceived by the seafarer, through the presentation of false documents that credit to seafarer with qualities, abilities or competences that seafarer lacks;
II. when a seafarer, during the time when at the service of the shipowner, engages or participates in acts of violence, threat or insult against the shipowner, shipowners’ representative or hierarchical superiors, or other seafarers, unless there was a provocation;

III. when a seafarer reveals or discloses technical secrets, confidential administrative matters or information regarding the cargo, which may cause damage to the shipowner;

IV. when a seafarer commits serious offences of integrity or honesty, or crimes against property that are damaging to the shipowner, the ship or any person on board, stevedore or agent;

V. when a seafarer intentionally causes, during the execution of seafarers’ duties, or as a result of these, serious damage to the machinery, facilities, equipment, structure or operation of the ship or its cargo;

VI. when a seafarer compromises the safety of the ship, its cargo, the persons on board or the environment with the seafarers’ inexcusable negligence or carelessness;

VII. when a seafarer blatantly and repeatedly refuses to adopt the preventive measures and procedures established in order to avoid occupational risks or material damages;

VIII. when a seafarer disobeys without just cause and to the detriment of the shipowner, the orders given by seafarers’ superiors, based on what is established in the employment agreement, the collective agreement or the internal regulations onboard;

IX. when a seafarer is found in possession of illegal drugs or under their influence, or reports for duty in a state of drunkenness;

X. when there is sexual harassment or immoral or criminal conduct by a seafarer during the life of the employment agreement; seafarer helps to introduce stowaways; or allows unauthorized persons to board or disembark the ship;

XI. when a seafarer abandons seafarers’ job, which includes abandoning the ship without authorization, or refusing to work without just cause;
XII. when a seafarer is not on board on time before the ship’s departure, after a visible warning on board the ship;

XIII. when a seafarer does not provide the necessary help in order to secure the immediate safety of the ship, the persons on board or the cargo, or to aid other ships or persons that are in danger at sea, if the seafarer is not risking their own life; and

XIV. a basic inability or clear inefficiency to perform the tasks and fulfill the duties of seafarers’ respective job.

Article 89. Shipowners’ right to end the employment agreement with seafarers for the causes indicated in the above article expire after three months, counted as of the date on which the events occurred, or when these constitute a crime, when the shipowners become aware of them.

Article 90. If a seafarer is fired for just cause, the seafarer shall only be entitled to salary for the services rendered, the payment of proportional annual leave and seafarers’ repatriation.

Article 91. The terms of limitation shall be governed by the following rules:

I. all actions that do not have a special limitation term indicated in this Law shall expire after one (1) year;

II. actions derived from occupational risks expire after two (2) years; and

III. limitations start counting as of the date of dismissal, or the termination of a labor relationship, except in the event of an occupation risk, in which case it shall start counting as of when the risk occurred.
CHAPTER VII
COMPENSATIONS

Article 92. In the case of employment agreement for undefined periods of time, when the employment relationship is terminated without just cause, seafarers shall be entitled to receive compensation in conformity with the provisions of the Federal Labor Law. For the purposes of this Article and determining the amount of any other compensations that shall be paid to seafarers, the monthly wage shall be understood as the amount most favourable between the average of the wages earned in the last six months and, the last monthly wages earned.

Article 93. Shipowners who terminate a work relationship without just cause before the expiration of the employment agreement for a definite time-period or a voyage shall be under the obligation to pay seafarers compensation equal to the wages that they would have earned during the remainder of the employment agreement. Seafarers hired for a voyage shall be entitled to an additional payment proportional to their wage, if the voyage is prolonged or delayed. No reduction of wages shall be made if the trip is cut short for any reason.

Article 94. In the case of contracts per voyage, if due to the shipowner’s actions the voyage in question is not made, seafarers shall be entitled to withhold any advanced payments received, regardless of the amount. This shall also apply if the voyage is suspended before starting due to force majeure. If the voyage in question is cancelled, the shipowner shall pay seafarers an additional amount equivalent to a third of the total amount of the employment agreement. If the voyage is interrupted after the ship has left the port of initial departure, seafarers hired for the voyage shall receive the wages they would have earned if the voyage had been made, in other words, the totality of the agreement for the voyage in question.
Article 95. Seafarers are entitled to receive from shipowner’s the compensation for any unemployment resulting from the loss of the ship or its foundering. Said compensation shall be paid for every day of the effective unemployment of seafarers in accordance with the wages payable pursuant to the seafarers’ employment agreement. However, shipowners may limit the total amount of compensation payable to each seafarer to an amount no lower than three (3) months of wage. What is established in the preceding paragraph shall not go against any other right that seafarers may be entitled to by virtue of the losses or injuries suffered as a result of the loss of the ship or its foundering.

Article 96. Shipowners shall be under the obligation to pay seafarers, in the currency established in their employment agreement, the value of their personal belongings lost or damaged in a shipwreck, if there is a prior written statement regarding the personal belongings being taken on board and their corresponding value.

Article 97. In the event of ship losses or shipwrecks, seafarers may use the same legal procedures available for the collection of delays in wages earned during their service, in order to collect their compensation.

CHAPTER VIII
REPATRIATION

Article 98. All ship shall be under the obligation to provide a financial security in order to ensure that seafarers are duly repatriated in accordance to this Law.

Article 99. Seafarers who work on ships with Mexican flag are entitled to repatriation by the shipowner, without any cost to the former, in the following cases:

I. when the seafarer’s employment agreement expires while the seafarer is in a foreign country;
II. when the seafarer’s employment agreement is terminated by unilateral decision of:
   a) by the shipowner; or
   b) the seafarer, for justified reasons.

III. when the seafarer cannot continue performing seafarers’ duties within the framework of the employment agreement entered into, or when it cannot be expected that seafarer executes them in the following cases:
   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) when the shipowner not being able to continue to fulfil their legal or contractual obligations as an employer of the seafarer, by reason of insolvency, sale of ship, change of ship’s registration or any other similar reason;
   d) when the ship being bound for a war zone, as defined by national law or regulations or seafarer’s employment agreements, to which the seafarer does not consent to go;

IV. when the maximum period of uninterrupted service on board has been fulfilled, as established in the employment agreement.

Article 100. The maximum duration of service periods on board, which seafarers is entitled to repatriation, shall be less than eleven (11) months.

Article 101. Costs to be borne by the shipowners for repatriation seafarers shall include at least the following:

I. Fare to one of the following destinations, selected by the seafarer:
   a) The place at which the seafarer agreed to the engagement;
   b) The place stipulated by a collective agreement;
   c) The country of residence of the Seafarer; or
   d) Any other place agreed between the parties upon hiring.
The repatriation shall be organized by the shipowner to be through appropriate and fast means. The means of transportation shall be by air when the distance so requires it.

II. accommodation and food from the moment when the seafarer leaves the ship, until they reach at the point of destination chosen for repatriation;

III. the pay and allowances seafarer from the moment the seafarer leave the ship, until they reach the repatriation destination;

IV. transportation for 30 kg of the seafarer’s personal luggage, to the repatriation destination; and

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

Article 102. Shipowners are barred from demanding that seafarers pay at the beginning of seafarers’ employment any advances with the purpose of assuming the cost of repatriation, or to deduct said costs from seafarers’ remuneration or other benefits that seafarers are entitled to, except when a seafarer loses the right to be repatriated as established in this Law.

Article 103. The provisions of this Law are without detriment of the shipowner’s rights to recover any costs of repatriation by virtue of any contractual agreements with third parties.

Article 104. The time spent waiting for a seafarer’s repatriation and the repatriation travel time shall not be deducted by the shipowner from annual leave time that the seafarer may be entitled to.

Article 105. All costs of repatriation shall be covered by shipowners until the seafarer has disembarked at the point of destination established, or until the seafarer has been found a suitable job on board a ship that is headed towards any of those points of destination.
Article 106. A seafarer loses the right to be repatriated in the event of:

I. voluntary and permanent abandonment of the ship without the shipowner’s authorization; or

II. the seafarer entering into a new employment agreement with the same shipowner, after seafarers’ disembarking; or

III. the seafarer entering into a new employment agreement with a different shipowner, within a week following of its disembarking; or

IV. the seafarer not claiming seafarers’ right to be repatriated within a week following the time when the seafarer is entitled to be repatriated.

Article 107. The shipowner shall have a special financial security system in the form of insurance for the seafarers. The purpose of this insurance is to provide direct access, enough coverage, and expedited financial assistance to any abandoned seafarer on a ship flying the Mexican flag.

The financial security system shall not cease before the end of the period of validity of the insurance unless the financial security provider has given prior notification of at least 30 days to the competent authority.

Article 108. Shall be deemed to have been abandonment, where in violations of the requirements of the Maritime Labor Convention, 2006 or the terms of the employment agreement or the collective agreement, the shipowner:

I. fails to cover the cost of the seafarer’s repatriation; or

II. has left the seafarer without the necessary maintenance and support; or

III. has otherwise unilaterally severed their ties with the seafarer including failure to pay contractual wages for a period for at least two months.

The cost of repatriation shall cover travel by appropriate and expeditious means, normally by air and include, provision for food and accommodation of the seafarer from the time of leaving the ship until arrival at the seafarer’s home, necessary medical care, passage and transport of personal effects and any other reasonable costs or charges arising from the abandonment.
All ships shall carry on board a certificate or other documentary evidence of the financial security in the insurance issued by the financial security provider are effectively complied with written in English language and the ship’s working language. The content of the evidence of the financial security system will be promulgated through the Official Mexican Standards (NOM) in compliance with the provisions of the Appendix A2-I of the Maritime Labor Convention, 2006.

Article 109. The insurance shall be sufficient to cover the following:

I. outstanding wages and other entitlements due from the shipowner to the seafarer under the employment agreement or the collective agreement or laws, shall be limited to four months of any outstanding wages and four months of any such outstanding entitlements;

II. all expenses reasonably incurred by the seafarer, including the cost of repatriation; and

III. the necessary maintenance and support of seafarers shall include adequate food, clothing where necessary, accommodation, drinking water supplies, essential fuel for survival on board the ship, necessary medical care, and any other reasonable cost or charges from the act or omission constituting the abandonment until the seafarer’s arrival at home.

Article 110. If the provider of insurance has made any payment to any seafarer in accordance with this Law, such provider shall, up to the amount it has paid and in accordance with the applicable law, acquire by subrogation, assignment or otherwise, the rights which the seafarer would have enjoyed.

Nothing in this disposition shall prejudice any right of recourse of the insurer against the third parties. Any amounts payable under this Law can be offset against amounts received from other sources arising from any rights, claims or remedies that may be subject of compensation under this provision.
CHAPTER IX
MANNING LEVELS

Article 111. That all ships flying the Mexican flag shall require on board a sufficient number of seafarers employed, to ensure that ships are operated safely and efficiently. An adequate number of seafarers shall ensure the safety and security of the ship and its personnel, under all operational conditions, in accordance with the Minimum Safe Manning Certificate issued by the Secretariat of the Navy in accordance with the rules of the SOLAS Convention.

Article 112. The Secretariat of the Navy, when establishing, approving or reviewing the seafarer levels, shall be taken into account the need to avoid or reduce to a minimum overtime work hours, in order to ensure sufficient rest and to limit fatigue, as well as the principles contained in the applicable international instruments, especially those of the IMO, in matters of the seafarer levels.

CHAPTER X
CAREER AND SKILL DEVELOPMENT AND OPPORTUNITIES FOR SEAFARERS

Article 113. The Secretariat of Labor and Social Welfare in coordination with the Secretariat of Communications and Transport shall have national policies to promote employment in the maritime sector and to encourage career and skill development, as well as employment opportunities for seafarers domiciled in the territory of the Mexico and in order to provide the maritime sector with a stable and competent workforce.
Article 114. All ships shall have accommodations and recreational facilities that are safe and decent for seafarers who work or live on board, in accordance with the promotion of seafarer’s health and well-being.

Article 115. The requirements of this Law implementing which relate to ship construction and equipment apply only ships constructed on or after the date of the coming into effect of the Convention on Maritime Labour, 2006. For the purposes of this Title, it shall be deemed that a ship has been constructed on the date on which its keel was installed, or the date on which the ship was in a similar stage of construction.

Article 116. The master or the person designated by him/her shall carry out frequent inspections on board the ship, in order to guarantee that seafarers’ accommodations are clean, in adequate dwelling conditions, and kept in good state. The results of each inspection shall be written down in a record and be available for review of the Secretariat of Labor and Social Welfare and the Port State.

Article 117. The Secretariat of Labor and Social Welfare in coordination with the Secretariat of the Navy may exempt ships with a gross tonnage less than 200 GT from complying with the requirements established in articles 120 (II), 133 to 138, 152 and 160, only with regards to the available space, as long as the following conditions are all met:
   1. the exemption is expressly authorized by this Law;
II. the exemption is reasonable, considering the size of the ship and the number of people onboard;

III. the exemption can be clearly justified and supported on valid grounds; and

IV. the exemption is granted under the condition that the safety and health of seafarers are protected.

Section Two
Accommodations

Article 118. With regards to accommodations, the following provisions shall apply:

I. All seafarers’ accommodation shall have enough headroom. The minimum authorized headroom in all seafarers’ accommodations where it is necessary to circulate freely shall not be less than 203 centimeters. The Secretariat of the Navy may allow a reduction in headroom’s in any of said spaces, or parts thereof, when it has verified that said reduction is reasonable and will not cause discomfort to seafarers;

II. accommodations shall be properly isolated;

III. in all non-passenger ships, pursuant to the provisions contained in Rule 2, sections e) and f) of the SOLAS Convention, sleeping rooms shall be located above the cargo line, in the ship’s center or stern, however as an exception, when this location is not feasible due to the ship’s size or type, or the service for which it is intended, they may be located on the ship’s prow, but never forward of the collision bulkhead;

IV. with regards to passenger ship, and ship for special purposes constructed pursuant to the IMO, 1983’s Safety Code applicable to special-purpose ship and later versions thereof, subject to satisfactory lighting and ventilation measures being adopted, the Secretariat of the Navy may allow the installation of sleeping rooms below the maximum cargo line, but in no event immediately beneath working alleyways;
there shall not be any direct openings communicating the sleeping rooms with the spaces for cargo and machinery, galleys, storerooms, drying areas, or common sanitary facilities; the parts of the bulkheads that divide these places from the sleeping rooms and the external bulkheads shall be properly constructed with steel or any other approved materials, watertight and gastight;

VI. materials used in the construction of the internal bulkheads, panels and girders, floors and joints, shall be adequate for their purposes and guarantee a healthy environment;

VII. the external bulkheads of the sleeping rooms and dining areas shall be properly insulated. All protective covers for machinery and all surrounding bulkheads of the galleys and other spaces that emanate heat shall be properly insulated in all cases in which said heat may result bothersome in the adjacent compartments or passages. Measures to protect seafarers from the effects of the heat emanated by steam and/or hot-water piping shall be adopted;

VIII. sleeping rooms, mess rooms, recreational areas and alleyways located in the spaces reserved for seafarer’s accommodations shall be insulated in order to prevent any excessive condensation or heat;

IX. coating of bulkheads and ceilings shall be made of a material whose surface can easily be kept clean; no construction method may be used if likely to harbour vermin; surfaces of bulkheads and ceilings of sleeping rooms and mess rooms shall be able to be kept clean easily, and have a light colour, with a lasting non-toxic finish;

X. materials and construction of the floors of all spaces intended for seafarers’ accommodations shall meet all applicable regulations, and the surface of the floors shall be non-slippery and waterproof and easily cleaned. When floors are made of a compound material, joints shall be refined in order to avoid cracks; and

XI. Proper lighting and sufficient draining mechanisms shall be provided.
Section Three

EXPOSURE OF NOISE AND VIBRATIONS

Article 119. With regards to the prevention of noise and vibrations, the following provisions shall be applied:

I. sleeping rooms, recreational and catering facilities shall be located as far as possible from the engine room, steering gear room, deck winches, ventilation, heating and air conditioning equipment’s, and any other noisy machinery or devices;

II. adequate noise proof materials and other noise insulators shall be used in the construction and finish of bulkheads, ceilings and engine room decks. In addition, the engine room shall also have soundproof automated doors;

III. the engine room or other machinery rooms shall, when feasible, be provided with soundproof rooms for centralized machinery control for the personnel that work in them. Workplaces such as the machinery workshop shall be soundproof, as far as feasible, from noise coming from the engine room, and measures in order to reduce the operative noise of the machinery shall be adopted;

IV. noise level limits in living and working spaces shall be in accordance with ILO’s international directives concerning levels of exposure, including ILO’s Code of Practice on Ambient Factors at the Workplace, 2001 as well as its later versions. A copy of the applicable instrument shall be kept onboard and placed at the disposal of seafarers in English and the ship’s working language; and

V. sleeping rooms, recreational and catering facilities shall not be exposed to excessive vibrations.
Section Four
Ventilation and Heating

Article 120. With regards to ventilation and heating, the following provisions shall apply:

I. sleeping rooms and mess rooms shall be adequately ventilated in such a manner that the air can be kept in satisfactory condition and guarantee enough air circulation in any atmospheric and weather condition;

II. ships, with the exception of those that regularly operate in regions where mild weather conditions do not require it, shall be provided with air conditioning in seafarers’ accommodations, as well as in every individual radio room and every machinery central control room; in particular, air conditioning systems, whether centralized or individual units, shall be designed to:
   a) keep the air at a satisfactory temperature and relative humidity, in comparison to external air conditions, ensure an enough renewal of external air in all spaces with air conditioning, considering the characteristics of maritime travel and not produce excessive noise nor vibrations; and
   b) allow for their easy cleaning and disinfection, in order to prevent or control the propagation of diseases.

III. all bathroom spaces shall have direct openings to the exterior, separate from any other part of the accommodation, for ventilation;

IV. all ships, except those that navigate in tropical climates, shall have an appropriate heating system, and:
   a) the heating system of the accommodations shall be in operation during the whole time that seafarers are residing or working onboard, and when circumstances so require it;
   b) the heating system shall operate with hot water, hot air, electricity, steam or another equivalent. However, steam shall not be used as a means of transmitting heat in the accommodations;
c) the heating system shall allow for the temperature in seafarers’ accommodations to be kept at an adequate level under normal meteorological and climatological conditions to be expected in the ship’s route;

d) radiators and other heating devices shall be installed and when necessary, protected in a manner that avoids risk of fire and do not present any risk or discomfort for the occupants of the accommodation; and

V. all ships shall have the necessary electricity in order to operate the air conditioning and heating systems during the whole time that the seafarers are residing or working onboard and when the circumstances so require it.

Section Five

Lighting

Article 121. In all ships, sleeping rooms and mess room shall be illuminated with natural light and provided with appropriate artificial lighting, except for special arrangements that may be authorized for passenger ship.

Article 122. In the sleeping rooms, all berths shall be provided with an electric lamp for reading, located on the headboard.

Article 123. In all ships, seafarers’ accommodations shall have electric lighting. When no two independent sources of electricity for lighting are available, an additional lighting system shall be installed, by means of lamps duly constructed or emergency lighting devices.
Section Six
Sleeping rooms

Article 124. In non-passenger ships, an individual sleeping room shall be provided to each seafarer. The Secretariat of Labor and Social Welfare in coordination with the Secretariat of the Navy may exempt from these requirement ships with a gross tonnage less than 3,000 GT and special ships built in accordance with the safety Code applicable to special-purpose ships.

Article 125. Subject to the minimum requirements of available space per seafarer indicated in this section, the following provisions shall be complied with:

I. sleeping rooms in ships with a gross tonnage less than 3,000 GT other than passenger ships and ships meant for special purposes may be occupied by a maximum of two seafarers;

II. in passenger ship, sleeping rooms may be occupied by a maximum of four seafarers that do not perform any duties as officers in the ship. In the case of seafarer who performs duties as ship master, a maximum of two people per sleeping room is allowed; and

III. in ships intended for special activities, sleeping rooms may be occupied by more than four seafarers.

Article 126. All ships shall have separate sleeping rooms for men and women.

Article 127. If feasible, seafarers’ berths shall be distributed in such a manner than those in charge of watchkeeping are separate, and that no seafarer who works during the day shares a sleeping room with a nighttime watchkeeper.

Article 128. Whenever feasible, considering the size of the ship, its intended activity and its configuration, sleeping rooms shall be designed and equipped to include a separate bathroom and toilet in order to provide the occupants reasonable comfort and facilitate cleaning.
Article 129. The furniture for every occupant shall be built with a smooth and hard material that does not deform nor corrode, and shall include a wide closet of at least 475 liters and a chest of drawers or equivalent space, with a capacity of no less than 56 liters; if the closet includes a chest of drawers, the combined minimum volume of the closet shall be 500 liters, and shall be provided with a shelf and a closing device through a lock that guarantees privacy.

Article 130. Each sleeping room shall be provided with a table or a fixed, drop-leaf or slide-out desk, as well as the necessary number of comfortable seats.

Article 131. Sleeping room windows shall be provided with curtains or an equivalent device, a mirror, and small cabinets for toiletries as well as a bookshelf and enough clothes hangers.

Article 132. Berths shall comply with the following provisions:

I. each seafarer shall have an individual berth;

II. the internal dimensions of every berth should be a minimum of 198 x 80 centimeters;

III. berths should be appropriate for allowing accommodation in the most comfortable condition possible to seafarers, eventually accompanied by their partners;

IV. no more than two berths may be superimposed, if these are placed along the ship’s side; they may not be superimposed if they are located under an aperture;

V. in the event of superimposed berths, the lower berth should not be placed less than 30 centimeters from the floor; the upper berth should be placed approximately midway from the bottom of the lower berth and lower face of the deckhead beams;

VI. the frame of every berth and the safety rail, if any, should be of an authorized material, hard and smooth, that does not easily corrode, and that is not likely to harbour vermin.
VII. if tubular frames are used for building the berths, the tubes should be hermetically sealed, and not have any perforations that could allow the access of vermin;

VIII. each berth should have a comfortable mattress with a soft bottom or a mattress and box spring set. Both the mattress and the filling should be made with suitable materials;

IX. filling materials that are likely to harbour vermin shall not be used;

X. when there are superimposed berths, a base that does not let dust through should be placed under the mattress or mattress-box spring of the upper berth; and

XI. shipowners should provide seafarers with clean and good-quality berth sheets to be used onboard while at the service of the ship, and seafarers should return them when so provided by the master and at the end of their service on board.

Article 133. Except as otherwise provided, in seafarers individual sleeping rooms, the area available to each seafarer should not be less than:

I. 4.50 square meters in ships with a gross tonnage less than 3,000 GT;

II. 5.50 square meters in ships with a gross tonnage equal or greater than 3,000 GT but less than 10,000 GT; and

III. 7 square meters in ships with a gross tonnage equal or greater than 10,000 GT.

The space occupied by berths, closets, desks and seats should be included in the calculation of the area. Any reduced or irregularly formed spaces that do not increase in any effective manner the space available to circulate and that cannot be used to place any furniture should be excluded from the calculation.

Article 134. In ships with a gross tonnage less than 3,000 GT other than passenger ships and ships intended for special purposes, sleeping rooms may be occupied by a maximum of two seafarers and the available space in said sleeping rooms may not be less than 7 square meters.
Article 135. In passenger ships and ships intended for special purposes, the space available in non-officer sleeping rooms shall not be less than:

I. 7.50 square meters in rooms accommodating two persons;

II. 11.50 square meters in rooms accommodating three persons; and

III. 14.50 square meters in rooms accommodating four persons.

Article 136. In ships intended for special purposes, sleeping rooms may be occupied by more than four seafarers and the available space in said sleeping rooms shall not be less than 3.60 square meters per person.

Article 137. In ships that are not passenger ships nor intended for special purposes, the area available to each person in sleeping rooms for officers, where there is no private sitting room or day room, shall not be less than:

I. square meters in ships of less than 3,000 GT;

II. 8.50 square meters in ships of 3,000 GT or over but less than 10,000 GT; and

III. 10 square meters in ships of 10,000 gross tonnage or over.

Article 138. In passenger ships and ships intended for special purposes activities, the area available per person for officers, where there is no private sitting room or day room shall not be less than 7.50 square meters for junior officers, and 8.50 square meters for senior officers. Junior officers are understood to be those rendering services at the operational level and senior officers those rendering services on positions of command.

Article 139. The master, the chief navigating officer and the chief engineer should have, in addition to their sleeping room, an adjoining sitting room or day room or an equivalent additional space. The Secretariat of Labor and Social Welfare in coordination with the Secretariat of the Navy may exempt ships with a gross tonnage less than 3,000 GT from this requirement.
Section Seven
Mess Rooms

Article 140. Mess rooms should be separate from sleeping rooms and located as close as possible to the galley. The Secretariat of Labor and Social Welfare in coordination with the Secretariat of the Navy may exempt ships with a gross tonnage less than 3,000 GT from this requirement.

Article 141. Mess rooms should be of an adequate size, comfortable enough and conveniently furnished and equipped, considering the number of seafarers that may use them at any given time.

Article 142. Ships with a gross tonnage above 500 GT should have separate dining rooms for:
   I. the master and officers; and
   II. the petty officers and other seafarers.
The Secretariat of the Navy shall evaluate which type of ships, with regards to special circumstances, may be granted an exemption with regards to the separation of the mess rooms.

Article 143. In non-passenger ships, the mess rooms available for seafarers shall not be less than 1.5 square meters per person for the number of intended posts.

Article 144. In all ships, mess rooms should be equipped with suitable tables and seats, fixed or mobile, enough to accommodate the largest possible number of seafarers, likely to use them at the same time.

Article 145. The surface of the tables and the seats should be of a damp-resistant material.

Article 146. When seafarers are onboard, they should always have available:
I. an easily accessible refrigerator with enough capacity for the number of persons that use the mess rooms or areas; and

II. facilities for hot beverages and cool water.

**Article 147.** Ships should have suitable locker for storing tableware and suitable facilities for washing them when impossible to access the pantry.

**Article 148.** Tableware, including plates, cups, and other mess utensils service utensils should be made of an approved material which can be easily clean. Shipowners should provide seafarers with clean tableware to be used onboard when at the service of the ship, and seafarers should return them when so provided by the master and when their service onboard ends.

### Section Eight

**Sanitary Facilities**

**Article 149.** All seafarers on board should have adequate access to sanitary facilities that meet the minimum rules for health and hygiene and offer reasonable levels of comfort. Ship should have separate sanitary facilities for men and women.

**Article 150.** Ship should have sanitary facilities that are easily accessible from the command bridge and from the engine room or near the control center of the engines room. The Secretariat of Labor and Social Welfare in coordination with the Secretariat of the Navy may exempt ships with a gross tonnage less than 3,000 GT from this requirement.

**Article 151.** All ships should have, as a minimum, adequately placed, a toilet, a washbasin, a bathtub and/or shower for each group of six or less persons that do not have their own individual facilities.
Article 152. Except for passenger ship, each sleeping room should have a washbasin and a shower with running fresh water, hot and cold, except when the washbasin is in the private bathroom.

Article 153. In all ship, machinery personnel should have independent facilities to change clothes, which should be located outside the engines room and equipped with individual closets, bathtubs and/or showers, and washbasin, with running fresh water, hot and cold, and have easy access to the engine’s rooms.

Article 154. In the case of passenger ship normally used for voyages lasting less than four hours, the Secretariat of the Navy may adopt special measures or reduce the number of sanitary facilities required.

Article 155. All bathrooms should have fresh water, cold and hot.

Article 156. Washbasins and bathtubs should have an adequate size and be made with an authorized material, with a smooth surface, that will not crack, flake or corrode.

Article 157. All toilets should be provided with a strong water flush, or some other methods of suitable discharge, that always work and are controlled independently.

Article 158. Sanitary facilities intended for use by more than one person should comply with the following:

I. floors should be made with an approved lasting material, impermeable to dampness and be provided with an adequate draining system;

II. bulkheads should be of steel or any other material that has been authorized for use and be watertight to a height of at least 23 cm from the floor;

III. they should have sufficient lighting, heat and ventilation by means of direct communication with the free air; toilets should be placed in an easily accessible place from the sleeping rooms and from the bathrooms, but separate from them and not have any direct communication with either the
sleeping rooms nor a corridor between the sleeping rooms and toilets that
do not have any other access. However, this last provision should not apply
to toilets located between sleeping rooms whose total number of occupants
does not exceed four; and

IV. when there are several toilets installed in a same place, they should be
separated by partitioning walls that guarantee enough isolation.

Article 159. Shipowners should provide seafarers with towels, soap and toilet paper.

Article 160. Shipowners should provide seafarers with laundry services conveniently
located and furnished that include:

I. washing machines;

II. drying machines or adequately heated and ventilated drying rooms; and

III. irons and ironing boards or their equivalent.

Section Nine

Hospital Accommodation

Article 161. Ships that carry fifteen or more seafarers onboard and that make voyages lasting
longer than three days, should have an independent hospital accommodation, to be used
exclusively for medical purposes. The Secretariat of Labor and Social Welfare in
coordination with the Secretariat of the Navy may except ships engaged in coastal shipping
from this requirement.

Article 162. Hospital accommodations shall be easily accessed, in both good and bad
weather, and provide occupants with a comfortable space to receive quick and adequate care,
in particular:

I. the hospital accommodation shall be designed in such a manner that
facilitates consultation and provision of first aid and helps to prevent the
spreading of infectious diseases;
II. the entrance, berths, lighting, ventilation, heating and water supply to the hospital accommodation shall be in such a manner that they guarantee the occupants’ comfort and facilitate their treatment; and

III. the Secretariat of Labor and Social Welfare in coordination with the Secretariat of the Navy shall establish the number of berths in the hospital accommodation.

**Article 163.** Hospital accommodation occupants shall have, for their exclusive use, bathrooms located within the facility or nearby. Bathrooms shall have at least a toilet, a washbasin, a bathtub or shower.

**Section Ten**

**Recreational Facilities**

**Article 164.** Shipowners shall provide seafarers with suitable recreational facilities, conveniences and services adapted to look after the specific needs of the seafarers who shall live and work in the ship, pursuant to the provisions regarding the protection of safety and health and the prevention of accidents.

**Article 165.** A ship’s recreational facilities shall comply with the following requirements:

I. reserve on an open deck, a place or places sufficiently large to which seafarers will have access to, when not in service;

II. provide separate offices, or a common office for deck personnel and engine room personnel. The Secretariat of Labor and Social Welfare in coordination with the Secretariat of the Navy may exempt ships with a gross tonnage less than 3,000 GT from this requirement; and

III. include in the furniture at least a bookshelf and places for reading and writing.
Article 166. Whenever feasible, recreational facilities should have the following, free of charge to seafarers:

I. a smoking room;
II. a place to watch television and listen to the radio;
III. the showing of films or videos, and the supply should be adequate for the duration of the voyage and be changed at reasonable intervals;
IV. sports equipment, including exercise equipment, table games, and deck games;
V. facilities for swimming;
VI. a library with vocational and other types of books;
VII. means to carry out manual work of a recreational kind;
VIII. electronic equipment such as radios, televisions, videos, DVD/CD players, personal computers and software programs, and cassette recorders; and
IX. reasonable access to ship-to-shore telephone communications and e-mail and internet facilities, where available at reasonable in amount.

Article 167. The Secretariat of Labor and Social Welfare in coordination with the Secretariat of the Navy shall authorize exemptions from the requirements contained in this Title and only with regards to special circumstances, if each of the following conditions is fulfilled:

I. the exemption is expressly authorized by this Law;
II. the exemption is reasonable, considering the size of the ship and the number of persons aboard;
III. the exemption can be clearly justified and supported by valid reasons; and
IV. the exemption is granted subject to the safety and health of seafarers being protected.
CHAPTER II
FOOD AND CATERING

Article 168. All ships shall provide to seafarers while onboard or during their employment period and free of charge, drinking water and food of suitable quality, variety, nutritional value and quantity, that adequately cover seafarers’ needs and take into consideration the different cultural and religious backgrounds, as well as the length and nature of the voyage.

Article 169. The organization and equipment of the ships catering shall allow for seafarers to be provided with adequate, varied, and nutritious foods that are prepared and served under hygienic conditions.

Article 170. Shipowners shall guarantee that every seafarer employed as cook on board a ship is trained, and has the qualifications and competences required to perform this duty, for which the ships’ cook shall have completed a training course accepted by the Secretariat of Communications and Transport and Secretariat of Labor and Social Welfare, that comprises practical understanding in cooking, food and personal hygiene, storage of foods, management of reservations, protection of the environment and safety, and health in catering.

Article 171. Ships that operate with an intended seafarer of less than ten shall not be under the obligation to have a cook that is fully qualified; however every person that prepares foods in the galley shall be given education or training with regards to foods and personal hygiene, as well as food handling and storage onboard a ship.

Article 172. The Secretariat of Communications and Transport and Secretariat of Labor and Social Welfare, under circumstances of extreme need, may grant an exemption and allow an unqualified cook to render services in a specific ship, during a particular period, until the next appropriate port of call or during a period no longer than one month, subject to the person who receives said exemption having received training or education in matters of food and personal hygiene, as well as the handling and storage of foods onboard.
**Article 173.** The master or the person designated by the master shall carry out frequent, documented inspections onboard the ship with regards to:

I. food supplies and drinking water;
II. all areas and equipment used for storing and handling food and drinking water; and
III. the galley and other facilities and equipment used for preparing and serving foods.

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**TITLE FIFTH**

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

**CHAPTER I**

**MEDICAL CARE ONBOARD THE SHIP AND ASHORE**

**Article 174.** Shipowners shall provide coverage by means of an insurance policy that guarantees health protection as well as rapid and adequate medical care to seafarers while working on board. The insurance policy coverage shall be for the whole duration of the seafarers’ employment agreement.

The protection and medical care provided in the preceding paragraph shall be offered without any cost to seafarers.

**Article 175.** Medical care onboard ships and ashore offered on account of shipowners to seafarers working on board Mexican flagged ships shall include:

I. the supply of necessary medicines, as well as the necessary medical equipment and services for the diagnosis and treatment as well as all medical information and advice;
II. the right to visit, without delay, a qualified doctor or dentist on ports of call, when feasible;

III. health promotion and sanitary education programs, as preventive measures; and

IV. hospitalization services when necessary.

**Article 176.** All ships with Mexican registration shall carry onboard a first-aid kit, medical equipment and a medical guide, with the specifications indicated by the latest edition of the ILO/IMO/WHO, IMO’s International Medical Guide for Ships, the Medical First Aid Guide for Use in Accidents Involving Dangerous Goods, of the Document for Guidance – An International Maritime Training Guide, and medical section of the International Code of Signals, as well as any analogous national guides.

**Article 177.** The appropriate maintenance of the first-aid kit and its content, medical equipment and the medical guide onboard, as well as their periodic inspection at regular intervals not greater than twelve months, shall be the responsibility of the person appointed to provide medical and first-aid attention, who shall supervise the labelling, the date of expiration and storage conditions of all medicines, and corresponding pamphlets, as well as the adequate functioning of the equipment.

The content of the first-aid kit and the medical equipment shall be based on the international recommendations in this matter, included in the latest edition of the International Medical Guide on board.

**Article 178.** When a cargo classified as hazardous has not been included in the most recent edition of the International Medical Guide for Ships, the Medical First Aid Guide for Use in Accidents Involving Dangerous Goods, of the Document for Guidance – An International Maritime Training Guide, and medical section of the International Code of Signals, the shipowner or shipowners’ representative onboard shall provide seafarers with the necessary information regarding the type of substances, the risks they present, the necessary equipment’s for personal protection, the appropriate medical procedures and the specific antidotes.
These antidotes and the equipment for personal protection shall be carried onboard whenever hazardous cargo is transported.

**Article 179.** All Ships that carry one hundred or more people onboard and that ordinarily make international ships of over three days shall have a qualified doctor in charge of providing medical care.

**Article 180.** Ships not required to have a qualified doctor onboard shall be applied the following provisions:

I. Ships that can normally have access to qualified medical attention within a term of eight hours shall have at least a seafarer who has completed in a satisfactory manner, training in first-aid that meets the requirements of the STCW Convention, and those adopted by the Secretariat of Communications and Transport and Secretariat of Labor and Social Welfare.

II. Other ship shall have at least one seafarer who has satisfactorily completed training in medical attention pursuant to the requirements of the STCW Convention and those adopted by the Secretariat of Communications and Transport and Secretariat of Labor and Social Welfare.

The persons referred to in this article shall take, on approximately five (5) year intervals, advance courses that allow them to refresh and increase their knowledge and competence. Training referred to in this article shall be based on the most recent content of the medical guides mentioned in the Chapter.

**Article 181.** The competent authority in coordination with the Secretariat of Health shall guarantee, by means of a preestablished system that at any given time of day or night ships on the high seas can make medical consultations by radio or satellite including receiving advice from specialists. These consultations shall be free for all ships, independently of their flag.
**Article 182.** All ships shall carry onboard a complete and updated list of all radio stations through which they can make medical consultations; and if they have a satellite communications system, they shall carry on board a complete and updated list of all coastal land stations through which they can make said medical consultations.

**CHAPTER II**

**SHIP OWNERS’ LIABILITIES IN THE EVENT OF SEAFARERS’ OCCUPATIONAL ACCIDENTS, INJURIES OR DEATH**

**Article 183.** Shipowners shall be responsible for protecting the health of, and providing medical care to, all seafarers who render services on board their ships.

**Article 184.** Shipowners shall bear the costs of illnesses or accidents of all seafarers employed in their ships occurred between the date of initiating service and the date considered as the date when seafarers have been duly repatriated, or that derive from the employment carried out between those dates.

**Article 185.** Shipowners shall provide insurance coverage in order to guarantee the payment of an indemnity in the event of death or long-term disability of seafarers, as a result of a work accident, illness or occupational risk.

**Article 186.** Shipowners shall bear, directly or through an insurance, the expenses for medical care, including any medical treatment, surgery, hospitalization, necessary medicines and therapeutic devices, as well as accommodation and food away from home until recuperation of ill or injured seafarers, or until the permanent nature of the illness or disability has been proven.

**Article 187.** Shipowners shall bear all funeral costs in the event of death onboard or ashore during the employment period.
Article 188. The shipowner’s liability with regards to medical care expenses, hospitalization, accommodation, and food shall extend for sixteen (16) weeks as of the date on which the injury took place or the start of the illness.

Article 189. When the illness or injury incapacitates a seafarer for work, the shipowner shall pay the totality of the wage while the ill or injured seafarer is onboard, or until recovery, if occurred first. Benefits may be excluded from this payment.

Article 190. Shipowners shall be exempted from all liability in the following events:

I. when the injury has not occurred as a result of service on the ship; or
II. when the injury or illness is attributed to the deliberate, improper conduct of the ill, injured or deceased seafarer; or
III. when the illness or physical deficiency are intentionally hidden at the time of employment.

Article 191. For the purposes of applying this Law, the following shall not be considered work accidents:

I. an accident deliberately caused by the seafarer; or
II. an accident caused by the seafarer’s negligence, being considered as such a verified disobedience to an expressed order, the culpable or obvious non-compliance with the rules for the prevention of accidents and safety, voluntary drunkenness, and the use of illicit drugs.

Article 192. Shipowners shall take all necessary measures to protect the belongings left onboard by the ill, injured or deceased of seafarer.
CHAPTER III  
PROTECTION OF SAFETY  
AND HEALTH AND PREVENTION OF ACCIDENTS

Article 193. The competent authorities shall adopt effective safety and health policies and programs at work, including an evaluation of risk, as well as training and education of seafarers, with the purpose of preventing work accidents, professional injuries or illnesses, including measures to reduce and prevent the risk of exposure on damaging levels to environmental factors and chemical substances, as well as the risk of injuries or illnesses that may derive from the use of equipment and machinery onboard the ship.

Article 194. Shipowners shall be under the obligation to provide seafarers with protective equipment and other devices for the prevention of accidents, together with rules for the use of said protection equipment or devices.

Article 195. Shipowners shall be under the obligation to ensure that machinery used onboard is properly protected, and to ban the use of machinery that lack the adequate protection devices.

Article 196 Ships that have at least five seafarers on board shall create a Safety Committee comprised by seafarers.  
The Safety Committee shall ensure the continuous improvement of protection and health at work, taking into consideration preventive measures that include the control of engineering and design, the use of the personal protection equipment, as well as the requirements for inspecting, notifying and correcting any unsafe conditions and investigating and notifying any work accidents onboard.
**Article 197.** Shipowners shall be under the obligation to report the occurrence of any work accident to the Secretariat of Labor and Social Welfare and Secretariat of the Navy, as well as any injuries and occupational illnesses in a proper manner, taking into consideration the guidelines provided by the International Labour Organization with regards to notification and recording of work accidents and occupational illnesses.

**CHAPTER IV**

**ACCESS TO SHORE-BASED WELFARE FACILITIES**

**Article 198.** In Mexico State-run and privately-run ports shall provide easy access to shore-based welfare, cultural, entertainment and information facilities and services to seafarers on ships docked thereat, regardless of the Flag State of the ships wherein they work, are employed or hired. These facilities and services shall be at the disposal of all seafarers, without distinction of nationality, race, color, sex, religion, political beliefs or social background, and regardless of the Flag State of the ship wherein they work, are employed or hired.

**Article 199.** In Mexico State-run and privately-run ports should provide seafarers with regular and efficient transportation services from the side of the ship to the Port Terminal’s Security Control Post and vice-versa. Once seafarers are outside the perimeters of the port terminal, they may use any transportation means they choose.

The Secretariat of Communications and Transport shall have the power to determine the port terminals that, given their size and/or operational conditions, should comply with this service.

**Article 200.** In Mexico State-run and privately-run ports, in compliance with what is provided in the ISPS Code, should allow access to the representatives of duly certified Welfare Commissions to all port installations. Representatives of the Welfare Commissions should coordinate in advance with Port Terminals.
**Article 201.** In Mexico State-run and privately-run ports shall have access to port installations to any person who can prove the identity and confirm the purpose of the visit when requested.

**Article 202.** Representatives of Welfare Commissions should comply with all security rules and procedures as required in the derived measures of the implementation of the International Ship and Port Facility Security Code (ISPS Code).

**Article 203.** In Mexico State-run and privately-run ports may cancel any access permits to the representatives of Welfare Commissions that have taken part in any documented incident that constitutes a threat to safety, pursuant to what is established in the derived measures of the implementation of the ISPS Code.

**Article 204.** The Competent Authority shall ensure that port installations to which the ISPS Code and all resulting port safety rules apply, comply with them, therefore they shall be subject to annual evaluations in order to guarantee their proper compliance.

**Article 205.** The Government of Mexico, together with shipowners and seafarers, shall promote the development of welfare facilities in the appropriate ports of the country. The Secretariat of Communications and Transport shall establish which ports are appropriate. Support for the development of welfare facilities may come from public grants, taxes or other special contributions stemming from maritime groups, voluntary contributions from shipowners, seafarers or their organizations and voluntary contributions from other sources.
CHAPTER V
SOCIAL SECURITY

Article 206. Without prejudice to established policy, collective bargaining agreement or other applicable employment agreement, the, the shipowner shall insure seafarers into the obligatory regime as prescribes into the Social Security Law.

Article 207. Protection in matters of social security established in this Chapter should be additional to the protection provided pursuant to Chapters I and II of this Title.

TITLE SIXTH
COMPLIANCE AND ENFORCEMENT

CHAPTER I
INSPECTIONS

Article 208. The Secretariat of Labor and Social Welfare in coordination with the Secretariat of the Navy shall carry out flag and Port State inspections that allow it to verify that work and life conditions of seafarer’s onboard ships pursuant to what is established by the Maritime Labor Convention, 2006 and ILO Guidelines for Flag State Inspections, and Guidelines for Port State Control Officers Carrying out Inspections, including any subsequent versions, and any other applicable international guidelines published by the International Labor Organization.

The inspections and certification under Maritime Labor Convention, 2006 is totally independent of any other statutory survey, audit or inspection.

A Manual of Assessment and Certification will be promulgated by the Competent Authorities to effectively implement the provisions of this Law.
Article 209. For achieve the compliance and enforcement the competent authority may grant authorization of inspectors to individuals, to carry out the verification and certification of compliance with what is established in International Treaties, and the applicable national legislation, maintaining supervision over said persons.

Article 2010. When there is evidence that a ship registered with the Merchant Fleet is not complying with the rules contained in this Law, the Secretariat of Labor and Social Welfare and/or the Secretariat of the Navy shall order restrictions, condition its navigation or detain said ship until it receives satisfactory evidence that the deficiencies that caused the measures have been corrected. There is no appeal whatsoever against measures adopted.

Article 211. The certification is mandatory for the commercial ships of 500 GT and above. Compliance for these ships is evidenced by a Maritime Labor Certificate (MLC), to which is annexed a Declaration of Maritime Labor Compliance (DMLC). The content and format of MLC shall be enacted through the Official Mexican Standard.

Article 212. The Flag State requirements will be referenced in the DMLC Part I. The DMLC Part II is developed by the shipowner in response to the Flag State requirements set out in the DMLC Part I. The DMLC Part II shall be signed by either:

I. the shipowner, or

II. the entity who has assumed the responsibility for the operation of the ship from the owner and agreed to take over the Maritime Labor Convention, 2006 duties and responsibilities.

Article 213. All applicable ships should be compliant and certificated by the date of entry into force and shipowners are strongly encouraged to undertake voluntary certification of their ships prior to entry into force of the Maritime Labor Convention, 2006. Ships meeting the requirements under Maritime Labor Convention, 2006 prior to entry into force of the Convention shall be issued with a Statement of Compliance with the Maritime Labor Convention, 2006 following the satisfactory inspection.
On entry into force of the Maritime Labor Convention, 2006, Statement of Compliance issued during the voluntary period shall be replace directly with a Maritime Labor Certificate, without survey, with the expiry date being no later than that on the existing Statement of Compliance.

**Article 214.** The Secretariat of Labor and Social Welfare will issue the DMLC Part I to all applicable ships. The shipowner shall apply to the competent authority for the DMLC Part I. The formats, procedures, and fees related to the DMLC Part I and Part II will be promulgated through the Official Mexican Standards (NOM) in compliance with the provisions of the Appendix A5-II of the Maritime Labor Convention, 2006.

**Article 215.** A new DMLC Part I will be required where there is a change of the ship’s owners as recorded on the DMLC Part I or any changes to the exemptions or equivalent arrangements. As well as, a revised DMLC Part II is require where there is a change of shipowner or a change to the measure to ensure compliance with the provisions of the DMLC Part I.

**Article 216.** Port State control inspections will focus only on the relevant requirements of the Maritime Labor Convention, 2006 (Articles, Regulations and the Standards in Part A).

**CHAPTER II**

**ON BOARD COMPLAINT PROCEDURES**

**Article 217.** That ships that flying the Mexican flag shall should have an approved procedure for processing complaints on board that allows a fair, efficient, well-documented and speedy processing of all complaints that Seafarers submit with regards to alleged violations of the provisions of this Law and including all seafarers’ rights.
**Article 218.** Any type of harassment against seafarers who have filed a complaint is prohibited. All acts of harassment shall be penalized pursuant to provisions of national laws.

**Article 219.** Shipowners should provide seafarers with a copy of the complaint processing procedure applicable on board the ship, together with a complete copy of the seafarer’s employment agreement.

**Article 220.** The complaint processing procedure should include information regarding the manner for contacting the competent authority and when not processed in the same country, to the competent authority of the country of residence of the seafarer, as well as the name of one or several persons onboard the ship who can, in a confidential manner, provide unbiased advice to seafarers regarding their complaint and provide assistance in order to follow the complaint processing procedures available onboard the ship.

**Article 221.** The complaint processing procedure onboard, approved by the Secretariat of Labor and Social Welfare in coordination with the Secretariat of the Navy, subject to the provisions of a seafarers’ employment agreement or collective agreement with a broader scope of application, shall be the following:

I. complaints should first be addressed to the head of department of the seafarer lodging the complaint, or to seafarers’ superior officer;

II. the head of department or superior officer shall then try and resolve the complaint within the terms established, according to the seriousness of the issues put forward. This term shall not be longer than five (5) days;

III. if the head of department or superior officer cannot resolve the complaint to the seafarer’s satisfaction, the latter may forward it to the master, who should handle personally the matter personally;

IV. seafarer should always have the right to have themselves accompanied and represented by another seafarer of their choice onboard the ship in question while processing the complaint, as well as to protection against any possible harassment;
V. every complaint and the decision made about it should be recorded onboard, and copies should be provided to all interested seafarers;

VI. if a complaint cannot be resolved onboard, the matter should be referred to the shipowner ashore, who should have a term of eight (8) days to resolve it; and

VII. in all cases, seafarers shall have the right to submit the complaint directly to the master and the shipowner, as well as to the Competent Authorities, being understood as such the Flag State inspectors, Port State inspectors, representatives of the Competent Authority in a foreign country or directly to the offices of the Harbormaster.

Article 222. Complaints submitted by seafarers and decisions taken about them should be attached to the ship’s Crew List.

Article 223. Provisions contained in this Chapter should not be to the detriment of seafarers’ rights to claim repatriation through the legal means deemed appropriate.

CHAPTER III
MARITIME CASUALTIES

Article 224. Whenever a Mexican-flagged ship is involved in a serious maritime casualty that causes injuries or loss to seafarers, the Secretariat of the Navy in coordination with the Secretariat of Labor and Social Welfare shall carry out the official investigation regarding the incident. Likewise, the Secretariat of the Navy shall cooperate with the Competent Authorities of other Member States, in order to facilitate the investigation of serious maritime casualties.
TITLE SEVEN
SPECIAL TRIPARTITE COMMITTEE

Article 225. The United Mexican States shall be represented before the Special Tripartite Committee of the Administration Council of the International Labour Office by the Competent Authority or whoever may be appointed by these, together with their technical advisors.

TITLE EIGHTH
PENALTIES

Article 226. The Competent Authority shall apply administrative penalties for any non-compliance with the provisions of this Law, in accordance with the seriousness of the violation, relapses and extenuating circumstances. The competent authorities shall regulate the amount of the fines corresponding to violations committed following the parameters established in this Title.

Transitory Provisions

ARTICLE ONE. The present Law will come into force on the day following its publication in the Official Gazette.

ARTICLE TWO. The legal, administrative and regulatory dispositions that are contrary to those contained in this Decree are repealed.
ARTICLE THREE. The authorities of the Secretariat of Labor and Social Welfare, the Secretariat of Communications and Transport, the Secretariat of the Navy, and the Mexican Institute of Social Security, shall carry out within the term of one year, the necessary coordination in order to enact and/or modify their internal regulations or other administrative norms referred to in this Law, managing the necessary consultation with shipowners’ and seafarers’ organizations, during the following six months, counted from the issuance of the present Law. And as long as the internal regulations or other administrative norms are not issued, the current ones will be continued to be applied, in what they do not oppose this Law.

Mexico City, (day, month, and year). Sen. (Name) President. Dip. (Name) President. Sen. (Name), Secretary. Dip. (Name) Secretary (Initialed).

In compliance with the provisions of Section I of Article 89 of the Political Constitution of the United Mexican States, and that in order that may publish and observed, I issue this Decree at the residence of the Federal Executive Power, in Mexico City, on the (day, month, and year). (Name), (Initialled). The Secretary of the Interior, (Name), (Initialled). The Secretary of the Navy, (Name) (Initialled). The Secretary of Communication and Transport, (Name) (Initialled). Secretary of the Labor and Social Welfare, --(Initialled).
F. ANNEX 1.1. TABLE OF ANALYSIS BETWEEN THE MLC, 2006 AND THE DOMESTIC LAWS OF MEXICO
MARITIME LABOR CONVENTION, 2006, AS AMENDED

PREAMBLE

The General Conference of the International Labour Organization,
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninety-fourth Session on 7 February 2006, and

Desiring to create a single, coherent instrument embodying as far as possible all up-to-date standards of existing international maritime labour Conventions and Recommendations, as well as the fundamental principles to be found in other international labour Conventions, in particular:
— the Forced Labour Convention, 1930 (No. 29);
— the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
— the Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
— the Equal Remuneration Convention, 1951 (No. 100);
— the Abolition of Forced Labour Convention, 1957 (No. 105);
— the Discrimination (Employment and Occupation) Convention, 1958 (No. 111);
— the Minimum Age Convention, 1973 (No. 138);
— the Worst Forms of Child Labour Convention, 1999 (No. 182); and

Mindful of the core mandate of the Organization, which is to promote decent conditions of work, and

Recalling the ILO Declaration on Fundamental Principles and Rights at Work, 1998, and

Mindful also that seafarers are covered by the provisions of other ILO instruments and have other rights which are established as fundamental rights and freedoms applicable to all persons, and

Considering that, given the global nature of the shipping industry, seafarers need special protection, and

Mindful also of the international standards on ship safety, human security and quality ship management in the International Convention for the Safety of Life at Sea, 1974, as amended, the Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended, and the seafarer training and competency requirements in the International Convention on Standards of Training,

Mexico is a State Party of this International Labor Conventions:
- the Forced Labor Convention, 1930 (No. 29), in force for Mexico since May 12, 1934.
- the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in force for Mexico since April 01, 1950.
- the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), this convention will enter into force on November 23, 2019.
- the Equal Remuneration Convention, 1951 (No. 100), in force for Mexico since August 23, 1952.
- the Abolition of Forced Labor Convention, 1957 (No. 105), in force for Mexico since June 01, 1959.

Mexico State Party in the International Conventions in the IMO Regime:
- the International Regulations for Preventing Collisions at Sea, 1972, as amended. In force for Mexico since July 15, 1977; December 02, 2014.
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<th><strong>MARITIME LABOR CONVENTION, 2006, AS AMENDED</strong></th>
<th><strong>DOMESTIC LAW OF MEXICO</strong></th>
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<tr>
<td>Recalling that the United Nations Convention on the Law of the Sea, 1982, sets out a general legal framework within which all activities in the oceans and seas must be carried out and is of strategic importance as the basis for national, regional and global action and cooperation in the marine sector, and that its integrity needs to be maintained, and</td>
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<td>This provision it is relevant for Mexico, because in the domestic law there are some favourable conditions to the Mexican workers than those provided in MLC; 2006.</td>
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<td>Recalling that Article 94 of the United Nations Convention on the Law of the Sea, 1982, establishes the duties and obligations of a flag State with regard to, inter alia, labour conditions, crewing and social matters on ships that fly its flag, and</td>
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<td>Recalling paragraph 8 of article 19 of the Constitution of the International Labour Organisation which provides that in no case shall the adoption of any Convention or Recommendation by the Conference or the ratification of any Convention by any Member be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for in the Convention or Recommendation, and</td>
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<td>Determined that this new instrument should be designed to secure the widest possible acceptability among governments, shipowners and seafarers committed to the principles of decent work, that it should be readily updateable and that it should lend itself to effective implementation and enforcement, and</td>
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<td>Having decided upon the adoption of certain proposals for the realization of such an instrument, which is the only item on the agenda of the session, and</td>
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<td>Having determined that these proposals shall take the form of an international Convention;</td>
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<td>adopts this twenty-third day of February of the year two thousand and six the following Convention, which may be cited as the Maritime Labour Convention, 2006.</td>
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<td>MARITIME LABOR CONVENTION, 2006, AS AMENDED</td>
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<tr>
<td>General obligations</td>
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<td><strong>Article I</strong></td>
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<tr>
<td>1. Each Member which ratifies this Convention undertakes to give complete effect to its provisions in the manner set out in Article VI in order to secure the right of all seafarers to decent employment.</td>
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<tr>
<td>2. Members shall cooperate with each other for the purpose of ensuring the effective implementation and enforcement of this Convention.</td>
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**Definitions and scope of application**

*Article II*

1. For the purpose of this Convention and unless provided otherwise in particular provisions, the term:

(a) *competent authority* means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;

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<tr>
<td><strong>Organic Law on the Federal Civil Service</strong></td>
<td><strong>In a few words there are at least three authorities with powers to issue and enforce the regulations, orders or other instructions having the force of the law. They are:</strong></td>
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<td><strong>Article 30.</strong> the Secretariat of the Navy, oversees:</td>
<td><strong>• Mexican Navy, as National Maritime Authority:</strong></td>
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<td>IV.- Exercise:</td>
<td>- surveillance and inspection to the Mexican and foreign ships;</td>
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<td>b. Surveillance, visit, inspection or other actions provided for in the applicable legal provisions in the Mexican Marine Zones, coastal, and ports, without prejudice to the powers that correspond to other authorities.</td>
<td>- flag State and Port State related to the IMO regime.</td>
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<td>V.- Exercise the authority in Mexican Marine Zones:</td>
<td><strong>• Secretariat of the Labor and Social Welfare:</strong></td>
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<tr>
<td>a) enforcement of the national legal order in matter within its competence.</td>
<td>- Validity of the Employment Agreements.</td>
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<td>VII Ter.- Regulate, guard the safety of navigation and human life at sea, and supervise the Merchant Navy.</td>
<td>- Validity of the Unions.</td>
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<td>XIX.- Conclude agreements in their competence with other agencies and national institutions or foreign, under the terms of international treaties and the legislation in force;</td>
<td>- Exclusive competence related to the conditions of work, through the labor inspectors.</td>
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<td>XXVI.- The others that expressly attributed the laws and regulations.</td>
<td>- Unique authority in charge to solve the labor issues (jurisdiction).</td>
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<td><strong>Article 36.</strong> The Secretariat of Communications and Transportation, oversees:</td>
<td><strong>• Secretariat of Communications and Transportation:</strong></td>
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<td>I.- Formulate and conduct policies and programs for the development of transport, with the intervention of the Mexican Navy regarding transportation by water, as well as communications, according to the State requirements;</td>
<td>- Education and training of the Merchant Marine.</td>
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<td>XIV.- Regulate, promote, and organize the Merchant Marine;</td>
<td><strong>• Secretariat of Health:</strong></td>
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<td>XV.- Establish requirements that must meet the technical personnel of civil aviation, merchant marine, public services of land transport, as well as to grant certificates and authorizations;</td>
<td>- Oversees the national policy on social assistance, medical services, free universal health care medical services and general health conditions,</td>
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<td>XVI.- Regulate the communication and transportation by water;</td>
<td>- Management of health facilities, public assistance, traditional complementary medicine and training of human resources in health,</td>
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<td>XVII.- Participate in the implementation of measures in the field of maritime safety and security with the Mexican Navy;</td>
<td>- Establish direct actions in health medical inspections,</td>
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<td>XXVII.- Others that expressly set in laws and regulations.</td>
<td>- Perform hygienic control, and transportation on preparation, possession, use, supply, import, export, and circulation of food and beverages.</td>
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<td><strong>Article 39.</strong> The Secretariat of Health, oversees:</td>
<td><strong>In the during the implementation of the MLC, 2006, shall taking in account the Secretariats in charge of the execution of the Convention, according to the scope of their attributions.</strong></td>
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<tr>
<td>I. Prepare and conduct the national policy on social assistance, medical services, free universal health care medical services and general health conditions, with the exception of</td>
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<td>environmental sanitation; and coordinate the health services programs of the Federal Public Administration, as well as grouping by functions and related programs that, if necessary, are determined;</td>
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<td>II. Create and manage health facilities, public assistance, traditional complementary medicine and training of human resources in health, prioritizing mobility and accessibility;</td>
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<td>X. Direct actions of health medical inspection, except for agriculture, except in the case of preserving human health;</td>
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<td>XI. Direct actions of health medical inspection in special in ports, coasts, and borders, with exception of agriculture, except when affecting or liable to affect human health;</td>
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<tr>
<td>XII. Perform hygienic control, and inspection on preparation, possession, use, supply, import, export, and circulation of food and beverages;</td>
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<td><strong>Article 40.</strong> the Secretariat of labor and Social Welfare, oversees:</td>
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<td>I. - Monitor the observance and implementation of the provisions contained in Article 123 of the Federal Constitution, the Federal Labor Law, and regulations;</td>
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<td>III. - Intervene in the employment contracts of national who Will provide their services abroad, in cooperation with the Secretariats of Government, Economy, and Foreign Affairs;</td>
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<td>IV. - Coordinate the formulation and promulgation of contracts-labor law;</td>
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<td>X. - Keep the records of workers, employers and professionals’ associations of federal jurisdiction which comply with laws.</td>
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<td>XIV. - Participate in congresses and international work meetings, according to the Secretariat of Foreign Affairs;</td>
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<td>XIX. Promote Access to collective bargaining and Trade Union democracy;</td>
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<td>XX. Comply with international conventions on labor rights;</td>
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<td><strong>Federal Labor Law</strong></td>
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<td><strong>Article 212.</strong> It is the responsibility of the labor inspector to oversee the compliance to the laws and all other labor standards, giving attention to the laws and provisions for water travel, when the ships are in port.</td>
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### Navigation Law and Maritime Commerce

**Article 8.** The following responsibilities of the Secretariat, without prejudice to those that apply to other units of the Federal Public Administration:

1. Plan, develop and implement policies and programmes for the development of transport by water; the merchant marine, and the national ports, in accordance with the provisions established in this Law and other applicable legal provisions;

2. Represent the country in the negotiations of the International Treaties in maritime matters with respect to the attributions that correspond to this Law; be the executor of them, and be their interpreter in the administrative sphere;

3. Maintain the National Maritime public Register;

4. Integrate the statistical information from the merchant shipping;

5. Grant navigation permissions and authorizations to provide services in general communications by water, in case of the larger ships, as well as verify their compliance and revoke or suspend them;

6. Organize, promote and regulate the training and qualification of Merchant Marine personnel, as well as grant certificates of competence in the terms of this Law and its Regulations; monitor their compliance and revoke or suspend them where appropriate;

7. Impose sanctions for infractions of this Law, its regulations, and the International Treaties in force in the matters that correspond to it according to this order; and

**Article 8 Bis.** - The SEMAR attributions are, without prejudice to those that apply to other departments of the Federal Public Administration:

6. To inspect and certify on Mexican ships, compliance with international treaties, national legislation, regulations, and Mexican official standards on safety in navigation and human life at sea, as well as for pollution prevention;

7. Inspect foreign ships, in accordance with the international treaties;

8. Grant authorization of inspectors to individuals, to carry out the
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<td>verification and certification of compliance with what is established in International Treaties, and the applicable national legislation, maintaining supervision over said persons;</td>
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<td>X. Carry out the investigations and actions;</td>
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<td>XI. contribute in the scope of its competence with the labor authority, for the fulfilment of the resolution of the maritime conflicts of the labor nature;</td>
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<td>XII. Impose penalties for infractions of this Law, its regulations, and the International Treaties in force in the matters that correspond to it in terms of this Article;</td>
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<td>XVII. Manage national registers of seafarers and ships, in accordance with the respective regulations;</td>
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<td>XVIII. Represent the country in the negotiations of the International Treaties in maritime matters with respect to the attributions that correspond to this Law; be the implementer, and be their interpreter in the administrative sphere, and</td>
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(b) *declaration of maritime labour compliance* means the declaration referred to in Regulation 5.1.3;

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<td>(b)</td>
<td>In the national legislation not the DMLC figure, so is necessary implement it. Considering that the content of the DMLC refers to the work environment of seafarers, the Secretariat of Labor and Social Welfare would be the authority in charge of issuing this document, in coordination with Secretariat of Communication and Transport and Secretariat of the Navy, as maritime authorities.</td>
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<td>(c) <em>gross tonnage</em> means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention; for ships covered by the tonnage measurement interim scheme adopted by the International Maritime Organization, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969);</td>
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The domestic legislation, the principal document is the Navigational Law and Maritime Commerce among others, are drafted in accordance of the International Convention on Tonnage Measurement of Ships, 1969.
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<tr>
<td>(d) <em>maritime labour certificate</em> means the certificate referred to in Regulation 5.1.3;</td>
<td>Is necessary implement the maritime labor certificate in the national legislation. Considering that the content of the DMLC refers to the work environment of seafarers, the Secretariat of Labor and Social Welfare would be the authority in charge of issuing this document, in coordination with Secretariat of Communication and Transport and Secretariat of the Navy, as maritime authorities.</td>
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<td>(e) requirements of this Convention refers to the requirements in these Articles and in the Regulations and Part A of the Code of this Convention;</td>
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| (f) **seafarer** means any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies; | **Federal Labor Law**  
**Title Six**  
**Special Jobs**  
**Chapter III**  
**Workers on Ships** | The Articles 187 and 188 of the Federal Labor Law, do not use the term of “seafarer” but use “workers on board”, the definition is general in the same way that stated in MLC, 2006. But, the scope of application includes to all classes of ships or ships that flying the Mexican Flag.  
It means that could be include the ships engaged in fishing or in similar pursuits and ships of traditional build such dhows and junks.  
At the time of the implementation of MLC, 2006, shall be necessary to exclude in the implementing law the workers on board in ships engaged in fishing or in similar pursuits and ships of traditional build such dhows and junks. |
| Article 187. The provisions of this Chapter apply to workers on ships, included in this classification are all classes of ships or boats that display the Mexican flag. | Article 188. The captains, deck and engineering officers, stewards and pursers, radio telegraph operators, boatswains, dredgers, sailors, maids, and kitchen personnel, those who are considered workers under the laws and provisions on travel over water and, in general, all persons who perform any work on board a ship on behalf of a ship fitter, ship owner, or cargo ship are subject to the provisions of this Chapter. |
| Article 189. Workers on ships must be Mexicans by birth, have not acquired another nationality, and are in full enjoyment and exercise of their civil and political rights. | Article 193. The persons who render their services aboard ship only for the time in which the ship is in port will be subject to the provisions of this Chapter as they are applicable.  
When ships sail before the persons referred to in the latter paragraph have been able to disembark, they will be considered workers until they are returned to their place of origin and will have the rights and obligations detailed in this Chapter. |
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| (g) seafarers’ employment agreement includes both a contract of employment and articles of agreement; | Federal Labor Law  
Title Six  
Special Jobs  
Chapter III  
Workers on Ships | The Federal Labor Law only refers as “labor conditions” that is equal as the “contract of employment” or in terms in MLC, 2006 “seafarers’ employments agreement.” |

**Article 194.** Labor conditions will be documented in writing. One copy will remain in the possession of each party, another copy will be delivered to the port captain or nearest Mexican consul, and the fourth copy to the Office of Labor Inspection in the place stipulated.

**Article 386.** The collective labor contract is the agreement made between one or several unions of workers and one or several employers, or one or several unions of employers, for the purpose of establishing the conditions under which service is rendered in one or more companies or establishments.
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<tr>
<td>(h) 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;</td>
<td><strong>Political Constitution of the United Mexican States</strong>&lt;br&gt;<strong>Article 123.</strong> All persons have the right to dignified and socially useful work; for this purpose, the creation of employment and the social organization of labor will be promoted pursuant to the Law.&lt;br&gt;<strong>XXV.</strong> The service for the placement of the workers will be gratuitous for them, whether carried out in municipal offices, job bureaus, or for any other official or private institution. In the rendering of this service, the demand for work will be taken into account, and equally important, those who represent the sole source of income for their family will have priority</td>
<td>In the domestic Law, the figure of “recruitment and placement service” is regulated through the National Employment Service (public) and private entities “agencies”, there is not a specific provision for the seafarers, but pursue the same goal for the general workers. The Secretariat of Labor and social Welfare, through the National Employment Service is responsible for issuing guidelines for the control and operation of private placement and recruitment services, in terms of Article 123 (XXV) of the Political Constitution of the United Mexican States; and Articles 538, 539, and 539 F of the Federal Labor Law.</td>
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<td><strong>Federal Labor Law:</strong>&lt;br&gt;<strong>Article 28-A.</strong> In the case of Mexican workers recruited and selected in Mexico for a concrete employment outside of Mexico of a determined duration, through mechanisms agreed on by the government of Mexico with a foreign government, the provision in said agreement will be observed, that at all times will safeguard the rights of the workers according to the following criteria:&lt;br&gt;<strong>I.</strong> The general labor conditions for Mexicans in the recipient country will be decent and equal to those that are granted to the workers of that country;&lt;br&gt;<strong>II.</strong> When the consular or immigration authority of the country where the service will be rendered issues the visa or work permit, it will be understood that said authority has knowledge that a labor relationship will be established between the worker and a determined employer;&lt;br&gt;<strong>III.</strong> The conditions for the repatriation, housing, social security and other benefits will be determined in the agreement;&lt;br&gt;<strong>IV.</strong> The recruiting and the selection will be organized by the Secretary of Labor and Social Welfare through the National Employment Service, in</td>
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**Article 28-B.** In the case of Mexican workers recruited and selected in Mexico for a concrete employment outside of Mexico of a determined duration, that are placed by private entities, the following standards will be observed:

**I.** The placement agencies of workers must be duly authorized and recorded, as applicable, pursuant to the provision in the applicable legal provisions;

**II.** The placement agencies of workers must make sure of:
   
   a) The veracity of the general labor conditions that are offered, as well as those related to housing, social security and repatriation to which the workers will be subject. Said conditions must be decent and not imply discrimination of any type; and
   
   b) That the aspirants have executed the procedures for the issuing of a visa or work permit by the consular or immigration authority of the country where the service will be rendered;

**III.** The placement agencies must inform the workers on the consular protection to which they have a right and the location of the Mexican Embassy or Consulates in the country that corresponds, besides the appropriate authorities to which they can turn to in order
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<td>to assert their rights in the destination country. In the cases in which the workers have been deceived with respect to the working conditions offered, the placement agencies of workers will be responsible for defraying the expenses of the respective repatriation. The Federal Labor Inspection department will oversee the compliance to the obligations contained in this Article.</td>
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**Article 537.** The National Employment Service will have the following objectives:

1. To study and promote the operation of public policies that support the generation of employment;

**Article 538.** The National Employment Service will be the responsibility of the Secretary of Labor and Social Welfare, through the office of the Administrative Units of the same, to those which fall the corresponding functions, under the terms of its Internal Regulation.

**Article 539.** In conformity with that established in the preceding Articles and for the purposes Article of 537, I of Labor and Social Welfare correspond to the following activities:

2. In the matter of placing of workers:
   - b) To authorize and register, when applicable, the operation of private agencies that are designated for the placing of personnel;

**Article 539-F.** The authorizations for the operation of the placement agencies, for profit, can only be granted for the purpose of contracting workers that must perform special jobs. Said authorizations will be granted through a request from the interested party, when in the judgment of the Secretary of Labor
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<th>MARITIME LABOR CONVENTION, 2006, AS AMENDED</th>
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<td>and Social Welfare, the rendering of the service by private parties is justified and once the requirements stipulated for the purpose are satisfied, in accordance to that established in Article 539-D, the service must be free for the workers and the fees in that are paid for the services rendered, must be previously set for the Secretary of Labor and Social Welfare.</td>
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| (i) *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; | **Federal Labor Law**  
**Title Six**  
**Special Jobs**  
**Chapter III**  
**Workers on Ships**  
**Article 187.** The provisions of this Chapter apply to workers on ships, included in this classification are all classes of ships or boats that display the Mexican flag. | During the implementation this provision should be interpreted in accordance with the paragraphs 4 and 5 of the Article II to the Convention. Because the scope of application of the Federal Labor Law include the ships engaged in fishing or in similar pursuits and ships of traditional build such dhows and junks.  
Another point to consider is the provisions of the Navigational Law and Maritime Commerce, in this Law regulate the ships and naval artifacts. Maybe the scope of application of MLC, 2006 could be extended to the Mexican seafarers on board of the Mexican naval artifacts. |
| **Navigational Law and Maritime Commerce**  
**Title One**  
**General Disposition**  
**Chapter I**  
**Scope of the law**  
**Article 2.** For purposes of this Law, the following definitions shall apply:  
I. Ship: Any construction designed to navigate on or under navigable waterways.  
II. Naval Artifact: Any other fixed or floating structure that, without having been designed and constructed to navigate, is capable of being displaced on the water by itself or by a vessel, or built on water, for the fulfillment of its operational purposes. |  
| **Title two**  
**Merchant Marine**  
**Chapter I**  
**Flag and registration of ships**  
**Article 10.** They are s and Mexican naval artifacts, the standard bearers and registered in some port captaincies, at the request of their owner or shipping company, after verification of the security conditions thereof and presentation of the resignation of the flag of the country of origin, in accordance with the respective regulation.  
The ship or naval artifact will be registered in the National Registry of Ships and a registration |  

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<tr>
<td>A certificate will be issued, the original of which must remain on board as a probative document of its Mexican nationality. For their registration, the naval ships and artifacts are classified: I. For its use, in boats: a) Passenger transport; b) Cargo transportation; c) Fishing; d) Recreational and sports; e) Ships and/or naval devices of extraordinary specialization that due to their technology and the services they provide, the crew requires specialized training, or those that are of extraordinary specialization or technical characteristic that cannot be substituted by others of conventional technology such as those used for exploration, well drilling, early production of hydrocarbons, constructions and/or maintenance of marine oil facilities, food and lodging, environmental protection, rescue and public safety. f) Mixed cargo and passage; and g) Dredging II. For its dimensions, in: a) Ship of larger ship, or major naval device: all that of five hundred units of gross tonnage or greater, which meets the necessary conditions to navigate, and b) Ships that are on Mexican waterways must carry on board flying a flag and registered in a single State, in accordance with the United Nations Convention on the Law of the Sea and the other applicable treaties on the subject. As long as they remain on Mexican waterways, they must fly the Mexican flag at the highest point visible from the outside, if the weather conditions allow it.</td>
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<td>(j) <em>shipowner</em> 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 organization or persons fulfil certain of the duties or responsibilities on behalf of the shipowner.</td>
<td><strong>Federal Labor Law. Article 10.</strong> The employer is the actual person or entity that uses the services of one or several employees. If the worker, by contract or custom, utilizes the services of other workers, his employer also will be considered the employer of the other workers.</td>
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<td>Under the domestics laws the figure of shipowner is equal to the employer in the scope of the labor laws.</td>
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<td><strong>Article 11.</strong> The directors, administrators, managers, and all other persons who exercise operations of supervision or administration in a company or establishment, will be considered representatives of the employer, and in that capacity, they obligate him in the area of labor relations with the workers.</td>
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<td><strong>Article 12.</strong> The intermediary is the person who contracts or intervenes in the contracting of another or others to work for an employer.</td>
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<td><strong>Article 13.</strong> Established companies that contract work using their own materials enough in quantity to qualify for the obligations inherent in labor relations, will not be considered intermediaries, but employers. In case of a conflict, they will be jointly responsible with the direct beneficiaries of the labors and services for the obligations contracted with the workers.</td>
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<td><strong>Navigational Law and Maritime Commerce</strong></td>
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<td><strong>Article 2.-</strong> For purposes of this Law, the following definitions shall apply:</td>
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<td><strong>VIII. Owner:</strong> the natural or legal person holding the real right of one or more ships, and/or naval devices, under any legal title.</td>
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<td></td>
<td><strong>IX. Shipper or Shipping Company:</strong> shipowner or shipowner company, in a synonymous way: the physical or moral person that having one or more ships and/or naval artifacts under his ownership or possession,</td>
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and without necessarily constituting his main activity, perform the following functions: equip, supply, provide crew, maintain a State of navigability, operate by itself and use ships.

**X. Shipping operators:** Natural or legal person, who, without having the status of owner or shipping company, celebrates in his or her own name the contracts for the use of ships and/or naval artifacts, or their space, which in turn, has contracted with the owner, shipowner or ship agent.

**Article 22.-** The shipping agent is the natural or legal person that is authorised to act on behalf of the shipping company or operator, under the character of agent or mercantile commission agent, acting on their behalf or representation as follows:

**III. General shipping agent,** who will have the power to represent his principal or client in the contracts of freight, lease and charter; appoint ship agent shipping agent and perform other acts of commerce that its principal or commissioner entrust him, as well as everything that corresponds to the maritime agency contract;

**IV. Ship agent shipping agent,** who will have the faculty to carry out the acts and administrative procedures in relation to the ship in the port of consignment in accordance with Article 24 of this Law; and

**V. Shipowner protector,** who will be hired by the shipowner or the charterer, as the case may be, to protect their interests and supervise the work performed by the shipping agent consignee.
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<tr>
<td>2. Except as expressly provided otherwise, this Convention applies to all seafarers.</td>
<td>See the law stated above in the Article II (1) (f) of the MLC, 2006.</td>
<td>The Articles 187 and 188 of the Federal Labor Law, do not use the term of “seafarer” but use “workers on board”, the definition is general in the same way that stated in MLC,2006.</td>
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3. In the event of doubt as to whether any categories of persons are to be regarded as seafarers for the purpose of this Convention, the question shall be determined by the competent authority in each Member after consultation with the shipowners’ and seafarers’ organizations concerned with this question.
4. Except as expressly provided otherwise, this Convention 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 dhow and junks. This Convention does not apply to warships or naval auxiliaries.

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<td>During the implementation this provision should be interpreted in accordance with the paragraphs 4 and 5 of the Article II to the Convention</td>
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<td>The scope of application of the Federal Labor Law include all classes of ships or ships that display the Mexican Flag.</td>
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Navigational Law and Maritime Commerce
- Title One
- General Disposition
- Chapter I
- Scope of the law
- Article 2. For purposes of this Law, the following definitions shall apply:
  VI. Ship: Any construction designed to navigate on or under navigable waterways.
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- Title two
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<td>certificate will be issued, the original of which must remain on board as a probative document of its Mexican nationality. For their registration, the naval ships and artifacts are classified:</td>
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<td>III. For its use, in boats:</td>
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<td>h) Passenger transport;</td>
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<td>i) Cargo transportation;</td>
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<td>j) Fishing;</td>
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<td>k) Recreational and sports;</td>
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<td>l) Ships and/or naval devices of extraordinary specialization that due to their technology and the services they provide, the crew requires specialized training, or those that are of extraordinary specialization or technical characteristic that cannot be substituted by others of conventional technology such as those used for exploration, well drilling, early production of hydrocarbons, constructions and/or maintenance of marine oil facilities, food and lodging, environmental protection, rescue and public safety.</td>
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<td>m) Mixed cargo and passage; and</td>
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<td>n) Dredging</td>
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<td>IV. For its dimensions, in:</td>
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<td>c) Ship of larger ship, or major naval device: all that of five hundred units of gross tonnage or greater, which meets the necessary conditions to navigate, and</td>
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<td>d) Ships that are on Mexican waterways must carry on board flying a flag and registered in a single State, in accordance with the United Nations Convention on the Law of the Sea and the other applicable treaties on the subject. As long as they remain on Mexican waterways, they must fly the Mexican flag at the highest point visible from the outside, if the weather conditions allow it.</td>
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<td>5. In the event of doubt as to whether this Convention applies to a ship or particular category of ships, the question shall be determined by the competent authority in each Member after consultation with the shipowners’ and seafarers’ organizations concerned.</td>
<td><strong>Organic Law on the Federal Civil Service</strong>  <strong>Article 30.-</strong> the Secretariat of the Navy, oversees:  <strong>IV.</strong> Exercise:  <strong>b.</strong> Surveillance, visit, inspection or other actions provided for in the applicable legal provisions in the Mexican Marine Zones, coastal, and ports, without prejudice to the powers that correspond to other authorities.  <strong>V.</strong> Exercise the authority in Mexican Marine Zones:  <strong>a)</strong> enforcement of the national legal order in matter within its competence.  <strong>XXVI.</strong> The others that expressly attributed the laws and regulations.</td>
<td>The authorities responsible for determining the categories of ships that will be subject and those that will be excluded from the application of the MLC, 2006 are the Secretariat of Labor and Social Welfare, Secretariat of Communication and Transport and Secretariat of the Navy.  The national law provides the basis for the proper implement of this disposition.  In the transitory provision of the Official Decree issued by the Federal Executive for the publication of the MLC, 2006, and the implementing law of the Convention shall appear this issue.</td>
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<td>6. Where the competent authority determines that it would not be reasonable or practicable at the present time to apply certain details of the Code referred to in Article VI, paragraph 1, to a ship or particular categories of ships flying the flag of the Member, the relevant provisions of the Code shall not apply to the extent that the subject matter is dealt with differently by national laws or regulations or collective bargaining agreements or other measures. Such a determination may only be made in consultation with the shipowners’ and seafarers’ organizations concerned and may only be made with respect to ships of less than 200 gross tonnage not engaged in international voyages.</td>
<td><strong>Art icle 36.-</strong> The Secretariat of Communications and Transportation, oversees:  <strong>I.</strong> Formulate and conduct policies and programs for the development of transport, with the intervention of the Mexican Navy regarding transportation by water, as well as communications, according to the State requirements;  <strong>XIV.</strong> Regulate, promote, and organize the Merchant Marine;  <strong>XV.</strong> Establish requirements that must meet the technical personnel of civil aviation, merchant marine, public services of land transport, as well as to grant certificates and authorizations;  <strong>XVI.</strong> Regulate the communication and transportation by water;  <strong>XVII.</strong> Participate in the implementation of measures in the field of maritime safety and security with the Mexican Navy;  <strong>XXVII.</strong> Others that expressly set in laws and regulations.  <strong>Navigation Law and Maritime Commerce</strong>  <strong>Article 8.-</strong> the following responsibilities of the Secretariat, without prejudice to those that</td>
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<td>apply to other units of the Federal Public Administration: I. Plan, develop and implement policies and programmes for the development of transport by water; the merchant marine, and the national ports, in accordance with the provisions established in this Law and other applicable legal provisions; II. Represent the country in the negotiations of the International Treaties in maritime matters with respect to the attributions that correspond to this Law; be the executor of them, and be their interpreter in the administrative sphere; III. Maintain the National Maritime public Register; IV. Integrate the statistical information from the merchant shipping; V. Grant navigation permissions and authorizations to provide services in general communications by water, in case of the larger ships, as well as verify their compliance and revoke or suspend them; VIII. Organize, promote and regulate the training and qualification of Merchant Marine personnel, as well as grant certificates of competence in the terms of this Law and its Regulations; monitor their compliance and revoke or suspend them where appropriate; XIV. Impose sanctions for infractions of this Law, its regulations, and the International Treaties in force in the matters that correspond to it according to this order; and</td>
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**Article 8 Bis.** - The SEMAR attributions are, without prejudice to those that apply to other departments of the Federal Public Administration:

VI. To inspect and certify on Mexican ships, compliance with international treaties, national legislation, regulations, and
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<td>Mexican official standards on safety in navigation and human life at sea, as well as for pollution prevention; VII. Inspect foreign ships, in accordance with the international treaties; VIII. Grant authorization of inspectors to individuals, to carry out the verification and certification of compliance with what is established in International Treaties, and the applicable national legislation, maintaining supervision over said persons; X. Carry out the investigations and actions; XI. Contribute in the scope of its competence with the labor authority, for the fulfilment of the resolution of the maritime conflicts of the labor nature; XII. Impose penalties for infractions of this Law, its regulations, and the International Treaties in force in the matters that correspond to it in terms of this Article; XVII. Manage national registers of seafarers and ships, in accordance with the respective regulations; XVIII. Represent the country in the negotiations of the International Treaties in maritime matters with respect to the attributions that correspond to this Law; be the implementer, and be their interpreter in the administrative sphere, and</td>
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<td>7. Any determinations made by a Member under paragraph 3 or 5 or 6 of this Article shall be communicated to the Director-General of the International Labour Office, who shall notify the Members of the Organization.</td>
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<td>8. Unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to the Regulations and the Code.</td>
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<tr>
<td>Fundamental rights and principles</td>
<td>Political Constitution of the United Mexican States</td>
<td>The Mexican regulations are in line with the fundamental rights and principles under MLC, 2006.</td>
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<tr>
<td>Article III</td>
<td>Article 123. All persons have the right to work; for this purpose, the creative organization of labor will be promoted.</td>
<td>The rights of freedom of association and effective recognition of the collective bargaining; the elimination of all forms of forced or compulsory labor; and the elimination of discrimination in respect of employment and occupation are covered in the domestic laws of Mexico.</td>
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<td>Each Member shall satisfy itself that the provisions of its law and regulations respect, in the context of this Convention, the fundamental rights to:</td>
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<td>(a) freedom of association and the effective recognition of the right to collective bargaining;</td>
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<td>(b) the elimination of all forms of forced or compulsory labour;</td>
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<td>(c) the effective abolition of child labour; and</td>
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<td>(d) the elimination of discrimination in respect of employment and occupation.</td>
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<tr>
<td><strong>Political Constitution of the United Mexican States</strong></td>
<td>Article XVI. The utilization of the labor of those older than that age and less than sixteen years of age will have a maximum work shift of six hours.</td>
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<tr>
<td><strong>Federal Labor Law</strong></td>
<td>XXII Bis. The procedures and requirements established in the law to assure the freedom of collective negotiation and the legitimate interests of the workers and employers must guarantee, among others, the following principles:</td>
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<td>Article 2. Work standards are mandated in order to achieve balance between the factors of production and social justice, as well for providing dignified or decent work in all labor relationships.</td>
<td>a) Representation of the union organizations, and</td>
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Dignified and decent work is understood as that in which the human dignity of the worker is fully respected; there exists no discrimination for ethnic or national origin, gender, age, disability, social condition, health conditions, religion, immigration condition, opinions, sexual preferences or marital status; there is access to social security and a remunerative wage is received; continuous training is received in order to increase productivity with shared benefits and optimum conditions of health and safety exist in order to prevent occupational risks.

Dignified or decent work also includes unrestricted respect for the collective rights of workers, such as the freedom of association, autonomy, the right to strike and collective contracting.

Fundamental equality is protected or actually equality of the workers is protected before the employer.

Fundamental equality is that which is achieved by eliminating discrimination against women that infringes or nullifies the recognition, enjoyment or exercise of their human rights and the fundamental liberties within the labor scope.

**Title Five Bis**

**Work of Minors**

**Article 173.** The employment of minors remains subject to the oversight and special protection of the labor authorities, Federal as well as State.

The Secretary of Labor and Social Welfare in coordination with the labor authorities in the States and the Federal District will develop programs that permit identifying and eradicating child labor.

**Article 174.** Those graters than fifteen and less than eighteen years old must obtain a medical certificate that accredits their fitness for the work and submit themselves to medical
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<td>examinations that periodically are ordered by the corresponding labor authorities. Without these requirements, no employer can use their services.</td>
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**Article 175.** The use of the work of minors under eighteen years old is prohibited:

IV. In hazardous or unhealthy work that by the nature of the work, from the physical, chemical or biological conditions of the environment in which it is rendered, or from the composition of the raw materials that are used, are capable of acting on the life, the development and the physical and mental health of the minors, under the terms of the provisions in the Article 176 of this law.

**Article 176.** For the purpose of Article 175, in addition that stated in the applicable Laws, regulations and standards will be considered as, hazardous or unhealthy jobs will be considered those that imply:

II. Work:

18. On ships.
### MARITIME LABOR CONVENTION, 2006, AS AMENDED

**Seafarers’ employment and social rights**

**Article IV**

1. Every seafarer has the right to a safe and secure workplace that complies with safety standards.
2. Every seafarer has a right to fair terms of employment.
3. Every seafarer has a right to decent working and living conditions on board ship.
4. Every seafarer has a right to health protection, medical care, welfare measures and other forms of social protection.
5. Each Member shall ensure, within the limits of its jurisdiction, that the seafarers’ employment and social rights set out in the preceding paragraphs of this Article are fully implemented in accordance with the requirements of this Convention. Unless specified otherwise in the Convention, such implementation may be achieved through national laws or regulations, through applicable collective bargaining agreements or through other measures or in practice.

### DOMESTIC LAW OF MEXICO

**Political Constitution of the United Mexican States**

**Article 123.** All persons have the right to dignified and socially useful work; for this purpose, the creation of employment and the social organization of labor will be promoted pursuant to the Law. The congress of the Union, without contravening the following criteria, must issue labor laws will regulate:

**A.** Among workers, day laborers, domestic employees, artisans and generally, all labor contracts:

- VII. For equal work, an equal wage must correspond without taking into consideration sex or nationality.
- XXIX. The Social Security Law is of public utility, and it will include insurance for disability, old age, life, involuntary separation from work, illnesses and accidents, childcare services and any other intended for the protection and wellbeing of the workers, farm workers, non-salaried workers and other social sectors and their relatives.
- XXX. Additionally, the cooperative societies for the construction of inexpensive and hygienic houses designated for being acquired in property by the workers in determined time periods will be considered of social utility.

**Federal Labor Law**

**Article 204.** Employers have the following special obligations:

- I. To provide comfortable and healthy lodging on board;
- II. To provide healthy, plentiful and nutritious food to workers on ships designated for high seas, from port to port, or in dredging operations;

### COMMENTS

In the domestic legislation (laws, regulations, and Official Mexican Standards (NOMS)) the following rights are general, also are applicable to seafarers:

- safe and secure workplace;
- fair terms of employment;
- decent working and living conditions; and
- health protection, medical care, welfare measures and other forms of social protection
<p>| III. | To provide food and lodging when the ship is taken to a foreign port for repairs and its condition does not permit remaining on board. This same obligation will apply to a national port when it is not the same port in which the worker boarded. Lodging and meals will be provided without cost to the worker; |
| IV. | To pay the cost to the worker; |
| V. | To pay the cost of sending funds to the families of the workers, when the ship is a foreign port; |
| VI. | To permit workers the time necessary to exercise their vote in popular elections, provided that the safety of the ship permits it and does not delay their leaving on the date and time schedule. |
| VII. | To permit workers to be absent from work to carry out duties on behalf of the State or their union, under the same condition referred to in the latter section; |
| VIII. | To provide food and lodging, medical treatment, medications, and other therapeutic measures in cases of illnesses, whatever their nature is; |
| IX. | To take on board medical personnel and material prescribed by the laws and provisions on communications by water; |
| X. | To repatriate or transfer workers to the place agreed on, except in cases of dismissal for reasons not attributable to the employer; and |
| XI. | To inform the captain of the corresponding port, within 24 hours of having been declared free to speak, of the work-related accidents that occurred on board. If the ship arrives in a foreign port, the report will be delivered to the Mexican consulate or there is none, to the captain of the first national port they arrive at. |</p>
<table>
<thead>
<tr>
<th>MARITIME LABOR CONVENTION, 2006, AS AMENDED</th>
<th>DOMESTIC LAW OF MEXICO</th>
<th>COMMENTS</th>
</tr>
</thead>
</table>
| Implementation and enforcement responsibilities | **Federal Labor Law**
**Article 212.** It is the responsibility of the labor inspector to oversee the compliance to the laws and all other labor standards, giving attention to the laws and provisions for water travel, when the ships are in port. | The provisions related to the inspections and surveillance are covered for two different authorities: |
<p>| Article V | <strong>Article 330.</strong> Labor inspectors have the following special authority and duties: |
| 1. Each Member shall implement and enforce laws or regulations or other measures that it has adopted to fulfill its commitments under this Convention with respect to ships and seafarers under its jurisdiction. | I. To verify that the persons who provide home-based work are registered as Employers. In the case of them not being registered, they will order them to do so, warning them that the failure to register in a time period not greater than 10 days, the sanctions stipulated by this law will apply; |
| 2. Each Member shall effectively exercise its jurisdiction and control over ships that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention, including regular inspections, reporting, monitoring and legal proceedings under the applicable laws. | <strong>Article 992.</strong> The violations of the labor standards committed by the employers or by the workers will be sanctioned in conformity with the provisions of this Title, independent of the responsibility that corresponds to them for noncompliance of their obligations, without prejudice to the sanctions detailed in other legal ordinances and of the legal consequences that proceed in matters of concessioned goods and services. |
| 3. Each Member shall ensure that ships that fly its flag carry a maritime labour certificate and a declaration of maritime labour compliance as required by this Convention. | Related to labor issues in the ships that flying the Mexican flag, the competent authority is the labor inspectors from the Secretariat of Labor and Social Welfare. The labor inspectors is the authority for impose sanctions and fines in case of violations of the labor standards committed by the employers or by the workers. Under Articles 992 to 1010 of the Federal Labor Law |
| 4. A ship to which this Convention applies may, in accordance with international law, be inspected by a Member other than the flag State, when the ship is in one of its ports, to determine whether the ship is in compliance with the requirements of this Convention. | Related to flag State and Port State, related to the compliance with international treaties, regulations, and official Mexican standards related to safety in navigation and human life at sea, as well as prevention of marine pollution, the competent authority is the inspectors from Secretariat of the Navy or physical persons (Recognized Organisations). The Secretariat of the Navy and the Secretariat of Communication and Transport exercise the control over the maritime issues in Mexico. Under Articles 323 to 328 Bis of the Navigational Law and Maritime Commerce, established the sanctions. |
| 5. Each Member shall effectively exercise its jurisdiction and control over seafarer recruitment and placement services, if these are established in its territory. | During the implementation of MLC, 2006, the Secretariat of Labor and Social Welfare will accept the physical persons (Recognized Organisations) for the proper compliment and enforcement of the Convention. |
| 6. 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 measures under its laws which are adequate to discourage such violations. | |
| 7. Each Member shall implement its responsibilities under this Convention in such a way as 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 it. | |</p>
<table>
<thead>
<tr>
<th>MARITIME LABOR CONVENTION, 2006, AS AMENDED</th>
<th>DOMESTIC LAW OF MEXICO</th>
<th>COMMENTS</th>
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</thead>
<tbody>
<tr>
<td>VII. Inspect foreign ships, in accordance with International Treaties;</td>
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<tr>
<td>VIII. Grant authorization of inspectors to individuals, to carry out the verification and certification of compliance with what is established in International Treaties, and the applicable national legislation, maintaining supervision over said persons;</td>
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<tr>
<td>XI. Contribute in the scope of its competence with the labor authority, for the fulfilment of the resolution of maritime conflicts of labor nature;</td>
<td></td>
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</tr>
<tr>
<td>XII. Impose sanctions for infractions of this Law, its regulations, and the International Treaties.</td>
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<tr>
<td>XVII. Manage the national records of seafarers and ships, in accordance with the provisions of the respective regulations;</td>
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</table>

**Article 323.** For the imposition of the sanctions provided for this Law, as well as the filing of the appropriate administrative appeal, the SEMAR [Secretariat of the Navy] and the Secretariat [Secretariat of Communication and Transport] shall observe the provisions of the Federal Law of Administrative Procedure. In case of recidivism a fine will be applied for twice the amount that results in this Title [Title Tenth].
Regulations and Parts A and B of the Code

Article VI

1. The Regulations and the provisions of Part A of the Code are mandatory. The provisions of Part B of the Code are not mandatory.

2. Each Member undertakes to respect the rights and principles set out in the Regulations and to implement each Regulation in the manner set out in the corresponding provisions of Part A of the Code. In addition, the Member shall give due consideration to implementing its responsibilities in the manner provided for in Part B of the Code.

3. A Member which is not in a position to implement the rights and principles in the manner set out in Part A of the Code may, unless expressly provided otherwise in this Convention, implement Part A through provisions in its laws and regulations or other measures which are substantially equivalent to the provisions of Part A.

4. For the sole purpose of paragraph 3 of this Article, any law, regulation, collective agreement or other implementing measure shall be considered to be substantially equivalent, in the context of this Convention, if the Member satisfies itself that:

(a) it is conducive to the full achievement of the general object and purpose of the provision or provisions of Part A of the Code concerned; and

(b) it gives effect to the provision or provisions of Part A of the Code concerned.
<table>
<thead>
<tr>
<th>MARITIME LABOR CONVENTION, 2006, AS AMENDED</th>
<th>DOMESTIC LAW OF MEXICO</th>
<th>COMMENTS</th>
</tr>
</thead>
</table>
| Consultation with shipowners’ and seafarers’ organizations | Political Constitution of the United Mexican States  
Article 123. All persons have the right to dignified and socially useful work; for this purpose, the creation of organization of labor will be promoted.  
XVI. The workers as well as the businessmen will have the right to cooperate in the defense of their respective interests, forming unions, professional associations, etc.  
XXII Bis. The procedures and requirements established in the law to assure the freedom of collective negotiation and the legitimate interests of the workers and employers must guarantee, among others, the following principles:  
   a) Representation of the union organizations, and  
   b) Certainty in the signing, recording and deposit of the collective labor contracts.  
For the resolution of conflicts between unions, the request for the execution of a collective labor contract and the election of directors, the vote of the workers will be personal, free and secret. The law will guarantee compliance with these principles. Based on the preceding, for the election of the directors, the union statutes can, pursuant to the provision in the law, set procedural modalities applicable to the respective processes. | The national law provides the basis for the proper implement of this disposition.  
During the implementation of MLC, 2006, the Secretariat of Labor and Social Welfare, shall appear this issue. |
<table>
<thead>
<tr>
<th>MARITIME LABOR CONVENTION, 2006, AS AMENDED</th>
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<th>COMMENTS</th>
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</thead>
<tbody>
<tr>
<td><strong>Entry into force</strong></td>
<td></td>
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</tr>
<tr>
<td><strong>Article VIII</strong></td>
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<td></td>
</tr>
<tr>
<td>1. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. This Convention Shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered by the Director-General.</td>
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</tr>
<tr>
<td>3. This Convention shall come into force 12 months after the date on which there have been registered ratifications by at least 30 Members with a total share in the world gross tonnage of ships of at least 33 per cent.</td>
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<tr>
<td>4. <strong>Thereafter</strong>, this Convention shall come into force any Member 12 months after the date on which its ratification has been registered.</td>
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</tbody>
</table>

The Article VIII (4) of the MLC, 2006 use the term "ratification" in case that any Member accepts the offer or the opportunity to become a party to the Convention. For this reason, the term “ratification” is used throughout this work. Even though the correct expression is “accession” because the MLC, 2006 is in force since August 20, 2013, in conformity with the Article 2 (1) (b) and Article 15 of the Vienna Convention for the Law of the Treaties 1969.
<table>
<thead>
<tr>
<th>MARITIME LABOR CONVENTION, 2006, AS AMENDED</th>
<th>DOMESTIC LAW OF MEXICO</th>
<th>COMMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Denunciation</strong> Article IX</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.</td>
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<tr>
<td>2. Each Member which does not, within the year following the expiration of the period of ten years mentioned in paragraph 1 of this Article, exercise the right of denunciation provided for in this Article, shall be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each new period of ten years under the terms provided for in this Article.</td>
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</table>
### MARITIME LABOR CONVENTION, 2006, AS AMENDED

**Effect of entry into force**

**Article X**

This Convention revises the following Conventions:

- Minimum Age (Sea) Convention, 1920 (No. 7)
- Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)
- Placing of Seamen Convention, 1920 (No. 9)
- Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)
- Seamen’s Articles of Agreement Convention, 1926 (No. 22)
- Repatriation of Seamen Convention, 1926 (No. 23)
- Officers’ Competency Certificates Convention, 1936 (No. 53)
- Holidays with Pay (Sea) Convention, 1936 (No. 54)
- Shipowners’ Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)
- Sickness Insurance (Sea) Convention, 1936 (No. 56)
- Hours of Work and Manning (Sea) Convention, 1936 (No. 57)
- Minimum Age (Sea) Convention (Revised), 1936 (No. 58)
- Food and Catering (Ships’ Crews) Convention, 1946 (No. 68)
- Certification of Ships’ Cooks Convention, 1946 (No. 69)
- Social Security (Seafarers) Convention, 1946 (No. 70)
- Paid Vacations (Seafarers) Convention, 1946 (No. 72)

<table>
<thead>
<tr>
<th>DOMESTIC LAW OF MEXICO</th>
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</thead>
<tbody>
<tr>
<td>The ILO Convention No. 7 is not in force for Mexico, denounced on July 18, 1952.</td>
<td></td>
</tr>
<tr>
<td>The ILO Convention No. 8 is in force since May 20, 1937.</td>
<td></td>
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<tr>
<td>The ILO Convention No. 9 is in force since September 1, 1939.</td>
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</tr>
<tr>
<td>The ILO Convention No. 16 is in force since March 9, 1938.</td>
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<tr>
<td>The ILO Convention No. 22 is in force since May 12, 1934.</td>
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</tr>
<tr>
<td>The ILO Convention No. 7 is not in force for Mexico, denounced on March 15, 2002.</td>
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</tr>
<tr>
<td>The ILO Convention No. 53 is in force since September 1, 1939.</td>
<td></td>
</tr>
<tr>
<td>The ILO Convention No. 54 is not in force, regardless that Mexico ratified it on June 12, 1942.</td>
<td></td>
</tr>
<tr>
<td>The ILO Convention No. 55 is in force since September 15, 1939.</td>
<td></td>
</tr>
<tr>
<td>The ILO Convention No. 56 is in force since November 17, 1991.</td>
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</tr>
<tr>
<td>Mexico is not part of the ILO Convention No. 57.</td>
<td></td>
</tr>
<tr>
<td>The ILO Convention No. 58 is in force since July 18, 1952.</td>
<td></td>
</tr>
<tr>
<td>Mexico is not part of the ILO Convention No. 68.</td>
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</tr>
<tr>
<td>Mexico is not part of the ILO Convention No. 69.</td>
<td></td>
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<tr>
<td>Mexico is not part of the ILO Convention No. 70.</td>
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<tr>
<td>Mexico is not part of the ILO Convention No. 72.</td>
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</tbody>
</table>

At the moment of the ratification of MLC; 2006, Mexico shall denounce around 12 Conventions.
<table>
<thead>
<tr>
<th>MARITIME LABOR CONVENTION, 2006, AS AMENDED</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Medical Examination (Seafarers) Convention, 1946 (No. 73)</td>
<td>Mexico is not part of the ILO Convention No. 73</td>
<td></td>
</tr>
<tr>
<td>Certification of Able Seamen Convention, 1946 (No. 74)</td>
<td>Mexico is not part of the ILO Convention No. 74.</td>
<td></td>
</tr>
<tr>
<td>Accommodation of Crews Convention, 1946 (No. 75)</td>
<td>Mexico is not part of the ILO Convention No. 75.</td>
<td></td>
</tr>
<tr>
<td>Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76)</td>
<td>Mexico is not part of the ILO Convention No. 76.</td>
<td></td>
</tr>
<tr>
<td>Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91)</td>
<td>Mexico is not part of the ILO Convention No. 91.</td>
<td></td>
</tr>
<tr>
<td>Accommodation of Crews Convention (Revised), 1949 (No. 92)</td>
<td>Mexico is not part of the ILO Convention No. 92.</td>
<td></td>
</tr>
<tr>
<td>Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93)</td>
<td>Mexico is not part of the ILO Convention No. 93</td>
<td></td>
</tr>
<tr>
<td>Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)</td>
<td>Mexico is not part of the ILO Convention No. 133.</td>
<td></td>
</tr>
<tr>
<td>Continuity of Employment (Seafarers) Convention, 1976 (No. 145)</td>
<td>Mexico is not part of the ILO Convention No. 145.</td>
<td></td>
</tr>
<tr>
<td>Seafarers’ Annual Leave with Pay Convention, 1976 (No. 146)</td>
<td>Mexico is not part of the ILO Convention No. 146.</td>
<td></td>
</tr>
<tr>
<td>Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)</td>
<td>Mexico is not part of the ILO Convention No. 147</td>
<td></td>
</tr>
<tr>
<td>Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)</td>
<td>Mexico is not part of Protocol.</td>
<td></td>
</tr>
<tr>
<td>Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)</td>
<td>The ILO Convention No. 164 is in force since October 5, 1990.</td>
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</tr>
<tr>
<td>MARITIME LABOR CONVENTION, 2006, AS AMENDED</td>
<td>DOMESTIC LAW OF MEXICO</td>
<td>COMMENTS</td>
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</tr>
<tr>
<td>Social Security (Seafarers) Convention (Revised), 1987 (No. 165)</td>
<td>Mexico is not part of the ILO Convention No. 165.</td>
<td></td>
</tr>
<tr>
<td>Repatriation of Seafarers Convention (Revised), 1987 (No. 166)</td>
<td>The ILO Convention No. 166 is in force since October 5, 1990.</td>
<td></td>
</tr>
<tr>
<td>Labour Inspection (Seafarers) Convention, 1996 (No. 178)</td>
<td>Mexico is not part of the ILO Convention No. 178.</td>
<td></td>
</tr>
<tr>
<td>Recruitment and Placement of Seafarers Convention, 1996 (No. 179)</td>
<td>Mexico is not part of the ILO Convention No. 179.</td>
<td></td>
</tr>
<tr>
<td>Seafarers’ Hours of Work and the Manning of Ships Convention, 1996 (No. 180)</td>
<td>Mexico is not part of the ILO Convention No. 180.</td>
<td></td>
</tr>
</tbody>
</table>
**Depositary functions**

**Article XI**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, acceptances and denunciations under this Convention.

2. When the conditions provided for in paragraph 3 of Article VIII have been fulfilled, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

**Article XII**

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, acceptances and denunciations registered under this Convention.
**Special Tripartite Committee**

*Article XIII*

1. The Governing Body of the International Labour Office shall keep the working of this Convention under continuous review through a committee established by it with special competence in the area of maritime labour standards.

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

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

4. The votes of each Shipowner and Seafarer representative in the Committee shall be weighted so as to ensure that the Shipowners’ group and the Seafarers’ group each have half the voting power of the total number of
### MARITIME LABOR CONVENTION, 2006, AS AMENDED

**Article XIV**

1. Amendments to any of the provisions of this Convention may be adopted by the General Conference of the International Labour Organization in the framework of article 19 of the Constitution of the International Labour Organisation and the rules and procedures of the Organization for the adoption of Conventions. Amendments to the Code may also be adopted following the procedures in Article XV.

2. In the case of Members whose ratifications of this Convention were registered before the adoption of the amendment, the text of the amendment shall be communicated to them for ratification.

3. In the case of other Members of the Organization, the text of the Convention as amended shall be communicated to them for ratification in accordance with article 19 of the Constitution.

4. An amendment shall be deemed to have been accepted on the date when there have been registered ratifications, of the amendment or of the Convention as amended, as the case may be, by at least 30 Members with a total share in the world gross tonnage of ships of at least 33 per cent.

5. An amendment adopted in the framework of article 19 of the Constitution shall be binding only upon those Members of the Organization whose ratifications have been registered by the Director-General of the International Labour Office.

6. For any Member referred to in paragraph 2 of this Article, an amendment shall come into force 12 months after the date of acceptance referred to in paragraph 4 of this Article or 12 months after the date on which its ratification of the amendment has been registered, whichever date is later.

7. Subject to paragraph 9 of this Article, for Members referred to in paragraph 3 of this Article, the Convention as amended shall come into force 12 months after the date of acceptance referred to in paragraph 4 of this Article or 12 months after the date on which their ratifications of the

### DOMESTIC LAW OF MEXICO

If Mexico decide ratify the Convention, the applicable disposition related to the amendments is the Article XIV (9) of the MLC, 2006.
<table>
<thead>
<tr>
<th>MARITIME LABOR CONVENTION, 2006, AS AMENDED</th>
<th>DOMESTIC LAW OF MEXICO</th>
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<tbody>
<tr>
<td>Convention have been registered, whichever date is later. 8. For those Members whose ratification of this Convention was registered before the adoption of an amendment but which have not ratified the amendment, this Convention shall remain in force without the amendment concerned. 9. Any Member whose ratification of this Convention is registered after the adoption of the amendment but before the date referred to in paragraph 4 of this Article may, in a declaration accompanying the instrument of ratification, specify that its ratification relates to the Convention without the amendment concerned. In the case of a ratification with such a declaration, the Convention shall come into force for the Member concerned 12 months after the date on which the ratification was registered. Where an instrument of ratification is not accompanied by such a declaration, or where the ratification is registered on or after the date referred to in paragraph 4, the Convention shall come into force for the Member concerned 12 months after the date on which the ratification was registered and, upon its entry into force in accordance with paragraph 7 of this Article, the amendment shall be binding on the Member concerned unless the amendment provides otherwise.</td>
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<tr>
<td>MARITIME LABOR CONVENTION, 2006, AS AMENDED</td>
<td>DOMESTIC LAW OF MEXICO</td>
<td>COMMENTS</td>
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</tr>
<tr>
<td>Amendments to the Code</td>
<td>Law on the Conclusion of International Treaties of Mexico</td>
<td>Even in the domestic legislation does not exist an specify provision that covers the “tacit amendment procedure”, there is not any impossibility for a proper implementation.</td>
</tr>
<tr>
<td>Article XIV</td>
<td></td>
<td>Although the amendments do not require the formal acceptance of Mexico before the ILO, by virtue of the tacit procedure for its entry into force. However, under the Law on the Conclusion of International Treaties of Mexico, every amendment requires the approval by the Senate of the Republic and publication in the Official Gazette in order to make them known to individuals and ensure compliance, so that the amendments will be applicable to Mexico as of the date of ratification of the MLC, 2006.</td>
</tr>
<tr>
<td>1. The Code may be amended either by the procedure set out in Article XIV or, unless expressly provided otherwise, in accordance with the procedure set out in the present Article.</td>
<td></td>
<td>An example of the successful application of the tacit amendment procedure in Mexico is in cases of SOLAS or MARPOL conventions, in which the competent authority made, if where is applicable, the observation.</td>
</tr>
<tr>
<td>2. An amendment to the Code may be proposed to the Director-General of the International Labour Office by the government of any Member of the Organization or by the group of Shipowner representatives or the group of Seafarer representatives who have been appointed to the Committee referred to in Article XIII. An amendment proposed by a government must have been proposed by, or be supported by, at least five governments of Members that have ratified the Convention or by the group of Shipowner or Seafarer representatives referred to in this paragraph.</td>
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<tr>
<td>3. Having verified that the proposal for amendment meets the requirements of paragraph 2 of this Article, the Director-General shall promptly communicate the proposal, accompanied by any comments or suggestions deemed appropriate, to all Members of the Organization, with an invitation to them to transmit their observations or suggestions concerning the proposal within a period of six months or such other period (which shall not be less than three months nor more than nine months) prescribed by the Governing Body.</td>
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<tr>
<td>4. At the end of the period referred to in paragraph 3 of this Article, the proposal, accompanied by a summary of any observations or suggestions made under that paragraph, shall be transmitted to the Committee for consideration at a meeting. An amendment shall be considered adopted by the Committee if:</td>
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<tr>
<td>(a) at least half the governments of Members that have ratified this Convention are represented in the meeting at which the proposal is considered; and</td>
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<tr>
<td>(b) a majority of at least two-thirds of the Committee members vote in favour of the amendment; and</td>
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</table>
(c) this majority comprises the votes in favour of at least half the government voting power, half the Shipowner voting power and half the Seafarer voting power of the Committee members registered at the meeting when the proposal is put to the vote.

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

6. Amendments approved by the Conference shall be notified by the Director-General to each of the Members whose ratifications of this Convention were registered before the date of such approval by the Conference. These Members are referred to below as “the ratifying Members”. The notification shall contain a reference to the present Article and shall prescribe the period for the communication of any formal disagreement. This period shall be two years from the date of the notification unless, at the time of approval, the Conference has set a different period, which shall be a period of at least one year. A copy of the notification shall be communicated to the other Members of the Organization for their information.

7. An amendment approved by the Conference shall be deemed to have been accepted unless, by the end of the prescribed period, formal expressions of disagreement have been received by the Director-General from more than 40 per cent of the Members which have ratified the Convention and which represent not less than 40 per cent of the gross tonnage of the ships of the Members which have ratified the Convention.

8. An amendment deemed to have been accepted shall come into force six months after the end of the prescribed period for all the ratifying Members except those which had formally expressed their disagreement in
accordance with paragraph 7 of this Article and have not withdrawn such disagreement in accordance with paragraph 11. However:

(a) before the end of the prescribed period, any ratifying Member may give notice to the Director-General that it shall be bound by the amendment only after a subsequent express notification of its acceptance; and

(b) before the date of entry into force of the amendment, any ratifying Member may give notice to the Director-General that it will not give effect to that amendment for a specified period.

9. An amendment which is the subject of a notice referred to in paragraph 8(a) of this Article shall enter into force for the Member giving such notice six months after the Member has notified the Director-General of its acceptance of the amendment or on the date on which the amendment first comes into force, whichever date is later.

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

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

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

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

(a) a Member that has accepted that amendment shall not be obliged to extend the benefit of the Convention in respect of the
maritime labour certificates issued to ships flying the flag of another Member which:
(i) pursuant to paragraph 7 of this Article, has formally expressed disagreement to the amendment and has not withdrawn such disagreement; or
(ii) pursuant to paragraph 8(a) of this Article, has given notice that its acceptance is subject to its subsequent express notification and has not accepted the amendment; and
(b) a Member that has accepted the amendment shall extend the benefit of the Convention in respect of the maritime labour certificates issued to ships flying the flag of another Member that has given notice, pursuant to paragraph 8(b) of this Article, that it will not give effect to that amendment for the period specified in accordance with paragraph 10 of this Article.
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<tr>
<td><strong>TITLE 1. MINIMUM REQUIREMENTS FOR SEAFARERS TO WORK ON A SHIP</strong></td>
<td><strong>Political Constitution of the United Mexican States of 1917</strong></td>
<td>Under the domestic legislation, the work on ships for children under 18 years of age, is forbidden because it is considered dangerous and unhealthy.</td>
</tr>
<tr>
<td>Regulation 1.1. – Minimum age Purpose: To ensure that no under-age persons work on a ship 1. No person below the minimum age shall be employed or engaged or work on a ship. 2. The minimum age at the time of the initial entry into force of this Convention is 16 years. 3. A higher minimum age shall be required in the circumstances set out in the Code.</td>
<td><strong>Sixth Title Labor and Social Welfare Article 123.</strong> All persons have the right to dignified and socially useful work; for this purpose, the creation of employment and the social organization of labor will be promoted pursuant to the Law. The Congress of the Union, without contravening the following criteria, must issue labor laws which will regulate:</td>
<td>As can be seen, Mexican legislation establishes a higher standard than the MLC, 2006. But there is only applicable for nationals or the ships flying the Mexican flag.</td>
</tr>
<tr>
<td><strong>Standard A1.1 – Minimum age</strong> 1. The employment, engagement or work on board a ship of any person under the age of 16 shall be prohibited. 2. Night work of seafarers under the age of 18 shall be prohibited. For the purposes of this Standard, night shall be defined in accordance with national law and practice. It shall cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m. 3. An exception to strict compliance with the night work restriction may be made by the competent authority when: (a) the effective training of the seafarers concerned, in accordance with established programmes and schedules, would be impaired; or (b) the specific nature of the duty or a recognized training programme requires that the seafarers covered by the exception perform duties at night and the authority determines, after consultation with the shipowners’ and seafarers’ organizations concerned, 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 shall be prohibited where the work is likely to jeopardize their health or safety. The types of such work shall be determined by national laws or regulations or by the competent authority, after consultation with the relevant authorities.</td>
<td><strong>II. The maximum night work will be 7 hours. The following are prohibited; unhealthy or dangerous work, industrial night work and all other work after ten o’clock at night for minor under sixteen years age.</strong></td>
<td>As a Port State, the inspectors from the Labor authority, the National Maritime Authority or private individuals (Recognized Organizations), shall verify the compliance of the provisions in the case of foreign under-age seafarers on board of foreign ships.</td>
</tr>
<tr>
<td><strong>Federal Labor Law Title Two Individual Labor Relations Chapter I General Provision Article 29.</strong> The utilization of minors under eighteen years of age is prohibited for the rendering of services outside the republic, except with respect to technicians, professionals, artists, athletes, and in general, all specialized workers is prohibited.</td>
<td><strong>Title Five Bis Work of Minors Article 173.</strong> The employment of minors remains subject to the oversight and special protection of the labor authorities, Federal as well as State. The Secretary of Labor and Social Welfare in coordination with the labor authorities in the States and the Federal District will develop</td>
<td>According to the Article VIII and Article XI of the MLC, 2006, the Mexican authorities shall declare at the moment of ratification that the provision related to the “work on board of people under eighteen years is prohibited” is only for Mexican nationals or the ships flying the Mexican flag.</td>
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<td>MARITIME LABOR CONVENTION, 2006, AS AMENDED</td>
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| shipowners’ and seafarers’ organizations concerned, in accordance with relevant international standards. | programs that permit identifying and eradicating child labor.  

**Article 174.** Those graters than fifteen and less than eighteen years old must obtain a medical certificate that accredits their fitness for the work and submit themselves to medical examinations that periodically are ordered by the corresponding labor authorities. Without these requirements, no employer can use their services.  

**Article 175.** The use of the work of minors under eighteen years old is prohibited:  

IV. In hazardous or unhealthy work that by the nature of the work, from the physical, chemical or biological conditions of the environment in which it is rendered, or from the composition of the raw materials that are used, are capable of acting on the life, the development and the physical and mental health of the minors, under the terms of the provisions in the Article 176 of this law.  

**Article 176.** For the purpose of Article 175, in addition that stated in the applicable Laws, regulations and standards will be considered as, hazardous or unhealthy jobs will be considered those that imply:  

III. **Work:**  

18. On ships.

**Title Six**  
**Special Jobs**  
**Chapter III**  
**Workers on Ships**  
**Article 197.** For the rendering of the services of Mexican workers on foreign ships, the provision in Article 28 will be observed.
REGULATION 1.2
Medical certificate
Purpose: To ensure that all seafarers are medically fit to perform their duties at sea
1. Seafarers shall not work on a ship unless they are certified as medically fit to perform their duties.
2. Exceptions can only be permitted as prescribed in the Code.

Standard A1.2 – Medical certificate
1. The competent authority shall require that, prior to beginning work on a ship, seafarers hold a valid medical certificate attesting that they are medically fit to perform the duties they are to carry out at sea.
2. In order to ensure that medical certificates genuinely reflect seafarers’ state of health, in light of the duties they are to perform, the competent authority shall, after consultation with the shipowners’ and seafarers’ organizations concerned, and giving due consideration to applicable international guidelines referred to in Part B of this Code, prescribe the nature of the medical examination and certificate.
3. This Standard is without prejudice to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended ("STCW"). A medical certificate issued in accordance with the requirements of STCW shall be accepted by the competent authority, for the purpose of Regulation 1.2. A medical certificate meeting the substance of those requirements, in the case of seafarers not covered by STCW, shall similarly be accepted.
4. The medical certificate shall be issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate. Practitioners must enjoy full professional independence in exercising their medical judgement in undertaking medical examination procedures.

Mexico is part of the STCW, so the respective medical certificates will be valid, according with the Standard A1.2 (3), but the authority in charge the application of such Convention is the Secretariat of Communication and Transport.

In the Federal Labor Law there is no specific obligation for the presentation of a medical certificate to the seafarers not covered by STCW in order to obtain a job, this requirement must be foreseen into the domestic legislation, referring the procedure to an Official Standard Mexican (hereinafter referred to as NOM).

Considering the specialty of the work of the seafarers it is recommended that the Labor authorities work in coordination with the Secretariat of Communications and Transport, Secretariat of the Navy, Secretariat of Health and the Mexican Institute of Social Security (IMSS), for the proper implementation of these provisions for both national and foreign workers.

Among the points they will consider will be the procedure for obtaining the medical certificates; the authorities in charge of issuing the certificates; the format of the medical certificate will be in accordance with the provisions of the MLC, 2006; among others.
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:
   (a) 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
   (b) 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 under STCW:
   (a) a medical certificate shall be 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 shall be one year;
   (b) a certification of colour vision shall be valid for a maximum period of six years.

8. In urgent cases the competent authority may permit a seafarer to work without a valid medical certificate until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that:
   (a) the period of such permission does not exceed three months; and
   (b) 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 medical practitioner, 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.

**Regulation 1.3 – Training and qualifications**

*Purpose: To ensure that seafarers are trained or qualified to carry out their duties on board*

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 be permitted to work on a ship unless they have successfully completed training for personal safety on board ship.

3. Training and certification in accordance with the mandatory instruments adopted by the International Maritime Organization shall be considered as meeting the requirements of paragraphs 1 and 2 of this Regulation.

4. Any Member which, at the time of its ratification of this Convention, was bound by the Certification of Able Seamen Convention, 1946 (No. 74), shall continue to carry out the obligations under that Convention unless and until mandatory provisions covering its subject matter have been adopted by the International Maritime Organization and entered into force, or until five years have elapsed since the entry into force of this Convention in accordance with paragraph 3 of Article VIII, whichever date is earlier.

**Federal Labor Law**

*Article 205.* Workers will have a special obligation to respect and execute the instructions and practices designated for preventing maritime accidents, which will be carried out under the terms determined by the laws and provisions on sea travel. Captains and other officers will operate, in those cases, as representatives of authority and not as representatives of employers.

**Navigational Law and Maritime Commerce**

**CHAPTER II**

**MARINE AUTHORITY**

*Article 8.* The powers of the Secretariat [Secretariat of Communication and Transport] are the same, without prejudice to those that correspond to other dependencies of the Federal Public Administration:

**VIII.** Organize, promote and regulate the training and qualification of Merchant Navy personnel, as well as grant certificates of competence in the terms of this Law and its Regulations; monitor their compliance and revoke or suspend them if applicable;

**CHAPTER V**

**CREW**

*Article 26.* The number and training of the crew must guarantee safety in navigation and human life at sea, as well as the prevention of marine pollution. For this, the crew must prove their technical and practical capacity.

Considering the specialty of the work of the seafarers, it is recommended that the Labor authorities work in coordination with the National Maritime Authority for the correct implementation of these provisions for national and foreign workers.
by means of the document that identifies them as personnel of the Mexican merchant marine, in accordance with the requirements specified in the respective regulations, and as determined by the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, as well as the other International Treaties. The owners and shipping companies are obliged to ensure that the crew members at their service comply with the provisions of the previous paragraph, being jointly and severally liable for the breach of this Article with those in charge of direct navigation, including the subordinate personnel.

**CHAPTER VI**

**MERCHANT MARITIME EDUCATION**

**Article 31.**- Nautical Education, is of public interest, so the Secretariat will organize and directly impart the training and training of Merchant Marine personnel, with plans and study programs registered with the Secretariat of Public Education, must have a school ship with the necessary and updated didactic technology for the fulfilment of its objectives.

The educational institutions of higher education authorized by the Secretariat [Secretariat of Communication and Transport] and the Secretariat of the Public Education, may offer postgraduate studies to the officers of the National Merchant Navy, in accordance with the provisions of the General Law of Education, for which they must have the goods furniture, equipment and systems suitable for practical teaching and with plans and programs of studies that both Secretariats determine.

The personnel that impart the training and qualification of the personnel of the Merchant Navy...
must have a registry before the Secretariat [Secretariat of Communication and Transport], as well as comply with the requirements established in the International Treaties.

**Article 32.-** The plans and programs of study for the formation and qualification of the diverse levels of professionals and subalterns of the crews of the ships and Mexican naval artefacts, will be authorized by the Secretariat [Secretariat Communication and Transport], according to the development and needs of the merchant Mexican navy. In the integration of such plans and programs, the opinions of the owners, shipping companies, schools of seafarers and other entities related to the maritime sector will be evaluated. The Secretariat [Secretariat Communication and Transport] will cooperate with the fishing authority in the development of training plans and programs in line with the activity of the sector; in the integration of these, they should assess the opinions of sectoral associations, fisheries research centers and other related entities, all in accordance with the applicable provisions.

The documents established by the International Convention on Training, Certification and Watchkeeping for Seafarers and other International Treaties will be issued by the Secretariat [Secretariat of Communication and Transport] in accordance with the respective regulations.

To those who obtain the titles of Naval Pilot and Naval Engineer, under the terms of the corresponding regulation, the Secretariat [Secretariat of Communication and Transport] will issue jointly the titles of Geographer and Hydrographer, and for Naval Mechanical Engineer, respectively.
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<td><strong>Regulation 1.4 – Recruitment and placement</strong></td>
<td><strong>Political Constitution of the United Mexican States</strong></td>
<td>The Federal Labor Law establishes general norms applicable to labor relations in Mexico and provides specific rules for special work such as that performed on board ships.</td>
</tr>
<tr>
<td><strong>Purpose:</strong> To ensure that seafarers have access to an efficient and well-regulated seafarer recruitment and placement system</td>
<td><strong>Article 123.</strong> All persons have the right to work; for this purpose, the creation of a public system of labor organization will be promoted.</td>
<td>Likewise, Article 2 of the Federal Labor Law provides for unrestricted respect for the collective rights of workers (in general), such as freedom of association, autonomy, the right to strike and collective bargaining. Despite the fact that Article 195 of the Federal Labor Law establishes specific requirements for the work contract of ship workers, the provisions of Chapter III “Collective Labor Contract” are also applicable.</td>
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<tr>
<td>1. All seafarers shall have access to an efficient, adequate and accountable system for finding employment on board ship without charge to the seafarer.</td>
<td></td>
<td>Another aspect is in the Articles 537 to 539-F of the Federal Labor Law, the National Employment Service is established. (hereinafter referred to as SNE) The SNE applies to Labor relations in general and does not restrict its use for ship workers. The SNE provides a public service and has as main functions the promotion of jobs, placement of workers, education and training, record of constancy of work skills, standardization and certification of Labor competency.</td>
</tr>
<tr>
<td>2. Seafarer recruitment and placement services operating in a Member’s territory shall conform to the standards set out in the Code.</td>
<td></td>
<td>For the purposes of Mexican workers hired in Mexico, to work abroad, the conditions are established in Articles 28, 28-A, 28-B, 197, 211, 996, 1003 of the Federal Labor Law.</td>
</tr>
<tr>
<td>3. Each Member shall require, in respect of seafarers who work on ships that fly its flag, that shipowners who use seafarer recruitment and placement services that are based in countries or territories in which this Convention does not apply, ensure that those services conform to the requirements set out in the Code.</td>
<td></td>
<td>As can be seen in general terms, the provisions regarding hiring and placement are contemplated in Mexican national legislation. However, it is necessary to specify that the employers of the workers of ships flying the Mexican flag, that they resort to seafarer recruitment and placement services and that they are established abroad in which the MLC, 2006 is not applied. The employers must ensure that these services are in conformity with the provisions of the Convention.</td>
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**Standard A1.4 – Recruitment and placement**

1. Each Member that operates a public seafarer recruitment and placement service shall ensure that the service is operated in an orderly manner that protects and promotes seafarers’ employment rights as provided in this Convention.

2. Where a Member has private seafarer recruitment and placement services operating in its territory whose primary purpose is the recruitment and placement of seafarers or which recruit and place a significant number of seafarers, they shall be operated only in conformity with a standardized system of licensing or certification or other form of regulation. This system shall be established, modified or changed only after consultation with the shipowners’ and seafarers’ organizations concerned. In the event of doubt as to whether this Convention applies to a private recruitment and placement service, the question shall be determined by the competent authority in each Member after consultation with the shipowners’ and seafarers’ organizations concerned. Undue proliferation of private seafarer recruitment and placement services operating in its territory whose primary purpose is the recruitment and placement of seafarers or which recruit and place a significant number of seafarers, they shall be operated only in conformity with a standardized system of licensing or certification or other form of regulation. This system shall be established, modified or changed only after consultation with the shipowners’ and seafarers’ organizations concerned.

**Federal Labor Law:**

**Title Two** Individual Labor Relations

**Chapter I** General Provision

**Article 28-A.** In the case of Mexican workers recruited and selected in Mexico for a concrete employment outside of Mexico of a determined duration, through mechanisms agreed on by the government of Mexico with a foreign government, the provision in said agreement will be observed, that at all times will safeguard the rights of the workers according to the following criteria:

I. The general labor conditions for Mexicans in the recipient country will be decent and equal to those that are granted to the workers of that country;

II. When the consular or immigration authority of the country where the service will be rendered issues the visa or work permit, it will be understood that said authority has knowledge that a labor relationship will be established between the worker and a determined employer;

III. The conditions for the repatriation, housing, social security and other benefits will be determined in the agreement;
3. The provisions of paragraph 2 of this Standard shall also apply – to the extent that they are determined by the competent authority, in consultation with the shipowners’ and seafarers’ organizations concerned, to be appropriate – in the context of recruitment and placement services operated by a seafarers’ organization in the territory of the Member for the supply of seafarers who are nationals of that Member to ships which fly its flag. The services covered by this paragraph are those fulfilling the following conditions:

(a) the recruitment and placement service is operated pursuant to a collective bargaining agreement between that organization and a shipowner;

(b) both the seafarers’ organization and the shipowner are based in the territory of the Member;

(c) The Member has national laws or regulations or a procedure to authorize or register the collective bargaining agreement permitting the operation of the recruitment and placement service; and

(d) the recruitment and placement service is operated in an orderly manner and measures are in place to protect and promote seafarers’ employment rights comparable to those provided in paragraph 5 of this Standard.

4. Nothing in this Standard or Regulation 1.4 shall be deemed to:

(a) prevent a Member from maintaining a free public seafarer recruitment and placement service for seafarers in the framework of a policy to meet the needs of seafarers and shipowners, whether the

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<td>recruitment and placement services shall not be encouraged.</td>
<td>IV. The recruiting and the selection will be organized by the Secretary of Labor and Social Welfare through the National Employment Service, in coordination with the state and municipal authorities; and</td>
<td>Article 28-B. In the case of Mexican workers recruited and selected in Mexico for a concrete employment outside of Mexico of a determined duration, that are placed by private entities, the following standards will be observed:</td>
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<tr>
<td>3. The provisions of paragraph 2 of this Standard shall also apply – to the extent that they are determined by the competent authority, in consultation with the shipowners’ and seafarers’ organizations concerned, to be appropriate – in the context of recruitment and placement services operated by a seafarers’ organization in the territory of the Member for the supply of seafarers who are nationals of that Member to ships which fly its flag. The services covered by this paragraph are those fulfilling the following conditions:</td>
<td>V. The agreement will contain mechanisms for informing the worker on the Mexican consular and diplomatic authorities to whom he can turn to outside of Mexico and the appropriate authorities of the country where the services will be rendered, when the worker considers that his rights have been infringed upon, for the purpose of exercising the appropriate legal action;</td>
<td>I. The placement agencies of workers must be duly authorized and recorded, as applicable, pursuant to the provision in the applicable legal provisions;</td>
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<td>IV. The recruiting and the selection will be organized by the Secretary of Labor and Social Welfare through the National Employment Service, in coordination with the state and municipal authorities; and</td>
<td>II. The placement agencies of workers must make sure of:</td>
<td>a) The veracity of the general labor conditions that are offered, as well as those related to housing, social security and repatriation to which the workers will be subject. Said conditions must be decent and not imply discrimination of any type; and</td>
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<tr>
<td>V. The agreement will contain mechanisms for informing the worker on the Mexican consular and diplomatic authorities to whom he can turn to outside of Mexico and the appropriate authorities of the country where the services will be rendered, when the worker considers that his rights have been infringed upon, for the purpose of exercising the appropriate legal action;</td>
<td>b) That the aspirants have executed the procedures for the issuing of a visa or work permit by the consular or immigration authority of the country where the service will be rendered;</td>
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<tr>
<td>IV. The recruiting and the selection will be organized by the Secretary of Labor and Social Welfare through the National Employment Service, in coordination with the state and municipal authorities; and</td>
<td>III. The placement agencies must inform the workers on the consular protection to which they have a</td>
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service forms part of or is coordinated with a public employment service for all workers and employers; or impose on a Member the obligation to establish a system for the operation of private seafarer recruitment or placement services in its territory.

5. A Member adopting a system referred to in paragraph 2 of this Standard shall, in its laws and regulations or other measures, at a minimum:

(a) prohibit seafarer recruitment and placement services from using means, mechanisms or lists intended to prevent or deter seafarers from gaining employment for which they are qualified;

(b) require that no fees or other charges for seafarer recruitment or placement or for providing employment to seafarers are borne directly or indirectly, in whole or in part, by 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

(c) ensure that seafarer recruitment and placement services operating in its territory:

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

(ii) make sure that seafarers are informed of their rights and duties under their employment right and the location of the Mexican Embassy or Consulates in the country that corresponds, besides the appropriate authorities to which they can turn to in order to assert their rights in the destination country. In the cases in which the workers have been deceived with respect to the working conditions offered, the placement agencies of workers will be responsible for defraying the expenses of the respective repatriation.

The Federal Labor Inspection department will oversee the compliance to the obligations contained in this Article.

Article 537. The National Employment Service will have the following objectives:

I. To study and promote the operation of public policies that support the generation of employment;

Article 538. The National Employment Service will be the responsibility of the Secretary of Labor and Social Welfare, through the office of the Administrative Units of the same, to those which fall the corresponding functions, under the terms of its Internal Regulation.

Article 539. In conformity with that established in the preceding Article and for the purposes of 537, I of Labor and Social Welfare correspond to the following activities:

II. In the matter of placing of workers:

b) To authorize and register, when applicable, the operation of private agencies that are designated for the placing of personnel;

Article 539-F. The authorizations for the operation of the placement agencies, for profit, can only be granted for the purpose of
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<td>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; (iii) 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; (iv) make sure, as far as practicable, that the shipowner has the means to protect seafarers from being stranded in a foreign port; (v) examine and respond to any complaint concerning their activities and advise the competent authority of any unresolved complaint; (vi) 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.</td>
<td>contracting workers that must perform special jobs. Said authorizations will be granted through a request from the interested party, when in the judgment of the Secretary of Labor and Social Welfare, the rendering of the service by private parties is justified and once the requirements stipulated for the purpose are satisfied, in accordance to that established in Article 539-D, the service must be free for the workers and the fees in that are paid for the services rendered, must be previously set for the Secretary of Labor and Social Welfare.</td>
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<td>6. The competent authority shall closely supervise and control all seafarer recruitment and placement services operating in the territory of the Member concerned. Any licences or</td>
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<td>Navigational Law and Maritime Commerce</td>
<td>First Title  General Disposition  Chapter II  Marine Authority  Article 8 Bis. The powers of the SEMAR [Secretariat of the Navy], without prejudice to those that correspond to other dependencies of the Federal Public Administration: XI. To contribute in the scope of its competence with the labor authority, for the fulfillment of the resolution of maritime conflicts of labor nature;</td>
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<td>Second Title  From the Merchant Fleet  CHAPTER VII  Of the administrative coordination in matters of neglect of foreign crews in foreign ships  Article 35. When a regulated situation arises as provided in this chapter, the authorities and parts of it shall provide the following procedure: I. Within twenty-four hours after the arrival of the ship, or in its case at the time when the reported</td>
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certificates or similar authorizations for the operation of private services in the territory 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 competent authority 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.

8. Each Member which has ratified 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. Measures taken to this effect by the Member that has ratified this Convention shall not be in contradiction with the principle of free movement of workers stipulated by the treaties to which the two States concerned may be parties.

9. Each Member which has ratified this Convention shall require that shipowners of ships that fly its flag, who use seafarer recruitment and placement services based in countries or territories in which this Convention does not apply, ensure, as far as practicable, that those services meet the requirements of this Standard.

10. Nothing in this Standard shall be understood as diminishing the obligations and responsibilities of shipowners or of a Member with respect to ships that fly its flag.

event occurred, the captain of any ship or, in his absence, the officer in command, or the a person who certifies the legal representation of the crew members, will be entitled to request the presentation of a protest document before the Harbormaster, in accordance with the provisions of the preceding chapter;

II. Within three working days after the presentation of the protest, the Harbormaster that has known of the same must notify on the existing conflict to the consul of the flag of the ship and those of the nationality of the crew, to the Secretariat of Labor and Social Welfare, to the Ministry of Health, to the National Institute of Migration, to the National Commission of Human Rights, and to the Port Administration, so that they may act within the scope of their competence and functions;

III. Within the same period established in the previous section, the Harbormaster shall summon the shipping agent consignee of the ship and, where appropriate, the owner of the ship so that within a period of ten working days they may deliver a hearing at the offices of the harbormaster, where they will present to the authority the mechanisms to resolve the situation, which must include at least the replacement and repatriation of the crew members, as well as the safe management of the ship. Taking into consideration the presented expositions, the harbormaster will establish a term that may not exceed fifteen business days for the fulfillment of the obligations acquired. The harbormaster will draw up a record of said hearing and those who intervene in it must sign it;

IV. During the term of execution of the obligations acquired in accordance with the previous sections, the Harbormaster will be
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<td>authorized to request the verification meetings it deems necessary;</td>
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<td>V. In case of non-compliance with the obligations acquired in accordance with section III of this Article, the SEMAR[Secretariat of the Navy] will be competent to coordinate actions aimed at solving the contingency, and</td>
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<tr>
<td>VI. Once the crew has been disembarked and their good state of health is verified, the National Migration Institute will process the repatriation at the expense of the shipowner or the owner of the ship in solidarity. In the meantime, the consignee shipping agent and, if applicable, the owner of the same ships in solidarity, will pay the full maintenance of the crew to be repatriated. The SEMAR [Secretariat of the Navy] will verify compliance with this obligation.</td>
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</tr>
</tbody>
</table>

Table: TITLE 2. CONDITIONS OF EMPLOYMENT

<table>
<thead>
<tr>
<th>Federal Labor Law</th>
<th>Title Two Individual Labor Relations Chapter I General Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 25. The document in which are recorded the labor conditions must contain:</td>
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<tr>
<td>I. Name, nationality, age, sex, marital status, Unique Code of Population Registration (CURP) and address of the worker and the employer;</td>
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</tr>
<tr>
<td>II. If the labor relationship is for a specific work or a determined time period, seasonal, initial training or for an undetermined time period and, when applicable, if it is subject to a trial period;</td>
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<tr>
<td>III. The service or services which must be rendered, those will be determined with greatest possible clarity;</td>
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<td>IV. The place or the places where the work should be rendered;</td>
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<td>V. The duration of the shift;</td>
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<td>VI. The form and amount of wages;</td>
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<td>VII. The day and place for payment of wages;</td>
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</tbody>
</table>

In the Federal Labor Law there is not a specific provision related to:

- the obligation from the employer to give the opportunity to workers for examine and seek advice on the agreement before signing;
- the obligation to ensure that clear information as to the conditions of the employment can be easily obtained on board by workers or labor inspectors, including a copy of the employment agreement or the collective bargaining agreement;
- the obligation to maintain on board of the workers record of the employment; and
- the obligation to maintain on board the work agreement or collective bargaining agreement in English language, in case of international voyages.

The Article 209 (IV) of the Federal Labor Law states the different periods for early termination of the work agreement, the single difference is when the labor relation is for an indefinite period, the worker must give notice to the provisioner, charterer, or carrier seventy-
<table>
<thead>
<tr>
<th>MARITIME LABOR CONVENTION, 2006, AS AMENDED</th>
<th>DOMESTIC LAW OF MEXICO</th>
<th>COMMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>fly its flag comply with the following requirements:</td>
<td>VIII. The indication that the worker will be qualified or trained under the terms of the established plans and programs, or that will be established in the company in accordance with the provisions in this Law; and</td>
<td></td>
</tr>
<tr>
<td>(a) seafarers working on ships that fly its flag 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 Convention;</td>
<td>IX. Other work conditions, such as days off, vacations and others that are agreed upon by the worker and the employer.</td>
<td></td>
</tr>
<tr>
<td>(b) 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;</td>
<td>Article 28. During the rendering of the services of Mexican workers outside of the Republic, contracted in national territory and whose labor contract is regulated by this Law, the following will be observed:</td>
<td></td>
</tr>
<tr>
<td>(c) the shipowner and seafarer concerned shall each have a signed original of the seafarers’ employment agreement;</td>
<td>I. The labor conditions will be documented in writing and will contain, besides the stipulations in Article 25 of this Law, the following:</td>
<td></td>
</tr>
<tr>
<td>(d) measures shall be taken to ensure that clear information as to the conditions of their 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</td>
<td>a) Indicate that the expenses of repatriation remain at the expense of the contracting company;</td>
<td></td>
</tr>
<tr>
<td>(e) seafarers shall be given a document containing a record of their employment on board the ship.</td>
<td>b) The decent and hygienic housing conditions that the worker will enjoy, through leasing or any other form;</td>
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</tr>
<tr>
<td>2. 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):</td>
<td>c) The form and conditions under which the worker and his family, when applicable, will be granted the corresponding medical attention; and</td>
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<td></td>
<td>d) The mechanisms for informing the worker on the Mexican consular and diplomatic authorities to whom he can turn to outside of Mexico and the appropriate authorities of the country where the services will be rendered, when the worker considers that his rights have been infringed upon, for the purpose of exercising the appropriate legal action;</td>
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<td></td>
<td>II. The employer will stipulate in the labor contract an address within the Republic for all legal purposes;</td>
<td>two hours in advance. Because the minimum period is seven days under the Standard A2.1 (S)</td>
</tr>
<tr>
<td><strong>MARITIME LABOR CONVENTION, 2006, AS AMENDED</strong></td>
<td><strong>DOMESTIC LAW OF MEXICO</strong></td>
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<tr>
<td>(a) a copy of a standard form of the agreement; and</td>
<td>III. The labor contract will be submitted to the approval of the Federal Board of Conciliation and Arbitration, which, after verifying that it complies with the provisions referred to in sections I and II of this Article will approve it. When the employer does not have a permanent establishment and fiscal domicile or a domicile for commercial representation in the national territory, the Federal Board of Conciliation and Arbitration will set the amount of a bond or deposit to guarantee compliance to the contractual obligations. The employer must verify before the same Board the granting of the bond or the constitution of the deposit;</td>
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<tr>
<td>(b) the portions of the collective bargaining agreement that are subject to a port State inspection under Regulation 5.2.</td>
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<tr>
<td>3. The document referred to in paragraph 1© of this Standard 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 determined by national law.</td>
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<tr>
<td>4. Each Member shall adopt laws and regulations specifying the matters that are to be included in all seafarers’ employment agreements governed by its national law. Seafarers’ employment agreements shall in all cases contain the following particulars:</td>
<td></td>
<td>Article 28-A. In the case of Mexican workers recruited and selected in Mexico for a concrete employment outside of Mexico of a determined duration, through mechanisms agreed on by the government of Mexico with a foreign government, the provision in said agreement will be observed, that at all times will safeguard the rights of the workers according to the following criteria:</td>
</tr>
<tr>
<td>(a) the seafarer’s full name, date of birth or age, and birthplace;</td>
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<tr>
<td>(b) the shipowner’s name and address;</td>
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<td>Article 28-B. In the case of Mexican workers recruited and selected in Mexico for a concrete employment outside of Mexico of a determined duration, that are placed by private entities, the following standards will be observed:</td>
</tr>
<tr>
<td>(c) the place where and date when the seafarers’ employment agreement is entered into;</td>
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<tr>
<td>(d) the capacity in which the seafarer is to be employed;</td>
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<tr>
<td>(e) the amount of the seafarer’s wages or, where applicable, the formula used for calculating them;</td>
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<tr>
<td>(f) the amount of paid annual leave or, where applicable, the formula used for calculating it;</td>
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<td>(g) the termination of the agreement and the conditions thereof, including:</td>
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<td>(i) 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;</td>
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<tr>
<td>(ii) if the agreement has been made for a definite period, the date fixed for its expiry; and</td>
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<td>(iii) 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;</td>
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<td>MARITIME LABOR CONVENTION, 2006, AS AMENDED</td>
<td>DOMESTIC LAW OF MEXICO</td>
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<td>(h) the health and social security protection benefits to be provided to the seafarer by the shipowner; (i) the seafarer’s entitlement to repatriation; (j) reference to the collective bargaining agreement, if applicable; and (k) any other particulars which national law may require.</td>
<td>Title Six Special Jobs Chapter III Workers on ships</td>
<td>Article 194. Labor conditions will be documented in writing. One copy will remain in the possession of each party, another copy will be delivered to the Harbormaster or nearest Mexican consul, and the fourth copy to the Office of Labor Inspection in the place stipulated.</td>
</tr>
<tr>
<td>5. Each Member shall adopt laws or regulations establishing minimum notice periods to be given by the seafarers and shipowners for the early termination of a seafarers’ employment agreement. The duration of these minimum periods shall be determined after consultation with the shipowners’ and seafarers’ organizations concerned, but shall not be shorter than seven days.</td>
<td></td>
<td>Article 195. The document referred to in the preceding Article will contain: I. The place and date of its execution; II. Name, nationality, age, sex, civil status, and address of the worker and the employer; III. Mention of the ship or ships aboard which such services will be rendered; IV. Whether it is made for a determined period, an undetermined period, or by voyage or voyages; V. The service that must be rendered, specifying it with the greatest clarity; VI. The distribution of the times of the work shifts; VII. The amount of wages; VIII. The lodging and meals which will be supplied to the worker; IX. The annual vacation periods; X. The rights and obligations of the worker; XI. The percentage that workers will receive with respect to the salvaging of another ship; and XII. All other provisions agreed to between the parties.</td>
</tr>
<tr>
<td>6. A notice period shorter than the minimum may be given in circumstances which are recognized under national law or regulations or applicable collective bargaining agreements as justifying termination of the employment agreement at shorter notice or without notice. In determining those circumstances, each Member shall ensure that the need of the seafarer to terminate, without penalty, the employment agreement on shorter notice or without notice for compassionate or other urgent reasons is taken into account.</td>
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<td>Article 197. For the rendering of the services of Mexican workers on foreign ships, the provision in Article 28 will be observed.</td>
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<td>Article 208. The following are considered special reasons for the rescission of labor relations:</td>
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<td>MARITIME LABOR CONVENTION, 2006, AS AMENDED</td>
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| I. The absence of a worker on board at the hour scheduled for leaving or after presenting himself, he disembarks and does not make the voyage;  
II. The worker is in a state of intoxication during working hours while the ship is in port, as the ship sails, or during the trip;  
III. The worker uses narcotics or mind-altering drugs during his stay on board, without a medical prescription.  
On boarding, the worker must make it known to the employer and present the prescription signed by the doctor;  
IV. Insubordination or disobedience of the orders of a ship’s captain in his character of authority;  
V. The cancellation or permanent revocation of the certificates of fitness or of the seaman’s book required by the laws and regulations;  
VI. The violation of the laws related to importation or exportation of goods while performing his services; and  
VII. The execution of any act or the intentional omission or negligence that can place his safety or the safety of other workers, the passengers or third parties or that damages, causes hardship, or places in danger the goods of the employer or of third parties during the performance of their jobs on the part of the worker. | Article 209. Termination of workers’ contracts will be subject to the following Standards:  
I. When the contract will expire within ten days or less and a new voyage is planned that exceeds the duration of this term, the workers can request the termination of the contracts, giving three days-notice before the embarking of the ship;  
II. The labor relations cannot be terminated when the ship is at sea or while in port, the termination is sought within twenty-four hours before embarking, unless in this |
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<td>last case the final destination of the ship is changed:</td>
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<td><strong>III.</strong> Furthermore, the labor relations cannot be terminated when the ship is outside the country, in places without populations or in port, provided that in this last case the ship is exposed to any risk from bad weather or other circumstances;</td>
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<td><strong>IV.</strong> When the labor relation is for an indefinite period, the worker must give notice to the provisioner, charterer, or carrier seventy-two hours in advance;</td>
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<tr>
<td><strong>V.</strong> When the ship is lost through seizure or natural disaster the labor relations of the workers will be terminated and the provisioner, charterer, or carrier will be obligated to repatriate the workers and to cover the total of their wages until their return to the port of destination, or that which is stipulated in the contract and that of the benefits that they have a right to. The workers and the employer can agree that the workers will be provided with other jobs of the same category in another ship of the employer; if they do not reach an agreement, the workers will have the right to payment of their benefits in conformity to the provision in Article 436; and</td>
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<tr>
<td><strong>VI.</strong> A change of the nationality of a Mexican ship is grounds for termination of the labor relation. The provisioner, charterer, or carrier will be obligated to repatriate the workers and cover the amount of the wages and benefits referred to in the first paragraph of the latter section. The workers and the employers can agree to provide those workers with jobs of the same category on another ship of the employer. If they do not reach an agreement, the workers will be entitled to the payment of benefits in conformity with the provision in Article 50.</td>
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**Article 386.** The collective labor contract is the agreement made
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<td>between one or several unions of workers and one or several employers, or one or several unions of employers, for the purpose of establishing the conditions under which service is rendered in one or more companies or establishments.</td>
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**Article 387.** The employer that employs workers who are members of a union will have the obligation of making a collective contract with the employer, when it is requested. If the employer refuses to sign the contract, the employees can exercise their right to strike as stipulated in Article 450.

**Article 388.** If several unions exist within the same company, the following standards will be observed:

I. If at the same time, there are company unions or industrial unions or one and the other, the collective contract will be made with that which has the greater number of workers within the company;

II. If at the same time there are trades unions, the collective contract will be made with the agreement of the unions that represent the majority of trades, provided that they are in agreement. In the opposite case, each union will make a collective agreement for its respective profession; and

III. If there are professional unions and company unions or industry unions at the same time, the first can make a collective agreement for their profession, provided that the number of its affiliates is greater than the employees of the same profession that form part of the union of the company or of the industry.

**Article 390.** The collective labor contract must be made in writing, under penalty of cancellation. It will be made in triplicate, and a
<table>
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<th>Article 391</th>
<th>The collective contract will contain:</th>
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<tbody>
<tr>
<td>I.</td>
<td>The names and addresses of the contracting parties;</td>
</tr>
<tr>
<td>II.</td>
<td>The companies and establishments that it covers;</td>
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<tr>
<td>III.</td>
<td>The duration or the expression of being for indeterminate time or for a specific job;</td>
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<tr>
<td>IV.</td>
<td>The labor shifts;</td>
</tr>
<tr>
<td>V.</td>
<td>The days off and vacations;</td>
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<tr>
<td>VI.</td>
<td>The amount of wages;</td>
</tr>
<tr>
<td>VII.</td>
<td>The clauses relevant to the qualification or training of the workers in the company or establishment that it pertains to;</td>
</tr>
<tr>
<td>VIII.</td>
<td>Provisions for the initial qualification or training that is given to those who begin working for the company or establishment;</td>
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<tr>
<td>IX.</td>
<td>The criteria for the integration and operation of the commissions that must be a part of this agreement in conformity with the Law; and</td>
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<tr>
<td>X.</td>
<td>All other stipulations that the parties agree to.</td>
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</table>

**Article 391 Bis.** The Boards of Conciliation and Arbitration will make public for the consultation of any person, the information of the collective labor contracts that are found deposited before the same. Furthermore, they must issue copies of said documents, under the terms of the provision in the Federal Law of Transparency and Access to Public Governmental Information.
<table>
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<tr>
<th>MARITIME LABOR CONVENTION, 2006, AS AMENDED</th>
<th>DOMESTIC LAW OF MEXICO</th>
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<tr>
<td>Information and the laws that regulate the access to governmental information of the States and Federal District, as applicable. Preferably, the integral text of the public versions of the collective labor contracts must be available free of charge on the Internet sites of the Board of Conciliation and Arbitration.</td>
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</table>

**Article 392.** The organization of Joint Commissions for the compliance of specific social and economic functions can be established in the collective contracts. Their resolutions will be executed by the Boards of Conciliation and Arbitration, in the cases in which the parties declare them to be obligatory.

**Article 393.** The agreement that lacks the determination of wages will not be recognized as a collective contract. If stipulations for the labor shift, days off and vacations, are not mentioned, the legal provisions will be applied.

**Article 394.** The collective contract cannot institute conditions less favorable for the employees than those contained in the existing contracts in effect in the company or establishment.

**Article 395.** In the collective contract it can be established that the employer will admit exclusively as employees those who are members of the contracting union. This clause and any others that establish privileges in their favor, will not be applied with prejudice to the employees that do not join the union and that are already rendering their services in the company or establishment, from before the date in which the union requests the making or review of the collective labor contract and the inclusion of the exclusionary clause.
<table>
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<tr>
<th><strong>Regulation 2.2 – Wages</strong>&lt;br&gt;<em>Purpose:</em> To ensure that seafarers are paid for their services</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Each Member shall require that payments due to seafarers working on ships that fly its flag are made at no greater than monthly intervals and in accordance with any applicable collective agreement.</td>
</tr>
<tr>
<td>2. 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.</td>
</tr>
<tr>
<td>3. Each Member shall require that shipowners take measures, such as those set out in paragraph 4 of this Standard, to provide seafarers with a means to transmit all or part of their earnings to their families or dependants or legal beneficiaries.</td>
</tr>
<tr>
<td>4. Measures to ensure that seafarers are able to transmit their earnings to their families include:</td>
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<td>(a) 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</td>
</tr>
<tr>
<td>(b) a requirement that allotments should be remitted in due time and directly to the person or persons nominated by the seafarers.</td>
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<tr>
<td>5. Any charge for the service under paragraphs 3 and 4 of this Standard shall be reasonable in</td>
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<tr>
<th><strong>Federal Labor Law</strong>&lt;br&gt;<strong>Title Two</strong>&lt;br&gt;<strong>Individual Labor Relations</strong>&lt;br&gt;<strong>Chapter I</strong>&lt;br&gt;<strong>General Provision</strong></th>
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<tbody>
<tr>
<td><strong>Article 28.</strong> During the rendering of the services of Mexican workers outside of the Republic, contracted in national territory and whose labor contract is regulated by this Law, the following will be observed:</td>
</tr>
<tr>
<td><strong>I.</strong> The labor conditions will be documented in writing and will contain, besides the stipulations in Article 25 of this Law, the following:</td>
</tr>
<tr>
<td>a) Indicate that the expenses of repatriation remain at the expense of the contracting company;</td>
</tr>
<tr>
<td>d) The mechanisms for informing the worker on the Mexican consular and diplomatic authorities to whom he can turn to outside of Mexico and the appropriate authorities of the country where the services will be rendered, when the worker considers that his rights have been infringed upon, for the purpose of exercising the appropriate legal action;</td>
</tr>
<tr>
<td><strong>II.</strong> The employer will stipulate in the labor contract an address within the Republic for all legal purposes;</td>
</tr>
<tr>
<td><strong>III.</strong> The labor contract will be submitted to the approval of the Federal Board of Conciliation and Arbitration, which, after verifying that it complies with the provisions referred to in sections I and II of this Article will approve it.</td>
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<th><strong>Comments</strong></th>
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<tr>
<td>As can be seen, Mexican legislation is in line with the provisions under MLC, 2006. But there is only applicable for Mexican nationals or the ships flying the Mexican flag.</td>
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<tr>
<td>Yearly the Federal Government through the National Commission for Minimum Wages and the Consultative Commissions establish the amount of the wages for all workers. During 2019 the official amount for minimum wages is 102.68 Mexican pesos (around 5.42 US dollars).</td>
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<td>MARITIME LABOR CONVENTION, 2006, AS AMENDED</td>
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<td>amount, and the rate of currency exchange, unless otherwise provided, shall, in accordance with national laws or regulations, be at the prevailing market rate or the official published rate and not unfavourable to the seafarer. 6. Each Member that adopts national laws or regulations governing seafarers’ wages shall give due consideration to the guidance provided in Part B of the Code.</td>
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</tbody>
</table>

**Chapter V**

**Wages**

**Article 82.** Wages are the compensation the employer must pay the worker for his work.

**Article 83.** Wages can be set for a unit of time, for a specific Work, by commission, by price, or by any other manner.

With regard to wages for a unit of time, that nature will be specifically established. The worker and the employer can agree on the amount, provided that it deals with a remunerative wage, as well as the payment for each hour of the rendering of service, provided that the legal maximum work shift is not exceeded and the labor rights are respected and Social Security that corresponds to the term in question. The income received by the workers for this modality, in no case will be lower than that which corresponds to a day shift. When the wages are set for a specific Work, in addition to
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<tr>
<td>specifying the nature of the Work, the quantity and quality of materials will be documented, the condition of the tools and equipment that the employer, when applicable, provides for performing the job; and the time that will be allotted for it to the worker. It is not permitted to deduct anything for the natural wear and tear that is a normal consequence of work for the equipment.</td>
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<td><strong>Article 84.</strong> Wages consist of the cash payments made for the daily wage, tips, compensation, lodging, bonuses, commissions, benefits and whatever other amount or benefit delivered to the worker for his labor.</td>
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<td><strong>Article 85.</strong> Wages must be adequate compensation never less than the minimum set according to the provisions of this Law. In order to set the amount of wages, the quantity and the quality of the work will be taken into consideration. In the case where wages are set for a particular job, the compensation to be paid will be equal to that normally paid for that job, in a shift of eight hours, not less than the minimum wage.</td>
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<td><strong>Article 86.</strong> For equal work, equal in position, shift, and also equal in efficiency, equal pay must be designated.</td>
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<td><strong>Article 87.</strong> Workers will have the right to an annual bonus that must be paid to them before the 20th of December, equivalent to fifteen days of wages, at least. Those who have not completed one-year of employment, aside from whether they are still employed on the date the bonuses are paid, will have the right to be paid a part proportionate to what conforms to the time that they may have been employed, whatever it might be.</td>
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</table>
**Article 88.** The length of time between paydays never can be longer than one week for persons that perform manual labor and fifteen days for all other workers.

**Article 89.** In order to determine the amount of the compensation that must be paid to the employees, the base figure will be the wage paid on the day that the requirement to pay indemnification goes into effect, included in that base are the daily wage and a proportionate part of the benefits mentioned in Article 84.

In the case of wages for a specific job, and in general, when the compensation is variable, the daily wage will be considered to be the average of the compensation paid in the thirty days worked before the right to indemnification goes into effect. If in this aforementioned period of time, he had a raise in wages, the average effective wage paid to the employee from the date of the raise will be used as a base.

When the wages are set by the week or by the month, they will be divided by seven or by 30, according to the case, to determine the daily wage.

---

**Chapter VI**  
**Minimum Wage**

**Article 90.** The minimum wage is the lowest quantity a worker must receive in cash for services rendered in one work shift. The minimum wage must be sufficient to satisfy the normal necessities of the head of the family in the material, social and cultural order, and to provide for the obligatory education of his children.

The minimum wage always must be paid in cash without any amount discounted, except for that specified in Article 97.
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<thead>
<tr>
<th>MARITIME LABOR CONVENTION, 2006, AS AMENDED</th>
<th>DOMESTIC LAW OF MEXICO</th>
<th>COMMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 91. The minimum wages can be general for one or several geographical areas of application that can be extended to one or more States or professional entities, for specific branch of economic activity or by specific professions, trades, or specialties, within one or several geographic areas.</td>
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<td>Article 92. The general minimum wages will be in effect for all the workers of an area or specific geographical areas, independently from the branches of economic activity, professions, trades, or specialties.</td>
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<tr>
<td>Article 93. The minimum professional wages will apply to all workers of the branches of economic activity, professions, trades, or specialties that are determined within one or several geographic areas of application.</td>
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<tr>
<td>Article 94. The minimum wages will be set by a National Commission made up of representatives of the workers, the employers, and the government, which can assist by special commissions in a consultative capacity it considers indispensable for the best completion of its operations.</td>
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<tr>
<td>Article 95. The National Commission for Minimum Wages and the Consultative Commissions will join together in tri-partite form, in accordance with Chapter II, Title 13 of this Law.</td>
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<tr>
<td>Article 96. The National Commission will determine the division of the Republic into geographic areas, those that will be constituted of one or more municipalities which must be regulated by the same minimum wage, it being unnecessary that the area designated be a continuous unbroken territory.</td>
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</tbody>
</table>
**Article 97.** The minimum wages cannot be the object of compensation, discount or reduction, except in the following cases:

I. Support payments decreed by the appropriate authority in favor of the persons mentioned in Article 110, Section V;

II. Payments of rents referred to in Article 151. This discount cannot exceed ten percent of the wage.

III. Payment of payments to cover loans originating from the National Housing Fund for Workers (INFONAVIT) designated for the acquisition, construction, renovation, enlarging or improving of homes or the payment of debts acquired for these purposes. Furthermore, to those workers who have been extended credit for the acquisition of housing located in attached housing financed by the Institute of the National Housing Fund for Workers, 1% of the wages referred to in Article 143 of this Law will be deducted, that will go to cover the costs which are accrued for administration, operation and maintenance of the attached housing in question. These deductions must have been accepted freely by the worker and cannot exceed 20% of the wage.

IV. The payment of payments to cover credits granted or guaranteed by the Fund referred to in Article 103 (Bis) of this Law, designated for the acquisition consumer hard goods or the payment of services. These deductions will be preceded by the acceptance freely entered into by the employee and cannot exceed 10% of the salary.

Chapter VII
Protective Standards and Privileges of Wages
### Article 98. The workers can freely dispose of their wages. Whatever disposition or measure that limits this right is void.

### Article 99. The right to collect a wage is irrevocable. It is equally a right to receive wages earned.

### Article 100. The wage will be paid directly to the worker. Only in cases where it is impossible to collect wages personally, the payment will be made to the person designated by a letter of Power of Attorney signed by two witnesses. Payment made outside the provision established in the latter paragraph does not free the employer from liability.

### Article 101. Cash wages must be paid precisely in legal tender; it is not permitted to pay wages in merchandise, valuables, tokens, or any other representative scrip meant to be substituted for cash. With prior consent from the worker, the payment of the wages can be made by means of deposit in a bank account, debit card, transfers or any other electronic media. The expenses or costs caused by these alternative means of payment will be covered by the employer.

### Article 102. The compensation paid in kind must be appropriate for the personal use of the worker and his family and reasonably proportionate to the salary that is paid in cash.

### Article 103. Warehouses and shops that supply clothes, food, and Articles for the home, they can be established by agreement between the employees and the employer, of one or several businesses, in conformity with the following standards:
<table>
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<tr>
<th>MARITIME LABOR CONVENTION, 2006, AS AMENDED</th>
<th>DOMESTIC LAW OF MEXICO</th>
<th>COMMENTS</th>
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</thead>
<tbody>
<tr>
<td>I. The acquisition of merchandise will take place freely without coercion over the workers; II. The sale prices of the products will be set by agreement between the workers and the employers, and never can be higher than the official prices or in the absence of official prices, they cannot differ from the current market price;</td>
<td>Article 112. The wages of the workers cannot be garnisheed, except in case of support payments decreed by the appropriate authority for the benefit of the persons stipulated in Article 110, Section V. Article 113. The wages earned in the last year and the indemnifications owed to workers take preference over any other debt, including those secured, taxes, and those debts owed to Mexican Institute of Social Security (IMSS), and overall the property of the employer. Article 114. The workers do not need to enter into lawsuits, bankruptcy proceedings, suspension of payments, or any legal proceedings. The Board of Conciliation and Arbitration will proceed to seize and liquidate the assets necessary to pay the wages and indemnifications. Article 115. The beneficiaries of the deceased worker will have the right to receive the benefits and pending indemnifications to be covered, exercise legal action, and continue the legal proceedings, without an inheritance judgment.</td>
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Title Six
Special Jobs
Chapter III
Workers on ships

Article 195. The document referred to in the preceding Article will contain:
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<thead>
<tr>
<th>MARITIME LABOR CONVENTION, 2006, AS AMENDED</th>
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<th>COMMENTS</th>
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<tr>
<td>VII. The amount of wages</td>
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<tr>
<td>Article 197. For the rendering of the services of Mexican workers on foreign ships, the provision in Article 28 will be observed.</td>
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<tr>
<td>Article 200. The provision that stipulates wages distinct for equal work if rendered on different categories of ships does not violate the principle of equality of wages</td>
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<tr>
<td>Article 201. When the ship is in a foreign port, at the choice of the workers, wages can be paid in the equivalent foreign currency, at the exchange rate in effect on the date in which they collect their wages.</td>
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<tr>
<td>Article 202. Workers that work per voyage have the right to a proportional raise in wages in case of the prolonging or delaying of the voyage. Wages cannot be reduced if the voyage is shortened, for any reason.</td>
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<tr>
<td>Article 203. Wages and benefits of workers are covered under the terms of Article 113, on the ship, its machinery, tackle, stores, and cargo. For these purposes the owner of the ship is jointly responsible with the employer for the wages and benefits of the workers. When there are labor obligations from different voyages the last will have preference for establishing benefits.</td>
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<tr>
<td>Article 391. The collective contract will contain: VI. The amount of wages;</td>
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</tr>
<tr>
<td>Navigational Law and Maritime Commerce</td>
<td>Chapter II Seizure or retention of ships or cargo</td>
<td></td>
</tr>
<tr>
<td>Article 268. The creditor or the holder of rights of retention of a</td>
<td></td>
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</tbody>
</table>
### MARITIME LABOR CONVENTION, 2006, AS AMENDED

### DOMESTIC LAW OF MEXICO

| Article 269. The seizure of ships or naval artifacts will only be admitted for the following credits: XV. Wages and benefits due to the captain, officers and other members of the crew by virtue of their enrollment on board the ship, including repatriation expenses and social security contributions payable on their behalf; |

### COMMENTS

#### Article 269

The seizure of ships or naval artifacts will only be admitted for the following credits: 

**XV. Wages and benefits due to the captain, officers and other members of the crew by virtue of their enrollment on board the ship, including repatriation expenses and social security contributions payable on their behalf.**

#### Regulation 2.3 – Hours of work and hours of rest

**Purpose:** To ensure that seafarers have regulated hours of work or hours of rest

1. Each Member shall ensure that the hours of work or hours of rest for seafarers are regulated.
2. Each Member shall establish maximum hours of work or minimum hours of rest over given periods that are consistent with the provisions in the Code.

#### Standard A2.3 – Hours of work and hours of rest

1. For the purpose of this Standard, the term:
   
   - (a) **hours of work** means time during which seafarers are required to do work on account of the ship;
   - (b) **hours of rest** means time outside hours of work; this term does not include short breaks.

2. Each Member shall within the limits set out in paragraphs 5 to 8 of this Standard fix either a maximum number of hours of work which shall not be exceeded in a given period of time, or a minimum number of hours of rest

### Federal Labor Law

#### Title One

**General Principles**

**Article 5.** The provisions in this Law are for the public order, for which reason no stipulation will be legal, nor will impede the enjoyment, and the exercise of rights, whether written or verbal, that establishes:

**III. An inhuman notoriously excessive shift, given the nature of the work, in the judgment of the Board of Conciliation and Arbitration**

#### Title Two

**Individual Labor Relations**

**Chapter I**

**General Provision**

**Article 25.** The document in which are recorded the labor conditions must contain:

**V. Duration of the shift;**

**IX. Other work conditions, such as days off, vacations and others that are agreed upon by the worker and the employer.**

In general, the domestic legislation complies with the MLC, 2006 provisions, but there are some differences:

- Article 60 of the Federal Labor Law, refers to the day shift is understood to be the time period between 6 a.m. and 8 p.m. The night shift is understood to be between 8 p.m. and 6 a.m. The mixed shift is understood to be comprised of periods of time from the day shift and the night shift, provided that the night period is less than 3 and a half hours, if it consists of 3 and a half hours or more it will be considered the night shift.

- The absence of provision related to post a table with the board working arrangements, including the schedule of service at sea and service in port; and the maximum hours of work or the minimum hours of rest in Spanish and English language (for international voyages).

- Mexico is not a State Party of the Seafarers’ Hours of Work and the Manning of Ships.
which shall be provided in a given period of time.

3. Each Member acknowledges that the normal working hours’ standard for seafarers, like that for other workers, 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 the Member from having procedures to authorize or register a collective agreement which determines seafarers’ normal working hours on a basis no less favourable than this standard.

4. In determining the national standards, each Member shall take account of the danger posed by the fatigue of seafarers, especially those whose duties involve navigational safety and the safe and secure operation of the ship.

5. The limits on hours of work or rest shall be as follows:
(a) maximum hours of work shall not exceed:
   (i) 14 hours in any 24-hour period; and
   (ii) 72 hours in any seven-day period;
(b) minimum hours of rest shall not be less than:
   (i) ten hours in any 24-hour period; and
   (ii) 77 hours in any seven-day period.

6. 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.

7. 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.

8. 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.

9. If no collective agreement or arbitration award exists or if the

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<tr>
<td>Article 28. During the rendering of the services of Mexican workers outside of the Republic, contracted in national territory and whose labor contract is regulated by this Law, the following will be observed:</td>
<td>Article 58. The labor shift is the time during which the worker is at the disposition of the employer in order to render service.</td>
<td>Convention, 1996 (No. 180). For this reason during the implementation the Secretariat of Labor Force in coordination with the Secretariat of the Navy and Secretariat of Communication and Transport could use the Guidelines for the Development of Tables of Seafarers’ Shipboard Working Arrangements and Formats of Records of Seafarers’ Hours of Work or Hours of Rest, developed by ILO and IMO.</td>
</tr>
<tr>
<td>I. The labor conditions will be documented in writing and will contain, besides the stipulations in Article 25 of this Law, the following:</td>
<td>Article 59. The worker and the employer will set the duration of the labor shift, without exceeding the legal maximum length. The workers and the employer will be able to divide the work hours, so that Saturday afternoon can be free or whatever equivalent method can be worked out.</td>
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</tr>
<tr>
<td><strong>Title Three</strong> Labor Conditions <strong>Chapter II</strong> The Labor Shift</td>
<td>Article 60. The day shift is understood to be the time period between 6 a.m. and 8 p.m. The night shift is understood to be between 8 p.m. and 6 a.m. The mixed shift is understood to be comprised of periods of time from the day shift and the night shift, provided that the night period is less than 3 and a half hours, if it consists of 3 and a half hours or more it will be considered the night shift.</td>
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<tr>
<td>Article 61. The maximum duration of the shift will be: eight hours for the day shift, seven the night shift, and seven and a half hours the mixed shift.</td>
<td>Article 62.</td>
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<tr>
<td><strong>MARITIME LABOR CONVENTION, 2006, AS AMENDED</strong></td>
<td><strong>DOMESTIC LAW OF MEXICO</strong></td>
<td><strong>COMMENTS</strong></td>
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<td>competent authority determines that the provisions in the agreement or award in respect of paragraph 7 or 8 of this Standard are inadequate, the competent authority shall determine such provisions to ensure the seafarers concerned have sufficient rest.</td>
<td>Article 62. To set the work shift, the provision in Article 5, Section III will be observed.</td>
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<tr>
<td>10. Each Member shall require the posting, in an easily accessible place, of a table with the shipboard working arrangements, which shall contain for every position at least: (a) the schedule of service at sea and service in port; and (b) the maximum hours of work or the minimum hours of rest required by national laws or regulations or applicable collective agreements.</td>
<td>Article 65. In situations of unforeseen loss or imminent risk that endangers the life of the employee, or his co-workers, or the employer, or the existence of the business, the labor shift may be prolonged for the time strictly necessary to avoid these situations.</td>
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<tr>
<td>11. The table referred to in paragraph 10 of this Standard shall be established in a standardized format in the working language or languages of the ship and in English.</td>
<td>Article 66. The work shift also can be prolonged for extraordinary circumstances, without ever exceeding three hours a day or three times in one week.</td>
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<tr>
<td>12. Each Member shall require that records of seafarers’ daily hours of work or of their daily hours of rest be maintained to allow monitoring of compliance with paragraphs 5 to 11 inclusive of this Standard. The records shall be in a standardized format established by the competent authority taking into account any available guidelines of the International Labour Organization or shall be in any standard format prepared by the Organization. They shall be in the languages required by paragraph 11 of this Standard. 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.</td>
<td>Article 67. The hours of labor referred to in the Article 65, will be compensated with a correspondingly equal amount of time in the regular shift. The overtime work will be paid with an additional 100% of the salary that corresponds to that shift.</td>
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<tr>
<td>13. Nothing in paragraphs 5 and 6 of this Standard shall prevent a Member from having national laws or regulations or a procedure for the competent authority to authorize or register collective agreements permitting exceptions to the limits set out. Such exceptions shall, as far as possible, follow the provisions of this Standard but may take account of more frequent or longer leave periods or the granting of compensatory leave for watchkeeping seafarers or seafarers</td>
<td>Article 68. The workers are not obligated to render services for time period greater than that permitted in this Chapter. Extending overtime in excess of nine hours for the week obligates the employer to pay to the employee the hours in excess of nine hours with 200% more than the wage that corresponds to the shift without freeing him from the sanctions established in this law.</td>
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<tr>
<td><strong>Chapter III Days off</strong></td>
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<td>Article 69. For every six days of work the worker will enjoy one day of rest, at least, and still be entitled to his full salary.</td>
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<td>Article 70. In those jobs that require continuous labor, the employees and the employer will set by mutual agreement the days in which the employees will be able to enjoy their regular day off.</td>
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<tr>
<td>MARITIME LABOR CONVENTION, 2006, AS AMENDED</td>
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<td>working on board ships on short voyages.</td>
<td>Article 71. In the regulations in this Law it is mandated that the weekly day of rest be Sunday. The workers who work on Sunday will have the right to an additional bonus of 25 per cent, at least, in addition to the normal salary.</td>
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<tr>
<td>14. Nothing in this Standard 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.</td>
<td>Article 73. Workers are not obligated to render services on their days off. If this provision is broken, the employer will pay to the employee, aside from the wages for his regular days off, double his wages for the time worked.</td>
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<td>Article 74. The following are mandatory days off:</td>
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<tr>
<td>I. The 1&lt;sup&gt;st&lt;/sup&gt; of January; (New Year’s day)</td>
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<td>II. The first Monday of February in commemoration of the 5&lt;sup&gt;th&lt;/sup&gt; of February; (Constitutions day)</td>
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<td>III. The third Monday of March in commemoration of the 21&lt;sup&gt;st&lt;/sup&gt; of March; (Benito Juarez’s birthday)</td>
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<td>IV. The 1&lt;sup&gt;st&lt;/sup&gt; of May; (Labor day)</td>
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<td>V. The 16&lt;sup&gt;th&lt;/sup&gt; of September; (Independence day)</td>
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<td>VI. The third Monday of November in commemoration of the 20&lt;sup&gt;th&lt;/sup&gt; of November; (Revolution day)</td>
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<td>VII. The 1&lt;sup&gt;st&lt;/sup&gt; of December every six years, when it corresponds to the transition of the Federal Executive Power (when the new President takes office);</td>
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<td>VIII. The 25&lt;sup&gt;th&lt;/sup&gt; of December (Christmas day)</td>
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<td>IX. The day determined by the Federal Laws and State election laws, in the case of ordinary elections, in order to set the date for elections.</td>
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<td>Article 75. In the cases related to the preceding Article, the workers and the employers will determine the number of workers that must render services. If they don’t arrive at an agreement, it will be resolved by the Board of Permanent</td>
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Conciliation or in its absence by the Board of Conciliation and Arbitration. The employees will remain obligated to render services and will have the right to be paid, aside from wages that correspond to them for the holiday, a wage doubled for the extra time worked.

**Title Six**  
**Special Jobs**  
**Chapter I**  
**General dispositions**

A181. Special work is governed by the standards of this Title and by the general standards of this Law except when this Title overrides them.

**Chapter III**  
**Workers on ships**

**Article 195.** The document referred to in the preceding Article will contain:

VI. The distribution of the times of the work shifts;

**Article 198.** When the ship is at sea and the nature of the job does not permit the weekly day of rest, the provision in Article 73 will apply.

**Article 205.** Workers will have a special obligation to respect and execute the instructions and practices designated for preventing maritime accidents, which will be carried out under the terms determined by the laws and provisions on sea travel. Captains and other officers will operate, in those cases, as representatives of authority and not as representatives of employers.

<table>
<thead>
<tr>
<th>Regulation 2.4 – Entitlement to leave</th>
<th>Federal Labor Law</th>
<th>COMMENTS</th>
</tr>
</thead>
</table>
| **Purpose:** To ensure that seafarers have adequate leave | **Title Two**  
**Individual Labor Relations**  
**Chapter I**  
**General Provision** | There is a mayor difference under the domestic legislation based in the method for calculate the period of vacations/leaves, in Mexico the minimum period is twelve (12) working days of annual paid vacations, increased by two days each year of services until reaching |
| 1. Each Member shall require that seafarers employed on ships that fly its flag are given paid annual leave under | | |
appropriate conditions, in accordance with the provisions in the Code.
2. Seafarers shall be granted shore leave to benefit their health and well-being and consistent with the operational requirements of their positions.

**Standard A2.4 – Entitlement to leave**

1. Each Member shall adopt laws and regulations determining the minimum standards for annual leave for seafarers serving on ships that fly its flag, taking proper account of the special needs of seafarers with respect to such leave.

2. Subject to any collective agreement or laws or regulations providing for an appropriate method of calculation that takes account of the special needs of seafarers in this respect, the annual leave with pay entitlement shall be calculated on the basis of a minimum of 2.5 calendar days per month of employment. The manner in which the length of service is calculated shall be determined by the competent authority or through the appropriate machinery in each country.

Justified absences from work shall not be considered as annual leave.

3. Any agreement to forgo the minimum annual leave with pay prescribed in this Standard, except in cases provided for by the competent authority, shall be prohibited.

**Article 25.** The document in which are recorded the labor conditions must contain:

**IX.** Other work conditions, such as days off, vacations and others that are agreed upon by the worker and the employer

**Article 28.** During the rendering of the services of Mexican workers outside of the Republic, contracted in national territory and whose labor contract is regulated by this Law, the following will be observed:

1. The labor conditions will be documented in writing and will contain, besides the stipulations in Article 25 of this Law, the following:

**Title Three**

**Labor Conditions**

**Chapter IV**

**Vacations**

**Article 79.** Vacation days cannot be compensated by a payment. If the labor relation ends before one year of service has been completed, the worker will have the right to compensation commensurate to the time worked.

**Article 80.** Workers will have the right to a bonus not less than 25% of the wages that correspond to the vacation period.

**Article 81.** The vacation time must be allotted to the employee within 6 months following the completion of one year of employment. Employers will deliver annually to their workers a record that details their seniority and based on that record, the corresponding vacation days and the date in which they must be enjoyed.

**Title Six**

**Special Jobs**

**Chapter I**

**General Provisions**

**Article 181.** Special work is governed by the standards of this twenty-four. Afterwards, the period of vacations will be increased in two days for each five years of services.

In the practice, under the Collective Bargaining Agreement, the periods increase.
<table>
<thead>
<tr>
<th>Title and by the general standards of this Law except when this Title overrides them.</th>
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</table>
| **Chapter III**  
**Workers on ships**  
**Article 195.** The document referred to in the preceding Article will contain:  
**IX.** The annual vacation periods; |
| **Article 196.** The labor relation by voyage will consist of a time period counted from the boarding of the worker until the boat is unloaded or the disembarking of the passengers in the port that is stipulated.  
If it is for a determined time period or an undetermined time period, the port will set that which must be restituted to the worker, and in the lack of it, the place where is was taken will be stipulated. |
| **Article 199.** Workers have the right to a minimum period of twelve working days of annual paid vacation, which will be increased by two working days each year of services until reaching twenty-four. Afterwards, the period of vacations will be increased in two days for each five years of services.  
Vacations must be taken with time off and can be divided when the labor schedule requires it. |
| **Article 204.** Employers have the following special obligations:  
**IX.** To repatriate or transfer workers to the place agreed on, except in cases of dismissal for reasons not attributable to the employer; and |

| **Regulation 2.5 – Repatriation**  
*Purpose: To ensure that seafarers are able to return home*  
1. Seafarers have a right to be repatriated at no cost to themselves in |
| **Federal Labor Law**  
**Title Six**  
**Special Jobs**  
**Chapter III**  
**Workers on ships** |
Under the domestic legislation there do not exist any provision related to: |
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<td>the circumstances and under the conditions specified in the Code.</td>
<td><strong>Article 204.</strong> Employers have the following special obligations:</td>
<td>• maximum duration of service periods for seafarers;</td>
</tr>
<tr>
<td>2. Each Member shall require ships that fly its flag to provide financial security to ensure that seafarers are duly repatriated in accordance with the Code.</td>
<td><strong>IX.</strong> To repatriate or transfer workers to the place agreed on, except in cases of dismissal for reasons not attributable to the employer; and</td>
<td>• the duty to the employers for covers the expenses related to the destination of repatriation, the mode of transportation, the item of expense to be covered.</td>
</tr>
<tr>
<td><em>Standard A2.5.1 – Repatriation</em></td>
<td><strong>Title Two</strong> Individual Labor Relations</td>
<td>• The duty to carry on board the copy of national provision regarding repatriation written in an appropriate language.</td>
</tr>
<tr>
<td>1. Each Member shall ensure that seafarers on ships that fly its flag are entitled to repatriation in the following circumstances:</td>
<td><strong>Chapter I</strong> General Provision</td>
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<td>(a) if the seafarers’ employment agreement expires while they are abroad;</td>
<td><strong>Article 25.</strong> The document in which are recorded the labor conditions must contain:</td>
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<td>(b) when the seafarers’ employment agreement is terminated:</td>
<td><strong>IX.</strong> Other work conditions, such as days off, vacations and others that are agreed upon by the worker and the employer.</td>
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<td>(i) by the shipowner; or</td>
<td><strong>Article 28.</strong> During the rendering of the services of Mexican workers outside of the Republic, contracted in national territory and whose labor contract is regulated by this Law, the following will be observed:</td>
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<td>(ii) by the seafarer for justified reasons; and also</td>
<td>I. The labor conditions will be documented in writing and will contain, besides the stipulations in Article 25 of this Law, the following:</td>
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<td>(c) 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.</td>
<td>a) Indicate that the expenses of repatriation remain at the expense of the contracting company;</td>
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<td>2. Each Member shall ensure that there are appropriate provisions in its laws and regulations or other measures or in collective bargaining agreements, prescribing:</td>
<td>b) The mechanisms for informing the worker on the Mexican consular and diplomatic authorities to whom he can turn to outside of Mexico and the appropriate authorities of the country where the services will be rendered, when the worker considers that his rights have been infringed upon, for the purpose of exercising the appropriate legal action;</td>
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<tr>
<td>(a) the circumstances in which seafarers are entitled to repatriation in accordance with paragraph 1(b) and (c) of this Standard;</td>
<td>II. The employer will stipulate in the labor contract an address within the Republic for all legal purposes;</td>
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<td>(b) the maximum duration of service periods on board following which a seafarer is entitled to repatriation – such periods to be less than 12 months; and</td>
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<td>(c) the precise entitlements to be accorded by shipowners 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.</td>
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<td>3. Each Member shall prohibit shipowners from requiring that seafarers make an advance payment towards the cost of repatriation at the beginning of their employment, and</td>
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<td>also from recovering the cost of repatriation from the seafarers’ wages or other entitlements except where the seafarer has been found, in accordance with national laws or regulations or other measures or applicable collective bargaining agreements, to be in serious default of the seafarer’s employment obligations.</td>
<td>III. The labor contract will be submitted to the approval of the Federal Board of Conciliation and Arbitration, which, after verifying that it complies with the provisions referred to in sections I and II of this Article will approve it. When the employer does not have a permanent establishment and fiscal domicile or a domicile for commercial representation in the national territory, the Federal Board of Conciliation and Arbitration will set the amount of a bond or deposit to guarantee compliance to the contractual obligations. The employer must verify before the same Board the granting of the bond or the constitution of the deposit;</td>
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<tr>
<td>4. National laws and regulations shall not prejudice any right of the shipowner to recover the cost of repatriation under third-party contractual arrangements.</td>
<td>IV. The worker and the employer must attach to the labor contract the visa or work permit issued by the consular authorities or immigration authorities of the country where the services should be rendered; and</td>
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<tr>
<td>5. If a shipowner fails to make arrangements for or to meet the cost of repatriation of seafarers who are entitled to be repatriated:</td>
<td>V. Once the employer verifies before the Board that he has complied with the contractual obligations, the cancellation of the bond or the return of the deposit will be ordered, that the Board had determined.</td>
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<tr>
<td>(a) the competent authority of the Member whose flag the ship flies shall arrange for repatriation of the seafarers concerned; if it fails to do so, the State from which the seafarers are to be repatriated or the State of which they are a national may arrange for their repatriation and recover the cost from the Member whose flag the ship flies;</td>
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<tr>
<td>(b) costs incurred in repatriating seafarers shall be recoverable from the shipowner by the Member whose flag the ship flies;</td>
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<tr>
<td>(c) the expenses of repatriation shall in no case be a charge upon the seafarers, except as provided for in paragraph 3 of this Standard.</td>
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<td>6. Taking into account applicable international instruments, including the International Convention on Arrest of Ships, 1999, a Member which has paid the cost of repatriation pursuant to this Code may detain, or request the detention of, the ships of the shipowner concerned until the reimbursement has been made in accordance with paragraph 5 of this Standard.</td>
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<td>7. Each Member shall facilitate the repatriation of seafarers serving on ships which call at its ports or pass through its territorial or internal waters, as well as their replacement on board.</td>
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<td>8. In particular, a Member shall not refuse the right of repatriation to any seafarer because of the financial circumstances of a shipowner or</td>
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**Title Six**  
**Special Jobs**  
**Chapter III**  
**Workers on ships**  

**Article 204.** Employers have the following special obligations:  
**VII.** To provide food and lodging, medical treatment, medications, and other therapeutic measures in cases of illnesses, whatever their nature is;  
**IX.** To repatriate or transfer workers to the place agreed on, except in cases of dismissal for reasons not attributable to the employer; and
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<td>because of the shipowner’s inability or unwillingness to replace a seafarer. 9. Each Member shall require that ships that fly its flag carry and make available to seafarers a copy of the applicable national provisions regarding repatriation written in an appropriate language.</td>
<td>Article 209. Termination of workers’ contracts will be subject to the following Standards: V. When the ship is lost through seizure or natural disaster the labor relations of the workers will be terminated and the provisioner, charterer, or carrier will be obligated to repatriate the workers and to cover the total of their wages until their return to the port of destination, or that which is stipulated in the contract and that of the benefits that they have a right to. The workers and the employer can agree that the workers will be provided with other jobs of the same category in another ship of the employer; if they do not reach an agreement, the workers will have the right to payment of their benefits in conformity to the provision in Article 436; and VI. A change of the nationality of a Mexican ship is grounds for termination of the labor relation. The provisioner, charterer, or carrier will be obligated to repatriate the workers and cover the amount of the wages and benefits referred to in the first paragraph of the latter section. The workers and the employers can agree to provide those workers with jobs of the same category on another ship of the employer. If they do not reach an agreement, the workers will be entitled to the payment of benefits in conformity with the provision in Article 50.</td>
<td>Under the domestic legislation there do not exist any provision related to the duty for employers to have an expeditious and effective financial security system as insurance to assist national workers in the event of abandonment.</td>
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**Standard A2.5.2 – Financial security**

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

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

**Federal Labor Law**

**Title Six**

**Special Jobs**

**Chapter III**

**Workers on ships**

**Article 204.** Employers have the following special obligations:

**IX.** To repatriate or transfer workers to the place agreed on, except in cases of dismissal for reasons not attributable to the employer; and
seafarers’ employment agreement, the shipowner:
(a) fails to cover the cost of the seafarer’s repatriation; or
(b) has left the seafarer without the necessary maintenance and support; or
(c) has otherwise unilaterally severed their ties with the seafarer including failure to pay contractual wages for a period of at least two months.
3. Each Member shall ensure that a financial security system meeting the requirements of this Standard is in place for ships flying its flag. The financial security system may be in the form of a social security scheme or insurance or a national fund or other similar arrangements. Its form shall be determined by the Member after consultation with the shipowners’ and seafarers’ organizations concerned.
4. The financial security system shall provide direct access, sufficient coverage and expedited financial assistance, in accordance with this Standard, to any abandoned seafarer on a ship flying the flag of the Member.
5. For the purposes of paragraph 2(b) of this Standard, necessary maintenance and support of seafarers shall include: adequate food, accommodation, drinking water supplies, essential fuel for survival on board the ship and necessary medical care.
6. Each Member shall require that ships that fly its flag, and to which paragraph 1 or 2 of Regulation 5.1.3 applies, carry on board a certificate or other documentary evidence of financial security issued by the financial security provider. A copy shall be posted in a conspicuous place on board where it is available to the seafarers. Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.
7. The certificate or other documentary evidence of financial security shall contain the information required in Appendix A2-I. It shall be in English or accompanied by an English translation.

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<tr>
<td><strong>Title Two</strong> Individual Labor Relations Chapter I General Provision**</td>
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<tr>
<td><strong>Article 25.</strong> The document in which are recorded the labor conditions must contain: <strong>IX.</strong> Other work conditions, such as days off, vacations and others that are agreed upon by the worker and the employer.</td>
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<tr>
<td><strong>Article 28.</strong> During the rendering of the services of Mexican workers outside of the Republic, contracted in national territory and whose labor contract is regulated by this Law, the following will be observed: <strong>I.</strong> The labor conditions will be documented in writing and will contain, besides the stipulations in Article 25 of this Law, the following: <strong>a)</strong> Indicate that the expenses of repatriation remain at the expense of the contracting company; <strong>d)</strong> The mechanisms for informing the worker on the Mexican consular and diplomatic authorities to whom he can turn to outside of Mexico and the appropriate authorities of the country where the services will be rendered, when the worker considers that his rights have been infringed upon, for the purpose of exercising the appropriate legal action; <strong>II.</strong> The employer will stipulate in the labor contract an address within the Republic for all legal purposes; <strong>III.</strong> The labor contract will be submitted to the approval of the Federal Board of Conciliation and Arbitration, which, after verifying that it complies with the provisions referred to in sections I and II of this Article will approve it. When the employer does not have a permanent establishment and</td>
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8. Assistance provided by the financial security system shall be granted promptly upon request made by the seafarer or the seafarer’s nominated representative and supported by the necessary justification of entitlement in accordance with paragraph 2 above.

9. Having regard to Regulations 2.2 and 2.5, assistance provided by the financial security system shall be sufficient to cover the following:
   (a) outstanding wages and other entitlements due from the shipowner to the seafarer under their employment agreement, the relevant collective bargaining agreement or the national law of the flag State, limited to four months of any such outstanding wages and four months of any such outstanding entitlements;
   (b) all expenses reasonably incurred by the seafarer, including the cost of repatriation referred to in paragraph 10; and
   (c) the essential needs of the seafarer including such items as: adequate food, clothing where necessary, accommodation, drinking water supplies, essential fuel for survival on board the ship, necessary medical care and any other reasonable costs or charges from the act or omission constituting the abandonment until the seafarer’s arrival at home.

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

11. The financial security shall not cease before the end of the period of validity of the financial security unless the financial security provider has given prior notification of at least 30 days to the competent authority of the flag State.

12. If the provider of insurance or other financial security has made any fiscal domicile or a domicile for commercial representation in the national territory, the Federal Board of Conciliation and Arbitration will set the amount of a bond or deposit to guarantee compliance to the contractual obligations. The employer must verify before the same Board the granting of the bond or the constitution of the deposit.

IV. The worker and the employer must attach to the labor contract the visa or work permit issued by the consular authorities or immigration authorities of the country where the services should be rendered; and

V. Once the employer verifies before the Board that he has complied with the contractual obligations, the cancellation of the bond or the return of the deposit will be ordered, that the Board had determined.

Title Six
Special Jobs
Chapter III
Workers on ships
Article 197. For the rendering of the services of Mexican workers on foreign ships, the provision in Article 28 will be observed.

Navigational Law and Maritime Commerce
Second Title
From the Merchant Marine
Chapter VII
Administrative Coordination in matters of neglect of foreign crews in foreign ships
Article 33. This Chapter will be applicable in case a ship with a foreign flag is on Mexican navigable waterways and any authority presumes that the crew has been abandoned or is in danger of losing its life or putting its physical integrity at risk.

Article 34. The procedure of coordination of competences between administrative authorities regulated in this chapter, will not
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<td>payment to any seafarer in accordance with this Standard, such provider shall, up to the amount it has paid and in accordance with the applicable law, acquire by subrogation, assignment or otherwise, the rights which the seafarer would have enjoyed.</td>
<td>restrict in any way the faculties of each one-off said authorities. All of them will be obligated to provide expeditiously the effective solution of the contingencies referred to in the previous Article.</td>
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<tr>
<td>13. Nothing in this Standard shall prejudice any right of recourse of the insurer or provider of financial security against third parties.</td>
<td>Article 35. when a regulated situation arises as provided in this chapter, the authorities and parts of it shall provide the following procedure:</td>
<td></td>
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<tr>
<td>14. The provisions in this Standard are not intended to be exclusive or to prejudice any other rights, claims or remedies that may also be available to compensate seafarers who are abandoned. National laws and regulations may provide that any amounts payable under this Standard can be offset against amounts received from other sources arising from any rights, claims or remedies that may be the subject of compensation under the present Standard.</td>
<td>I. Within twenty-four hours after the arrival of the ship, or in its case, at the time when the reported event occurred, the captain of any ship or, in his absence, the officer in command, or the a person who certifies the legal representation of the crew members, will be entitled to request the presentation of a protest document before the Harbormaster, in accordance with the provisions of the preceding chapter;</td>
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<td>II. Within three working days after the presentation of the protest, the Harbormaster that has known of the same must notify on the existing conflict to the consul of the flag of the ship and those of the nationality of the crew, to the Secretariat of Labor and Social Welfare, to the Secretariat of Health, to the National Institute of Migration, to the National Commission of Human Rights, and the Port Administration, so that they may act within the scope of their competence and functions;</td>
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<td>III. Within the same period established in the previous section, the Harbormaster shall summon the shipping agent consignee of the ship and, where appropriate, the owner of the ship so that within a period of ten working days they may deliver a hearing at the offices of the Harbormaster, where they will present to the authority the mechanisms to resolve the situation, which must include at least the replacement and</td>
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<td>IV.</td>
<td>During the term of execution of the obligations acquired in accordance with the previous section, the Harbormaster will be authorized to request the verification meetings it deems necessary;</td>
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<td>V.</td>
<td>In case of non-compliance with the obligations acquired in accordance with section III of this Article, the SEMAR [Secretariat of the Navy] will be competent to coordinate actions aimed at solving the contingency, and</td>
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<td>VI.</td>
<td>Once the crew has been disembarked and their good state of health is verified, the National Institute of Migration will process the repatriation at the expense of the ship owner or the owner of the ship in solidarity. In the meantime, the consignee shipping agent and, if applicable, the owner of the same ship in solidarity, will pay the full maintenance of the crew to be retreated. The SEMAR [Secretariat of the Navy] will verify compliance with this obligation.</td>
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**Chapter II**

Seizure or retention of ships or cargo

**Article 268.** The creditor or the holder of rights of retention of a ship or naval device that has promoted, or will be promoting trial, may request as a precautionary measure the seizure of the ship or cargo related to its claim, for which purpose it shall exhibit the originals of the documents in which the credits appear, specify the amount of repatriation of the crew members, as well as the safe management of the ship. Taking into consideration the presents expositions, the Harbormaster will establish a term that may not exceed fifteen business days for the fulfillment to the obligations acquired. The Harbormaster will draw up a record of said hearing and those who intervene in it must sign it;
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<td>these, or the amount of the claim, if it is already presented; describe the goods that are the object of the measure, as well as explain the reasons why the measure is deemed necessary.</td>
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<td><strong>Article 269.</strong> The seizure of ships or naval artifacts will only be admitted for the following credits:</td>
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<td><strong>XV. Wages and benefits due to the captain, officers and other members of the crew by virtue of their enrollment on board the ship, including repatriation expenses and social security contributions payable on their behalf;</strong></td>
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<td><strong>Regulation 2.6 – Seafarer compensation for the ship’s loss or foundering</strong>&lt;br&gt;&lt;i&gt;Purpose: To ensure that seafarers are compensated when a ship is lost or has foundered&lt;/i&gt;&lt;br&gt;1. Seafarers are entitled to adequate compensation in the case of injury, loss or unemployment arising from the ship’s loss or foundering.&lt;br&gt;&lt;i&gt;Standard A2.6 – Seafarer compensation for the ship’s loss or foundering&lt;/i&gt;&lt;br&gt;1. Each Member shall make rules ensuring that, 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.&lt;br&gt;2. The rules referred to in paragraph 1 of this Standard shall be without prejudice to any other rights a seafarer may have under the national law of the Member concerned for losses or injuries arising from a ship’s loss or foundering.</td>
<td><strong>Federal Labor Law</strong>&lt;br&gt;&lt;i&gt;Title Six&lt;/i&gt;&lt;br&gt;&lt;i&gt;Special Jobs&lt;/i&gt;&lt;br&gt;&lt;i&gt;Chapter III&lt;/i&gt;&lt;br&gt;&lt;i&gt;Workers on ships**&lt;br&gt;**Article 204. Employers have the following special obligations:&lt;br&gt;**IX. To repatriate or transfer workers to the place agreed on, except in cases of dismissal for reasons not attributable to the employer; and&lt;br&gt;**Article 209. Termination of workers’ contracts will be subject to the following Standards:&lt;br&gt;V. When the ship is lost through seizure or natural disaster the labor relations of the workers will be terminated and the provisioner, charterer, or carrier will be obligated to repatriate the workers and to cover the total of their wages until their return to the port of destination, or that which is stipulated in the contract and that of the benefits that they have a right to. The workers and the employer can agree that the workers will be provided with other jobs of the same category in another ship of the employer; if they do not reach an agreement, the workers will have the right to payment of their benefits in conformity to the provision in Article 436; and</td>
<td>This issue is contemplated in the domestic legislation.</td>
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### Regulation 2.7 – Manning levels

**Purpose:** To ensure that seafarers work on ships with sufficient personnel for the safe, efficient and secure operation of the ship

1. Each Member shall require that all ships that fly its flag 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.

### Standard A2.7 – Manning levels

1. Each Member shall require that all ships that fly its flag have a sufficient number of seafarers on board to ensure that ships are operated safely, efficiently and with due regard to security. 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 or an equivalent issued by the competent authority, and to comply with the standards of this Convention.

2. When determining, approving or revising Manning levels, the competent authority 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, especially those of the International Maritime Organization, on Manning levels.

3. When determining Manning levels, the competent authority shall take into account all the requirements within Regulation 3.2 and Standard A3.2 concerning food and catering.

### Navigational Law and Maritime Commerce

**Title Two**

**Merchant Marine**

**Chapter V**

**Crew**

**Article 25.** The persons who provide a service on board ships and Mexican naval artifacts, will be considered for the purposes of this Law as crew members of the same.

The respective regulation will establish the minimum crew complement for each type of fishing ship, as well as the requirements of the necessary certificates of competency in accordance with the fishing legislation and applicable international treaties.

The crew of the ships and naval artifacts will not be considered as technical personnel who perform the functions of instruction, training, supervision and administration; on fishing ships, on-board personnel that only perform instruction, training and supervision of fishing resources capture, management or processing activities.

The captains, naval pilots, skippers, machinist, mechanists and in general all the personnel that means a ship or who works in a Mexican naval artifact, must be Mexican by birth and not acquire another nationality.

### Regulation of the Navigational Law and Maritime Commerce

**Section XIII**

**Minimum Manning**

**Article 373.** For the purposes of the Article 25 of the Law [Navigational Law and Maritime Commerce], shall be considered as the crew members: persons who provide a service directly associated with the government.

### Comments

The issue of Manning level are covered in a general way under the Navigational Law and Maritime Commerce.

This point it should be considerate during the implementation.
and nautical operation of the ship or Naval Artifact.

**Article 376.** The manning of a ship or naval artifact means the total number of crew on board and as the minimum-security manning level of a ship or naval artifact, the constituted by officers and subordinates competent in sufficient numbers to guarantee the security of the rest of the crew, their passengers, operation of equipment and systems on board during the navigation or operation, as well as the protection of the environment, including the attention of the different watchkeeping shifts.

**Subsection I**

**Ship manning levels**

**Article 377.** Crew members of boats equal to or greater than five hundred GT, as well as those who make international trips must comply with the provisions of the STCW Convention and their respective amendments.

**Article 378.** The crew of the ships that make national trips under the five hundred GT must comply with the applicable provisions for the training and crews of the merchant marine established in this Regulation.

**Subsection II**

**Ship minimum manning levels**

**Article 381.** The General Directorate shall establish the minimum-security manning levels for ships or naval artifacts, according to their class and the IMO dispositions, taking in count the following factors:

I. Type and characteristics;

II. Units of tonnage;

III. Propelling power;

IV. Type of voyage for which it is authorized;

V. Maneuvers and routine operations, understood as such,
the activities performed by the crew according to their categories and specialties, to guarantee the normal operating conditions of the ship;

VI. Timely attention to contingencies, means, any unforeseen event that puts at risk the safety of the ship, crew passenger, cargo, goods and the protection of the marine environment, and

VII. Maximum hours of work and hours of rest for watchkeeping personnel, in accordance with the applicable legal provisions.

Regulation 2.8 – Career and skill development and opportunities for seafarer’ employment

Purpose: To promote career and skill development and employment opportunities for seafarers

1. Each Member shall have national policies to promote employment in the maritime sector and to encourage career and skill development and greater employment opportunities for seafarers domiciled in its territory.

Standard A2.8 – Career and skill development and employment opportunities for seafarers

1. Each Member shall have 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 Standard shall be to help seafarers strengthen their competencies, qualifications and employment opportunities.

3. Each Member 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.

Navigational Law and Maritime Commerce

Title one
General disposition

Chapter II
Marine authority

Article 8 Bis. The powers of the SEMAR [Secretariat of the Navy], without prejudice to those that correspond to other agencies of the Federal Public Administration:

XVII. Manage the national records of seafarers and ships, in accordance with the provisions of the respective regulations;

Title two
Merchant Marine

Chapter VI

Merchant maritime education

Article 31. The nautical education, is of public interest, for what the Secretariat will organize and directly impart the formation and qualification of personnel of the Merchant Fleet, with plan and programs of studies registered before the Secretariat of Public Education, will have to have a school ship with the necessary and updated didactic technology for the fulfillment of its objectives.

The educational institutions of higher education authorized by the Secretariat [Secretariat of Communications and Transport] and the Secretariat of the Public Education, may offer postgraduate

The Secretariat of Communication and Transport is responsible of the Career and skill development and opportunities for seafarer’ under their applicable legislation. In this regard the domestic legislation is in accordance with the MLC, 2006 dispositions.
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<td>studies to the officers of the National Merchant Fleet, in accordance with the provisions of the General Law of Education, for which they must have the goods furniture, equipment and systems suitable for practical teaching and with plans and programs of studies that both Secretariats determine. The personnel that impart the training and qualification of the personnel of the Merchant Fleet must have a registry before the Secretariat, as well as comply with the requirements established in the International Treaties.</td>
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**Article 32.** The plans and programs of study for the formation and qualifications of the diverse levels of professionals and subalterns of the crews of the Mexican ships and naval artifacts, will be authorized by the Secretariat [Secretariat of Communications and Transport], in agreement with the development and needs of the Mexican merchant fleet. In the integration of such plans and programs, the opinions of the owners, shipping companies, schools of seafarers and other entities to the maritime sector will be evaluated. The Secretariat [Secretariat of Communications and Transport] will cooperate with the fishing authority in the development of training plans and programs in line with the activity of the sector; in the integration of these, they should assess the opinions of sectoral associations, fisheries research centers and other related entities, all in accordance with the applicable provisions. The documents established by the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers and other International Treaties will be issued by the Secretariat in accordance with the respective regulations. |
To those who obtain the titles of Naval Pilot and Naval Engineer, in the terms of the corresponding regulations, the Secretariat will issue them jointly the titles of Engineer Geographer and Hydrographer, and Naval Mechanical Engineer, respectively.

**Regulation of the Navigational Law and Maritime Commerce**

**Chapter V**

**Merchant maritime education**

**Section I**

**General features**

**Article 119.** The purpose of this Chapter is to regulate formation, training, and certification of merchant fleet personnel, as well as the issuance of professional titles, endorsements, certificates of competence, certificates of special competence, sea book, related under the applicable Law [Navigational Law and Maritime Commerce] and the International Treaties, in coordination with the Secretariat of Public Education.

**120.** The provisions of this Chapter are compulsory for the merchant fleet Schools administered by FIDENA [Forming and Training Trust for National Merchant Marine Personnel], the Educational Institutions of FIDENA, the private educational institutions, as well as for the formed and trained personnel in accordance with this Regulation, shipowners, shipbuilders, and operators of Mexican merchant fleet.
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<tr>
<th>MARITIME LABOR CONVENTION, 2006, AS AMENDED</th>
<th>DOMESTIC LAW OF MEXICO</th>
<th>COMMENTS</th>
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<tr>
<td>TITLE 3. ACCOMMODATION, RECREATIONAL FACILITIES, FOOD AND CATERING</td>
<td>Federal Labor Law Title Six Special Jobs Chapter III Workers on ships Article 195. The document referred to in the preceding Article will contain: VIII. The lodging and meals which will be supplied to the worker; XII. All other provisions agreed to between the parties. Article 204. Employers have the following special obligations: I. To provide comfortable and healthy lodging on board; II. To provide healthy, plentiful and nutritious food to workers on ships designated for high seas, from port to port, or in dredging operations; III. To provide food and lodging when the ship is taken to a foreign port for repairs and its condition does not permit remaining on board. This same obligation will apply to a national port when it is not the same port in which the worker boarded. Lodging and meals will be provided without cost to the worker; Article 206. It is prohibited in the ship stores to provide, without the permission of the captain, alcoholic beverages to workers, as well as for the workers to bring alcoholic beverages on board for that purpose It is equally prohibited for the workers to carry on board drugs and illegal substances except under the provision in Article 208, Section III.</td>
<td>Related to the Accommodation, Recreational Facilities, Food And Catering, the official Mexican regulations in force were issued by the General Coordination of Ports and Merchant Marine, which must be adequate. Another point to consider is that with the reforms of 2006 to the Law of Navigation and Maritime Commerce SEMAR assumed these functions.</td>
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<tr>
<td>Standard A3.1 – Accommodation and recreational facilities</td>
<td>DOMESTIC LAW OF MEXICO</td>
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<tr>
<td>1. Each Member shall adopt laws and regulations requiring that ships that fly its flag:</td>
<td>Regulation of the Navigational Law and Maritime Commerce Subsection IV Construction and modification of ships and naval artifacts (Arts 441-445)</td>
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<td>(a) 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 Standard; and</td>
<td>I. All ships or naval artifacts: d) Original and copy of the technical construction specifications; f) Original and copy, as the</td>
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<td>(b) are inspected to ensure initial and ongoing compliance with those standards.</td>
<td>case may be, of the plans</td>
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<td>2. In developing and applying the</td>
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<td>laws and regulations to implement this Standard, the competent authority, after consulting the shipowners’ and seafarers’ organizations concerned, shall:</td>
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<td>(a) take into account Regulation 4.3 and the associated Code provisions on health and safety protection and accident prevention, in light of the specific needs of seafarers that both live and work on board ship, and</td>
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<td>(b) give due consideration to the guidance contained in Part B of this Code.</td>
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<td>3. The inspections required under Regulation 5.1.4 shall be carried out when:</td>
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<td>(a) a ship is registered or re-registered; or</td>
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<td>(b) the seafarer accommodation on a ship has been substantially altered</td>
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<td>4. The competent authority shall pay particular attention to ensuring implementation of the requirements of this Convention relating to:</td>
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<td>(a) the size of rooms and other accommodation spaces;</td>
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<td>(b) heating and ventilation;</td>
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<td>(c) noise and vibration and other ambient factors;</td>
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<td>(d) sanitary facilities;</td>
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(e) lighting; and
(f) hospital accommodation.

5. The competent authority of each Member shall require that ships that fly its flag meet the minimum standards for on-board accommodation and recreational facilities that are set out in paragraphs 6 to 17 of this Standard.

6. With respect to general requirements for accommodation:
(a) 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; the competent authority may permit some limited reduction in headroom in any space, or part of any space, in

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<td>(e) lighting; and</td>
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<td>(f) hospital accommodation.</td>
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<td>such accommodation where it is satisfied that such reduction: (i) is reasonable; and (ii) will not result in discomfort to the seafarers; (b) the accommodation shall be adequately insulated; (c) in ships other than passenger ships, as defined in Regulation 2© and (f) of the International Convention for the Safety of Life at Sea, 1974, as amended (the “SOLAS Convention”), 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; (d) in passenger ships, and in special ships constructed in compliance with the IMO Code of Safety for Special Purpose Ships, 1983, and subsequent versions (hereinafter called “special purpose ships”), the competent authority may, on condition that satisfactory arrangements are made for lighting and ventilation, permit the location of sleeping rooms below the load line, but in no case shall they be located immediately beneath working alleyways; (e) 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;</td>
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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;

(g) proper lighting and sufficient drainage shall be provided; and

(h) accommodation and recreational and catering facilities shall meet the requirements in Regulation 4.3, and the related provisions in the Code, 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:

(a) sleeping rooms and mess rooms shall be adequately ventilated;

(b) 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;

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

(d) 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
9. When sleeping accommodation on board ships is required, the following requirements for sleeping rooms apply:
(a) 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, exemptions from this requirement may be granted by the competent authority after consultation with the shipowners’ and seafarers’ organizations concerned;
(b) separate sleeping rooms shall be provided for men and for women;
(c) sleeping rooms shall be of adequate size and properly equipped so as to ensure reasonable comfort and to facilitate tidiness;
(d) a separate berth for each seafarer shall in all circumstances be provided;
(e) the minimum inside dimensions of a berth shall be at least 198 centimetres by 80 centimetres;
(f) in single berth seafarers’ sleeping rooms the floor area shall not be less than:
   (i) 4.5 square metres in ships of less than 3,000 gross tonnage;
   (ii) 5.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;
   (iii) 7 square metres in ships of 10,000 gross tonnage or over;
(g) 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

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<td>passenger ships, sleeping rooms and mess rooms shall be lit by natural light and provided with adequate artificial light.</td>
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<td>9. When sleeping accommodation on board ships is required, the following requirements for sleeping rooms apply:</td>
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<td>(a) 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, exemptions from this requirement may be granted by the competent authority after consultation with the shipowners’ and seafarers’ organizations concerned;</td>
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<tr>
<td>(b) separate sleeping rooms shall be provided for men and for women;</td>
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<tr>
<td>(c) sleeping rooms shall be of adequate size and properly equipped so as to ensure reasonable comfort and to facilitate tidiness;</td>
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<tr>
<td>(d) a separate berth for each seafarer shall in all circumstances be provided;</td>
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<tr>
<td>(e) the minimum inside dimensions of a berth shall be at least 198 centimetres by 80 centimetres;</td>
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<td>(f) in single berth seafarers’ sleeping rooms the floor area shall not be less than:</td>
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<td>(i) 4.5 square metres in ships of less than 3,000 gross tonnage;</td>
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<td>(ii) 5.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;</td>
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<td>(iii) 7 square metres in ships of 10,000 gross tonnage or over;</td>
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<td>(g) 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</td>
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<td>competent authority may allow a reduced floor area;</td>
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<tr>
<td>(h) 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;</td>
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<td>(i) 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:</td>
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<td>(i) 7.5 square metres in rooms accommodating two persons;</td>
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<td>(ii) 11.5 square metres in rooms accommodating three persons;</td>
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<td>(iii) 14.5 square metres in rooms accommodating four persons;</td>
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<td>(j) 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;</td>
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<tr>
<td>(k) 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:</td>
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<tr>
<td>(i) 7.5 square metres in ships of less than 3,000 gross tonnage;</td>
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<tr>
<td>(ii) 8.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;</td>
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<td>(iii) 10 square metres in ships of 10,000 gross tonnage or over;</td>
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<td>(l) on passenger ships and special purpose ships the floor area for</td>
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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;

(m) 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 may be exempted
by the competent authority from
this requirement after consultation
with the shipowners’ and
seafarers’ organizations
concerned;

(n) 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;

(o) 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:

(a) 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
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<td>tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners’ and seafarers’ organizations concerned; and</td>
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<td>(b) 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.</td>
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<td>11. With respect to requirements for sanitary facilities:</td>
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<td>(a) 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;</td>
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<tr>
<td>(b) 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 may be exempted by the competent authority from this requirement after consultation with the shipowners’ and seafarers’ organizations concerned;</td>
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<td>(c) 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;</td>
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<td>(d) with the exception of passenger ships, each sleeping room shall be provided with a washbasin having</td>
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<td>hot and cold running fresh water, except where such a washbasin is situated in the private bathroom provided;</td>
<td>(e) in passenger ships normally engaged on voyages of not more than four hours’ duration, consideration may be given by the competent authority to special arrangements or to a reduction in the number of facilities required; and</td>
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<td>(f) hot and cold running fresh water shall be available in all wash places.</td>
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<td>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 competent authority may relax this requirement for ships engaged in coastal trade; in approving on-board hospital accommodation, the competent authority shall ensure that the accommodation will, in all weathers, be easy of access, provide comfortable housing for the occupants and be conducive to their receiving prompt and proper attention.</td>
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<td>13. Appropriately situated and furnished laundry facilities shall be available.</td>
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<td>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.</td>
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<td>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 may be exempted by the</td>
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<td>'competent authority from this requirement after consultation with the shipowners’ and seafarers’ organizations concerned.</td>
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<td>16. Ships regularly trading to mosquito-infested ports shall be fitted with appropriate devices as required by the competent authority.</td>
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<td>17. Appropriate seafarers’ recreational facilities, amenities and</td>
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**Regulation 3.2 – Food and catering**

*Purpose:* To ensure that seafarers have access to good quality food and drinking water provided under regulated hygienic conditions

1. Each Member shall ensure that ships that fly its flag 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. Seafarers employed as ships’ cooks with responsibility for food preparation must be trained and qualified for their position on board ship.

**Standard A3.2 – Food and catering**

1. Each Member shall adopt laws and regulations or other measures to provide minimum 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.

2. Each Member shall ensure that ships that fly its flag meet the following minimum standards:

   (a) 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;

**Federal Labor Law Title Six Special Jobs Chapter III Workers on ships**

**Article 204.** Employers have the following special obligations:

**II.** To provide healthy, plentiful and nutritious food to workers on ships designated for high seas, from port to port, or in dredging operations;

**III.** To provide food and lodging when the ship is taken to a foreign port for repairs and its condition does not permit remaining on board. This same obligation will apply to a national port when it is not the same port in which the worker boarded. Lodging and meals will be provided without cost to the worker;

**VII.** To provide food and lodging, medical treatment, medications, and other therapeutic measures in cases of illnesses, whatever their nature is;

**Law of Alimentary Assistance for Workers**

**First title General Provisions**

**Article 1.** This law has the objective of promoting and regulating the implementation of schemes of alimentary assistance in benefit of the workers, for the purpose of improving their nutritional state, as well as the prevention of illnesses related to deficient nutrition and protecting health within the scope of employment.

**Although there is no specific regulation for seafarers work, the current legislation that is generally applicable covers this type of labor relationship.**
(b) 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
(c) catering staff shall be properly trained or instructed for their positions.

3. Shipowners shall ensure that seafarers who are engaged as ships' cooks are trained, qualified and found competent for the position in accordance with requirements set out in the laws and regulations of the Member concerned.

4. The requirements under paragraph 3 of this Standard shall include a completion of a training course approved or recognized by the competent authority, which covers practical cookery, food and personal hygiene, food storage, stock control, and environmental protection and catering health and safety.

5. On ships operating with a prescribed manning of less than ten which, by virtue of the size of the crew or the trading pattern, may not be required by the competent authority 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.

6. In circumstances of exceptional necessity, the competent authority may issue a dispensation permitting a non-fully qualified cook to serve in a specified ship for a specified limited period, until the next convenient port of call or for a period not exceeding one month, provided that the person to whom the dispensation is issued is 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 Title 5, the competent authority shall require that frequent documented inspections be carried out on board ships, by or under the authority of the master, with respect to:

Title Two
Alimentary assistance

Article 5. The alimentary assistance will have the objective of the workers benefitting from the consumption of a correct diet. The specific characteristics of a correct diet will be those that the Secretary of Health established in the standards.

Article 6. The Secretary of Health, in coordination with the Secretary [Secretariat of Labor and Social Welfare] will define and will implement national campaigns directed specifically to the workers, in matters of promotion of health and alimentary orientation, including messages for improving their nutritional state and preventing malnutrition, overweight and obesity.

Chapter II
Categories of Alimentary Assistance

Article 7. The employers can establish nutritional assistance plans for the workers through any of the following means:
1. Food provided to the workers in:
a) Dining rooms;
b) Restaurants, or
c) Other establishment for consumption of food products.
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<td>(a) supplies of food and drinking water;</td>
<td>The establishments covered in the sub-clauses a), b), and c) of this section can be contracted directly by the employer or form part of an alimentary system by third parties through the use of printed or electronic coupons, and</td>
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<td>(b) all spaces and equipment used for the storage and handling of food and drinking water; and</td>
<td>II. Food products, through baskets of food products or by means of printed or electronic food coupons. In the framework of this Law, the alimentary assistance cannot be granted in cash, or by any other mechanisms distinct from the types established in this Article.</td>
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<td>(c) galley and other equipment for the preparation and service of meals.</td>
<td>Article 8. In those cases, in which the alimentary assistance is granted by agreement, the methods selected must remain included expressly in the collective labor contract.</td>
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<tr>
<td>8. No seafarer under the age of 18 shall be employed or engaged or work as a ship’s cook.</td>
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### TITLE 4. HEALTH PROTECTION, MEDICAL CARE, WELFARE AND SOCIAL SECURITY PROTECTION

**Regulation 4.1 – Medical care on board ship and ashore**

*Purpose: To protect the health of seafarers and ensure their prompt access to medical care on board ship and ashore*

1. Each Member shall ensure that all seafarers on ships that fly its flag are covered by adequate measures for the protection of their health and that they have access to prompt and adequate medical care whilst working on board.

2. The protection and care under paragraph 1 of this Regulation shall, in principle, be provided at no cost to the seafarers.

3. Each Member shall ensure that seafarers on board ships in its territory who are in need of immediate medical care are given access to the Member’s medical facilities on shore.

4. The requirements for on-board health protection and medical care set out in the Code include standards for measures aimed at providing seafarers with health protection and medical care

**Federal Labor Law**

**Title Six**

**Special Jobs**

**Chapter III**

**Workers on ships**

**Article 204.** Employers have the following special obligations:

- **VII.** To provide food and lodging, medical treatment, medications, and other therapeutic measures in cases of illnesses, whatever their nature is;

- **VIII.** To take on board medical personnel and material prescribed by the laws and provisions on communications by water;

- **IX.** To repatriate or transfer workers to the place agreed on, except in cases of dismissal for reasons not attributable to the employer; and

**Article 504.** Employers have the following special obligations:

- **I.** To maintain in the workplace the medications and medical materials necessary for first aid and to train personnel to render it;

**Generally,** the Federal Labor Law provides medical attention on board. Likewise, in case that due to the characteristics of the vessel or the situation, urgent attention is required, the Secretary of the Navy acting as coastal guard, performs the corresponding support.

In Mexico there is no free health system. However, health and social security benefits are carried out through employer registration of their workers.
### MARITIME LABOR CONVENTION, 2006, AS AMENDED

**Standard A4.1 – Medical care on board ship and ashore**

1. Each Member shall ensure that measures providing for health protection and medical care, including essential dental care, for seafarers working on board a ship that flies its flag are adopted which:
   - (a) ensure the application to seafarers of any general provisions on occupational health protection and medical care relevant to their duties, as well as of special provisions specific to work on board ship;
   - (b) ensure that seafarers are given health 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;
   - (c) give seafarers the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable;
   - (d) ensure that, to the extent consistent with the Member’s national law and practice, medical care and health protection services while a seafarer is on board ship or landed in a foreign port are provided free of charge to seafarers; and
   - (e) are not limited to treatment of sick or injured seafarers but include measures of a preventive character such as health promotion and health education programmes.

2. The competent authority shall adopt a standard medical report form for use by the ships’ masters and relevant onshore and on-board medical personnel. The form, when completed, and its contents shall be kept confidential and shall only be used to facilitate the treatment of seafarers.

3. Each Member shall adopt laws and regulations establishing

### DOMESTIC LAW OF MEXICO

II. When they have in their service more than one hundred employees, to establish a clinic, supplied with medications and medical materials necessary for medical attention and emergency surgery. Competent personnel under the direction of a medical doctor will attend it. If in the judgment of this person the proper medical or surgical attention cannot be administered, the worker will be transported to the town or hospital where he may be attended;

IV. Through prior agreement with the workers, the employers may contract with sanatoriums or hospitals located in the place in which the establishment is located or at a distance that permits the rapid and comfortable transport of the workers, so that they may render the services referred to in the latter two Sections;

V. To give written notice to the Secretary of Labor and Social Welfare, to the Labor Inspector and to the Board of Conciliation and Arbitration, within the 72 hours following the accidents that occur, providing the following data and elements:
   - a) Name and address of the company.
   - b) Name and address of the worker; along with his position or category and the amount of his wages.
   - c) Place and time of the accident with a description of the facts.
   - d) Name and address of the persons that witnessed the accident.
   - e) Place in which is given or may have been given, medical attention to the accident victim.

The Secretary of Labor and Social Welfare and the Mexican Institute of Social Security [IMSS] must exchange information permanently with respect to the notices of work accidents.

### COMMENTS

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<td>requirements for on-board hospital and medical care facilities and equipment and training on ships that fly its flag.</td>
<td>presented by the employers, as well as other statistical data that become necessary for the exercise of their respective legal authorities; and</td>
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<td>4. National laws and regulations shall as a minimum provide for the following requirements:</td>
<td>VI. To make known as quickly as possible the death of a worker in a job-related accident, to give written notice to the authorities as mentioned in the latter Section, supplying them, at least with the facts and elements that are indicated in said Section, the name and address of the persons that might have right to the corresponding compensation;</td>
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<td>(a) all ships shall carry a medicine chest, medical equipment and a medical guide, the specifics of which shall be prescribed and subject to regular inspection by the competent authority; the national requirements shall take into account the type of ship, the number of persons on board and the nature, destination and duration of voyages and relevant national and international recommended medical standards;</td>
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<td>(b) 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; national laws or regulations shall also specify which other ships shall be required to carry a medical doctor, taking into account, inter alia, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board;</td>
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<td>(c) 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 that meets the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (“STCW”); seafarers designated to provide medical first aid shall have satisfactorily completed training in medical first aid that meets the requirements of STCW; national laws or regulations shall</td>
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<td>Article 110. For the purpose of protecting the health and preventing illnesses and disabilities, the preventive medical services of the Institute will carry out informative programs for health, prevention and rehabilitation of disabilities, epidemiological studies, production of biological immunology, immunizations, sanitary campaigns, and other specific programs created for resolving medical and social problems.</td>
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<td>Article 111. The Institute and the Health Secretary will coordinate with other entities and public organisms, with the objective of creating the campaigns and programs referred to in the latter Article.</td>
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<td>specify the level of approved training required taking into account, inter alia, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board; and the competent authority shall ensure by a prearranged system that medical advice by radio or satellite communication to ships at sea, including specialist advice, is available 24 hours a day; medical advice, including the onward transmission of medical messages by radio or satellite communication between a ship and those ashore giving the advice, shall be available free of charge to all ships irrespective of the flag that they fly.</td>
<td>Federal Labor Law Title Six Special Jobs Chapter III Workers on ships Article 204. Employers have the following special obligations: VII. To provide food and lodging, medical treatment, medications, and other therapeutic measures in cases of illnesses, whatever their nature is; VIII. To take on board medical personnel and material prescribed by the laws and provisions on communications by water; IX. To repatriate or transfer workers to the place agreed on, except in cases of dismissal for reasons not attributable to the employer; and</td>
<td>The economic responsibility of the employer is foreseen in the social security system provided by the Mexican Institute of Social Security. In practice, in some circumstances it is insufficient, so that a particular insurance would benefit the seafarers.</td>
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<td>Regulation 4.2 – Shipowners’ liability Purpose: To ensure that seafarers are protected from the financial consequences of sickness, injury or death occurring in connection with their employment 1. Each Member shall ensure that measures, in accordance with the Code, are in place on ships that fly its flag to provide seafarers employed on the ships with a right to material assistance and support from the shipowner 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 Regulation does not affect any other legal remedies that a seafarer may seek.</td>
<td>Standard A4.2.1 – Shipowners’ liability 1. Each Member shall adopt laws and regulations requiring that shipowners of ships that fly its flag are responsible for health protection and medical care of all seafarers working on board the ships in accordance with the following minimum standards: (a) shipowners shall be liable to 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</td>
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**Federal Labor Law**

**Title Two**

**Individual Labor Relations**

**Chapter I**

**General Provision**

**Article 28.** During the rendering of the services of Mexican workers outside of the Republic, contracted in national territory and whose labor contract is regulated by this Law, the following will be observed:
upon which they are deemed duly repatriated, or arising from their employment between those dates;

(b) 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;

© shipowners shall be liable to 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

(d) shipowners shall be liable to pay the cost of burial expenses in the case of death occurring on board or ashore during the period of engagement.

2. National laws or regulations may limit the liability of the shipowner to defray the expense of medical care and board and lodging to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.

3. Where the sickness or injury results in incapacity for work the shipowner shall be liable:

(a) to 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 Convention; and

(b) to pay wages in whole or in part as prescribed by national laws or regulations or as provided for in collective agreements from the time when the seafarers are repatriated or landed until their recovery or, if earlier, until they are entitled to cash benefits under the legislation of the Member concerned.

4. National laws or regulations may limit the liability of the shipowner to pay wages in whole or in part in
respect of a seafarer no longer on board to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.

5. National laws or regulations may exclude the shipowner from liability in respect of:
   (a) injury incurred otherwise than in the service of the ship;
   (b) injury or sickness due to the wilful misconduct of the sick, injured or deceased seafarer; and
   (c) sickness or infirmity intentionally concealed when the engagement is entered into.

6. National laws or regulations may exempt the shipowner from liability to defray the expense of medical care and board and lodging and burial expenses in so far as such liability is assumed by the public authorities.

7. 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.

8. National laws and regulations shall provide that the system of financial security to assure compensation as provided by paragraph 1(b) of this Standard for contractual claims, as defined in Standard A4.2.2, meet the following minimum requirements:
   (a) the contractual compensation, where set out in the seafarer’s employment agreement and without prejudice to subparagraph (c) of this paragraph, shall be paid in full and without delay;
   (b) there shall be no pressure to accept a payment less than the contractual amount;
   (c) where the nature of the long-term disability of a seafarer makes it difficult to assess the full compensation to which the seafarer may be entitled, an interim payment or payments shall be made to the seafarer so as to avoid undue hardship;
   (d) in accordance with Regulation 4.2, paragraph 2, the seafarer shall receive payment without prejudice to other legal rights, but such payment may be offset by the granting of the bond or the constitution of the deposit.

IV. The worker and the employer must attach to the labor contract the visa or work permit issued by the consular authorities or immigration authorities of the country where the services should be rendered; and

V. Once the employer verifies before the Board that he has complied with the contractual obligations, the cancellation of the bond or the return of the deposit will be ordered, that the Board had determined.

Title Six
Special Jobs
Chapter III
Workers on ships

Article 204. Employers have the following special obligations:

VII. To provide food and lodging, medical treatment, medications, and other therapeutic measures in cases of illnesses, whatever their nature is;

VIII. To take on board medical personnel and material prescribed by the laws and provisions on communications by water;

IX. To repatriate or transfer workers to the place agreed on, except in cases of dismissal for reasons not attributable to the employer; and

Article 504. Employers have the following special obligations:

III. To maintain in the workplace the medications and medical materials necessary for first aid and to train personnel to render it;

IV. When they have in their service more than one hundred employees, to establish a clinic, supplied with medications and medical materials necessary for medical attention and emergency surgery. Competent personnel under the direction of a medical
shipowner against any damages resulting from any other claim made by the seafarer against the shipowner and arising from the same incident; and

(c) the claim for contractual compensation may be brought directly by the seafarer concerned, or their next of kin, or a representative of the seafarer or designated beneficiary.

9. National laws and regulations shall ensure that seafarers receive prior notification if a shipowner’s financial security is to be cancelled or terminated.

10. National laws and regulations shall ensure that the competent authority of the flag State is notified by the provider of the financial security if a shipowner’s financial security is cancelled or terminated.

11. Each Member shall require that ships that fly its flag carry on board a certificate or other documentary evidence of financial security issued by the financial security provider. A copy shall be posted in a conspicuous place on board where it is available to the seafarers. Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.

12. The financial security shall not cease before the end of the period of validity of the financial security unless the financial security provider has given prior notification of at least 30 days to the competent authority of the flag State.

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

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

doctor will attend it. If in the judgment of this person the proper medical or surgical attention cannot be administered, the worker will be transported to the town or hospital where he may be attended;

IV. Through prior agreement with the workers, the employers may contract with sanatoriums or hospitals located in the place in which the establishment is located or at a distance that permits the rapid and comfortable transport of the workers, so that they may render the services referred to in the latter two Sections;

V. To give written notice to the Secretary of Labor and Social Welfare, to the Labor Inspector and to the Board of Conciliation and Arbitration, within the 72 hours following the accidents that occur, providing the following data and elements:

a) Name and address of the company.  
b) Name and address of the worker; along with his position or category and the amount of his wages.  
c) Place and time of the accident with a description of the facts.  
d) Name and address of the persons that witnessed the accident.  
e) Place in which is given or may have been given, medical attention to the accident victim.  

The Secretary of Labor and Social Welfare and the Mexican Institute of Social Security [IMSS] must exchange information permanently with respect to the notices of work accidents presented by the employers, as well as other statistical data that become necessary for the exercise of their respective legal authorities; and

X. To make known as quickly as possible the death of a
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| worker in a job-related accident, to give written notice to the authorities as mentioned in the latter Section, supplying them, at least with the facts and elements that are indicated in said Section, the name and address of the persons that might have right to the corresponding compensation; | **Law of Social Security**  
**Article 23.** When the collective contracts grant benefits inferior to those granted by this Law [Law of Social Security], the employer will pay to the Institute all the payments proportional to the contractual benefits. In order to satisfy the differences among the latter and those established by the Law [Law of Social Security], the parties will pay the corresponding taxes.  
If in the collective contract benefits are agreed on equal to those established by this Law [Law of Social Security], the employer will pay them together with the employer social security taxes to the Institute.  
In the cases in which the collective contracts stipulate benefits greater than that granted by this Law [Law of Social Security], it will be handled by the provision in the latter paragraph to the equality of benefits, and with respect to the outstanding benefits the employer will be obligated to comply with them. With respect to economic benefits, the employer can contract with the Institute [Mexican Institute of Social Security] the corresponding additional insurance, under the terms of Title Three, Chapter II of the Law [Law of Social Security].  
The Institute [Mexican Institute of Social Security], through a legal-technical study of the collective labor contracts, after first hearing from the interested parties, will make the actuarial valuation of the contractual labor benefits, |
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<td>comparing them individually with those required in the Law [Law of Social Security], in order to prepare the Distribution Tables of Fees that are applicable.</td>
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**Article 25.** In the cases detailed by Article 23, the State will pay the taxes that correspond under the terms of this Law [Law of Social Security], independently from that which is the responsibility of the employer for the actuarial evaluation of their contract, paying it, as much their own fees as the part of the worker payments that correspond to them corresponding to said evaluation.

In order to pay the benefits in kind of the insurance for illnesses and maternity of retired persons, and their beneficiaries, in the accident insurance, disability, and life, as well as retirement, advanced age and old age pension, the employers, the workers and the State will pay a payment of 1.5% on the base wage. Said payment will correspond to the employer to pay 1.5%, to the workers the 0.375% and to the State the 0.075%.

**Chapter III**

**Insurance for occupational risks**

**First Section**

**General Provisions**

**Article 41.** Occupational risks are the accidents and illnesses to which the workers are exposed to in the exercise of or reasons of the work.

**Article 44.** When the insured worker does not agree with the qualification of the accident or illness that the Institute makes in a definitive manner, he must appeal with the nonconformity recourse. In the situation referred to in the latter paragraph, while the recourse or the respective hearing is processed, the Institute [Mexican Institute of Social Security] will grant to the insured...
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<td>worker or to his legal beneficiaries the benefits they qualified for in the insurance of illnesses and maternity or disability and life, provided that they satisfy the requirements stipulated by this Law [Law of Social Security]. The other insurance benefits will be pending the resolution of the non-conformity or the means of defense established in Article 294 of this Law [Law of Social Security].</td>
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**Article 53.** An employer who has insured the workers in his service against occupational risks will be relieved from responsibility under the terms that this Law [Law of Social Security] stipulates, from the compliance to the obligations for this class of risks established by the Federal Labor Law.

**Article 55.** Occupational risks may produce:
I. Temporary disability
II. Permanent partial disability
III. Permanent total disability, and
IV. Death.
Temporary disability, permanent partial disability, and total permanent disability will be understood as defined by the appropriate Articles in the Federal Labor Law.

**Chapter IV**
Insurance for illnesses and maternity
**First Section**
General provisions

**Article 86.** In order to have the right to the benefits established in this chapter, the insured worker, the pensioner and the beneficiaries must be subjected to the prescriptions and medical treatments indicated by the Institute [Mexican Institute of Social Security].

**Article 88.** The employer is responsible for the damages and injuries suffered by the insured
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<td>worker, to his insured family members or to the Institute [Mexican Institute of Social Security], when for non-compliance to the obligation to register him or to advice the Institute of the wages or changes to them, they might not be granted the benefits in kind and in cash of the illness and maternity insurance, or when the subsidy they had a right to was diminished in the amount.</td>
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**Article 96.** In the case of a non-occupational illness, the insured worker will have the right to a subsidy in cash that will be granted to him when the illness disables him for work. The subsidy will be paid after the fourth day of the start of the disability, and as long as it continues and up to a period of fifty-two weeks. If at the end of this period the insured worker continues to be disabled, after medical opinion from the Institute [Mexican Institute of Social Security], the payment of the subsidy can extended for up to twenty-six more weeks.

**Article 98.** The subsidy in cash that will is granted to the insured workers will be equal to the sixty percent of the last quoted daily wage. The subsidy will be paid by completed periods that will not exceed of one week, directly to the insured worker or his duly accredited representative.

**Article 101.** The insured worker will have the right during her pregnancy and after childbirth to a subsidy in cash equal to one hundred percent of the last base daily wage that she will receive during the forty-two days prior to the childbirth and for the forty-two days after childbirth. In the cases where the delivery date set by the Institute [Mexican Institute of Social Security] doctors does not coincide with the
birth, the subsidies corresponding to the insured worker for forty-two weeks after the same, it does not matter whether the period before the birth was exceeded. The days in which the period before delivery is prolonged will be paid as the continuation of the original disabilities of the illness. The subsidy will be paid for completed periods that will not exceed one week.

**Standard A4.2.2 – Treatment of contractual claims**
1. For the purposes of Standard A4.2.1, paragraph 8, and the present Standard, the term “contractual claim” means any claim which relates to 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.
2. The system of financial security, as provided for in Standard A4.2.1, paragraph 1(b), may be in the form of a social security scheme or insurance or fund or other similar arrangements. Its form shall be determined by the Member after consultation with the shipowners’ and seafarers’ organizations concerned.
3. National laws and regulations shall ensure that effective arrangements are in place to receive, deal with and impartially settle contractual claims relating to compensation referred to in Standard A4.2.1, paragraph 8, through expeditious and fair procedures.

**Federal Labor Law**

Title eleven

Labor authorities and social services

Chapter II

Constitutional authority of the labor authorities

Article 527. The application of the Labor Standards are the responsibility of the Federal Authorities, with respect to:

I. Branches of industries and services:
   8. Hydrocarbons;
   9. Petrochemicals;

II. Companies:
   3. Those that perform work in Federal zones or that are under Federal jurisdiction, in the territorial waters or in those included in the exclusive economic zone of the Nation.

**Title Fourteen**

The Labor Law Process

Chapter I

Procedural Principles

Article 685. The labor legal process will be public, free, immediate, predominantly oral and conciliatory and will be initiated at the request of a party. The Boards will have the obligation of taking the measures necessary for achieving greater economy, concentration, and simplicity of the process.

Under Mexican legislation the Health and safety protection and accident prevention is well developed and implemented. Actually, the Labor authority implemented the “Safety and Health at Work Program” (PASST)

The system, developed by the Secretariat of the Labor and Social Welfare, serves as an online tool for support the work centers for their incorporation into the system, and allows their monitoring and control of their participation in the PASST.

The PASST contains functionalities to register the voluntary commitment with which the incorporation of the Self-Management Program in Health and Safety at work, is requested.

The system recovers the information provided by the work centers in the other self-management modules developed by the labor authority, in order to carried out, the programmed commitments and the progress in the execution of the programs related to the administration system in occupational health and safety, and compliance with the regulation on the subject.

https://autogestionssst.Secretariat of Labor and Social Welfare.gob.mx/Proyecto/Content/doctos/Programa_AutogestionenSST.pdf
When the legal complaint of the worker is incomplete, with respect to it not containing all the benefits stipulated by law that result from the intended or proceeding action, in conformity to the acts revealed by the worker, the Board, at the moment of accepting the legal complaint, will correct it. The latter will be done without prejudice to when the complaint is obscure or vague it proceeds under the terms detailed in Article 873 of this Law.

**Article 698.** It will be the under the authority of the Local Boards of Conciliation and of Conciliation and Arbitration of the States, to hear the conflicts that are within their jurisdiction, that are not under the jurisdiction of the Federal Boards. The Federal Board of Conciliation will hear the labor conflicts with they deal with industrial branches, companies, or matters contained in the Articles 123, part A, Section XXXI of the Political Constitution and 527 of this Law.

**Law of Social Security**

**Fifth title**

**Procedures of effective period, and prescription**

**Chapter II**

**Procedures**

**Second Section**

**Means of defense**

**Article 294.** When the employers and all other obligated subjects, as well as the insured workers or his beneficiaries, consider some definitive act of the Institute [Mexican Institute of Social Security] as impugnable, they can appeal for non-conformity, in the format and terms that the regulation establishes, or proceed under the terms in the following Article. The resolutions, agreements, or liquidations of the Institute [Mexican Institute of Social Security] that had not been
impugned in the format and terms stipulated in the corresponding regulation, will be understood as consented.

**Article 295.** The controversies between the insured workers or its beneficiaries and the institute about the benefits that this law grants, must be conducted by the Federal Board of Conciliation and Arbitration, and the ones’ that are between the Institute [Mexican Institute of Social Security] and the employers and other obligated individuals, will be conducted by the Federal Tribunal of Fiscal and Administrative Justice.

**Article 296.** The rightful claimants can interpose before the Institute [Mexican Institute of Social Security] an administrative complaint, which will have the purpose making known the dissatisfaction of the users by actions or omissions of the institutional personnel linked to the rendering of medical services, provided the same do not constitute a definitive act impugnable through the non-conformity recourse. The administrative complaint procedure must be exhausted before presenting it to another organ or authority of any administrative procedure, recourse or jurisdictional instance. The resolution of the complaint will be made under the terms in the respective instructional.
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| **Regulation 4.3 Health and safety protection and accident prevention**
*Purpose: To ensure that seafarers’ work environment on board ships promotes occupational safety and health*

1. Each Member shall ensure that seafarers on ships that fly its flag are provided with occupational health protection and live, work and train on board ship in a safe and hygienic environment.

2. Each Member shall develop and promulgate national guidelines for the management of occupational safety and health on board ships that fly its flag, after consultation with representative shipowners’ and seafarers’ organizations and taking into account applicable codes, guidelines and standards recommended by international organizations, national administrations and maritime industry organizations.

3. Each Member shall adopt laws and regulations and other measures addressing the matters specified in the Code, taking into account relevant international instruments, and set standards for occupational safety and health protection and accident prevention on ships that fly its flag.

*Standard A4.3 – Health and safety protection and accident prevention*

1. The laws and regulations and other measures to be adopted in accordance with Regulation 4.3, paragraph 3, shall include the following subjects:
   (a) the adoption and effective implementation and promotion of occupational safety and health policies and programmes on ships that fly the Member’s flag, including risk evaluation as well as training and instruction of seafarers;
   (b) reasonable precautions to prevent occupational accidents, injuries and diseases on board ship, including measures to reduce and prevent the risk of exposure to harmful levels of ambient factors and chemicals as well as the risk

| **Political Constitution of the United Mexican States**
Sixth Title
Labor and Social Welfare

**Article 123.** All persons have the right to dignified and socially useful work; for this purpose, the creation of employment and the social organization of labor will be promoted pursuant to the Law.
The Congress of the Union, without contravening the following criteria, must issue labor laws which will regulate:

A. Among workers, days laborers, domestic employees, artisans and generally, all labor contracts:

**XV.** The employer will be obligated to observe, according to the nature of their negotiation, the legal precepts on health and safety in the installations of their establishment, and to adopt the measures adequate for preventing accidents in the use of machines, instruments, and work materials, as well as to organize it in the same way, that results in the greater guarantee for the health and the life of the workers and from the product of conception, with regard to pregnant women. The Laws will contain, for the purpose, the sanctions applicable in each case;

**XXIX.** The Social Security Law is of public utility, and it will include insurance for disability, old age, life, involuntary separation from work, illnesses and accidents, childcare services and any other intended for the protection and wellbeing of the workers, farm workers, non-salaried workers and other social sectors and their relatives.

In Mexico health and social security (safety protection and accident prevention) benefits are carried out through employer registration of their workers to the Mexican Institute of Social Security.

The Secretariat of Labor and Social Security is responsible for this issue in Mexico.
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| of injury or disease that may arise from the use of equipment and machinery on board ships; (c) on-board programmes for the prevention of occupational accidents, injuries and diseases and for continuous improvement in occupational safety and health protection, involving seafarers' representatives and all other persons concerned in their implementation, taking account of preventive measures, including engineering and design control, substitution of processes and procedures for collective and individual tasks, and the use of personal protective equipment; and (d) requirements for inspecting, reporting and correcting unsafe conditions and for investigating and reporting on-board occupational accidents. 2. The provisions referred to in paragraph 1 of this Standard shall: (a) take account of relevant international instruments dealing with occupational safety and health protection in general and with specific risks, and address all matters relevant to the prevention of occupational accidents, injuries and diseases that may be applicable to the work of seafarers and particularly those which are specific to maritime employment; (b) clearly specify the obligation of shipowners, seafarers and others concerned to comply with the applicable standards and with the ship’s occupational safety and health policy and programme with special attention being paid to the safety and health of seafarers under the age of 18; (c) specify the duties of the master or a person designated by the master, or both, to take specific responsibility for the implementation of and compliance with the ship’s occupational safety and health policy and programme; and (d) specify the authority of the ship’s seafarers appointed or elected as | Federal Labor Law  
Title Four  
Rights and Obligations of Employees and Employers  
Chapter I  
Obligations of employers  
Article 132. The obligation of employers are: XVI. To bring factories, workshops, offices, and other places where labor is performed into compliance with the principles of Health and Safety for the purpose of preventing work related accidents and worker injuries, as well as the adoption of the measures necessary for avoiding contaminants that exceed the limits permitted by the regulations and instructions issued by the appropriate authorities. For these purposes, employers must modify, when applicable, their installations, under the terms stipulated by the proper authorities. XVII. To comply with the health and safety Regulation and the health and safety Standards, the health, and environmental standards17, as well as to make available at all times, the medications and materials for indispensable treatment in order to render first aid opportunely and efficiently; XVIII. To post in a visible place and make known in the workplace, the provisions pertaining to the regulations and instructions for safety and health; as well as the complete text of the union contract or contracts that are in effect in the company; furthermore, the information on the risks and hazards to which they are exposed must be disseminated to the workers; | |
safety representatives to participate in meetings of the ship’s safety committee. Such a committee shall be established on board a ship on which there are five or more seafarers.

3. The laws and regulations and other measures referred to in Regulation 4.3, paragraph 3, shall be regularly reviewed in consultation with the representatives of the shipowners’ and seafarers’ organizations and, if necessary, revised to take account of changes in technology and research in order to facilitate continuous improvement in occupational safety and health policies and programmes and to provide a safe occupational environment for seafarers on ships that fly the Member’s flag.

4. Compliance with the requirements of applicable international instruments on the acceptable levels of exposure to workplace hazards on board ships and on the development and implementation of ships’ occupational safety and health policies and programmes shall be considered as meeting the requirements of this Convention.

5. The competent authority shall ensure that:
   (a) occupational accidents, injuries and diseases are adequately reported, taking into account the guidance provided by the International Labour Organization with respect to the reporting and recording of occupational accidents and diseases;
   (b) comprehensive statistics of such accidents and diseases are kept, analysed and published and, where appropriate, followed up by research into general trends and into the hazards identified; and
   (c) occupational accidents are investigated.

6. Reporting and investigation of occupational safety and health matters shall be designed to ensure the protection of seafarers’ personal data, and shall take account of the guidance provided by the International Labour Organization on this matter.

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<td>matters of occupational health, safety and environment, as well as those that are indicated by the employers for their personal safety and protection;</td>
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<td>X. To submit themselves to the medical evaluations detailed in the internal regulation and all other standards in effect in the company or establishment, in order to verify that they do not suffer any contagious or incurable disability or work related illness.</td>
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Title Six
Special Jobs
Chapter III
Workers on ships

Article 204. Employers have the following special obligations:

VII. To provide food and lodging, medical treatment, medications, and other therapeutic measures in cases of illnesses, whatever their nature is;

VIII. To take on board medical personnel and material prescribed by the laws and provisions on communications by water;

IX. To repatriate or transfer workers to the place agreed on, except in cases of dismissal for reasons not attributable to the employer; and

X. To inform the captain of the corresponding port, within 24 hours of having been declared free to speak, of the work-related accidents that occurred on board. If the ship arrives in a foreign port, the report will be delivered to the Mexican consular authority or when there is none, to the captain of the first national port they arrive at.

Article 205. Workers will have a special obligation to respect and execute the instructions and practices designated for preventing maritime accidents, which will be carried out under the terms determined by the laws and provisions on sea travel. Captains and other officers will operate, in
7. The competent authority shall cooperate with shipowners’ and seafarers’ organizations to take measures to bring to the attention of all seafarers information concerning particular hazards on board ships, for instance, by posting official notices containing relevant instructions.

8. The competent authority shall require that shipowners conducting risk evaluation in relation to management of occupational safety and health refer to appropriate statistical information from their ships and from general statistics provided by the competent authority.

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<td>those cases, as representatives of authority and not as representatives of employers.</td>
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**Title Nine Labor Risks**

**Article 472.** The provisions of this Title are applied to all labor relations, including the special jobs, with the limitation designated in Article 352.

**Article 473.** Work risks are accidents and illnesses to which the workers are exposed to in exercising, or for reasons related to the job.

**Article 474.-** Work accident is any organic injury or functional disturbance, immediate or subsequent, death or disappearance derived from a criminal act, suddenly occurring in the exercise or for reasons of work, whatever the place and time in which it is rendered. Included in the latter definition are the accidents that occur during the transportation of the worker from his home to the place of employment and from the job to his home.

**Article 475.** Job related illness is every pathological state derived from the continuous action from a cause, that has as its origin or reason, the job or the environment that the worker is obligated to labor in.

**Article 475 Bis.** The employer is responsible for health and safety and the prevention of occupational risks, according to the provisions of this Law, its Regulations and the applicable Official Mexican Standards. It is the obligation of the workers to observe the preventive measures of health and safety established by the Regulations and the Official Mexican Standards issued by the appropriate authorities, as well as...
those indicated by the employers for the prevention of occupational risks.

**Article 476.** The occupational illnesses in all cases will be those determined by this Law and, when applicable, the updates made by the Secretary of Labor and Social Welfare.

**Article 477.** When the accidents that occur can produce:

I. Temporary disability;
II. Permanent partial disability;
III. Permanent total disability;
IV. Death, and
V. Disappearance derived from a criminal act.

**Article 487.** The workers that suffer a work-related accident will have the right to:

II. Rehabilitation;
III. Hospitalization, when the case requires it;
IV. Medications and medical supplies;
V. The necessary prosthetic and orthopedic apparatuses; and
VI. The compensation stipulated in the present Title.

**Article 490.** In case of inexcusable negligence of the employer, the indemnification may be increased up to 25%, at the discretion of the Board of Conciliation and Arbitration. There is inexcusable negligence on the part of the employer:

I. If he is not in compliance with the legal provisions, regulations and those contained in the Official Mexican Standards in matters of occupational health, safety and environment;
II. If after having experienced previous accidents, he does not adopt the adequate measures in order to avoid repetition;
III. If he does not adopt the preventive measures recommended by the commissions created by the workers and
employers, or by the Labor Authorities;
IV. If the workers bring a dangerous situation to the attention of the employer and he does not adopt adequate measures to avoid it; and
V. If similar circumstances occur, of the same seriousness to those mentioned in the latter Sections.

Article 495. If the accident produces in the worker a permanent total disability, the compensation will consist in a quantity equivalent to the total of 1,095 days of wages.

Article 496. The compensation that the worker must receive in the cases of permanent partial or total disability will be paid completely, without deducting any of the wages that he received during the period of temporary disability.

Article 498. The employer is obligated to return the worker to his position after suffering a job related accident, if he is found to be able, always that he presents himself within the following year from the date in which the disability was determined.
The provision in the latter paragraph is not applicable if the worker received the compensation for total permanent disability.

Article 499. If an employee, victim of an accident, cannot continue in his job, but in some other, the employer will be obligated to give it to him, in conformity with the provisions of the collective labor contract.

Article 500. When the risk causes as a consequence the death or the disappearance derived from a criminal act of the worker, the indemnification will include:
I. Two months of wages for the funeral costs; and
II. The payment of the quantity that is set in Article 502.
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<td>Article 502. In case of death or disappearance derived from a criminal act of the worker, the compensation corresponding to the persons referred to in the preceding Article will be the amount equivalent to the amount of five thousand days of salary, without deducting the compensation that the worker received during the time he was subjected to the regime of temporary incapacity.</td>
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<td>Article 509. In each company or establishment, the commissions for safety and health that are judged to be necessary will be organized, composed of an equal number of representatives of workers and the employer, in order to investigate the causes of accidents and illnesses, to propose measures to prevent them and make sure that they are complied with.</td>
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<td>Article 510. The commissions referred to in the preceding Article will be put in place freely during work hours.</td>
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<td>Article 512. In the regulations of this Law and in the instructions that the labor authorities base them on, the necessary measures will be established to prevent work-related accidents and achieve conditions that assure the health and life of the workers.</td>
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**Title Eleven**  
**Labor authorities and social services**  
**Chapter 1**  
**General Provisions**  
**Article 523.** The application of labor standards are the responsibility of, in their respective jurisdictions:  
I. To the Secretary of Labor and Social Welfare;
Federal Regulation of Occupational Health and Safety

First Title
General Provisions, Jurisdiction and Obligated Subjects
Second Chapter Responsibilities

Article 4. The application of this Regulation is the responsibility of the Secretariat [Secretariat of Labor and Social Security], who will aid the Labor Authorities of the Federal Entities with regard to branches or activities under state jurisdiction, under the terms of the Law [Federal Labor Law]. The interpretation for administrative purposes of this Regulation and the Standards that are issued from it, is the responsibility of the Secretary [Secretariat of Labor and Social Security].

Third Chapter Obligated Subjects

Article 7. The following obligations of the Employers:
I. To have an Occupational Health and Safety Diagnostic and the studies and analysis of Risks required by this Regulation and the Standards that form part of the aforesaid diagnostic;
II. To integrate an Occupational Health and Safety Program based on the Occupational Health and Safety Diagnostic;
III. To prepare the specific programs, manuals and procedures that orientate the performance of labor activities and processes under safe and emergency conditions;
IV. To constitute and integrate the Health and Safety Commission, as well as to facilitate its operation;
V. To guarantee the rendering of the Preventive Services of Occupational Health and Safety and, under the terms of the Law [Federal Labor Law], those of occupational medicine;
VI. To place in visible places of the Workplace, the warnings or
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<td>signs and colors for informing, warning and preventing Risks;</td>
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<td>VII. To apply, in the installation of their establishments, the Occupational Health and Safety measures stipulated in this Regulation and in the Standards, according to the nature of the activities and labor processes;</td>
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<td>VIII. To carry out the actions of Assessment, Evaluation and Control of the Contaminants of the Work Environment, for the purpose of conserving the environmental conditions of the Workplace within the exposure limit values;</td>
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<td>IX. To order the application of medical examinations for the Occupationally Exposed Personnel required by this Regulation and the Standards;</td>
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<td>X. To provide the workers with the Personal Protective Equipment according to the Risks to which they are exposed;</td>
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<td>XI. To inform the workers with respect to the Risks related to the activity they are carrying out;</td>
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<td>XII. To qualify and train the workers on the prevention of Risks and the attention to emergencies, according to the activities that they carry out;</td>
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<td>XIII. To qualify the personnel of the Workplace that forms part of the Health and Safety Commission and the Preventive Services of Occupational Health and Safety and, when applicable, to support the updating of the persons responsible for the internal Preventive Services of Occupational Medicine;</td>
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<td>XIV. To issue the authorizations for the performance of hazardous activities or tasks that are detailed in this Regulation and the specific Standards;</td>
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<td>XV. To maintain the administrative records, printed or electronic, established in this Regulation and the Standards;</td>
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<td>XVI. To give notice to the Secretary, through the Federal Labor Delegations, the General</td>
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Office of Federal Labor Inspection or the General Office of Occupational Investigation and Statistics, or the social security institutions on the Labor Accidents that may occur;

**XVII.** To give notice to the Secretary, through the Federal Labor Delegations, the General Office of Federal Labor Inspection or the General Office of Occupational Investigation and Statistics, on the deaths that occur for reason of Occupational Accidents and Illnesses;

**XVIII.** To present the notices related to the functioning of containers subject to pressure, cryogenic containers and steam generators or boilers, that are included in this Regulation;

**XIX.** To have the official documents, reports of results and compliance certificates in matters of Occupational Health and Safety, determined in this Regulation and in the Standards;

**XX.** Supervise that contractors comply with the Occupational Health and Safety measures that are stipulated in this Regulation and the Standards, when they carry out tasks within their installations;

**XXI.** To permit and facilitate the exercise of the duties of inspection and oversight on the part of the Labor Authority, in order to verify compliance to the regulatory instruments in matters of Occupational Health and Safety, and

**XXII.** All others detailed in other applicable legal provisions.

**Article 13.** The Secretary [Secretariat of Labor and Social Security] can perform studies and research in Workplaces, for the purpose of establishing the criteria for the preparation and updating of Standards, as well as for sustaining the cost-benefit and technical feasibility of the same.

Likewise, the Secretary [Secretariat of Labor and Social Security] can carry out studies and
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<td>research in those companies with high rates of Occupational Accidents and Illnesses, for the purpose of identifying and evaluating their possible causes, as well as defining the preventing measures appropriate to apply. The employers and workers must provide the Secretary [Secretariat of Labor and Social Security] with the assistance necessary for the performance of such studies and research, for which the approval of the Workplace must be requested. The Secretary [Secretariat of Labor and Social Security] can request the aid of other departments and entities of the Federal Executive branch, as well as the appropriate State authorities for the performance of the studies and research referred to in this Article.</td>
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<td>Third Title General Provisions, Organizational and Specialized Provisions for Occupational Health and Safety First Chapter General Provisions for Occupational Safety Article 17. In this Chapter, the general provisions for work safety are established that must be observed in the following capacities: I. Buildings, locales, installations, and work areas; II. Prevention and protection from fires; III. Utilization of machinery, equipment and tools; IV. Handling, transport and storage of materials; V. Handling, transport and storage of Hazardous Chemical Substances; VI. Driving motorized vehicles; VII. Working at heights; VIII. Work in Confined Spaces; IX. Containers subject to pressure, cryogenic containers and steam generators or boilers;</td>
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<td>X. Static electricity; XI. Welding and cutting activities, and XII. Maintenance of electrical installations. The provisions of this Chapter will be complemented with those of a specific character that are contained in the applicable Standards. [Official Mexican Standard enacted by Secretariat of Labor and Social Security]</td>
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**Ninth Title**

**Administrative Sanctions**

**Article 114.** The violations of the precepts of this Regulations and the Standards will be sanctioned administratively by the Secretariat [Secretariat of Labor and Social Security], without prejudice to the sanctions that are applicable under the terms of the Law [Federal Labor Law] or other legal or regulatory provisions.

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**NOM-019-SECRETARIAT OF LABOR AND SOCIAL WELFARE - 2011, Constitution, integration, organization and operation of the Commissions of Health and Safety**

**Objective** To establish the requirements for the constitutions, integration, organization and operation of the commissions of health and safety in the workplace.

1. **Field of application** This Standard regulated in the national territory and applies in all the workplaces.

2. **References** For the correct interpretation of this Standard, the following current Official Mexican Standard must be consulted or those that substitute it:

   3.1 **NOM-030-SECRETARIAT OF LABOR AND SOCIAL WELFARE-2000**, Preventive services of
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<td>occupational health and safety – Functions and activities.</td>
<td>5. Obligations of the employer 5.1. To constitute and integrate at least one commission in the workplace, in conformity with the Chapter 7 of this Standard. 5.2. To designate their representatives to participate in the commission that is integrated in the workplace. Said designation must be made based on the duties to be performed.</td>
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<td>6. Obligation of the workers 6.1 To designate their representatives to participate in the commission based on the duties to be performed. 6.2 To participate as members of the commission when they are designated: a) Through the union, through consultation among the workers, or b) By majority of the workers, in the absence of the union.</td>
<td>7. Constitution and integration of the commissions 7.1 Each commission must be integrated by: a) A worker and the employer or his representative, when the workplace has less than 15 workers, or b) A coordinator, a secretary, and the speakers that the employer or his representatives agree on, and the union or the representatives of the workers, when there is no union, when the workplace has 15 workers or more. 7.2 The representation of the workers must be made up of those that perform their labor directly in the workplace and that, preferably, have knowledge or experience in</td>
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<td>matters of occupational health and safety.</td>
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<td><strong>9. Operation of the commissions</strong></td>
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<td><strong>9.7.</strong> For the identification and determination of the regulatory provisions in health and safety matters applicable in the workplace, the commission may use the Assistance for the Identification of the Official Mexican Standards for Occupational Health and Safety and the section for Evaluation and Compliance of Regulations in Occupational Health and Safety, found on the web site of the Secretary <a href="https://autogestionssst.Secretariat">https://autogestionssst.Secretariat</a> of Labor and Social Welfare.gob.mx/Proyecto/Publico/Default.aspx for the purpose of detecting agents, hazardous or unsafe conditions and unsafe acts in the workplace.</td>
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<td><strong>9.8.</strong> To determine the measures to be taken for preventing occupational hazards in the workplace and following-up on their implementation, the commission may use the module for the Preparation of Occupational Health and Safety Programs, found on the web site of the Secretary <a href="https://autogestionssst.Secretariat">https://autogestionssst.Secretariat</a> of Labor and Social Welfare.gob.mx/Proyecto/Publico/Default.aspx</td>
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<td>Regulation 4.4 – Access to shore-based welfare facilities</td>
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| **Purpose:** To ensure that seafarers working on board a ship have access to shore-based facilities and services to secure their health and well-being. | **Federal Labor Law**  
**Title Six**  
**Special Jobs**  
**Chapter III**  
**Workers on ships**  
**Article 214.** The Federal Executive branch will determine the sustaining and improving of the services of the house of the sailor and will set the contributions of the employer. | The single gap is related to the figure of shore-based welfare facilities, under the domestic legislation, is called seamen's home. |
| 1. Each Member shall ensure that shore-based welfare facilities, where they exist, are easily accessible. The Member shall also promote the development of welfare facilities, such as those listed in the Code, in designated ports to provide seafarers on ships that are in its ports with access to adequate welfare facilities and services. |  
**General Regulations of the Seafarers House of the United Mexican States**  
**Article 2.** The purpose of the “Seafarers House” is to ensure the welfare of the seafarers in the land, developing their moral and intellectual level, as well as their activities social, without any profit objective and must specifically provide the services following:  
**I.** Lodging and related services;  
**II.** Sanatoriums and medical offices;  
**III.** Asylum for elderly homeless sailors;  
**IV.** Recreational and cultural centers;  
**V.** Savings account;  
**VI.** Lifeguard;  
**VII.** Rescue of shipwrecks.  
The services listed in the previous sections will be established in each locality as the financial possibilities of the institution permit, when agreed by the Board of Directors of the same. | Despite being legally recognized and regulated, an effective implementation is required by the Secretariat of Communications and Transportation. |
| 2. The responsibilities of each Member with respect to shore-based facilities, such as welfare, cultural, recreational and information facilities and services, are set out in the Code. |  
**Article 4.** the “Seafarers House” does not have the character of charitable institution or of public or private assistance and the services provided by any marine without distinction of nationality, race, color, religion or category, as | |
| Standard A4.4 – Access to shore-based welfare facilities |  
1. Each Member shall require, where welfare facilities exist on its territory, that they are available for the use of all seafarers, 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. Each Member shall promote the development of welfare facilities in appropriate ports of the country and determine, after consultation with the shipowners’ and seafarers’ organizations concerned, which ports are to be regarded as appropriate.  
3. Each Member shall encourage the establishment of welfare boards which shall regularly review welfare facilities and services to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, operational | |

and other developments in the shipping industry.

**Regulation 4.5 – Social Security**

*Purpose: To ensure that measures are taken with a view to providing seafarers with access to social security protection*

1. Each Member shall ensure that all seafarers and, to the extent provided for in its national law, their dependants have access to social security protection in accordance with the Code without prejudice however to any more favourable conditions referred to in paragraph 8 of article 19 of the Constitution.

2. Each Member undertakes to take steps, according to its national circumstances, individually and through international cooperation, to achieve progressively comprehensive social security protection for seafarers.

3. Each Member shall ensure that seafarers who are subject to its social security legislation, and, to the extent provided for in its national law, their dependants, are entitled to benefit from social security protection no less favourable than that enjoyed by shorthowers.

**Standard A4.5 – Social security**

1. The branches to be considered with a view to achieving progressively comprehensive social security protection under Regulation 4.5 are: 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 Regulations 4.1, on medical care, and 4.2, on shipowners’ liability, and under other titles of this Convention.

2. At the time of ratification, the protection to be provided by each
| Member in accordance with Regulation 4.5, paragraph 1, shall include at least three of the nine branches listed in paragraph 1 of this Standard.  
3. Each Member shall take steps according to its national circumstances to provide the complementary social security protection referred to in paragraph 1 of this Standard to all seafarers ordinarily resident in its territory. This responsibility could be satisfied, for example, through appropriate bilateral or multilateral agreements or contribution-based systems. The resulting protection shall be no less favourable than that enjoyed by shoreworkers resident in their territory.  
4. Notwithstanding the attribution of responsibilities in paragraph 3 of this Standard, Members may determine, through bilateral and multilateral agreements and through provisions adopted in the framework of regional economic integration organizations, other rules concerning the social security legislation to which seafarers are subject.  
5. Each Member’s responsibilities with respect to seafarers on ships that fly its flag shall include those provided for by Regulations 4.1 and 4.2 and the related provisions of the Code, as well as those that are inherent in its general obligations under international law.  
6. Each Member shall give consideration to the various ways in which comparable benefits will, in accordance with national law and practice, be provided to seafarers in the absence of adequate coverage in the branches referred to in paragraph 1 of this Standard.  
7. The protection under Regulation 4.5, paragraph 1, may, as appropriate, be contained in laws or regulations, in private schemes or in collective bargaining agreements or in a combination of these.  
8. To the extent consistent with their national law and practice, Members shall cooperate, through bilateral or multilateral agreements or other arrangements, to ensure the maintenance of social security rights, provided through contributory or non-
| necessary for the individual and collective wellbeing, as well as the granting of a pension that, when applicable and after compliance with the legal requirements, will be guaranteed by the State.  
Article 3. The performance of the social security is the responsibility of the public, Federal, or local entities or departments and decentralized organs, in conformity to the provisions in this Law and all other legislation in this field.  
Article 4. Social security is the basic instrument of social security, established as a public service of national character under the terms of this Law, without prejudice to the systems instituted by other legislation.  
Article 6. Social security comprises:  
I. The obligatory category, and  
II. The voluntary category.  

| Title Two  
Obligatory Category  
Chapter I  
General Provisions  
Article 11. The obligatory category consists of insurance for:  
I. Occupational risks;  
II. Illnesses and maternity;  
III. Disability and life;  
IV. Retirement, advanced and old age pension, and  
V. Child care centers and social benefits.  
Article 12. The following are subject to insurance in the obligatory category:  
I. The persons that in conformity with Articles 20 and 21 of the Federal Labor Law, render, in a permanent way or temporarily, to individuals or companies or economic units without a legal status, a compensated service, personal and subordinate, whatever is the act that gives it
| COMMENTS |

| DOMESTIC LAW OF MEXICO | COMMENTS |

| Member in accordance with Regulation 4.5, paragraph 1, shall include at least three of the nine branches listed in paragraph 1 of this Standard.  
3. Each Member shall take steps according to its national circumstances to provide the complementary social security protection referred to in paragraph 1 of this Standard to all seafarers ordinarily resident in its territory. This responsibility could be satisfied, for example, through appropriate bilateral or multilateral agreements or contribution-based systems. The resulting protection shall be no less favourable than that enjoyed by shoreworkers resident in their territory.  
4. Notwithstanding the attribution of responsibilities in paragraph 3 of this Standard, Members may determine, through bilateral and multilateral agreements and through provisions adopted in the framework of regional economic integration organizations, other rules concerning the social security legislation to which seafarers are subject.  
5. Each Member’s responsibilities with respect to seafarers on ships that fly its flag shall include those provided for by Regulations 4.1 and 4.2 and the related provisions of the Code, as well as those that are inherent in its general obligations under international law.  
6. Each Member shall give consideration to the various ways in which comparable benefits will, in accordance with national law and practice, be provided to seafarers in the absence of adequate coverage in the branches referred to in paragraph 1 of this Standard.  
7. The protection under Regulation 4.5, paragraph 1, may, as appropriate, be contained in laws or regulations, in private schemes or in collective bargaining agreements or in a combination of these.  
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| COMMENTS |
contributory schemes, which have been acquired, or are in the course of acquisition, by all seafarers regardless of residence.

9. Each Member shall establish fair and effective procedures for the settlement of disputes.

10. Each Member shall at the time of ratification specify the branches for which protection is provided in accordance with paragraph 2 of this Standard. It shall subsequently notify the Director-General of the International Labour Office when it provides social security protection in respect of one or more other branches stated in paragraph 1 of this Standard. The Director-General shall maintain a register of this information and shall make it available to all interested parties.

11. The reports to the International Labour Office pursuant to article 22 of the Constitution, shall also include information regarding steps taken in accordance with Regulation 4.5, paragraph 2, to extend protection to other branches.

<table>
<thead>
<tr>
<th>TITLE 5. COMPLIANCE AND ENFORCEMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The Regulations in this Title specify each Member's responsibility to fully implement and enforce the principles and rights set out in the Articles of this Convention as well as the particular obligations provided for under its Titles 1, 2, 3 and 4.</td>
</tr>
<tr>
<td>2. Paragraphs 3 and 4 of Article VI, which permit the implementation of Part A of the Code through substantially equivalent provisions, do not apply to Part A of the Code in this Title.</td>
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<tr>
<td>3. In accordance with paragraph 2 of Article VI, each Member shall implement its responsibilities under the Regulations in the manner set out in the corresponding Standards of Part A of the Code, giving due consideration to the corresponding Guidelines in Part B of the Code.</td>
</tr>
<tr>
<td>4. The provisions of this Title shall be implemented bearing in mind that seafarers and shipowners, like all other persons, are equal before the law and are entitled to the equal protection of the law and shall not be subject to origin and whatever is the legal status or economic nature of the employer even when the latter, in virtue of some special Law, is exempt from the payment of taxes;</td>
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</tbody>
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| Article 15. Employers are obligated to: |
| I. Register themselves and enroll their workers in the Institute, advise of their entering and leaving employment, the modifications of their wages and all other data, within a time period not greater than five working days; |

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<th>TITLES</th>
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<th>COMMENTS</th>
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<tr>
<td>Federal Labor Law</td>
<td>Title Six</td>
<td>The main gap is that in the workplace only the competence of labor inspectors is recognized for carrying out inspections in this field.</td>
</tr>
<tr>
<td>Special Jobs</td>
<td>Chapter III</td>
<td>The recognized organizations are only used by the marine secretary regarding the obligations contracted under the IMO regime</td>
</tr>
<tr>
<td>Workers on ships</td>
<td>Article 212. It is the responsibility of the labor inspector to oversee the compliance to the laws and all other labor standards, giving attention to the laws and provisions for water travel, when the ships are in port.</td>
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<tr>
<td>Title Nine</td>
<td>Labor risks</td>
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<tr>
<td>Article 511. The Labor Inspectors have the following attributions and special duties:</td>
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<tr>
<td>I. To monitor the compliance to the legal standards and regulations for the prevention of job-related accidents, and the safety of the life and health of the workers;</td>
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<tr>
<td>II. To document the violations that they discover; and</td>
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<td>III. To collaborate with the workers and the employer in the diffusion of the standards for,</td>
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<td>MARITIME LABOR CONVENTION, 2006, AS AMENDED</td>
<td>DOMESTIC LAW OF MEXICO</td>
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<td>discrimination in their access to courts, tribunals or other dispute resolution mechanisms. The provisions of this Title do not determine legal jurisdiction or a legal venue.</td>
<td>health, health and the prevention of accidents.</td>
<td>Article 512-A. For the purpose of collaborating in the design of the national policy in matters of occupational health, safety and environment, proposing reforms and additions to the regulation and to the Official Mexican Standards in the matter, as well as to study and recommend preventive measures for abating the risks in the workplace, the National Consultative Committee of Occupational Health and Safety will be organized.</td>
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</table>

**Regulation 5.1 – Flag State responsibilities**

*Purpose:* To ensure that each Member implements its responsibilities under this Convention with respect to ships that fly its flag.

**Regulation 5.1.1 - General principles**

1. Each Member is responsible for ensuring implementation of its obligations under this Convention on ships that fly its flag.

2. Each Member shall establish an effective system for the inspection and certification of maritime labour conditions, in accordance with Regulations 5.1.3 and 5.1.4 ensuring that the working and living conditions for seafarers on ships that fly its flag meet, and continue to meet, the standards in this Convention.

3. In establishing an effective system for the inspection and certification of maritime labour conditions, a Member may, where appropriate, authorize public institutions or other organizations (including those of another Member, if the latter agrees) which it recognizes as competent and independent to carry out inspections or to issue certificates or to do both. In all cases, the Member shall remain fully responsible for the inspection and certification of the working and living conditions of the seafarers concerned on ships that fly its flag.

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.

5. Information about the system referred to in paragraph 2 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member’s reports to the

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International Labour Office pursuant to article 22 of the Constitution.

**Standard A5.1.1 - General principles**

1. Each Member shall establish clear objectives and standards covering the administration of its inspection and certification systems, as well as adequate overall procedures for its assessment of the extent to which those objectives and standards are being attained.

2. Each Member shall require all ships that fly its flag to have a copy of this Convention available on board.

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<tr>
<td>I. Oversee the compliance to the Labor standards;</td>
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<tr>
<td>II. To provide technical information and advice to the workers and the employers on the most effective way to comply with the Labor standards;</td>
<td>II. To provide technical information and advice to the workers and the employers on the most effective way to comply with the Labor standards;</td>
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<tr>
<td>III. To make the labor authority aware of the deficiencies and the violations of the Labor standards are observed in the companies and establishments;</td>
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<tr>
<td>IV. To perform studies and compile data that is requested by the authorities and that which they find appropriate for achieving harmonious relations between workers and employers; and</td>
<td>IV. To perform studies and compile data that is requested by the authorities and that which they find appropriate for achieving harmonious relations between workers and employers; and</td>
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<td>V. All others conferred on them by the Laws.</td>
<td>V. All others conferred on them by the Laws.</td>
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**Article 541.** The labor inspectors have the following duties and authority:

I. To oversee the compliance to the Labor standards, especially those which establish the rights and obligations of workers and employers, of those which regulate the labor of women and minors, and of the preventions of accidents on the job, safety and health;

II. To visit the companies and establishments during work hours, day or night, after identifying themselves;

III. To interrogate, alone or before witnesses, the workers and employers, on any subject related with the application of the labor standards;

IV. To require the presentation of books, logs, or other documents, obligated by the labor standards;

V. To suggest the correction of violations of the labor conditions;

VI. To suggest the elimination of confirmed defects in the installations and labor methods when they constitute a violation of the Labor standards or a danger for the health or safety of the workers;

**VI Bis.** To order, after consultation with the General Director of Federal Labor Inspection, the adoption of the
security measures of immediate application in case of imminent danger for the life, health or the integrity of the persons. In this case, if so authorized, the Inspectors must decree the restriction of access or limit the operation in the areas of risk detected. In this supposition they must a copy of the determination to the employer for the legal purposes that proceed.

Within the following 24 hours, the Labor Inspectors, under their strictest responsibility, will deliver a detailed report in writing to the Secretary of Labor and Social Welfare with a copy of the same to the employer.

**VII.** To examine the substances and materials utilized in the companies and establishments with respect to dangerous jobs; and

**VIII.** All others conferred on them by the Laws.

The Labor Inspectors must comply punctually with the instructions that they receive from their hierarchical superiors related to the exercise of their functions.

**Article 545.** The labor inspection is made up of a General Director and with the number of inspectors, men, and women that is deemed necessary for the compliance with the functions that are mentioned in Article 540. The assignments will be made by the Secretary of Labor and Social Welfare and by the governments of the States.

**General Regulation of Labor Inspection and Application of Sanctions**

**First Title**

**General provisions**

**Sole Chapter**

**Scope of Application and General Principles**

**Article 1.** This ordinance regulates in the entire national territory and has the object of regulating the
Federal Labor Law, with regards to the procedure for promoting and overseeing the compliance to labor legislation and the application of sanctions for violations to the same in the Workplace. Its application is the responsibility of the Secretary of Labor and Social Welfare as well as the authorities of the States and the Federal District within the scope of their respective jurisdictions.

The conducive provisions of the Federal Law on Administrative Procedure and the Laws that regulate the administrative procedure of the States and the Federal District will be applied to the procedures detailed in this Regulation.

**Article 5.** The notifications of the actions that are made for performing the Inspections and the application of sanctions for violations of the labor legislation will be carried out in the format and terms that are stipulated for the purpose in this Regulation and the Law that regulates the administrative procedure that is applicable.

**Navigational Law and Maritime Commerce**

**Article 8 Bis.** The powers of the SEMAR [Secretariat of the Navy], without prejudice to those that correspond to other dependencies of the Federal Public Administration:

I. To flag and register Mexican ships and naval artifacts;

II. Certify the voyages, issue the seaman’s book and maritime identity of the personnel on board of the Mexican Merchant Fleet;

IV. Monitor the safety of navigation and the safeguarding of human life at sea;

VI. To inspect and certify Mexican ships, compliance with International Treaties, national legislation, regulations and official
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<tr>
<td>Mexican standards regarding safety in navigation and human life at sea, as well as prevention of marine pollution by boats;</td>
<td>VII. Inspect foreign ships, in accordance with International Treaties; VIII. Grant authorization of inspectors to individuals, to carry out the verification and certification of compliance with what is established in International Treaties, and the applicable national legislation, maintaining supervision over said persons; XI. To contribute in the scope of its competence with the labor authority, for the fulfillment of the resolution of maritime conflicts of labor nature; XII. Impose sanctions for infractions of this Law, its regulations, and the International Treaties in force in the matters that correspond to it in terms of this Article; XIII. Appoint and remove harbormasters; XVIII. Manage the national records of seafarers and ships, in accordance with the provisions of the respective regulations;</td>
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| **Regulation 5.1.2 – Authorization of recognized organizations**  
1. The public institutions or other organizations referred to in paragraph 3 of Regulation 5.1.1 ("recognized organizations") shall have been recognized by the competent authority as meeting the requirements in the Code regarding competency and independence. The inspection or certification functions which the recognized organizations may be authorized to carry out shall come within the scope of the activities that are expressly mentioned in the Code as being carried out by the competent authority or a recognized organization.  
2. The reports referred to in paragraph 5 of Regulation 5.1.1 shall contain information regarding any recognized organization, the extent of authorizations given and the arrangements made by the Member to ensure that the authorized activities are carried out completely and effectively. | **Navigational Law and Maritime Commerce**  
**Article 8 Bis.** The powers of the SEMAR [Secretariat of the Navy], without prejudice to those that correspond to other dependencies of the Federal Public Administration:  
**VIII.** Grant authorization of inspectors to individuals, to carry out the verification and certification of compliance with what is established in International Treaties, and the applicable national legislation, maintaining supervision over said persons;  
**XI.** To contribute in the scope of its competence with the labor authority, for the fulfillment of the resolution of maritime conflicts of labor nature;  
**XII.** Impose sanctions for infractions of this Law [Navigational Law and Maritime Commerce], its regulations, and the International Treaties in force in the matters that correspond to it in terms of this Article; | The main gap is that in the workplace only the competence of labor inspectors is recognized for carrying out inspections in this field. The recognized organizations are only used by the marine secretary regarding the obligations contracted under the IMO regime. |
| **Standard A5.1.2 – Authorization of recognized organizations**  
1. For the purpose of recognition in accordance with paragraph 1 of Regulation 5.1.2, the competent authority shall review the competency and independence of the organization concerned and determine whether the organization has demonstrated, to the extent necessary for carrying out the activities covered by the authorization conferred on it, that the organization:  
(a) has the necessary expertise in the relevant aspects of this Convention and an appropriate knowledge of ship operations, including the minimum requirements for seafarers to work on a ship, conditions of employment, accommodation, recreational facilities, food and catering, accident prevention, health protection, medical care, welfare and social security protection;  
(b) has the ability to maintain and update the expertise of its personnel;  
(c) has the necessary knowledge of the requirements of this Convention and an appropriate knowledge of ship operations, including the minimum requirements for seafarers to work on a ship, conditions of employment, accommodation, recreational facilities, food and catering, accident prevention, health protection, medical care, welfare and social security protection;  
Article 65. The inspection service is for public interest. The SEMAR [Secretariat of the Navy] will inspect and certify that Mexican naval ships and devices comply with national legislation and International Treaties regarding safety in navigation and human life at sea, as well as the prevention of marine pollution by ships.  
Article 66. The inspection service shall be exercised in accordance with the following provisions and those detailed in the respective regulation:  
I. The ship inspection service may be carried out by natural persons authorized as inspectors by the SEMAR [Secretariat of the Navy];  
II. The SEMAR [Secretariat of the Navy] will maintain the non-transferable obligation of |
| **Chapter VI **  
**Inspections** | | |
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<td>Convention as well as of applicable national laws and regulations and relevant international instruments; and (d) is of the appropriate size, structure, experience and capability commensurate with the type and degree of authorization.</td>
<td>supervision of the ship inspection service;</td>
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<tr>
<td>2. Any authorizations granted with respect to inspections shall, as a minimum, empower the recognized organization to require the rectification of deficiencies that it identifies in seafarers' working and living conditions and to carry out inspections in this regard at the request of a port State.</td>
<td>III. The inspectors may be part of national or foreign companies specialized in the classification of ships. Their responsibility shall be personal, regardless of the responsibility incurred by the classification societies to which they belong;</td>
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<tr>
<td>3. Each Member shall establish: (a) a system to ensure the adequacy of work performed by recognized organizations, which includes information on all applicable national laws and regulations and relevant international instruments; and (b) procedures for communication with and oversight of such organizations.</td>
<td>IV. The SEMAR [Secretariat of the Navy] will promote the constitution of Mexican classification societies, which will be integrated by inspectors of Mexican nationality;</td>
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<tr>
<td>4. Each Member shall provide the International Labour Office with a current list of any recognized organizations authorized to act on its behalf and it shall keep this list up to date. The list shall specify the functions that the recognized organizations have been authorized to carry out. The Office shall make the list publicly available.</td>
<td>V. To be authorized by the SEMAR [Secretariat of the Navy] to provide the inspection service, the requirements indicated in the respective regulation must be met; VI. The SEMAR [Secretariat of the Navy] will be empowered to implement continuous certification programs for inspectors, in accordance with the respective regulations, and</td>
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<td>VII. The position of inspector will be incompatible with any employment, commission or similar figure directly or indirectly in shipping companies, shipping agents, as well as in any entity related to them in the provision of maritime or port services.</td>
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<td>Article 67. The port captaincies will be obliged to answer in writing the requests for certification and inspection, as well as the complaints related to these services. In addition, you must keep a book open to the public where such complaints are recorded.</td>
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<td>Article 68. The port captaincies through the inspectors assigned to them will give priority to the fulfillment of the obligations derived from the International Treaties.</td>
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<td>Article 69. The port captaincies will keep a log of certifications and inspections as established by the</td>
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<td>respective regulations. Also, when determined by the SEMAR [Secretariat of the Navy], the log will have an electronic support that can be shared with the other port captaincies.</td>
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<tr>
<td><strong>Article 70.</strong> Each port captaincy, through the inspectors assigned to them, must inspect at least fifteen percent of the foreign ships that are in their respective ports, in accordance with the Latin American Agreement on Ship Control by the State of the Port.</td>
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<td><strong>Article 74.</strong> The construction, as well as the significant repair or modification of ships, must be carried out under technical safety conditions, in accordance with the International Treaties and with the respective regulations, for which:</td>
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<tr>
<td><strong>I.</strong> The shipyards, dams, dry docks, workshops and facilities at the service of the Merchant Navy must be subject to the respective Mexican official standards;</td>
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<tr>
<td><strong>II.</strong> The project must be previously approved by the SEMAR [Secretariat of the Navy] and prepared by professionally recognized natural persons or legally constituted companies, with demonstrated technical capacity;</td>
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<td><strong>III.</strong> During work, the ship under construction or repair will be subject to the corresponding tests, inspections and verifications; and</td>
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<td><strong>IV.</strong> At the end of the work, the ship will require the certificates of maritime safety and tonnage issued by the SEMAR [Secretariat of the Navy] directly or an inspector authorized by it.</td>
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<td>Repair or significant modification of ships will be understood as those that entail the alteration of their dimensions or their transport capacity, or that cause them to change the type of the ship, as well as those carried out with the intention of prolonging the useful life of the ship.</td>
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Regulation 5.1.3 - Maritime labour certificate and declaration of maritime labour compliance

1. This Regulation applies to ships of:
   (a) 500 gross tonnage or over, engaged in international voyages; and
   (b) 500 gross tonnage or over, flying the flag of a Member and operating from a port, or between ports, in another country.

   For the purpose of this Regulation, “international voyage” means a voyage from a country to a port outside such a country.

2. This Regulation also applies to any ship that flies the flag of a Member and is not covered by paragraph 1 of this Regulation, at the request of the shipowner to the Member concerned.

3. Each Member shall require ships that fly its flag to 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 4 of this Regulation, have been inspected and meet the requirements of national laws or regulations or other measures implementing this Convention.

4. Each Member shall require ships that fly its flag to carry and maintain a declaration of maritime labour compliance stating the national requirements implementing this Convention 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.

5. The maritime labour certificate and the declaration of maritime labour compliance shall conform to the model prescribed by the Code.

6. Where the competent authority of the Member or a recognized organization duly authorized for this purpose has ascertained through inspection that a ship that flies the Member’s flag meets or continues to meet the standards of this Convention, it

Navigational Law and Maritime Commerce

Article 8 Bis. The powers of the SEMAR [Secretariat of the Navy], without prejudice to those that correspond to other dependencies of the Federal Public Administration:

I. To flag and register Mexican ships and naval artifacts;

II. Certify the voyages, issue the seaman’s book and maritime identity of the personnel on board of the Mexican Merchant Fleet;

IV. Monitor the safety of navigation and the safeguarding of human life at sea;

VI. To inspect and certify Mexican ships, compliance with International Treaties, national legislation, regulations and official Mexican standards regarding safety in navigation and human life at sea, as well as prevention of marine pollution by boats;

VII. Inspect foreign ships, in accordance with International Treaties;

VIII. Grant authorization of inspectors to individuals, to carry out the verification and certification of compliance with what is established in International Treaties, and the applicable national legislation, maintaining supervision over said persons;

XI. To contribute in the scope of its competence with the labor authority, for the fulfillment of the resolution of maritime conflicts of labor nature;

XII. Impose sanctions for infractions of this Law, its regulations, and the International Treaties in force in the matters that correspond to it in terms of this Article;

XIII. Appoint and remove harbormasters;

XVIII. Manage the national records of seafarers and ships, in accordance with the provisions of the respective regulations;

All inspections shall be carried out in accordance with the ILO document, Guidelines for Flag State Inspections under the Maritime Labor Convention, 2006.

The Authority will delegate the functions of an effective system of inspection and certification of the maritime labor conditions to the Recognized Organizations (ROs) competent and independent, in compliance with the established in paragraph 3 of rule 5.1.1 of the MLC, 2006.

Based on what will be established in the national standards for implementing the MLC, 2006, the Authority will issue a Declaration of the Maritime Labor Compliance (DMCL) - Part I taking into consideration the (fourteen) 14 mandatory inspection items required for certification.

The DMCL Part II shall be certified in compliance with the Recognized Organizations (ROs) prior to the issuance of the Maritime Labor Certificate.
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| shall issue or renew a maritime labour certificate to that effect and maintain a publicly available record of that certificate.  
7. Detailed requirements for the maritime labour certificate and the declaration of maritime labour compliance, including a list of the matters that must be inspected and approved, are set out in Part A of the Code. | Chapter VI Inspections  
**Article 65.** The inspection service is for public interest. The SEMAR [Secretariat of the Navy] will inspect and certify that Mexican naval ships and devices comply with national legislation and International Treaties regarding safety in navigation and human life at sea, as well as the prevention of marine pollution by ships. | **Standard A5.1.3 – Maritime labour certificate and declaration of maritime labour compliance**  
1. The maritime labour certificate shall be issued to a ship by the competent authority, or by a recognized organization duly authorized for this purpose, for a period which shall not exceed five years. A list of matters that must be inspected and found to meet national laws and regulations or other measures implementing the requirements of this Convention regarding the working and living conditions of seafarers on ships before a maritime labour certificate can be issued is found in Appendix A5-I.  
2. The validity of the maritime labour certificate shall be subject to an intermediate inspection by the competent authority, or by a recognized organization duly authorized for this purpose, to ensure continuing compliance with the national requirements implementing this Convention. If only one intermediate inspection is carried out and the period of validity of the certificate is five years, it shall take place 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.  
3. Notwithstanding paragraph 1 of this Standard, when the renewal inspection has been completed within three months before the expiry of the existing maritime labour certificate, the |  
**Article 66.** The inspection service shall be exercised in accordance with the following provisions and those detailed in the respective regulation:  
I. The ship inspection service may be carried out by natural persons authorized as inspectors by the SEMAR [Secretariat of the Navy];  
II. The SEMAR [Secretariat of the Navy] will maintain the non-transferable obligation of supervision of the ship inspection service;  
III. The inspectors may be part of national or foreign companies specialized in the classification of ships. Their responsibility shall be personal, regardless of the responsibility incurred by the classification societies to which they belong;  
IV. The SEMAR [Secretariat of the Navy] will promote the constitution of Mexican classification societies, which will be integrated by inspectors of Mexican nationality;  
V. To be authorized by the SEMAR [Secretariat of the Navy] to provide the inspection service, the requirements indicated in the respective regulation must be met;  
VI. The SEMAR [Secretariat of the Navy] will be empowered to implement continuous certification programs for inspectors, in accordance with the respective regulations, and  
VII. The position of inspector will be incompatible with any employment, commission or |
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. 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.

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

5. A maritime labour certificate may be issued on an interim basis:
   (a) to new ships on delivery;
   (b) when a ship changes flag; or
   (c) when a shipowner assumes responsibility for the operation of a ship which is new to that shipowner.

6. An interim maritime labour certificate may be issued for a period not exceeding six months by the competent authority or a recognized organization duly authorized for this purpose.

7. An interim maritime labour certificate may only be issued following verification that:
   (a) the ship has been inspected, as far as reasonable and practicable, for the matters listed in Appendix A5-I, taking into account verification similar figure directly or indirectly in shipping companies, shipping agents, as well as in any entity related to them in the provision of maritime or port services.

**Article 67.** The port captaincies will be obliged to answer in writing the requests for certification and inspection, as well as the complaints related to these services. In addition, you must keep a book open to the public where such complaints are recorded.

**Article 68.** The port captaincies through the inspectors assigned to them will give priority to the fulfillment of the obligations derived from the International Treaties.

**Article 69.** The port captaincies will keep a log of certifications and inspections as established by the respective regulations. Also, when determined by the SEMAR [Secretariat of the Navy], the log will have an electronic support that can be shared with the other port captaincies.

**Article 70.** Each port captaincy, through the inspectors assigned to them, must inspect at least fifteen percent of the foreign ships that are in their respective ports, in accordance with the Latin American Agreement on Ship Control by the State of the Port.
of items under subparagraphs (b),
(c) and (d) of this paragraph;
(b) the shipowner has demonstrated
to the competent authority or
recognized organization that the
ship has adequate procedures to
comply with this Convention;
(c) the master is familiar with the
requirements of this 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.

8. A full inspection in accordance
with paragraph 1 of this Standard 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 6 of this
Standard. A declaration of maritime
labour compliance need not be issued
for the period of validity of the interim
certificate.

9. 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 Appendix A5-II.

10. The declaration of maritime
labour compliance shall be attached
to the maritime labour certificate. It shall
have two parts:
(a) Part I shall be drawn up by the
competent authority which shall:
(i) identify the list of matters to be
inspected in accordance with
paragraph 1 of this Standard;
(ii) identify the national
requirements embodying the
relevant provisions of this
Convention by providing a
reference to the relevant national
legal provisions as well as, to the
extent necessary, concise
information on the main content
of the national requirements;
(iii) refer to ship-type specific
requirements under national
legislation;
(iv) record any substantially equivalent provisions adopted pursuant to paragraph 3 of Article VI; and
(v) clearly indicate any exemption granted by the competent authority as provided in Title 3; and
(b) Part II shall be drawn up by the shipowner and shall identify the measures adopted to ensure ongoing compliance with the national requirements between inspections and the measures proposed to ensure that there is continuous improvement.

The competent authority or recognized organization duly authorized for this purpose shall certify Part II and shall issue the declaration of maritime labour compliance.

11. 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, together with the date when the deficiencies were found to have been remedied. This record, accompanied by an English-language translation where it is not in English, shall, in accordance with national laws or regulations, be inscribed upon or appended to the declaration of maritime labour compliance or made available in some other way to seafarers, flag State inspectors, authorized officers in port States and shipowners’ and seafarers’ representatives.

12. A current valid maritime labour certificate and declaration of maritime labour compliance, accompanied by an English-language translation where it is not in English, 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 in accordance with national laws and regulations, upon request, to seafarers, flag State inspectors, authorized officers in port States, and shipowners’ and seafarers’ representatives.

13. The requirement for an English-language translation in paragraphs 11
and 12 of this Standard does not apply in the case of a ship not engaged in an international voyage.

14. A certificate issued under paragraph 1 or 5 of this Standard shall cease to be valid in any of the following cases:

(a) if the relevant inspections are not completed within the periods specified under paragraph 2 of this Standard;
(b) if the certificate is not endorsed in accordance with paragraph 2 of this Standard;
(c) when a ship changes flag;
(d) when a shipowner ceases to assume the responsibility for the operation of a ship; and
(e) when substantial changes have been made to the structure or equipment covered in Title 3.

15. In the case referred to in paragraph 14(c), (d) or (e) of this Standard, a new certificate shall only be issued when the competent authority or recognized organization issuing the new certificate is fully satisfied that the ship is in compliance with the requirements of this Standard.

16. A maritime labour certificate shall be withdrawn by the competent authority or the recognized organization duly authorized for this purpose by the flag State, if there is evidence that the ship concerned does not comply with the requirements of this Convention and any required corrective action has not been taken.

17. When considering whether a maritime labour certificate should be withdrawn in accordance with paragraph 16 of this Standard, the competent authority or the recognized organization shall take into account the seriousness or the frequency of the deficiencies.
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<tr>
<td><strong>Regulation 5.1.4 – Inspection and enforcement</strong></td>
<td>Federal Labor Law Title Six Special Jobs Chapter III Workers on ships Article 212. It is the responsibility of the labor inspector to oversee the compliance to the laws and all other labor standards, giving attention to the laws and provisions for water travel, when the ships are in port.</td>
<td>The main gap is that in the workplace only the competence of labor inspectors is recognized for carrying out inspections in this field.</td>
</tr>
<tr>
<td>1. Each Member shall verify, through an effective and coordinated system of regular inspections, monitoring and other control measures, that ships that fly its flag comply with the requirements of this Convention as implemented in national laws and regulations.</td>
<td></td>
<td>The recognized organizations are only used by the marine secretary regarding the obligations contracted under the IMO regime.</td>
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<td>2. Detailed requirements regarding the inspection and enforcement system referred to in paragraph 1 of this Regulation are set out in Part A of the Code.</td>
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<tr>
<td><strong>Standard A5.1.4 – Inspection and enforcement</strong></td>
<td>Navigational Law and Maritime Commerce Article 8 Bis. The powers of the SEMAR [Secretariat of the Navy], without prejudice to those that correspond to other dependencies of the Federal Public Administration: I. To flag and register Mexican ships and naval artifacts; II. Certify the voyages, issue the seaman’s book and maritime identity of the personnel on board of the Mexican Merchant Fleet; IV. Monitor the safety of navigation and the safeguarding of human life at sea; VI. To inspect and certify Mexican ships, compliance with International Treaties, national legislation, regulations and official Mexican standards regarding safety in navigation and human life at sea, as well as prevention of marine pollution by boats; VII. Inspect foreign ships, in accordance with International Treaties; VIII. Grant authorization of inspectors to individuals [ROs], to carry out the verification and certification of compliance with what is established in International Treaties, and the applicable national legislation, maintaining supervision over said persons; XI. To contribute in the scope of its competence with the labor authority, for the fulfillment of the resolution of maritime conflicts of labor nature;</td>
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<tr>
<td>1. Each Member shall maintain a system of inspection of the conditions for seafarers on ships that fly its flag which shall include verification that the measures relating to working and living conditions as set out in the declaration of maritime labour compliance, where applicable, are being followed, and that the requirements of this Convention are met.</td>
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<td>2. The competent authority shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under paragraph 1 of this Standard. Where recognized organizations have been authorized to carry out inspections, the Member shall require that personnel carrying out the inspection are qualified to undertake these duties and shall provide them with the necessary legal authority to perform their duties.</td>
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<td>3. Adequate provision shall be made to ensure that the inspectors have the training, competence, terms of reference, powers, status and independence necessary or desirable so as to enable them to carry out the verification and ensure the compliance referred to in paragraph 1 of this Standard.</td>
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<td>4. Inspections shall take place at the intervals required by Standard A5.1.3, where applicable. The interval shall in no case exceed three years.</td>
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<td>5. If a Member receives a complaint which it does not consider manifestly unfounded or obtains</td>
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<td>MARITIME LABOR CONVENTION, 2006, AS AMENDED</td>
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<td>evidence that a ship that flies its flag does not conform to the requirements of this Convention or that there are serious deficiencies in the implementation of the measures set out in the declaration of maritime labour compliance, the Member shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found.</td>
<td>XII. Impose sanctions for infractions of this Law, its regulations, and the International Treaties in force in the matters that correspond to it in terms of this Article;</td>
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<tr>
<td>6. Adequate rules shall be provided and effectively enforced by each Member in order to guarantee that inspectors have the status and conditions of service to ensure that they are independent of changes of government and of improper external influences.</td>
<td>XIII. Appoint and remove harbormasters;</td>
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<tr>
<td>7. Inspectors, issued with clear guidelines as to the tasks to be performed and provided with proper credentials, shall be empowered:</td>
<td>XVIII. Manage the national records of seafarers and ships, in accordance with the provisions of the respective regulations;</td>
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<td>(a) to board a ship that flies the Member’s flag;</td>
<td>Chapter VI Inspections</td>
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<tr>
<td>(b) 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; and</td>
<td>Article 65. The inspection service is for public interest. The SEMAR [Secretariat of the Navy] will inspect and certify that Mexican naval ships and devices comply with national legislation and International Treaties regarding safety in navigation and human life at sea, as well as the prevention of marine pollution by ships.</td>
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<td>(c) 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 Convention (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.</td>
<td>Article 66. The inspection service shall be exercised in accordance with the following provisions and those detailed in the respective regulation:</td>
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<tr>
<td>8. Any action taken pursuant to paragraph 7(c) of this Standard shall be subject to any right of appeal to a judicial or administrative authority.</td>
<td>I. The ship inspection service may be carried out by natural persons authorized as inspectors by the SEMAR [Secretariat of the Navy];</td>
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<td>9. Inspectors shall have the discretion to give advice instead of instituting or recommending proceedings when there is no clear breach of the requirements of this Convention that endangers the safety, health or security of the seafarers concerned and where there is no prior history of similar breaches.</td>
<td>II. The SEMAR [Secretariat of the Navy] will maintain the non-transferable obligation of supervision of the ship inspection service;</td>
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<td>10. Inspectors shall treat as confidential the source of any grievance</td>
<td>III. The inspectors may be part of national or foreign companies specialized in the classification of ships. Their responsibility shall be personal, regardless of the responsibility incurred by the classification societies to which they belong;</td>
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<td>IV. The SEMAR [Secretariat of the Navy] will promote the constitution of Mexican classification societies, which will be integrated by inspectors of Mexican nationality;</td>
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or complaint alleging a danger or deficiency in relation to seafarers' working and living conditions or a violation of laws and regulations and give no intimation to the shipowner, the shipowner’s representative or the operator of the ship that an inspection was made as a consequence of such a grievance or complaint.

11. Inspectors shall not be 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 shall:
(a) be prohibited from having any direct or indirect interest in any operation which they are called upon to inspect; and
(b) subject to appropriate sanctions or disciplinary measures, 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.

12. Inspectors shall submit a report of each inspection to the competent authority. One copy of the report in English or in the working language of the ship 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.

13. The competent authority of each Member shall maintain records of inspections of the conditions for seafarers on ships that fly its flag. It shall publish an annual report on inspection activities within a reasonable time, not exceeding six months, after the end of the year.

14. In the case of an investigation pursuant to a major incident, the report shall be submitted to the competent authority as soon as practicable, but not later than one month following the conclusion of the investigation.

15. When an inspection is conducted or when measures are taken under this Standard, all reasonable

V. To be authorized by the SEMAR [Secretariat of the Navy] to provide the inspection service, the requirements indicated in the respective regulation must be met;
VI. The SEMAR [Secretariat of the Navy] will be empowered to implement continuous certification programs for inspectors, in accordance with the respective regulations, and
VII. The position of inspector will be incompatible with any employment, commission or similar figure directly or indirectly in shipping companies, shipping agents, as well as in any entity related to them in the provision of maritime or port services.

Article 67. The port captaincies shall be obliged to answer in writing the requests for certification and inspection, as well as the complaints related to these services. In addition, you must keep a book open to the public where such complaints are recorded.

Article 68. The port captaincies through the inspectors assigned to them will give priority to the fulfillment of the obligations derived from the International Treaties.

Article 69. The port captaincies will keep a log of certifications and inspections as established by the respective regulations. Also, when determined by the SEMAR [Secretariat of the Navy], the log will have an electronic support that can be shared with the other port captaincies.

Article 70. Each port captaincy, through the inspectors assigned to them, must inspect at least fifteen percent of the foreign ships that are in their respective ports, in accordance with the Latin American Agreement on Ship Control by the State of the Port.
efforts shall be made to avoid a ship being unreasonably detained or delayed.

16. Compensation shall be payable in accordance with national laws and regulations 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.

17. Adequate penalties and other corrective measures for breaches of the requirements of this Convention (including seafarers’ rights) and for obstructing inspectors in the performance of their duties shall be provided for and effectively enforced by each Member.

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<td><strong>Article 74.</strong> The construction, as well as the significant repair or modification of ships, must be carried out under technical safety conditions, in accordance with the International Treaties and with the respective regulations, for which:</td>
<td><strong>I.</strong> The shipyards, dams, dry docks, workshops and facilities at the service of the Merchant Navy must be subject to the respective Mexican official standards;</td>
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<tr>
<td><strong>II.</strong> The project must be previously approved by the SEMAR [Secretariat of the Navy] and prepared by professionally recognized natural persons or legally constituted companies, with demonstrated technical capacity;</td>
<td><strong>III.</strong> During work, the ship under construction or repair will be subject to the corresponding tests, inspections and verifications; and</td>
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<tr>
<td><strong>IV.</strong> At the end of the work, the ship will require the certificates of maritime safety and tonnage issued by the SEMAR [Secretariat of the Navy] directly or an inspector authorized by it.</td>
<td>Repair or significant modification of ships will be understood as those that entail the alteration of their dimensions or their transport capacity, or that cause them to change the type of the ship, as well as those carried out with the intention of prolonging the useful life of the ship.</td>
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<td>Regulation 5.1.5 – On-board complaint procedures</td>
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<tr>
<td>1. Each Member shall require that ships that fly its flag have on-board procedures for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of this Convention (including seafarers’ rights).</td>
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<td>There is no information related to this issue in the domestic legislation.</td>
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<td>2. Each Member shall prohibit and penalize any kind of victimization of a seafarer for filing a complaint.</td>
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<td>3. The provisions in this Regulation and related sections of the Code are without prejudice to a seafarer’s right to seek redress through whatever legal means the seafarer considers appropriate.</td>
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<th>Standard A5.1.5 – On-board complaint procedures</th>
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<tbody>
<tr>
<td>1. Without prejudice to any wider scope that may be given in national laws or regulations or collective agreements, the on-board procedures may be used by seafarers to lodge complaints relating to any matter that is alleged to constitute a breach of the requirements of this Convention (including seafarers’ rights).</td>
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<tr>
<td>2. Each Member shall ensure that, in its laws or regulations, appropriate on-board complaint procedures are in place to meet the requirements of Regulation 5.1.5. Such procedures shall seek to resolve complaints at the lowest level possible. However, in all cases, seafarers shall have a right to complain directly to the master and, where they consider it necessary, to appropriate external authorities.</td>
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<tr>
<td>3. The on-board complaint procedures shall 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.</td>
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<td>4. In addition to a copy of their seafarers’ employment agreement, all seafarers shall be provided with a copy</td>
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<td>of the on-board complaint procedures applicable on the ship. 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.</td>
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<td><strong>Regulation 5.1.6 – Marine casualties</strong></td>
<td><strong>Navigational Law and Maritime Commerce</strong></td>
</tr>
<tr>
<td>1. Each Member shall hold an official inquiry into any serious marine casualty, leading to injury or loss of life, that involves a ship that flies its flag. The final report of an inquiry shall normally be made public.</td>
<td><strong>Article 8 Bis.</strong> The powers of the SEMAR [Secretariat of the Navy], without prejudice to those that correspond to other dependencies of the Federal Public Administration:</td>
</tr>
<tr>
<td>2. Members shall cooperate with each other to facilitate the investigation of serious marine casualties referred to in paragraph 1 of this Regulation.</td>
<td>IV. Monitor the safety of navigation and the safeguarding of human life at sea;</td>
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<td></td>
<td>IX. Establish and organize a surveillance, security and assistance service for navigation in Mexican marine areas;</td>
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<td>X. Carry out investigations and actions, as well as appoint experts professionally qualified in the matter under the respective regulations and issue opinions on maritime, fluvial and lake accidents and incidents;</td>
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<td>XI. To contribute in the scope of its competence with the labor authority, for the fulfillment of the resolution of maritime conflicts of labor nature;</td>
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<td>XII. Impose sanctions for infractions of this Law, its regulations, and the International Treaties in force in the matters that correspond to it in terms of this Article;</td>
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<td>XV. Direct, organize and carry out the search and rescue for the safeguarding of human life at sea in the Mexican marine areas, as well as coordinate the work of rescue and rescue in case of accidents or incidents of ships and in port areas;</td>
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<td>XVI. Integrate statistical information on marine casualties in Mexican maritime zones;</td>
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<td>XVIII. Manage the national records of seafarers and ships, in accordance with the provisions of the respective regulations;</td>
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### MARITIME LABOR CONVENTION, 2006, AS AMENDED

**Regulation 5.2 – Port State responsibilities**

*Purpose:* To enable each Member to implement its responsibilities under this Convention regarding international cooperation in the implementation and enforcement of the Convention standards on foreign ships.

**Regulation 5.2.1 – Inspections in port**

1. Every foreign ship calling, in the normal course of its business or for operational reasons, in the port of a Member may be the subject of inspection in accordance with paragraph 4 of Article V for the purpose of reviewing compliance with the requirements of this Convention (including seafarers’ rights) relating to the working and living conditions of seafarers on the ship.

2. Each Member shall accept the maritime labor certificate and the declaration of maritime labor compliance required under Regulation 5.1.3 as prima facie evidence of compliance with the requirements of this Convention (including seafarers’ rights). Accordingly, the inspection in its ports shall, except in the circumstances specified in the Code, 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 the Code and other applicable international arrangements governing port State control inspections in the Member. Any such inspection shall be limited to verifying that the matter inspected is in conformity with the relevant requirements set out in the Articles and Regulations of this Convention and in Part A only of the Code.

4. Inspections that may be carried out in accordance with this Regulation shall be based on an effective port State inspection and monitoring system to help ensure that the working and living conditions for seafarers on ships entering a port of the Member concerned meet the requirements of this Convention (including seafarers’ rights).

### DOMESTIC LAW OF MEXICO

**Navigational Law and Maritime Commerce**

**Article 8 Bis.** The powers of the SEMAR [Secretariat of the Navy], without prejudice to those that correspond to other dependencies of the Federal Public Administration:

- Monitor the safety of navigation and the safeguarding of human life at sea;
- Inspect foreign ships, in accordance with International Treaties;
- Grant authorization of inspectors to individuals, to carry out the verification and certification of compliance with what is established in International Treaties, and the applicable national legislation, maintaining supervision over said persons;
- To contribute in the scope of its competence with the labor authority, for the fulfillment of the resolution of maritime conflicts of labor nature;
- Impose sanctions for infractions of this Law, its regulations, and the International Treaties in force in the matters that correspond to it in terms of this Article;
- Appoint and remove harbormasters;
- Manage the national records of seafarers and ships, in accordance with the provisions of the respective regulations;

**Chapter VI Inspections**

**Article 65.** The inspection service is for public interest. The SEMAR [Secretariat of the Navy] will inspect and certify that Mexican naval ships and devices comply with national legislation and International Treaties regarding safety in navigation and human life at sea, as well as the prevention of marine pollution by ships.

### COMMENTS

In accordance with national legislation, the authority empowered to act as port state is the marine secretary. Regarding the inspection of foreign ships and in accordance with the IMO regime.

For the scope of application of the MLC, 2006, the Ministry of Labor and Social Welfare would be the natural authority to inspect foreign vessels on compliance with the MLC, 2006.

The main gap is that in the workplace only the competence of labor inspectors is recognized for carrying out inspections in this field.

The recognized organizations are only used by the marine secretary regarding the obligations contracted under the IMO regime.
5. Information about the system referred to in paragraph 4 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member’s reports pursuant to article 22 of the Constitution.

Standard A5.2.1 – Inspections in port

1. 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:
   (a) 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 Convention or are otherwise invalid; or
   (b) there are clear grounds for believing that the working and living conditions on the ship do not conform to the requirements of this Convention; or
   (c) there are reasonable grounds to believe that the ship has changed flag for the purpose of avoiding compliance with this Convention; or
   (d) there is a complaint alleging that specific working and living conditions on the ship do not conform to the requirements of this Convention;

a more detailed inspection may 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 Convention (including seafarers’ rights).

2. Where a more detailed inspection is carried out on a foreign ship in the port of a Member by authorized officers in the circumstances set out in subparagraph (a), (b) or (c) of paragraph 1 of this Standard, it shall in

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<td>Article 66. The inspection service shall be exercised in accordance with the following provisions and those detailed in the respective regulation:</td>
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<td>I. The ship inspection service may be carried out by natural persons authorized as inspectors by the SEMAR [Secretariat of the Navy];</td>
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<td>II. The SEMAR [Secretariat of the Navy] will maintain the non-transferable obligation of supervision of the ship inspection service;</td>
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<td>III. The inspectors may be part of national or foreign companies specialized in the classification of ships. Their responsibility shall be personal, regardless of the responsibility incurred by the classification societies to which they belong;</td>
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<td>IV. The SEMAR [Secretariat of the Navy] will promote the constitution of Mexican classification societies, which will be integrated by inspectors of Mexican nationality;</td>
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<td>V. To be authorized by the SEMAR [Secretariat of the Navy] to provide the inspection service, the requirements indicated in the respective regulation must be met;</td>
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<td>VI. The SEMAR [Secretariat of the Navy] will be empowered to implement continuous certification programs for inspectors, in accordance with the respective regulations, and</td>
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<td>VII. The position of inspector will be incompatible with any employment, commission or similar figure directly or indirectly in shipping companies, shipping agents, as well as in any entity related to them in the provision of maritime or port services.</td>
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Article 67. The port captaincies will be obliged to answer in writing the requests for certification and inspection, as well as the complaints related to these services. In addition, you must keep a book open to the
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<td>principle cover the matters listed in Appendix A5-III.</td>
<td>public where such complaints are recorded.</td>
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<td>3. In the case of a complaint under paragraph 1(d) of this Standard, the inspection shall generally be limited to matters within the scope of the complaint, although a complaint, or its investigation, may provide clear grounds for a detailed inspection in accordance with paragraph 1(b) of this Standard. For the purpose of paragraph 1(d) of this Standard, “complaint” means information submitted by a seafarer, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest in safety or health hazards to seafarers on board.</td>
<td><strong>Article 68.</strong> The port captaincies through the inspectors assigned to them will give priority to the fulfillment of the obligations derived from the International Treaties.</td>
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<td>4. Where, following a more detailed inspection, the working and living conditions on the ship are found not to conform to the requirements of this Convention, 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 by the authorized officer to be significant, or if they relate to a complaint made in accordance with paragraph 3 of this Standard, the authorized officer shall bring the deficiencies to the attention of the appropriate seafarers’ and shipowners’ organizations in the Member in which the inspection is carried out, and may:</td>
<td><strong>Article 69.</strong> The port captaincies will keep a log of certifications and inspections as established by the respective regulations. Also, when determined by the SEMAR [Secretariat of the Navy], the log will have an electronic support that can be shared with the other port captaincies.</td>
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<td>(a) notify a representative of the flag State;</td>
<td><strong>Article 70.</strong> Each port captaincy, through the inspectors assigned to them, must inspect at least fifteen percent of the foreign ships that are in their respective ports, in accordance with the Latin American Agreement on Ship Control by the State of the Port.</td>
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<td>(b) provide the competent authorities of the next port of call with the relevant information.</td>
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parties which might be interested in availing themselves of relevant recourse procedures.

6. Where, following a more detailed inspection by an authorized officer, the ship is found not to conform to the requirements of this Convention and:
   (a) the conditions on board are clearly hazardous to the safety, health or security of seafarers; or
   (b) the non-conformity constitutes a serious or repeated breach of the requirements of this Convention (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 (a) or (b) 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. 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 the port State in which the inspection was carried out.

7. Each Member shall ensure that its authorized officers are given guidance, of the kind indicated in Part B of the Code, as to the kinds of circumstances justifying detention of a ship under paragraph 6 of this Standard.

8. When implementing their responsibilities under this Standard, each Member shall make all possible efforts to avoid a ship being unduly detained or delayed. If a ship is found to be unduly detained or delayed, compensation shall be paid for any loss or damage suffered. The burden of proof in each case shall be on the complainant.
Regulation 5.2.2 – Onshore seafarer complaint-handling procedures

1. Each Member shall ensure that seafarers on ships calling at a port in the Member’s territory who allege a breach of the requirements of this Convention (including seafarers’ rights) have the right to report such a complaint in order to facilitate a prompt and practical means of redress.

Standard A5.2.2 – Onshore seafarer complaint-handling procedures

1. A complaint by a seafarer alleging a breach of the requirements of this Convention (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.

2. Where appropriate, given the nature of the complaint, the initial investigation shall include consideration of whether the on-board complaint procedures provided under Regulation 5.1.5 have been explored. The authorized officer may also conduct a more detailed inspection in accordance with Standard A5.2.1.

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

4. In the event that the investigation or the inspection provided under this Standard reveals a non-conformity that falls within the scope of paragraph 6 of Standard A5.2.1, the provisions of that paragraph shall be applied.

5. Where the provisions of paragraph 4 of this Standard 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.

6. Where the complaint has not been resolved following action taken in accordance with paragraph 5 of this Standard, the port State shall transmit a copy of the authorized officer’s report to the Director-General. The report must be accompanied by any reply received.
within the prescribed deadline from the competent authority of the flag State. The appropriate shipowners’ and seafarers’ organizations in the port State shall be similarly informed. In addition, statistics and information regarding complaints that have been resolved shall be regularly submitted by the port State to the Director-General. Both such submissions are provided in order that, on the basis of such action as may be considered appropriate and expedient, a record is kept of such information and is brought to the attention of parties, including shipowners’ and seafarers’ organizations, which might be interested in availing themselves of relevant recourse procedures.

7. Appropriate steps shall be taken to safeguard the confidentiality of complaints made by seafarers.
### Regulation 5.3 – Labour-supplying responsibilities

**Purpose:** To ensure that each Member implements its responsibilities under this Convention as pertaining to seafarer recruitment and placement and the social protection of its seafarers

1. Without prejudice to the principle of each Member’s responsibility for the working and living conditions of seafarers on ships that fly its flag, the Member also has a responsibility to ensure the implementation of the requirements of this Convention 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, to the extent that such responsibility is provided for in this Convention.

2. Detailed requirements for the implementation of paragraph 1 of this Regulation are found in the Code.

3. Each Member shall establish an effective inspection and monitoring system for enforcing its labour-supplying responsibilities under this Convention.

4. Information about the system referred to in paragraph 3 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member’s reports pursuant to article 22 of the Constitution.

### Standard A5.3 – Labour-supplying responsibilities

1. Each Member shall enforce the requirements of this Convention applicable to the operation and practice of seafarer recruitment and placement services established on its territory through a system of inspection and monitoring and legal proceedings for breaches of licensing and other operational requirements provided for in Standard A1.4.

### Comments

There is no information related to this issue in the domestic legislation.
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