



LEGISLATIVE DRAFTING PROJECT

Incorporation of the *Maritime Labour Convention, 2006*,
an International Convention of the International Labour Organisation,
into Maltese Law

by

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I hereby declare that the work and research in this Legislative Drafting Project are my own personal work and that it has not been previously submitted, or is not concurrently being submitted, in candidature for any other degree or diploma.

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D e d i c a t i o n

TO MY FAMILY AND MY FIANCÉE
FOR THEIR CONTINUOUS AND UNCONDITIONAL SUPPORT

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EXPLANATORY NOTE

1. THE MARITIME LABOUR CONVENTION AND ITS BENEFITS FOR MALTA

1.1. General

The *Maritime Labour Convention*¹ is an important new International Labour Convention commonly known as the *Super Convention*.² *It sets out seafarers' rights to decent conditions of work and helps to create conditions of fair competition for shipowners.* It is intended to be *globally applicable, easily understandable, readily updatable and uniformly enforced.*

The Labour Convention has been designed to become the global legal instrument in this area. Once it enters into force, it will be the *fourth pillar* of the international regulatory regime for *quality shipping*. This will complement the key Conventions of the International Maritime Organisation³ such as the International Convention for the Safety of Life at Sea,⁴ the International Convention on Standards of Training, Certification and Watchkeeping⁵ and the International Convention for the Prevention of Pollution from Ships.⁶

The Labour Convention is the result of a joint effort between the seafarers and the shipowners. A resolution was presented in 2001 by the international seafarers' and shipowners' organisations pointing out that the shipping industry is *the world's first genuinely global industry* requiring *an international regulatory response of an appropriate kind – global standards applicable to the entire industry*. This was later supported by Governments. The aim of the resolution

¹ Hereinafter referred to as *the Labour Convention*.

² It was adopted by the International Labour Conference of the International Labour Organisation, under Article 19 of its Constitution, at a maritime session in February 2006 in Geneva, Switzerland.

³ Hereinafter referred to as *IMO*.

⁴ 1974, as amended (SOLAS).

⁵ 1978, as amended (STCW).

⁶ 73/78 (MARPOL).

was, through ILO, to develop a consolidated text of as much of the existing ILO maritime labour instruments *in order to improve the relevance of those standards to the needs of all the stakeholders of the maritime sector.*

It was felt that a number of the existing Conventions contained too much detail and made it difficult for the Governments to ratify and enforce all the standards. Many of the standards were out of date and did not reflect the contemporary working and living conditions of the seafarers. In addition to this, the need was felt to create and develop a more effective enforcement and compliance system to help the IMO in eliminating unfair competition by substandard ships. Through the new certification system, there will be avoidance or reduction in the likelihood of lengthy delays related to inspections in foreign ports.

The two-part Code, dealing on the technical and detailed implementation of the basic obligations under the Labour Convention, is that part that will require occasional amendments. This can be amended through the accelerated procedure known as the *tacit acceptance procedure*. Through this procedure, the amendments will enter into force within three to four years from when they are proposed vis-à-vis all or almost all the ratifying countries. A ratifying member not wanting to be bound by such amendments must express formal disagreement within a period of two years.

1.2. Protection of Seafarers

The aim of the Labour Convention is the worldwide protection of all seafarers. *Seafarer* is defined as *any person who is employed or engaged or works in any capacity on board a ship that is covered by the Convention*. This eliminates the uncertainty that existed with respect to those crewmembers who were not directly involved in navigating or operating the ship, who are now considered as seafarers, for example the personnel aboard cruise liners.

The protection is also achieved by the applicability of the Labour Convention. Apart from the exemption of certain ships,⁷ the Labour Convention *applies to all ships*, and consequently to the seafarers onboard those ships, *whether publicly or privately owned that are ordinarily engaged in commercial activities*. The Labour Convention does not apply to:

- i. ships navigating exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;
- ii. ships engaged in fishing;
- iii. ships of traditional built such as dhows and junks; and
- iv. warships and naval auxiliaries.

1.3. *Setup of the Convention*

The Labour Convention is organised into three main parts. The first part contains the Articles that set the broad principles and obligations. This is followed by the more detailed Regulations and Code. The Code is further divided into Standards (Part A) and Guidelines (Part B). The Regulations and the Code are divided into general areas of concern 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;

⁷ There is flexibility to allow national authorities to exempt smaller ships that do not undertake international voyages from the provisions of the Convention, example vessels of 200 gross tonnage or below.

Title 4: Health Protection, Medical Care, Welfare and Social
Security Protection; and

Title 5: Compliance and Enforcement.

These five titles essentially cover the same subject matter of the existing 68 maritime labour instruments. New subjects are inserted occasionally, particularly in the field of occupational health and safety to address the current concerns such as the exposure of the seafarers to noise and vibration.

The status of Part B of the Code is based on the idea of firmness on principle and rights and combined with flexibility in implementation. Without this innovation, the Labour Convention could never aspire to universal ratification. Many of the provisions in the existing maritime labour conventions, which relate to the method of implementing basic seafarers' rights, have been transferred to the non-mandatory Part B of the Code. Their placement in the mandatory regulations and Part A of the code could have resulted in obstacles to ratification.

Although Part B is not mandatory and the implementation of which is not verified by the Port State Inspectors, it cannot be ignored by the ratifying States. The States do not have to follow the guidance set therein. However, this may, vis-à-vis the competent bodies of the ILO, result in having the need to justify the way in which such state has implemented the corresponding mandatory provisions of the Convention.

It is important to point that Part A and Part B of the Code are interrelated. Although the Guidelines are not mandatory, they are helpful and sometimes essential for a proper understanding of the Regulations and the mandatory Standards (Part A) of the Code. In some cases, these Standards are so generally worded that it may be difficult to implement them without the guidance in the corresponding provisions of Part B.

1.4. *Consolidation of the other ILO Conventions*

The Labour Convention contains a comprehensive set of global standards based on what is already found in 68 ILO instruments.⁸ It brings nearly all of the existing labour instruments into one single Convention. The format used reflects the current conditions of the subject matter and revises the language and terminology used.⁹

As the ILO Member States ratify the Labour Convention, the existing Conventions ratified by the same states will be gradually phased out. The same will apply to Malta. However, there will be a transitional period when some parallel Conventions will be in force. The Countries ratifying the Labour Convention will no longer be bound by the existing Conventions once the Labour Convention comes into force for them. Those Countries that do not ratify the Labour Convention will remain bound by the existing Conventions, but such Conventions will be closed for any further ratification.

1.5. *Enforcement and Compliance*

The Labour Convention was drafted with the intention to establish a continuous *complete awareness* at every stage, from the domestic level to the international one. This is divided as follows:

- i. *Seafarers*: they have to be properly informed of their rights, the remedies available in cases of non-compliance and the right to make complaints both on board the ship and ashore;

⁸ Conventions and Recommendations adopted by ILO since 1920.

⁹ The Conventions addressing the seafarers' identity documents, revised in 2003 (Conventions Nos. 108 and 185); the Seafarers' Pension Convention (1946, No. 1971); and The Minimum Age (Trimmers and Stokers) Convention (1921, No. 15, no longer relevant to the sector) are not consolidated by the Labour Convention.

- ii. *Shipowners*:¹⁰ they are required to develop and carry out plans to ensure that the actual national laws and regulations and the Labour Convention are actually complied with;
- iii. *Masters*: they are responsible to put into effect the shipowners' plans and to keep proper records to evidence the implementation of the requirements of the Labour Convention;
- iv. *Flag States*: these are responsible for reviewing of the shipowners' plans and verifying and certifying that they are actually in place and being implemented and complied with. A *maritime labour certificate* and a *declaration of maritime labour compliance* will be required to be carried on board the ship. The Flag States are responsible to ensure that the national legislation and the implementation of the Labour Convention's standards are respected on smaller ships.

Furthermore, they are obliged to carry out periodical quality assessments of the effectiveness of their national system of compliance; and to report back to the ILO¹¹ providing information regarding the inspections and certification systems, including their methods of quality assessment.¹² This inspection system is reinforced by the port State control measures.

- v. *Maritime Labour Certificate*:¹³ issued by the flag state once the state, or an authorised organisation, has verified that the labour conditions aboard such ship comply with the national laws and regulations implementing the Labour Convention. The Certificate is valid for five years and subject to periodic inspections by the Flag State.

¹⁰ Referring to those owning and operating ships of 500 gross tonnage and above, engaged in international voyages or voyages between foreign ports.

¹¹ These reports are catered for under *Article 22* of the ILO Constitution.

¹² This general inspection system in the Flag State is founded on ILO Convention No. 178.

¹³ Annex 5 of the *Merchant Shipping (Maritime Labour) Rules*.

- vi. *Declaration of Maritime Labour Compliance*:¹⁴ this is attached to the certificate and summarises the national laws and regulations implementing the agreed-upon list of 14 areas¹⁵ of maritime standards and setting the shipowner's or operator's plan for ensuring that all the national requirements implementing the Labour Convention are complied with between the inspections. The list must be certified by the Flag State and may be inspected.

1.6. *Entry into Force, Ratification and Implementation*

The Labour Convention provides for a much higher than usual ratification level. It uses a formula that is intended to assure a greater actual impact. *Article VIII* provides:

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 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.

This new formula reflects the fact that the enforcement and compliance system established under the Labour Convention needs a widespread international cooperation in order to be effective. It is essentially important that states members of the ILO having a strong maritime interest and a big tonnage operating under their legal jurisdiction ratify the Labour Convention.

¹⁴ Annex 6 of the *Merchant Shipping (Maritime Labour) Rules*.

¹⁵ Annex 3 of the *Merchant Shipping (Maritime Labour) Rules*.

There is a certain degree of scepticism as to whether the Labour Convention is likely to achieve the aim of a near universal ratification. Such doubt is fuelled by the existence of the numerous international Conventions, whether IMO or ILO, that still have not come into force. However, it is pertinent to point out that the Labour Convention was adopted by a record vote of 314 in favour and none against.¹⁶ This unprecedented level of support reflects the lengthy tripartite consultation and the constant support shown by the governments, the seafarers and the shipowners.

Regarding the implementation of the Labour Convention, the flexibility approach is adopted. This approach takes into account the exigencies and diversity of the national circumstances. Flexibility is based on the principles of *tripartism*, *transparency* and *accountability*. When such flexibility is exercised by the Government, it usually involves the consultation with the seafarers' and shipowners' organisations. This is necessary and important to ensure that all countries can engage with the international legal system and that international obligations are respected and implemented.

The Labour Convention follows this approach. It seeks to be *firm on the rights and flexible on the implementation*. One of the obstacles of the existing Conventions is the excessive details they contain. The Labour Convention *sets out the basic rights of the seafarers to decent work in firm statements, but leaves a large measure of flexibility to ratifying countries as to how they will implement these standards for decent work in their national laws*. This blend of firmness and flexibility will be the important key to achieve near universal ratification. Areas of flexibility in the Labour Convention include:

- i. implementation of the *Seafarers Employment and Social Rights* are to be fully implemented *in accordance to the requirements of the*

¹⁶ Two countries abstained for reasons unrelated to the substance of the Convention.

Convention;¹⁷ however, unless otherwise stated, they may be achieved through national laws or regulations, through applicable bargaining agreements, through other measures, or in practice

- ii. implementation of the mandatory standards of Part A of the Code¹⁸ may also be achieved through the same measures which are *substantially equivalent*;
- iii. many of the provisions of the existing Conventions that created difficulties are now found in Part B of the Code;
- iv. the requirements of the Labour Convention, after due consultation with the seafarers' and shipowners' organisations, can be applied less rigourously with respect to ships having 200 gross tonnage or less not involved in international voyages;
- v. all the ships covered by the Labour Convention are subject to the inspection system established by the Flag State. The certification system will certify that the ship is being operated in conformity with the Labour Convention's requirements as implemented in the laws or regulations of the Flag State;¹⁹
- vi. the Labour Convention allows Flag States to make use of recognised organisations like classification societies to carry out certain aspects of the ship certification system on their behalf.
- vii. provisions relating to the construction and equipment of the ship will not apply to ships constructed prior to the coming into force of the Labour

¹⁷ In accordance with the relevant provisions of the Articles, Regulations and Part A of the Code.

¹⁸ This does not include Title 5 of the Convention.

¹⁹ The certification system is only mandatory for ships of 500 gross tonnage and above that are engaged in international voyages.

Convention. Smaller ships may be exempted from accommodation requirements;

- viii. in case of doubt about the application of the Labour Convention, consultation with seafarers' and shipowners' organisation is expressly allowed. Provision is made with respect to countries that may not have such organisations; and
- ix. provision is made for national circumstances and for bilateral, multilateral and other arrangements in connection with social security coverage.

2. COUNCIL DECISIONS 10900/06 AND 10901/06

The European Union is in favour of the adoption of the Labour Convention by its Member States. The Commission considers all the matters covered by the Convention to be fundamental and believes that the relevant provisions of the Convention should be incorporated into Community law, as was the case for *ILO Convention 180 on Seafarers' Hours of Work and the Manning of Ships*. This will ensure fairer competition for operators, improve safety at sea and boost the image of seafaring.

The Commission has supported the process from the start, and plans to work to bring the Labour Convention into force quickly and implement it effectively in the European Union. To this end, it has put forward a proposal for a Council Decision authorising the Member States to ratify the Labour Convention, in which it recommends that ratification be concluded by December 2008.²⁰

²⁰ Documents of the Commission of the European Communities COM(2006) 287 final and COM(2006) 288 final – 2006/0103 (CNS) both of the 15th June of 2006; and of the Council of the European Union 10900/06 – MAR 64 SOC 331 and 10901/06 – MAR 65 SOC 332 both of the 26th June of 2006.

The Commission has also committed itself to consult social partners on two issues, namely how can the Community *acquis* be developed to incorporate the provisions of the Convention; and whether it is possible to reach an agreement with the social partners within the meaning of *Article 139*²¹ of the Treaty. Given the nature of this issue, social dialogue is an essential tool in identifying effective methods of implementation, including the possibility of integrating the provisions of the Labour Convention into Community law.

Under *Article 138(2)* of the Treaty, and as announced in its 2006 work programme, the Commission will present a communication exploring the possibility of integrating the relevant provisions of the convention on labour standards into Community law, including an agreement between the social partners within the framework of a social dialogue.

Most of the provisions of the Labour Convention concern responsibilities shared between the Community and the Member States. However, the Labour Convention also contains explicit provisions on the coordination of social security schemes, an area which is solely the responsibility of the Community under *Regulation (EEC) No. 1408/71*.²² Under the established case law²³ of the Court of Justice, Member States are not free to ratify an international convention which concerns areas of exclusive Community responsibility. This means, in legal terms, that the Council must adopt a Decision authorising the Member States to ratify the Labour Convention.

The Commission is therefore launching the first stage of a consultation with the social partners which could eventually result in an agreement within the meaning of *Article 139* of the Treaty, becoming Community law once the Council has

²¹ *Should management and labour so desire, the dialogue between them at Community level may lead to contractual relations, including agreements.*

²² Regulation (EEC) No. 1408/71 of the Council of 14th June, 1971 on the application of social security schemes to employed persons and their families moving within the Community.

²³ Case 22/70 *Commission vs. Council* (AFTR) [1971].

adopted a Decision. Once this Decision has been adopted, the Member States can immediately start the ratification procedures.

As Vice-President Barrot states, “*we needed a worldwide response to the challenges facing maritime transport, the first sector in which activity is globalised, and to define fair rules for all involved. I hope that the Member States will start the procedure to ratify the Convention as soon as possible and that the social partners will take action to implement it at European level.*”²⁴

3. IMPLEMENTATION OF THE LABOUR CONVENTION INTO MALTESE LAW

Malta’s legislative requirements are dualist in nature. Therefore, a separate legal instrument created domestically through Parliament to give effect to international conventions is always required. Without such domestic instrument, international agreements apply only at the international level and not within the domestic context. This is governed by the *Ratification of Treaties Act*.²⁵

3. (3) No provision of a treaty shall become, or be enforceable as, part of the law of Malta except by or under an Act of Parliament.

Ratification of certain treaties by House of Representatives.

Matters relating to seafarers are regulated by the Malta Maritime Authority²⁶ through the Merchant Shipping Directorate²⁷ under the Ministry responsible for shipping and ports. The *Merchant Shipping Act* lays down the authority given to the Minister to promulgate the appropriate rules, regulations and orders to give force of law to international conventions in Malta and the necessary procedures to be followed.

374. (1) Without prejudice to the powers conferred by the foregoing provisions of this Act, the Minister may make regulations, rules or orders, or give instructions, for the

Power to make Regulations, etc..
Amended by:

²⁴ EU Press Release IP-06-788 – 16th June 2006.

²⁵ Chapter 304 of the Laws of Malta.

²⁶ Chapter 352 of the Laws of Malta.

²⁷ Merchant Shipping Act, Chapter 234 of the Laws of Malta.

carrying into operation of any of the provisions of this Act and for prescribing the fees to be paid for any service provided and any other thing done under or for the purposes of this Act, and in particular, but without prejudice to the generality of the foregoing, for prescribing anything that is required or authorised by this Act to be prescribed.

(2) Regulations, rules and orders made under the provisions of this Act shall include such requirements, in regard to the matters in respect of which the regulations, rules or orders are made, as appear to the Minister to implement the provisions in regard to those matters of international conventions or protocols ratified or acceded to by the Government of Malta.

(3) Any power conferred on the Minister by this Act to make regulations, rules or orders, or to give instructions, shall include power -

- (a) to vary, alter or repeal any such regulation, rule, order or instruction, without prejudice to the making of a new regulation, rule or order, or the giving of a new instruction;
- (b) subject to such limitations or other express provision contained in this Act, to provide for fines (*multa* or *ammenda*) or imprisonment, or both, and for such other sanction as the Minister may deem appropriate;
- (c) to make such transitional or other incidental or supplementary provisions as may appear to the Minister to be appropriate.

(4) Regulations, rules and orders made under any of the provisions of this Act may be made in the English language only.

(5) Regulations, rules and orders made under this Act shall be laid on the Table of the House of Representatives as soon as may be after they are made and if, within the period of twenty-eight days after they are so laid, the House resolves that they be annulled or amended, the same shall thereupon cease to have effect or shall be so amended, as the case may require, but without prejudice to the validity of anything previously done thereunder or to the making of new regulations, rules or orders.

(6) In reckoning for the purposes of subarticle (5) any such period of twenty-eight days, no account shall be taken of any time during which the House of Representatives is not in session or during which it is adjourned for more than seven days.

*Part IV of the Merchant Shipping Act deals with Masters and Seamen.*²⁸ There are various headings each concerning a particular area of maritime labour, example *Engagement of Seamen and Payment of Wages.*²⁹ Throughout this part, various Articles give the power to the Minister to legislate further by regulations and to implement international conventions, for example *Article 122C.*³⁰

122C. (1) Subject to the provisions of this article and notwithstanding the provisions of any other law or of any regulations, rules and orders made or deemed to be made thereunder, the conditions of service of persons employed on Maltese Ships and of Maltese citizens serving in foreign ships shall be governed by regulations made by the Minister under this Article.

Conditions of
Service Regulations.
Added by:
XXII.2000.39

(2) Without prejudice to the generality of the foregoing subarticle, regulations made thereunder may, in particular, make provision in respect of -

- (a) apprenticeship in a calling aboard a ship;
- (b) the engagement of persons on Maltese ships and the engagement by foreign ships of Maltese citizens;
- (c) the implementation of any international convention relating to the employment, welfare, security, certification or status of seafarers;
- (d) the avoidance of agreements made contrary to such regulations;
- (e) wages in general, and the rights related thereto of persons employed in Maltese ships, securing safe working conditions, health and welfare for seafarers and apprentices employed on ships;
- (f) the minimum wage payable to persons employed on Maltese ships;
- (g) the annual leave and holidays entitlement of persons employed on Maltese ships;
- (h) the maximum hours of work or the minimum

²⁸ Articles 89-206.

²⁹ Articles 112-122C and 131-137A respectively.

³⁰ The other Articles are 90(1), 91, 103(1), 106(2), 108(3), 114(2)(h), 148(1), 149(1), 152(1), 153(1), 154(4), 163, 168A(3), 195 *Proviso* and 205.

hours of rest for persons employed on Maltese ships;

- (i) the maintenance of records of daily hours of work or of daily hours of rest of persons employed on Maltese ships;
- (j) the maximum duration of service periods on board Maltese ships following which a seafarer is entitled to repatriation;
- (k) the posting on board Maltese ships of a table containing the shipboard working arrangements;
- (l) the employment of persons under the age of eighteen years.

Provided that unless specified in regulations made under this article, the minimum wage shall be that prescribed in the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187) of the International Labour Organisation, including any revisions thereof.

(3) Regulations made under this article may provide that a person who contravenes the provisions thereof shall be liable to such a penalty as may be provided for in the regulations, being a penalty of not more than one thousand units.

The Competent Authority regarding all the issues relating to seafarers is the Registrar-General as established under the *Merchant Shipping Act*.³¹

The instrument giving force of law in Malta to the Labour Convention is titled the *Merchant Shipping (Maritime Labour) Rules*. The coming into force of any legislation, whether primary or subsidiary, must take place through the publication in the Government Gazette.³² The date of coming into force can take the form of any of the following:

³¹ Article 363.

³² Constitution of Malta: Article 72(4) *When a law has been assented to by the President it shall without delay be published in the Gazette and shall not come into operation until it has been so published, but Parliament may postpone the coming into operation of any such law and may make laws with retrospective effect; and Article 124(1): "Gazette" means the Malta Government Gazette or any other official journal substituted therefor published by order of the Government of Malta.*

- (a) if there is nothing stipulated, the date will be the same as the date of Government Gazette in which they were publicised; or
- (b) a specific date is provided, which date can be retrospective, and different dates may be provided for the different titles, chapters, parts, provisions, annexes, schedules or purposes; or
- (c) when the responsible Minister may, by notice in the Government Gazette, appoint, which date can be retrospective, and different dates may be so appointed for the different titles, chapters, parts, provisions, annexes, schedules or purposes.

The *Merchant Shipping (Maritime Labour) Rules* adopt the last option.

4. PROBLEMS WITH IMPLEMENTATION

4.1. Nomenclature

The subsidiary legislation incorporating the Labour Convention is titled the *Merchant Shipping (Maritime Labour) Rules*. More often than not, subsidiary legislation in Malta are called *Regulations*. However, the Code of the Labour Convention has its own Regulations. To avoid any unnecessary ambiguity in having two different types of regulations within the same subsidiary legislation, the word *Rules* is used instead.

4.2. Amendment and Repeal of Legislation

Malta has already ratified some of the ILO Conventions relating to maritime labour. Some of these Conventions have been enacted through subsidiary legislation whilst numerous provisions have been inserted in the *Merchant Shipping Act*. Since the Labour Convention consolidates such Conventions, the drafting project has to cater for the amendment and repeal of legislation, as the

case may be. Full details of the required amendments are found under Title 5 hereunder.

4.3. The Applicability of the Rules

The different ILO Conventions ratified and adopted by Malta have different application. Masters, apprentices fishing vessels, pleasure yachts and oil rigs are excluded in certain cases. The problem encountered was how to make the Labour Convention applicable seeing that applicability is in the discretion of every member State. This was solved with the *Applicability* provision³³ in the rules establishing the persons and type of vessels upon whom the Labour Convention applies and giving the power to the competent authority, after due consultation, to determine the applicability of the Labour Convention for each particular area.

4.4. The Explanatory Note of the Convention

The Labour Convention contains an explanatory note on how to interpret the Convention. It was desirable that such note is also implemented in these Rules. The problem was on how and where. It was finally decided that the best method was to incorporate the note in a separate Annex, being *Annex I* of the Rules.

5. LEGISLATION TO BE REPEALED AND AMENDED

5.1. Merchant Shipping Act

The amendments to the *Merchant Shipping Act* that need to be effected are the following:

- (i) Two provisions referring to old ILO Conventions will be deleted:

³³ Rule 4 of the *Merchant Shipping (Maritime Labour) Rules*.

The Proviso to Article 122C(2) referring to an ILO Recommendation for the calculation of wages:

122C. (2) Provided that unless specified in regulations made under this article the minimum wage shall be that prescribed in the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187) of the International Labour Organisation, including any revisions thereof.

and Article 148(5) referring to two ILO Conventions on the accommodation of crew:

148. (5) Regulations made under this article may be made by reference in whole or in part to the requirements of the Accommodation of Crews Convention (Revised), 1949 (No. 92) and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) both of the International Labour Organisation, including any revisions thereof.

- (ii) A new article stating that the provisions found in the *Merchant Shipping Act* concerning seafarers will adopt the measures of the Labour Convention will be inserted. The article will also give the necessary power to the Minister responsible for shipping and ports to make regulations in line with the Labour Convention. Finally, the article will provide that if there is any inconsistency between the Labour Convention and the *Merchant Shipping Act* and its subsidiary legislation, the Labour Convention shall prevail. Such article will be inserted under the heading *Application of Part IV* already existing in the Act;
- (iii) Article 375 gives the power to the Government of Malta to ratify or accede to the treaties or conventions, including protocols, annexes and appendices thereto, listed in the Article. The Minister responsible for shipping and ports is then empowered to make regulations giving effect to the provisions of such conventions and treaties. A number of

these conventions and treaties listed are the old ILO Conventions.

Such reference will be deleted:

375. (1) For the purposes of the Ratification of Treaties Act, the Government of Malta is hereby empowered to ratify, or accede to the treaties or conventions (including protocols, annexes and appendices thereto) referring to merchant shipping listed in subarticle (2), and the Minister may upon the ratification or accession of any of the said treaties or conventions make regulations giving effect to the provisions thereof, and such power shall include the power to provide that any provision of this Act inconsistent with the provisions of any such treaty or convention shall no longer apply.

Ratification, etc., of certain treaties, etc., relating to merchant shipping.
CAP. 304.
Added by:
XXII.2000.99.

(2) The treaties and conventions to which subarticle (1) refers are the following:

....

(o) Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) signed in Geneva on the 13th October, 1976;

(p) Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 signed in Geneva on the 22nd October, 1996;

(q) Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) signed in Geneva on the 13th October, 1970;

(r) Accommodation of Crews Convention (Revised), 1949 (No. 92) signed in Geneva on the 8th June, 1949;

(s) Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) signed in Geneva on the 14th October, 1970;

(t) Repatriation of Seamen Convention, 1926 (No. 23) signed in Geneva on the 7th June, 1926;

(u) Repatriation of Seafarers Convention (Revised), 1987 (No. 166) signed in Geneva on the 24th September, 1987;

(v) Food and Catering (Ships' Crews) Convention, 1946 (No. 68) signed in Seattle on the 6th June, 1946;

(w) Labour Inspection (Seafarers) Convention, 1996 (No. 178) signed in Geneva on the 22nd October, 1996;

(x) Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180) signed in Geneva on the 22nd October, 1996;

(y) Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55) signed in Geneva on the 6th October, 1936;

(z) Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164) signed in Geneva on the 24th September, 1987.

- (iv) Finally, the list of certificates found in the *Second Schedule* will also be amended to include the Maritime Labour Certificate, the Declaration of Maritime Labour Compliance and the Interim Maritime Labour Certificate.

5.2. *Seafarers' Subsidiary Legislation under the Merchant Shipping Act*

Under the *Merchant Shipping Act*, there is a number of subsidiary legislation relating to seafarers:

Sub. Leg. 234.02: *Merchant Shipping (Distressed Seamen) Regulations*;

Sub. Leg. 234.03 *Merchant Shipping (Provisions and Water) Regulations*;

Sub. Leg. 234.05: *Merchant Shipping (Medical Stores) Regulations*;

Sub. Leg. 234.15: *Merchant Shipping (A.B. and E.D.H. Certificates) Regulations*;

Sub. Leg. 234.17: *Merchant Shipping (Training and Certification) Regulations*;

Sub. Leg. 234.22: *Merchant Shipping (Employment of Young Persons) Regulations*;

Sub. Leg. 234.24: *Merchant Shipping (Medical Examination) Regulations*;

Sub. Leg. 234.26: *Merchant Shipping (Minimum Wage) Regulations*;

Sub. Leg. 234.27: *Merchant Shipping (Hours of Work) Regulations*;

Sub. Leg. 234.28: *Merchant Shipping (Protection of Seamen) Regulations*;

Sub. Leg. 234.31: *Merchant Shipping (Safe Manning and Watch Keeping) Regulations*; and

Sub. Leg. 234.39: *Merchant Shipping (Crew Accommodation) Regulations*.

- (i) Subsidiary Legislation Numbers 234.15, 17 and 31 relate to the *STCW Convention* whilst Subsidiary Legislation 234.05 incorporates *Council Directive 92/29/EEC*³⁴ and so there is no need of amendments. The rest of the legislation has been enacted in furtherance of the various ILO Conventions ratified by Malta; or, although the equivalent ILO Conventions have not been ratified, in line with such Conventions.

There is no need for this legislation to be repealed because it reflects the rules and guidelines found in the Labour Convention. However, an amendment will be made to the effect that these regulations implement the provisions of the Labour Convention. The amendment will also provide that if there is any inconsistency between the regulations and the Labour Convention, the Labour Convention shall prevail.

- (ii) *Regulation 3* of the *Merchant Shipping (Hours of Work) Regulations* will be substituted to provide that the regulations give effect to the provisions of the Labour Convention:

3. The purpose of these regulations is to implement the majority of the provisions of the Seafarer's Hours of Work and the Manning of Ships Convention, 1996 (ILO Convention No. 180) and also to give effect in part to the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147) and its Protocol of 1996.

Purpose of Regulations.

The references to the *ILO Seafarers' Hours of Work and Manning of Ships Convention (C180)* found in the certificates in *Schedules 1* and *2* of these regulations shall be substituted with references to the Labour Convention.

³⁴ 31st March, 1992.

- (iii) *Regulation 11 of the Merchant Shipping (Medical Examinations) Regulations* shall be amended to cater for the medical certificates issued by those countries ratifying the Labour Convention; and also to provide for medical certificates issued under the old Conventions until such Conventions cease to have effect once all the countries have denounced them:

11. Any medical certificate issued to a person in accordance with the provisions of the Medical Examination (Seafarers) Convention, 1946 (International Labour Organisation Convention No. 73 of 1946) or the Merchant Shipping (Minimum Standards) Convention, 1976 (International Labour Organisation Convention No. 147 of 1976):

Other Medical
Certificates.

- (a) by an authority empowered in that behalf by the laws of a country outside Malta that has ratified the said Convention of 1946 or the said Convention of 1976; or
- (b) by an approved authority empowered in that behalf by the laws of a country outside Malta,

shall be deemed for the purposes of these regulations to be equivalent to a medical certificate issued under these regulations:

Provided that any medical certificate issued by such authority shall remain in force, unless renewed, only until the expiration of the period of validity specified in that certificate, but in no case for more than the appropriate maximum period prescribed in regulation 6 hereof.

- (iv) A transitory provision shall be inserted in the *Merchant Shipping (Crew Accommodation) Regulations* with respect to those certificates issued prior to the coming into force of the *Merchant Shipping (Maritime Labour) Rules*.
- (v) Finally, *Part 1 of the Schedule of the Merchant Shipping (Fees) Regulations* will be amended to cater for the fees for the issuing of the Maritime Labour Certificate, the Declaration of Maritime Labour Compliance and the Interim Maritime Labour Certificate.

6. STRUCTURE OF THE LEGAL DRAFTING PROJECT

This project is divided into three sets of legislation.

6.1. *Merchant Shipping (Maritime Labour) Rules*

The first set of legislation is entitled the *Merchant Shipping (Maritime Labour) Rules*. This is the enabling legislation giving force of law to the Labour Convention in the Malta, that is, incorporating the Labour Convention into Maltese Law. The Rules are divided into two parts:

- a. The first part is composed of the general rules establishing that the Labour Convention has force of Law in Malta; general provisions giving effect to the applicability of the Labour Convention; and the Articles of the Labour Convention.
- b. The second part consists of the annexes, which are divided into:
 - i. *Annex 1*: Explanation of the Structure of the Labour Convention.
 - ii. *Annex 2*: this contains the five titles of the Code which are *Minimum Requirements for Seafarers to Work on a Ship; Conditions of Employment; Accommodation, Recreational Facilities, Food and Catering; Health Protection, Medical Care, Welfare and Social Security Protection*; and *Compliance and Enforcement*.
 - iii. *Annex 3*: 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.

- iv. *Annex 4*: General areas that are subject to the inspection by an authorised officer in the port carrying out a Port State Inspection pursuant to Standard A5.2.1.
- v. *Annex 5*: Maritime Labour Certificate.
- vi. *Annex 6*: Declaration of Maritime Labour Compliance.
- vii. *Annex 7*: Interim Maritime Labour Certificate
- viii. *Annex 8*: Special Tripartite Committee of the International Labour Office.

6.2. *Merchant Shipping (Amendment) Act*

The second piece of legislation is entitled *Merchant Shipping (Amendment) Act*. Because of the introduction of the Labour Convention into Maltese Law, some parts of the *Merchant Shipping Act* will be amended. Such amendments must necessarily be made through another act. They cannot be made through a legal notice because a legal notice cannot amend an act. Therefore, a separate piece of legislation must be resorted to in order to effect these amendments.

6.3. *Merchant Shipping (Maritime Labour) (Amendment) Regulations*

The third and final piece of legislation is entitled *Merchant Shipping (Maritime Labour) (Amendment) Regulations*. This amends the various subsidiary legislation relating to seafarers. Although such amendments could be incorporated in the same rules that introduce the Labour Convention into Maltese Law, still, personally, I believe that they should be effected through a separate legislative instrument. The reason is that if they had to be carried out through the same legal notice, they would remain there until such Rules remain into force. In

my opinion, this is a legal eye sore, although this is possible and often resorted to in Malta.

SUBSIDIARY LEGISLATION 234.46

MERCHANT SHIPPING (MARITIME LABOUR) RULES

LEGAL NOTICE ____ of 2007

1. (1) The title of these rules is the Merchant Shipping (Maritime Labour) Rules.

Citation,
Commencement
and Scope.

(2) These rules shall come into force on such date as the Minister may, by notice in the Government Gazette, appoint, and different dates may be so appointed for the different provisions and annexes and different purposes of these rules.

(3) These rules adopt all the measures contained in the Maritime Labour Convention signed in Geneva on 7th February, 2006 including any amendment or Protocol related thereto as may from time to time be ratified, acceded to or accepted by the Government of Malta and other instruments, standards and specifications of a mandatory nature related thereto adopted or developed by the International Labour Organisation or in terms of Regulation 3(2)(a) hereof.

2. (1) In these rules, unless the context otherwise requires:

Interpretation.

“the Act” means the Merchant Shipping Act;

“apprentice” means a person over the age of fifteen years who is bound by a written agreement to serve an employer for a determined period with a view to acquiring knowledge, including theory and practice, of a calling in which the employer is reciprocally bound to instruct that person and “apprenticeship” shall be construed accordingly;

Cap. 234.

“approved” means approved by the Registrar-General; and “approved” in the Regulations and the Code of the Labour Convention shall be construed accordingly;

“authorised officer” means an officer authorised in that behalf by the Minister or other appropriate authority;

“child” means a person under the age of sixteen years;

“the Code” means the Code of the Labour Convention, as divided into mandatory Standards (Part A) and non-mandatory Guidelines (Part B), found in Annex 2 of these rules;

“collective agreement” means an agreement entered into between the employer, or one or more organisations of employers, and one or more organisations of seafarers regarding conditions of employment in accordance with the provisions of any law in force in Malta;

“competent authority” means the Registrar-General as established by the Act;

“complaint” means any information or report submitted by a member of the crew, 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 its crew;

“conditions of employment” means wages, the period of employment, the hours of work and leave and includes any conditions related to the employment of any seafarer under a contract of employment including any benefits arising therefrom, the terms of engagement, terms of work participation, manner of termination of any employment agreement and the mode of settling the differences which may arise between the parties to the agreement;

“contract of employment” means an agreement, in writing, in any form, whereby a seafarer binds himself to render service to or do work for an employer, in return for wages, and, in so far as conditions of employment are concerned, includes an agreement of apprenticeship;

“declaration of maritime labour compliance” means the declaration referred to in Guideline 5.1.3 in Annex 2 and provided for by Annex 6 of these rules;

“discrimination” means any distinction, exclusion or restriction which is not justifiable in a democratic society including that made on the basis of marital status, pregnancy or potential pregnancy, sex, colour, disability, religious conviction, political opinion or membership in a trade union;

“employer, in relation to a seafarer, means the person by whom the seafarer is (or, where the employment has

ceased, was) employed and includes a partnership, association or other body of persons, whether vested with legal personality or not;

“employment”, in relation to a seafarer, means employment under his contract, and “employed” shall be construed accordingly;

“inspector” means a person so charged in terms of Article 154 of the Act;

“Labour Convention” means the Maritime Labour Convention signed in Geneva on 7th February, 2006 including any amendment or Protocol related thereto as may from time to time be ratified, acceded to or accepted by the Government of Malta and other instruments, standards and specifications of a mandatory nature related thereto adopted or developed by the International Labour Organisation or in terms of rule 3(2)(a) of these rules; and unless expressly provided otherwise, a reference to the Labour Convention constitutes at the same time a reference to the Regulations and the Code of the Labour Convention;

“Malta” has the same meaning as assigned to it by Article 124 of the Constitution of Malta;

“Maltese registered ship” shall have the same meaning as is assigned to it by Article 3 of the Act;

“maritime labour certificate” means the certificate referred to in Guideline 5.1.3 in Annex 2 and provided for by Annex 5 of these rules;

“master” includes every person (except pilot) having command or charge of a ship;

“medical practitioner” means a duly qualified medical practitioner and shall have the same meaning as assigned to it by Article 108(5) of the Act;

“Minister” means the Minister responsible for ports and shipping and, to the extent of the authority given, includes any person authorised by the said Minister in that behalf;

“month” means calendar month;

“name” in relation to a person includes surname;

“operator”, in relation to a ship, includes the owner and

any demise charterer or manager;

“period of employment” means the time in any day during which seafarers are available for service to the employer, but inclusive of intervals allowed for meals and rest;

“port” means the place declared to be a port by or by Article 27 of the Malta Maritime Authority Act; Cap. 352.

“Registrar-General” means the Registrar-General of Shipping and Seamen appointed under Article 363 of the Act, and includes any person acting under his authority;

“Regulations” mean the regulations of the Labour Convention found in Annex 2 of these rules;

“requirements of the Labour Convention” refers to the requirements as provided for in these rules and the annexes to these rules;

“seafarer” means every person employed or engaged in any capacity on board a sea-going ship as part of the ship’s crew on the business of the ship, including the master of the vessel and apprentices, and “crew” shall be construed accordingly:

Provided that the term shall not be deemed to refer to:

- (a) pilots;
- (b) persons engaged to work in ports in repairing, cleaning, loading or unloading vessels;
- (c) persons employed on board by an employer other than the operator;

“seafarer’s employment agreement” includes both a contract of employment and articles of agreement;

“seafarer recruitment and placement service” means any person, company, institution or other organisation, in the public or the private sector, which is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners;

“seafarers’ representative ” means a recognised union

representative;

“ship” means every description of a sea-going vessel used in navigation and international seaborne trade for the transport of goods, passengers or both, whether self propelled or not, including barges, pontoons and oil rigs and other similar vessels, and excluding vessels propelled by oars and those vessels which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply; and for those parts of the rules wherever applicable, it shall also include a ship under construction;

“shipowner” means the owner of the ship or another organisation 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 the Labour Convention, regardless of whether any other organisation or persons fulfil certain of the duties or responsibilities on behalf of the shipowner;

“territorial waters” means all parts of the open sea within such the distance established by Article 3 of the Territorial Waters and Contiguous Zone Act, measured as in that Act provided, and includes any waters enclosed between the base lines therein mentioned and the coast;

Cap. 226.

“trade union” means an organisation consisting wholly or mainly of seafarers and of which the principal purpose is by its rules the regulation of relations between seafarers and employers or employers’ associations;

“unit” shall have the same meaning as assigned to it by article 373C of the Act;

“voyage” means a journey from a port to the next port of call of a ship (which may be the same port); and

“young person” means a person under the age of eighteen years.

(2) Words and phrases not otherwise defined in these rules shall have the same meaning as is assigned to them in the Act.

(3) Unless otherwise defined in the Act, or in these rules or unless the context otherwise requires, words and expressions used in these rules shall have the same

meaning assigned to them in the Labour Convention:

Provided that if there is any inconsistency between the definitions of the Act or these rules and the Labour Convention, the definitions of the Labour Convention will prevail.

(4) Any reference in these regulations to an international convention or its related protocol or code shall include reference to any amendments to such convention, protocol or code accepted by the Government of Malta.

3. (1) The Labour Convention as may from time to time be amended, shall, unless otherwise provided in these rules and notwithstanding the provision of any other law, form part of and be enforceable as part of the law of Malta and shall apply to all Maltese registered ships subject to rule 4 of these rules, and to all other ships while they are in the territorial waters subject to rule 10 of these rules.

Labour Convention
to be given force of
law in Malta.

(2) The Registrar-General may either on a case by case basis or through the issue of Merchant Shipping Notices -

- (a) determine, lay down, prescribe, set or specify what may be required to be determined, laid down, prescribed, set or specified by these rules or by the Labour Convention, or expound on the requirements of these rules or of such Convention or clarify their applicability or interpretation; and
- (b) apply any of the provisions of the Labour Convention to other classes of Maltese ships, or to other classes of ships when they are in the territorial waters;

and in so doing, and without prejudice to the generality of the foregoing, the Registrar-General shall be guided by the circulars, clarifications, codes, decisions, directives, guidelines, instruments, interpretations, manuals, notices, publications, recommendations, regulations, resolutions, rules or any other similar medium of the International Labour Organisation or any other body or organisation with an appropriate knowledge or competence on the subject matter.

(3) The appropriate authority for the purposes of issuing certificates in terms of the Labour Convention shall be the Registrar-General.

4. (1) Except as expressly provided otherwise, these rules apply to all seafarers.

Applicability of the Rules (Article 2, paragraphs 2 to 7, of the Labour Convention).

(2) In the event of doubt as to whether any categories of persons are to be regarded as seafarers for the purpose of these rules, the question shall be determined by the competent authority after consultation with the shipowners' and seafarers' organisations concerned.

(3) Except as expressly provided otherwise, these rules apply 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. These rules do not apply to warships or naval auxiliaries.

(4) In the event of doubt as to whether these rules apply to a ship or a particular category of ships, the question shall be determined by the competent authority after consultation with the shipowners's and seafarers' organisations concerned.

(5) Where the competent authority determines that it would not be practicable at the present time to apply certain details of the Code referred to in rule 8(1) of these rules to a ship or particular categories of ships flying the flag of Malta, 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' organisations concerned and may only be made with respect to ships of less than 200 gross tonnage not engaged in international voyages.

(6) Any determination made by the competent authority under paragraph 2 or 4 or 5 of this rule shall be communicated to the Director-General of the International Labour Office, who shall notify the Members of the International Labour Organisation.

5. The competent authority shall satisfy itself that the provisions of these rules and other applicable legislation currently in force in Malta with respect to seafarers safeguard, in the context of the Labour Convention and these rules, the fundamental rights of the:

Fundamental Rights and Principles (Article 3 of the Labour Convention).

(a) freedom of association and the effective recognition of the right to collective bargaining;

- (b) the elimination of all forms of compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

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

Seafarers'
Employment and
Social Rights
(Article 4 of the
Labour
Convention).

(2) Every seafarer has the right to fair terms of employment.

(3) Every seafarer has the right to decent working and living conditions on board the ship.

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

(5) The competent authority shall ensure, within the limits of its jurisdiction, that the seafarers' employment and social rights set out in the preceding paragraphs of this rule are fully implemented in accordance with the requirements of the Labour Convention. Unless otherwise specified in these rules, such implementation may be achieved through the enactment of national laws or regulations, through applicable collective bargaining agreements or through other measures or in practice.

7. (1) The competent authority shall be responsible to implement and enforce laws or regulations or other measures that have been entrusted to it to fulfil its commitments under the Labour Convention with respect to ships and seafarers under its jurisdiction.

Implementation and
Enforcement
Responsibilities
(Article 5 of the
Labour
Convention).

(2) The competent authority shall effectively exercise its jurisdiction and control over ships that fly the Maltese flag by establishing a system for ensuring compliance with the requirements of the Labour Convention, including regular inspections, reporting, monitoring and legal proceedings under the applicable laws and regulations.

(3) The competent authority shall ensure that ships that fly the Maltese flag carry a maritime labour certificate and a declaration of maritime labour compliance as required by the Labour Convention.

(4) A foreign ship to which the Labour Convention applies may, in accordance with international law and rule

10 of these rules, be inspected by the competent authority other than the flag state, when the ship is in a Maltese port, to determine whether the ship is in compliance with the requirements of the Labour Convention.

(5) The competent authority shall effectively exercise its jurisdiction and control over seafarer recruitment and placement services, if these are established in the territory of Malta.

(6) The competent authority shall prohibit violations of the requirements of the Labour Convention and shall, in accordance with international law, establish sanctions or require the adoption of corrective measures under the Maltese law which are adequate to discourage such violations.

(7) The competent authority shall implement its responsibilities under the Labour Convention in such a way as to ensure that the ships that fly the flag of any State that has not ratified the Labour Convention do not receive more favourable treatment than the ships that fly the flag of any State that has ratified it.

8. (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.

Regulations and Parts A and B of the Code (Article 6 of the Labour Convention).

(2) The competent authority 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 competent authority shall give due consideration to implementing its responsibilities in the manner provided for in Part B of the Code.

(3) If the competent authority is not in a position to implement the rights and principles in the manner set out in Part A of the Code, it may, unless expressly provided in the Labour Convention, implement Part A through provisions of national law and regulations or other measures that are substantially equivalent to the provisions of Part A.

(4) For the sole purpose of paragraph 3 of this rule, any law, regulation, collective agreement or other implementing measure shall be considered substantially equivalent, in the context of the Labour Convention, if the competent authority satisfies itself that:

(a) it is conclusive 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.

9. Any derogation, exemption or other flexible application of the Labour Convention for which the Labour Convention requires consultation with shipowners' and seafarers' organisations may, in cases where representative organisations of shipowners or of seafarers do not exist within Malta, only be decided by the competent authority through consultation with the Special Tripartite Committee referred to in Annex 8 of these rules.

Consultation with the Shipowners' and Seafarers' Organisations and the Special Tripartite Committee (Articles 7 and 13 of the Labour Convention).

10. (1) The inspection of any ship which is not a Maltese ship to which the Labour Convention applies by the competent authority when such ship is in a Maltese port, as referred to in rule 7(4) of and in Title 5 of Annex 2 of these rules, shall be in accordance with the rules and procedures laid down in the Merchant Shipping (Port State Control) Regulations.

Port State Control.

(2) In particular, the Registrar-General, or an appropriate inspector, may inspect any ship which is not a Maltese ship when such ship is in any port of Malta, and if satisfied that any requirements of the Labour Convention are breached, the Registrar-General may:

L.N. 12 of 2004.

- (a) send a report to the government of the country in which the ship is registered, and a copy thereof to the Director-General of the International Labour office; and

- (b) where conditions on board are clearly hazardous to safety or health:

- (i) take such measures as are necessary to rectify those conditions and any expences incurred therefore shall be a charge on the ship;

- (ii) detain the ship

Provided that the measures specified in subparagraphs (i) and (ii) may be taken only when the ship has called at a Maltese port in the normal course of business or for operational reasons.

- (3) If the Registrar-General takes either of the

measures specified in sub-regulation (2)(b) hereof, the Registrar-General shall forthwith notify the maritime Administration and the nearest maritime, consular or diplomatic representative of the flag state of the ship.

11. (1) If any person acts, or suffers any person under his control to act, in contravention of the provisions of these rules or the Labour Convention, or omits to do, or suffers any person under his control to omit to do, anything required by these rules or the Labour Convention, is guilty of an offence and he shall be liable on conviction for each offence to imprisonment for a term not exceeding two years or to a fine (*multa*) not exceeding one thousand units or to both such imprisonment and fine.

Penalties and Duty to ensure compliance.

(2) Any person or any person under his control who fails to remedy any default within the time limits specified in a notice in writing served by the Registrar-General upon the owner shall be liable to a penalty of five hundred units per month or part thereof for each violation and any ship not complying with the requirements of these rules and the Labour Convention within a maximum period of twelve months shall be liable to a penalty of one thousand units per month or part thereof and in these cases the Registrar-General may take steps to cancel such ship in accordance with the Act.

(3) The Registrar-General may not re-register any ship, provisionally or otherwise, prior to the payment of all penalties previously incurred and unless satisfactory evidence is supplied to the Registrar-General that all the defaults vis-à-vis these rules and the Labour Convention have been rectified.

(4) It shall be the obligation of the owner throughout the whole period of registry of the ship to notify the Registrar-General of any changes which might have occurred to the information contained in the maritime labour certificate, or the interim maritime labour certificate, or the declaration of maritime labour compliance.

12. If any person -

- (a) forges or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any maritime labour certificate, or an interim maritime labour certificate, or a declaration of maritime labour compliance; or
- (b) makes, assists in making, or procures to be

Forgery of certificates and declaration and false representations.

made, any false representation for the purpose of procuring, either for himself or for any other person, a maritime labour certificate, or an interim maritime labour certificate or a declaration of maritime labour compliance; or

- (c) fraudulently uses a maritime labour certificate, or an interim maritime labour certificate, or a declaration of maritime labour compliance which has been forged, altered, cancelled or suspended, or to which he is not entitled; or
- (d) fraudulently lends his maritime labour certificate, or interim maritime labour certificate, or declaration of maritime labour compliance, or allow it to be used by any other person,

that person shall, for each offence, be liable on conviction to imprisonment for a period not exceeding two years, or to a fine (*multa*) not exceeding one thousand units, or to both such imprisonment and fine.

13. In the case of any inconsistency between these rules and the Labour Convention and any provision found in acts, or codes, or regulations, or rules, the provisions of these rules and of the Labour Convention shall prevail.

Rules and Regulations inconsistent with the Labour Convention.

14. (1) The Minister may make regulations as appear necessary from time to time to give effect to any provision of these rules and the Labour Convention.

Powers of the Minister.

(2) The power of the Minister to make regulations in furtherance of these rules shall be by reference in whole or in part to the requirements of the Labour Convention.

(3) Regulations made under this article may provide that a person who contravenes the provisions thereof shall be liable to such penalty as may be provided for in the regulations, being a penalty of not more than one thousand units or of imprisonment of not more than two years or both.

(4) The power conferred by subarticle (1) to make provision for the purpose of giving effect to the Labour Convention include the power to provide for the provision to come into force notwithstanding that the Labour

Convention may not be in force.

ANNEX 1

EXPLANATORY NOTE TO THE MARITIME LABOUR CONVENTION

1. This explanatory note, which does not form part of the Labour Convention, is intended as a general guide to the Convention.
2. The Labour Convention comprises three different but related parts: the Articles, found in rules 4 to 9 of these rules, the Regulations and the Code.
3. The Articles and Regulations set out the core rights and principles and the basic obligations of Malta as implemented and safeguarded by the competent authority under the Labour 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).
5. The Regulations and the Code are organised 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 Labour 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 Malta through the competent authority implements 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 the competent authority, where necessary (see rule 8(3), to give effect to the detailed requirements of Part A of the Code through substantial equivalence (as defined in rule 8(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, the competent

authority can ascertain the kind of action that might be expected of it 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 fulfillment 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. The competent authority is 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 the Labour Convention (Articles, Regulations and the Standards in Part A). However, the competent authority is required under paragraph rule 8(2) 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, the competent authority 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 competent authority, as well as the ILO bodies responsible for reviewing implementation of international labour Conventions, can be sure without further consideration that the arrangements the competent authority has provided for are adequate to implement the responsibilities under Part A to which the Guideline relates.

ANNEX 2

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TITLE 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 recognised 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' organisations 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 jeopardise 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' organisations concerned, in accordance with relevant international standards.

GUIDELINE B1.1 - MINIMUM AGE

1. When regulating working and living conditions, the competent authority 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' organisations 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 recognised by the competent authority as qualified to issue such a certificate. Practitioners must enjoy full professional independence in exercising their medical judgment 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 Organisation, the International Maritime Organisation or the World Health Organisation.

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 Organisation 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 Organisation 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 of the Convention, 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 Malta shall conform to the standards set out in the Code.
3. The competent authority shall require that, in respect of seafarers who work on ships that fly its flag, 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. The competent authority shall ensure that the operation of a public seafarer recruitment and placement service is operated in an orderly manner that protects and promotes seafarers' employment rights as provided in this Convention.
2. If there are private seafarer recruitment and placement services operating in the territory of Malta 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 standardised 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' organisations 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 after consultation with the shipowners' and seafarers' organisations 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' organisations concerned, to be appropriate - in the context of recruitment and placement services operated by a seafarers' organisation in the territory of Malta for the supply of seafarers who are nationals of Malta 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 organisation and a shipowner;
- (b) both the seafarers' organisation and the shipowner are based in the territory of Malta;
- (c) Malta has national laws or regulations or a procedure to authorise 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 Malta 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 Malta the obligation to establish a system for the operation of private seafarer recruitment or placement services in its territory.

5. When adopting a system referred to in paragraph 2 of this Standard, Malta 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 Malta. Any licences or certificates or similar authorisations 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. The competent authority shall, in so far as practicable, advise the nationals of Malta 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 competent authority 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. The competent authority shall require that shipowners of ships that fly the flag of Malta, 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 Malta with respect to ships that fly the flag of Malta.

GUIDELINE B1.4 - RECRUITMENT AND PLACEMENT

GUIDELINE B1.4.1 - ORGANISATIONAL 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' organisations in the organisation 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 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, the competent authority should consider requiring seafarer recruitment and placement services, established in the territory of Malta, 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 publicising 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' organisation 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 of the convention and relevant organisations, 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 harmonisation 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 national law and practice of Malta, seafarers’ employment agreements shall be understood to incorporate any applicable collective bargaining agreements.

STANDARD A2.1 – SEAFARERS’ EMPLOYMENT AGREEMENTS

1. The competent authority shall adopt laws or regulations requiring that ships that fly the flag of Malta 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. The competent authority shall adopt laws and regulations specifying the matters that are to be included in all seafarers' employment agreements governed by the national law of Malta. 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. The competent authority 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' organisations concerned, but shall not be shorter than seven days.

6. A notice period shorter than the minimum may be given in circumstances which are recognised 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, the competent authority 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), the competent authority 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. The competent authority shall require that payments due to seafarers working on ships that fly the flag of Malta 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. The competent authority 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. Malta shall, when adopting national laws or regulations governing seafarers' wages, 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;
- (c) 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

- (d) 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' organisations 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 authorised 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. The competent authority should, after consulting with representative shipowners' and seafarers' organisations, 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, the competent authority should, after consulting representative shipowners' and seafarers' organisations, establish procedures for determining minimum wages for seafarers. Representative shipowners' and seafarers' organisations 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 authorised 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 Organisation.
2. Nothing in this Guideline should be deemed to prejudice arrangements agreed between shipowners or their organisations and seafarers' organisations with regard to the regulation of standard minimum terms and conditions of employment, provided such terms and conditions are recognised 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. The competent authority shall ensure that the hours of work or hours of rest for seafarers are regulated.
2. The competent authority 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. The competent authority 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. The competent authority 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 competent authority from having

procedures to authorise 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, the competent authority 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) 10 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 minimises 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. The competent authority 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 standardised format in the working language or languages of the ship and in English.

12. The competent authority 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 standardised format established by the competent authority taking into account any available guidelines of the International Labour Organisation or shall be in any standard format prepared by the Organisation. 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 authorised by the master, and by the seafarers.

13. Nothing in paragraphs 5 and 6 of this Standard shall prevent Malta from having national laws or regulations or a procedure for the competent authority to authorise 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:

- (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. The competent authority shall require that seafarers employed on ships that fly the flag of Malta 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 with the operational requirements of their positions.

STANDARD A2.4 - ENTITLEMENT TO LEAVE

1. The competent authority shall adopt laws and regulations determining the minimum standards for annual leave for seafarers serving on ships that fly the flag of Malta, 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 recognised 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 authorised 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 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. The competent authority shall require ships that fly the flag of Malta to provide financial security to ensure that seafarers are duly repatriated in accordance with the Code.

STANDARD A2.5 - REPATRIATION

1. The competent authority shall ensure that seafarers on ships that fly the flag of Malta 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. The competent authority 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. The competent authority 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 shall arrange for repatriation of the seafarers serving on ships flying the flag of Malta; 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 competent authority;
 - (b) costs incurred in repatriating seafarers shall be recoverable from the shipowner of the ship flying the flag of Malta by the competent authority;
 - (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, the competent authority, having 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. The competent authority shall facilitate the repatriation of seafarers serving on ships which call in the ports of Malta or pass through the territorial or internal waters of Malta, as well as their replacement on board.

8. In particular, the competent authority shall not refuse the right of repatriation to any seafarer because of the financial circumstances of a shipowner or because of the ship-owner's inability or unwillingness to replace a seafarer.

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

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. The competent authority 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 Code or are provided with suitable employment on board a ship proceeding to one of those destinations.

6. The competent authority should require that shipowners take responsibility for repatriation arrangements by appropriate and expeditious means. The normal mode of transport should be by air. The competent authority 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 THE COMPETENT AUTHORITY

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. The competent authority 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.

REGULATION 2.6 - SEAFARER COMPENSATION FOR THE SHIP'S LOSS OR FOUNDING

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
FOUNDING

1. The competent authority 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 Malta concerned for losses or injuries arising from a ship's loss or foundering.

GUIDELINE B2.6 - SEAFARER COMPENSATION FOR THE SHIP'S LOSS OR
FOUNDING

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. The competent authority 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. The competent authority shall require that all ships that fly the flag of Malta 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. The competent authority shall require that all ships that fly the flag of Malta 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 minimise 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 Organisation, 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. The competent authority 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' organisations 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. The competent authority 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. The competent authority 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. The competent authority shall, after consulting the shipowners' and seafarers' organisations 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 organisation 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 minimise 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. The competent authority shall ensure that ships that fly the flag of Malta 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 Malta. 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 Malta. 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 Malta.

STANDARD A3.1 - ACCOMMODATION AND RECREATIONAL FACILITIES

1. The competent authority shall adopt laws and regulations requiring that ships that fly the flag of Malta:
 - (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' organisations 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 shall require that ships that fly the flag of Malta 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 centralised 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' organisations 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' organisations 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' organisations 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 requirement after consultation with the shipowners' and seafarers' organisations 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' organisations 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' organisations 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. The competent authority may, after consultation with the shipowners' and seafarers' organisations 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, nontoxic 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 centralised 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 between sleeping rooms and toilets to which there is no other access; this requirement 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 consultation and the giving of medical first aid and to help prevent the spread of infectious 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. The competent authority 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;
 - (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 centralised 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 Organisation, 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. The competent authority shall ensure that ships that fly the flag of Malta 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. The competent authority 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 the flag of Malta, and shall undertake educational activities to promote awareness and implementation of the standards referred to in this paragraph.

2. The competent authority shall ensure that ships that fly the flag of Malta 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 organisation 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 Malta.

4. The requirements under paragraph 3 of this Standard shall include a completion of a training course approved or recognised 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 organisations, 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' organisations 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 organisations 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' organisations concerned and with national or local authorities dealing with questions of food and health, and may where necessary utilise 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. The competent authority shall ensure that all seafarers on ships that fly the flag of Malta 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. The competent authority shall ensure that seafarers on board ships in the territory of Malta who are in need of immediate medical care are given access to Malta'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. The competent authority shall ensure that measures providing for health protection and medical care, including essential dental care, for seafarers working on board a ship that flies the flag of Malta 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 Malta'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. The competent authority shall adopt laws and regulations establishing requirements for on-board hospital and medical care facilities and equipment and training on ships that fly the flag of Malta.

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 medical 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 training in medical care required by STCW, including practical training and training in life-saving techniques such as intravenous therapy, which will enable the persons concerned to participate effectively in coordinated schemes for medical assistance 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, including 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 specific 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 occupational 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 communication, carry an up-to-date and complete list of coast earth stations through which medical advice can be obtained. Seafarers with responsibility for medical care or medical first aid on board should be instructed in the use of the ship's medical guide and the medical section of the most recent edition of the International Code of Signals so as to enable them to understand the type of information needed by the advising doctor as well as the advice received.

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) hospitalisation 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. The competent authority 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 hospitalised 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 harmonising the statistics with any existing national system of statistics on occupational accidents and diseases covering other categories of workers;
- (i) organising 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. The competent authority should adopt measures to secure proper and sufficient medical care for the dependants of seafarers domiciled in the territory of Malta 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. The competent authority shall ensure that measures, in accordance with the Code, are in place on ships that fly flag of Malta 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 - SHIPOWNERS' LIABILITY

1. The competent authority shall adopt laws and regulations requiring that shipowners of ships that fly the flag of Malta 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 Malta.
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.

GUIDELINE B4.2 - SHIPOWNERS' LIABILITY

1. The payment of full wages required by Standard A4.2, 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.

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. The competent authority shall ensure that seafarers on ships that fly the flag of Malta are provided with occupational health protection and live, work and train on board ship in a safe and hygienic environment.
2. The competent authority shall develop and promulgate national guidelines for the management of occupational safety and health on board ships that fly the flag of Malta, after consultation with representative shipowners' and seafarers' organisations and taking into account applicable codes, guidelines and standards recommended by international organisations, national administrations and maritime industry organisations.
3. The competent authority 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 the flag of Malta.

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 flag of Malta, 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' organisations 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 flag of Malta.

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 Organisation 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 Organisation on this matter.

7. The competent authority shall cooperate with shipowners' and seafarers' organisations 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.

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; and
- (c) HIV/AIDS protection and prevention.

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' organisations 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' organisations 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. The competent authority should have due regard to any international system or model for recording accidents to seafarers which may have been established by the International Labour Organisation.

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; and
 - (f) problems arising from any human failures.

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 organised 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' organisations 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 organisation of occupational safety and health protection and accident prevention training and programmes;
- (c) the organisation 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 organisations or international organisations 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, the competent authority 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 Organisation.

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 organisation 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 minimise occupational dangers to young seafarers in the course of their duties.

2. Except where a young seafarer is recognised 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;
- (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 ionising 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 organisations, 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, the competent authority should have due regard to relevant codes of practice published by the International Labour Organisation and the appropriate standards of international organisations.

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. The competent authority shall ensure that shore-based welfare facilities in the territory of Malta, where they exist, are easily accessible. The competent authority 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 the ports of Malta with access to adequate welfare facilities and services.
2. The responsibilities of the competent authority 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. The competent authority shall require, where welfare facilities exist in the territory of Malta, 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. The competent authority shall promote the development of welfare facilities in appropriate ports of Malta and determine, after consultation with the shipowners' and seafarers' organisations concerned, which ports are to be regarded as appropriate.
3. The competent authority 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 THE COMPETENT AUTHORITY

1. The competent authority 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' organisations concerned.
3. The competent authority 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) organisation of international sports competitions and encouragement of the participation of seafarers in sports activities; and
 - (d) organisation 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. The competent authority should provide or ensure the provision of such welfare facilities and services as may be required, in appropriate ports of Malta.
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' organisations concerned under collective agreements or other agreed arrangements; and
 - (c) voluntary organisations.
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 counselling.
- 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 underutilised 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' organisations, the competent authorities and, where appropriate, voluntary organisations and social bodies.
- 3. As appropriate, consuls of maritime States and local representatives of foreign welfare organisations 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 organisations; 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 jeopardise 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. The competent authority should take measures, whenever necessary, to ensure the safety of seafarers from aggression and other unlawful acts while ships are in the territorial waters of Malta 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. The competent authority shall ensure that all seafarers and, to the extent provided for in the national law of Malta, 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. The competent authority undertakes to take steps, according to the national circumstances, individually and through international cooperation, to achieve progressively comprehensive social security protection for seafarers.

3. The competent authority shall ensure that seafarers who are subject to its social security legislation, and, to the extent provided for in the national law of Malta, 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 Malta 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. The competent authority 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 the territory of Malta.

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 organisations, other rules concerning the social security legislation to which seafarers are subject.

5. The competent authority's responsibilities with respect to seafarers on ships that fly the flag of Malta 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. The competent authority shall give consideration to the various ways in which comparable benefits will, in accordance with the national law and practice of Malta, 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. The competent authority shall establish fair and effective procedures for the settlement of disputes.

10. The competent authority 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. The competent authority which has national seafarers, non-national seafarers or both serving on ships that fly the flag of Malta 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 authorised bodies pursuant to relevant national social security schemes.

7. The competent authority, in effectively exercising its jurisdiction over social matters on the ships flying the flag of Malta, should 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 the competent authority'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. Rule 8(3) and 4, 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 rule 8(2), the competent authority 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 the competent authority implements its responsibilities under this Convention with respect to ships that fly flag of Malta.

REGULATION 5.1.1 - GENERAL PRINCIPLES

1. The competent authority is responsible for ensuring implementation of its obligations under this Convention on ships that fly the flag of Malta.
2. The competent authority 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 the flag of Malta 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, the competent authority may, where appropriate, authorise public institutions or other organisations (including those of another Member, if the latter agrees) which it recognises as competent and independent to carry out inspections or to issue certificates or to do both. In all cases, the competent authority shall remain fully responsible for the inspection and certification of the working and living conditions of the seafarers concerned on ships that fly the flag of Malta.
4. A maritime labour certificate, complemented by a declaration of maritime labour compliance, shall constitute prima facie evidence that the ship flying

the flag of Malta has been duly inspected by the competent authority 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 competent authority's reports to the International Labour Office pursuant to article 22 of the Constitution.

STANDARD A5.1.1 - GENERAL PRINCIPLES

1. The competent authority 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. The competent authority shall require all ships that fly the flag of Malta 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 organisations, 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 organisations, and to maintain or improve seafarers' working and living conditions, the competent authority should consult the representatives of such organisations 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' organisations.

REGULATION 5.1.2 - AUTHORISATION OF RECOGNISED ORGANISATIONS

1. The public institutions or other organisations referred to in paragraph 3 of Regulation 5.1.1 (recognised organisations) shall have been recognised by the competent authority as meeting the requirements in the Code regarding competency and independence. The inspection or certification functions which the recognised organisations may be authorised 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 recognised organisation.
2. The reports referred to in paragraph 5 of Regulation 5.1.1 shall contain information regarding any recognised organisation, the extent of authorisations given and the arrangements made by the competent authority to ensure that the authorised activities are carried out completely and effectively.

STANDARD A5.1.2 - AUTHORISATION OF RECOGNISED ORGANISATIONS

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 organisation concerned and determine whether the organisation has demonstrated, to the extent necessary for carrying out the activities covered by the authorisation conferred on it, that the organisation:

- (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 authorisation.

2. Any authorisations granted with respect to inspections shall, as a minimum, empower the recognised organisation 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. The competent authority shall establish:

- (a) a system to ensure the adequacy of work performed by recognised organisations, which includes information on all applicable national laws and regulations and relevant international instruments; and
- (b) procedures for communication with and oversight of such organisations.

4. The competent authority shall provide the International Labour Office with a current list of any recognised organisations authorised to act on its behalf and it shall keep this list up to date. The list shall specify the functions that the recognised organisations have been authorised to carry out. The Office shall make the list publicly available.

GUIDELINE B5.1.2 - AUTHORISATION OF RECOGNISED ORGANISATIONS

1. The organisation 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 organisation, the competent authority should determine whether the organisation:

- (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 organisation that it recognises for purposes of an authorisation. The agreement should include the following elements:

- (a) scope of application;
- (b) purpose;
- (c) general conditions;
- (d) the execution of functions under authorisation;
- (e) legal basis of the functions under authorisation;
- (f) reporting to the competent authority;
- (g) specification of the authorisation from the competent authority to the recognised organisation; and
- (h) the competent authority's supervision of activities delegated to the recognised organisation.

4. The competent authority should require the recognised organisations to develop a system for qualification of staff employed by them as inspectors to ensure the timely updating of their knowledge and expertise.

5. The competent authority should require the recognised organisations 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), the competent authority should take into account the Guidelines for the Authorisation of Organisations Acting on Behalf of the Administration, adopted in the framework of the International Maritime Organisation.

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 Malta 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 Malta and is not covered by paragraph 1 of this Regulation, at the request of the shipowner.

3. The competent authority shall require ships that fly the flag of Malta 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. The competent authority shall require ships that fly the flag of Malta 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 or a recognised organisation duly authorised for this purpose has ascertained through inspection that a ship that flies the flag of Malta 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 recognised organisation duly authorised 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 Annex 3.

2. The validity of the maritime labour certificate shall be subject to an intermediate inspection by the competent authority, or by a recognised organisation duly authorised 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.

4. 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.

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 recognised organisation duly authorised 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 Annex 3 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 recognised organisation 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 recognised organisation 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 Annexes 5, 6 and 7.

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 Rule 8(3); 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 recognised organisation duly authorised 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, authorised 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, authorised 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 recognised organisation 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 recognised organisation duly authorised 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 recognised organisation 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 Annex 3. 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 Rule 8(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, authorised 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 Annex 4.
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. The competent authority shall verify, through an effective and coordinated system of regular inspections, monitoring and other control measures, that ships that fly the flag of Malta 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. The competent authority shall maintain a system of inspection of the conditions for seafarers on ships that fly the flag of Malta 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 recognised organisations have been authorised to carry out inspections, the competent authority 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 the competent authority receives a complaint which it does not consider manifestly unfounded or obtains evidence that a ship that flies the flag of Malta 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 competent authority 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 the competent authority 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 flag of Malta;

- (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 shall maintain records of inspections of the conditions for seafarers on ships that fly the flag of Malta. 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 the competent authority.

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) the competent authority 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 organisations 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;
- (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 recognised organisation 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, in respect of ships that fly the flag of Malta, 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 organisation 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. The competent authority shall require that ships that fly the flag of Malta 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. The competent authority shall prohibit and penalise any kind of victimisation 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. The competent authority shall ensure that, in it the national 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 complaints procedure, as well as safeguards against the possibility of victimisation of seafarers for filing complaints. The term *victimisation* 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' organisations, develop a model for fair, expeditious and well-documented on-board complaint-handling procedures for all ships that fly the flag of Malta. 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 victimisation 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. The competent authority shall hold an official inquiry into any serious marine casualty, leading to injury or loss of life, that involves a ship that flies the flag of Malta. 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 the competent authority 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 Malta may be the subject of inspection in accordance with rule 7(4) 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. The competent authority 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 authorised officers in accordance with the provisions of the Code and other applicable international arrangements governing port State control inspections in Malta. 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 Malta 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 competent authority's reports pursuant to article 22 of the Constitution.

STANDARD A5.2.1 - INSPECTIONS IN PORT

1. Where an authorised 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 authorised 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 Malta by authorised 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 Annex 4.

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 authorised 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 authorised officer to be significant, or if they relate to a complaint made in accordance with paragraph 3 of this Standard, the authorised officer shall bring the deficiencies to the attention of the appropriate seafarers' and shipowners' organisations in Malta, where the inspection was carried out, and may:

- (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 competent authority, when the inspection is carried out in Malta, 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 authorised 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 authorised 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 authorised 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 authorised 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 authorised officer shall also inform forthwith the appropriate shipowners' and seafarers' organisations in the port State in which the inspection was carried out.

7. The competent authority shall ensure that its authorised 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, the competent authority 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 authorised 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 authorised 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, of 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 rules 5 and 6. 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. The competent authority shall ensure that seafarers on ships calling at a port in Malta 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 authorised officer in the port at which the seafarer's ship has called. In such cases, the authorised 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 authorised officer may also conduct a more detailed inspection in accordance with Standard A5.2.1.

3. The authorised 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 authorised 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 authorised 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' organisations 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' organisations, 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 authorised 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 authorised 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 authorised 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 authorised officer may refrain from any further involvement with the complaint.

REGULATION 5.3 - LABOUR-SUPPLYING RESPONSIBILITIES

Purpose: To ensure that the competent authority 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 the competent authority's responsibility for the working and living conditions of seafarers on ships that fly the flag of Malta, the competent authority 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 the territory of Malta, 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. The competent authority 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 Malta's reports pursuant to article 22 of the Constitution.

STANDARD A5.3 - LABOUR-SUPPLYING RESPONSIBILITIES

1. The competent authority 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 Malta 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.

ANNEX 3

THE WORKING AND LIVING CONDITIONS OF SEAFARERS THAT MUST
BE INSPECTED AND APPROVED BY THE FLAG STATE BEFORE
CERTIFYING A SHIP

(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

On-board medical care

On-board complaint procedures

Payment of wages

ANNEX 4

GENERAL AREAS THAT ARE SUBJECT TO A DETAILED INSPECTION BY
AN AUTHORISED OFFICER IN A PORT OF A MALTA CARRYING OUT A
PORT STATE INSPECTION

(STANDARD A5.2.1)

Minimum age

Qualifications of seafarers

Seafarers' employment agreements

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

Hours of work or rest

Manning levels for the ship

Accommodation

On-board recreational facilities

Food and catering

Health and safety and accident prevention

On-board medical care

On-board complaint procedures

Payment of wages

ANNEX 5



MARITIME LABOUR CERTIFICATE



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

Issued under the provisions of Rule 7(3) of the Merchant Shipping (Maritime Labour) Rules, 2007
(referred to below as “the Rules”)

that incorporate the provisions of the Maritime Labour Convention, 2006
(referred to below as “the Convention”) in Annex 2

under the authority of the **GOVERNMENT OF THE REPUBLIC OF MALTA**

by the **MALTA MARITIME AUTHORITY**

PARTICULARS OF THE SHIP

Name of the 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 _____

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 the Tonnage Regulations (Subsidiary Legislation No. 234.19 - L.N. 391 of 2002).

² *Shipowner* means the owner of the ship or another organisation 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 the Labour Convention, regardless of whether any other organisation or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Rule 2 of the Merchant Shipping (Maritime Labour) Rules (L.N.____ of 2007 - Subsidiary Legislation No. 234.____).

This is to certify:

1. That this ship has been inspected and verified to be in compliance with the requirements of the Rules, and the provisions of the attached Declaration of Maritime Labour Compliance.
2. That the seafarers' working and living conditions specified in Annex 3 of the Rules were found to correspond to the abovementioned country's national requirements implementing the Convention. These national requirements are summarised 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 authorised official issuing the Certificate

(Seal or stamp of the issuing authority, as appropriate)

Signature: _____

Name: _____

Seal/Stamp:

ENDORSEMENTS FOR MANDATORY INTERMEDIATE INSPECTION

This is to certify that the ship was inspected in accordance with Standards 5.1.3 of the Convention and the seafarers' working and living conditions specified in Annex 3 of the Rules were found to correspond to the abovementioned Malta's national requirements implementing the Convention.

Intermediate Inspection:

*to be completed between the second
and third anniversary dates*

Signed:_____

Signature of authorised official

Seal/Stamp:**Name:**_____**Place:**_____**Date:**_____

ADDITIONAL ENDORSEMENTS FOR (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 authorised official

Seal/Stamp:**Name:**_____**Place:**_____**Date:**_____

Additional Inspection:
if required

Seal/Stamp:

Signed:_____
Signature of authorised official

Name:_____

Place:_____

Date:_____

Additional Inspection:
if required

Seal/Stamp:

Signed:_____
Signature of authorised official

Name:_____

Place:_____

Date:_____

Additional Inspection:
if required

Seal/Stamp:

Signed:_____
Signature of authorised official

Name:_____

Place:_____

Date:_____

Additional Inspection:
if required

Seal/Stamp:

Signed:_____
Signature of authorised official

Name:_____

Place:_____

Date:_____

ANNEX 6



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 **MALTA MARITIME AUTHORITY**

With respect to the provisions of the Maritime Labour Convention, 2006 (referred to below as "*the Convention*") as found in the Merchant Shipping (Maritime Labour) Rules, (L.N. ____ of 2007 - Subsidiary Legislation No. 234.____) (referred to below as "*the Rules*") in Annex 2, the following referenced ship:

Name of Ship	IMO Number	Gross Tonnage

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

The undersigned declares, on behalf of the Malta Maritime Authority, that:

- (a) the provisions of the 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 Rules 8(3) and 8(4) of the Rules are provided <under the corresponding national requirement listed below> <in the Regulation/Article/Rule provided for this purpose below> (*strike out the statement which is not applicable*);
- (d) any exemptions granted by the Malta Maritime Authority in accordance with Title 3 of the Convention 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 licenced 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 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): _____

Seal/Stamp:
of the Authority as appropriate

Name: _____

Title: _____

Signature: _____

Place: _____

Date: _____

SUBSTANTIAL EQUIVALENCIES

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

The following substantial equivalencies, as provided under Rules 8(3) and 8(4) of the Rules, except where stated above, are noted *(insert description if applicable)*:

No equivalency has been granted.

Seal/Stamp:
of the Authority as appropriate

Name: _____

Title: _____

Signature: _____

Place: _____

Date: _____

EXEMPTIONS

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

The following exemptions granted by the Malta Maritime Authority as provided in Title 3 of the Convention:

No exemption has been granted.

Seal/Stamp:
of the Authority as appropriate

Name: _____

Title: _____

Signature: _____

Place: _____

Date: _____



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 licenced 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 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):_____ ☐

I hereby certify that the above measures have been drawn up to ensure ongoing compliance, between inspections, with the requirements listed in Part I.

Stamp/Seal:
of the shipowner

Name of shipowner:³_____

Company address:_____

Name of the authorised signatory:

Title:_____

Signature of the authorised signatory:

Date:_____

The above measures have been reviewed by _____
(insert name of the Malta Maritime Authority or the duly recognised organisation)
and, following inspection of the ship, have been determined as meeting the purposes set out under Standard A5.1.3, paragraph 10(b) of the Convention, regarding measures to ensure initial and ongoing compliance with the requirements set out in Part I of this Declaration.

³ *Shipowner* means the owner of the ship or another organisation 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 the Labour Convention, regardless of whether any other organisation or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Rule 2 of the Merchant Shipping (Maritime Labour) Rules (L.N.____ of 2007 - Subsidiary Legislation No. 234.____).

Seal/Stamp:*of the Malta Maritime Authority or
the organisation as appropriate***Name:**_____**Title:**_____**Address:**_____**Signature:**_____**Place:**_____**Date:**_____

ANNEX 7

**INTERIM MARITIME LABOUR
CERTIFICATE**

Issued under the provisions of Rule 7 of the
Merchant Shipping (Maritime Labour) Rules, 2007
(referred to below as "*the Rules*")
and Title 5 of the Maritime Labour Convention, 2006
(referred to below as "*the Convention*")
as found in Annex 2 of the Rules

under the authority of the **GOVERNMENT OF THE REPUBLIC OF MALTA**

by the _____
(either the Malta Maritime Authority or the full designation and address of the
recognised organisation duly authorised under the provisions of the Convention)

PARTICULARS OF THE SHIP

Name of the Ship: _____

Distinctive number or letters: _____

Port of Registry: _____

Date of Registry: _____

Gross Tonnage:⁴ _____

IMO Number: _____

Type of ship: _____

Name and address of the shipowner:⁵ _____

⁴ 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 the Tonnage Regulations (Subsidiary Legislation No. 234.19 - L.N. 391 of 2002).

⁵ *Shipowner* means the owner of the ship or another organisation 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 the Labour Convention, regardless of whether any other organisation or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Rule 2 of the Merchant Shipping (Maritime Labour) Rules (L.N.____ of 2007 - Subsidiary Legislation No. 234.____).

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 Annex 3 of the Rules, taking into account verification of items under (b), (c) and (d) below;
- (b) the shipowner has demonstrated to the Malta Maritime Authority or recognised 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 Malta Maritime Authority or recognised authorization to produce a Declaration of Maritime Labour Compliance.

This Certificate is valid until _____ subject to inspections in accordance with Standards A.5.1.3 and A5.1.4 of the Convention.

Completion date of the inspection referred to under (a) above was _____.

Issued at _____ on _____.

Signature of the duly authorised official issuing the Interim Certificate

(Seal or stamp of the issuing authority, as appropriate)

Signature: _____

Name: _____

Seal/Stamp:

ANNEX 8

SPECIAL TRIPARTITE COMMITTEE

(ARTICLE 13 OF THE LABOUR CONVENTION)

1. The Governing Body of the International Labour Office shall keep the working of the Labour 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 the Labour 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 the Labour 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.

I assent

EDWARD FENECH ADAMI
President

_____, 2007

ACT No. __ of 2007

AN ACT to amend the Merchant Shipping Act, Cap. 234.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and
commencement.

1. (1) The short title of this Act is the Merchant Shipping (Amendment) Act, 2007, and this Act shall be read and construed as one with the Merchant Shipping Act, hereinafter referred to as “the principal Act”.

(2) This Act shall come into force on such date as the Minister responsible for shipping and ports may, by notice in the Government Gazette, appoint, and different dates may be so appointed for the different provisions and different purposes of this Act.

Amendment of article
122C of the principal
Act.

2. The proviso to sub-article (2) of article 122C of the principal Act shall be deleted.

Amendment of article
148 of the principal Act.

3. Sub-article (5) of article 148 of the principal Act shall be deleted.

Adds new article 203A
to the principal Act.

4. Immediately after article 203 of the principal Act there shall be added the following new article:

Application of this
part of the Act
and powers of the
Minister

“203A. (1) This Part of the Act, unless otherwise expressly stated, implements the measures of the Maritime Labour Convention signed in Geneva on 7th February 2006 including any amendment or Protocol related thereto as may from time to time be ratified, acceded to or accepted by the Government of Malta and other instruments, standards and specifications of a mandatory nature related thereto adopted or developed by the International Labour Organisation (hereinafter referred to as the “Labour Convention”).

(2) The Minister may make regulations as appear necessary from time to time to give effect to

any provision of the Labour Convention.

(3) The power of the Minister to make regulations under this Part of the Act shall be by reference in whole or in part to the requirements of the Labour Convention.

(4) The power conferred by subarticle (2) to make provision for the purpose of giving effect to the Labour Convention include the power to provide for the provision to come into force notwithstanding that the Labour Convention may not be in force.

(5) Regulations made under this article may provide that a person who contravenes the provisions thereof shall be liable to such penalty as may be provided for in the regulations, being a penalty of not more than one thousand units or of imprisonment of not more than two years or both.

(6) In the case of any inconsistency between this Part of the Act and the Labour Convention, or between the regulations made by the Minister under this Part of the Act and the Labour Convention, the Labour Convention shall prevail."

Amendment of article
375 of the principal Act.

5. Paragraphs (o) to (z) of sub-article (2) of article 375 of the principal act shall be deleted.

Amendment of the
Second Schedule of the
principal Act.

6. Immediately after paragraph 19 of the Second Schedule of the principal Act, there shall be inserted the following new paragraphs:

"20. Maritime Labour Certificate.

21. Declaration of Maritime Labour Compliance.

22. Interim Maritime Labour Certificate."

Passed by the House of Representatives at Sitting No. ____ of __ ____, 2007.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives

L.N. ____ of 2007

**MERCHANT SHIPPING ACT
(CAP. 234)**

**Merchant Shipping (Maritime Labour) (Amendment)
Regulations, 2007**

IN exercise of the powers conferred by articles 106(2), 108(3), 122C(1), 148(1), 149(1), 152(1), 153(1), 154(4), 163, 168A(3) and 374 of the Merchant Shipping Act, the Minister for Competitiveness and Communications, in consultation with the Malta Maritime Authority, has made the following regulations:

Citation.

1. (1) These regulations may be cited as the Merchant Shipping (Maritime Labour) (Amendment) Regulations, 2007

(2) These regulations shall come into force on such date as the Minister responsible for shipping and ports may, by notice in the Government Gazette, appoint, and different dates may be so appointed for the different provisions and different purposes of these regulations.

PART 1

Amendment of the Distressed Seamen Regulations.
L.N. 56 of 1973.

2. This part amends the Distressed Seamen Regulations and shall be read and construed as one with the Distressed Seamen Regulations, hereinafter in this Part referred to as “the principal regulations”.

Amendment of regulation 1 of the principal regulations.

3. Regulation 1 of the principal regulations shall be amended as follows:

(a) the regulation shall be renamed as *Title and Scope*;

(b) the provision in regulation 1 shall be renumbered as sub-regulation (1) thereof and immediately after sub-regulation (1) as renumbered there shall be added the following two new sub-regulations:

“(2) The purpose of these regulations is to implement the measures of the Maritime Labour Convention signed in Geneva on 7th February, 2006 including any amendment or Protocol related thereto as may from time to time be ratified, acceded to or accepted by the Government of Malta and other instruments,

standards and specifications of a mandatory nature related thereto adopted or developed by the International Labour Organisation with respect to the repatriation of seamen.

(3) In the case of any inconsistency between these regulations and the Maritime Labour Convention, the Maritime Labour Convention shall prevail."

PART 2

Amendment of the Merchant Shipping (Provisions and Water) Regulations.
L.N. 206 of 2001.

4. This part amends the Merchant Shipping (Provisions and Water) Regulations and shall be read and construed as one with the Merchant Shipping (Provisions and Water) Regulations, hereinafter in this Part referred to as "the principal regulations".

Amendment of regulation 1 of the principal regulations.

5. Regulation 1 of the principal regulations shall be amended as follows:

(a) the regulation shall be renamed as *Title and Scope*;

(b) the provision in regulation 1 shall be renumbered as sub-regulation (1) thereof and immediately after sub-regulation (1) as renumbered there shall be added the following two new sub-regulations:

"(2) The purpose of these regulations is to implement the measures of the Maritime Labour Convention signed in Geneva on 7th February, 2006 including any amendment or Protocol related thereto as may from time to time be ratified, acceded to or accepted by the Government of Malta and other instruments, standards and specifications of a mandatory nature related thereto adopted or developed by the International Labour Organisation with respect to the food and catering to be provided to the seafarers.

(3) In the case of any inconsistency between these regulations and the Maritime Labour Convention, the Maritime Labour Convention shall prevail."

PART 3

Amendment of the Employment of Young Persons in Merchant Shipping Regulations.

6. This part amends the Employment of Young Persons in Merchant Shipping Regulations and shall be read and construed as one with the Employment of Young

L.N. 68 of 2001.

Persons in Merchant Shipping Regulations, hereinafter in this Part referred to as “the principal regulations”.

Amendment of regulation 1 of the principal regulations.

7. Regulation 1 of the principal regulations shall be amended as follows:

(a) the regulation shall be renamed as *Title and Scope*;

(b) the provision in regulation 1 shall be renumbered as sub-regulation (1) thereof and immediately after sub-regulation (1) as renumbered there shall be added the following two new sub-regulations:

“(2) The purpose of these regulations is to implement the measures of the Maritime Labour Convention signed in Geneva on 7th February, 2006 including any amendment or Protocol related thereto as may from time to time be ratified, acceded to or accepted by the Government of Malta and other instruments, standards and specifications of a mandatory nature related thereto adopted or developed by the International Labour Organisation with respect to the employment of young persons in merchant shipping.

(3) In the case of any inconsistency between these regulations and the Maritime Labour Convention, the Maritime Labour Convention shall prevail.”

PART 4

Amendment of the Merchant Shipping (Medical Examination) Regulations.
L.N. 207 of 2001.

8. This part amends the Merchant Shipping (Medical Examination) Regulations and shall be read and construed as one with the Merchant Shipping (Medical Examination) Regulations, hereinafter in this Part referred to as “the principal regulations”.

Amendment of regulation 1 of the principal regulations.

9. Regulation 1 of the principal regulations shall be amended as follows:

(a) the regulation shall be renamed as *Title and Scope*;

(b) the provision in regulation 1 shall be renumbered as sub-regulation (1) thereof and immediately after sub-regulation (1) as renumbered there shall be added the following two new sub-regulations:

“(2) The purpose of these regulations is to implement the measures of the Maritime Labour Convention signed in Geneva on 7th February, 2006 including any amendment or Protocol related thereto as may from time to time be ratified, acceded to or accepted by the Government of Malta and other instruments, standards and specifications of a mandatory nature related thereto adopted or developed by the International Labour Organisation with respect to medical examination of persons employed on ships.

(3) In the case of any inconsistency between these regulations and the Maritime Labour Convention, the Maritime Labour Convention shall prevail.”

Amendment of regulation 11 of the principal regulations.

10. For regulation 11 of the principal regulations there shall be substituted the following:

“11. Any medical certificate issued to a person in accordance with the provisions of the Medical Examination (Seafarers) Convention, 1946 (International Labour Organisation Convention No. 73 of 1946), or the Merchant Shipping (Minimum Standards) Convention, 1976 (International Labour Organisation Convention No. 147 of 1976), or the Maritime Labour Convention, 2006 (International Labour Organisation Convention No. 186 of 2006):

(a) by an authority empowered in that behalf by the laws of a country outside Malta that has ratified the said Convention of 1946 or the said Convention of 1976 or the said Convention of 2006; or

(b) by an approved authority empowered in that behalf by the laws of a country outside Malta,

shall be deemed for the purposes of these regulations to be equivalent to a medical certificate issued under these regulations:

Provided that any medical certificate issued by such authority shall remain in force, unless renewed, only until the expiration of the period of validity specified in that certificate, but in no case for more than the appropriate maximum period prescribed in regulation 6 hereof.”

Adds new regulation 14 to the principal

11. Immediately after regulation 13 of the principal

regulations.

regulations, there shall be added the following new regulation:

Transitional
Provision.
L.N. ____ of 2007.

“14. Any medical certificate issued to a person prior to the coming into force of the Merchant Shipping (Maritime Labour) Rules, which implement the measures of the Maritime Labour Convention signed in Geneva on 7th February, 2006, shall continue to have effect until such certificate expires.”

PART 5

Amendment of the
Merchant Shipping
(Minimum Wage)
Regulations.
L.N. 154 of 2002.

12. This part amends the Merchant Shipping (Minimum Wage) Regulations and shall be read and construed as one with the Merchant Shipping (Minimum Wage) Regulations, hereinafter in this Part referred to as “the principal regulations”.

Amendment of
regulation 1 of the
principal regulations.

13. Regulation 1 of the principal regulations shall be amended as follows:

(a) the regulation shall be renamed as *Title and Scope*;

(b) the provision in regulation 1 shall be renumbered as sub-regulation (1) thereof and immediately after sub-regulation (1) as renumbered there shall be added the following two new sub-regulations:

“(2) The purpose of these regulations is to implement the measures of the Maritime Labour Convention signed in Geneva on 7th February, 2006 including any amendment or Protocol related thereto as may from time to time be ratified, acceded to or accepted by the Government of Malta and other instruments, standards and specifications of a mandatory nature related thereto adopted or developed by the International Labour Organisation with respect to the minimum wage to seafarers.

(3) In the case of any inconsistency between these regulations and the Maritime Labour Convention, the Maritime Labour Convention shall prevail.”

PART 6

Amendment of the
Merchant Shipping
(Protection of Seamen)
Regulations.
L.N. 255 of 2002.

14. This part amends the Merchant Shipping (Protection of Seamen) Regulations and shall be read and construed as one with the Merchant Shipping (Protection of Seamen) Regulations, hereinafter in this Part referred to

as “the principal regulations”.

Amendment of
regulation 1 of the
principal regulations.

15. Regulation 1 of the principal regulations shall be amended as follows:

(a) the regulation shall be renamed as *Title and Scope*;

(b) the provision in regulation 1 shall be renumbered as sub-regulation (1) thereof and immediately after sub-regulation (1) as renumbered there shall be added the following two new sub-regulations:

“(2) The purpose of these regulations is to implement the measures of the Maritime Labour Convention signed in Geneva on 7th February, 2006 including any amendment or Protocol related thereto as may from time to time be ratified, acceded to or accepted by the Government of Malta and other instruments, standards and specifications of a mandatory nature related thereto adopted or developed by the International Labour Organisation with respect to the protection of seamen in case of sickness, disease or injury.

(3) In the case of any inconsistency between these regulations and the Maritime Labour Convention, the Maritime Labour Convention shall prevail.”

PART 7

Amendment of the
Merchant Shipping
(Crew
Accommodation)
Regulations.
L.N. 31 of 2004.

16. This part amends the Merchant Shipping (Crew Accommodation) Regulations and shall be read and construed as one with the Merchant Shipping (Crew Accommodation) Regulations, hereinafter in this Part referred to as “the principal regulations”.

Amendment of
regulation 1 of the
principal regulations.

17. Regulation 1 of the principal regulations shall be amended as follows:

(a) the regulation shall be renamed as *Title and Scope*;

(b) the provision in regulation 1 shall be renumbered as sub-regulation (1) thereof and immediately after sub-regulation (1) as renumbered there shall be added the following two new sub-regulations:

“(2) The purpose of these regulations is to implement the measures of the Maritime

Labour Convention signed in Geneva on 7th February, 2006 including any amendment or Protocol related thereto as may from time to time be ratified, acceded to or accepted by the Government of Malta and other instruments, standards and specifications of a mandatory nature related thereto adopted or developed by the International Labour Organisation with respect to crew accommodation.

(3) In the case of any inconsistency between these regulations and the Maritime Labour Convention, the Maritime Labour Convention shall prevail."

Adds new regulation 14 to the principal regulations.

18. Immediately after regulation 13 of the principal regulations, there shall be added the following new regulation:

Transitional Provision.

L.N. ____ of 2007.

"14. Any Crew Accommodation Certificate issued prior to the coming into force of the Merchant Shipping (Maritime Labour) Rules, which implement the measures of the Maritime Labour Convention signed in Geneva on 7th February, 2006, shall continue to have effect until such certificate expires."

PART 8

Amendment of the Merchant Shipping (Fees) Regulations. L.N. 64 of 1973.

19. This part amends the Merchant Shipping (Fees) Regulations and shall be read and construed as one with the Merchant Shipping (Fees) Regulations, hereinafter in this Part referred to as "the principal regulations".

Amendment of Part 1 of the Schedule of the principal regulations.

20. In Part 1 of the Schedule of the principal regulations, immediately after the words "Re-issue of safe manning certificate.....Lm10", there shall be inserted the following:

"Issue of the maritime labour certificate.....Lm100.

Re-issue of the maritime labour certificate.....Lm50.

Issue of the declaration of maritime labour compliance.....Lm50.

Issue of the interim maritime labour certificate.....Lm50."

PART 9

Amendment of the Merchant Shipping

21. This part amends the Merchant Shipping (Hours

(Hours of Work)
Regulations.
L.N. 213 of 2002.

of Work) Regulations and shall be read and construed as one with the Merchant Shipping (Hours of Work) Regulations, hereinafter in this Part referred to as “the principal regulations”.

Amendment of
regulation 3 of the
principal regulations.

22. For regulation 3 of the principal regulations there shall be substituted the following:

“3. (1) The purpose of these regulations is to implement the measures of the Maritime Labour Convention signed in Geneva on 7th February, 2006 including any amendment or Protocol related thereto as may from time to time be ratified, acceded to or accepted by the Government of Malta and other instruments, standards and specifications of a mandatory nature related thereto adopted or developed by the International Labour Organisation with respect to the maximum hours of work and minimum hours of rest of seafarers.

(3) In the case of any inconsistency between these regulations and the Maritime Labour Convention, the Maritime Labour Convention shall prevail.”

Amendment of
Schedules 1 and 2 of
the principal
regulations.

23. Schedules 1 and 2 of the principal regulations shall be substituted with the following:



Model format for a table of shipboard working arrangement¹

Name of Ship: _____ Flag of Ship: _____ IMO Number (if any): _____ Latest update of table: _____ () of () pages

The maximum hours of work or minimum hours of rest are applicable in accordance with _____ (national law or regulation) issued in conformity with ILO's Maritime Labour Convention, 2006, and with any applicable collective agreement registered or authorised in accordance with that Convention and with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW Convention).²

Maximum hours of work or minimum hours of rest:³ _____

Other requirements: _____

FIRST SCHEDULE (Regulation 8)

Position/Rank ⁴	Scheduled daily work hours at sea		Scheduled daily work hours in port		Comments	Total daily work/rest ³ hours	
	Watchkeeping (from-to)	Non-watchkeeping duties (from-to) ⁵	Watchkeeping (from-to)	Non-watchkeeping duties (from-to) ⁵		At sea	In port

Signature of the Master: _____

¹ The terms used in this model table are to appear in the working language or languages of the ship and in English.

² See overleaf for selected extracts from the Maritime Labour Convention and the STCW Convention.

³ Delete as applicable.

⁴ For those positions/ranks that are also listed in the ship's safe manning document, the terminology used should be the same as in that document.

⁵ For Watchkeeping personnel, the comments section may be used to indicate the anticipated number of hours to be devoted to unscheduled work and any such hours should be included in the appropriate total daily hours column.

Selected texts from ILO Maritime Labour Convention and the STCW Convention:

ILO Maritime Labour Convention:

Standard A2.3 Par. 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) 10 hours in any 24-hour period; and (ii) 77 hours in any seven-day period.

Standard A.2.3 Par. 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.

Standard A2.3 Par. 13: Nothing in paragraphs 5 and 6 of this Standard shall prevent Malta from having national laws or regulations or a procedure for the competent authority to authorise 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.

Standard A2.3 Par. 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.

STCW Convention:

Section A-VIII/I of the STCW Code (mandatory)

1. All persons who are assigned duty as officer in charge of a watch or as a rating forming part of a watch shall be provided a minimum of 10 hours rest in any 24-hour period.
2. The hours of rest may be divided into no more than two periods, one of which shall be at least 6 hours in length.
3. The requirements for rest periods laid down in paragraph 1 and 2 need not be maintained in the case of an emergency or drill or in other overriding operational conditions.
4. Notwithstanding the provisions of paragraphs 1 and 2, the minimum period of 10 hours may be reduced to not less than 6 consecutive hours provided that any such reduction shall not extend beyond 2 days and not less than 70 hours of rest are provided each 7-day period.
5. Administrations shall require that watch schedules be posted where they are easily accessible.

Section B-VIII/1 of the STCW Code (guidance)

3. In applying regulation VIII/I, the following should be taken into account:
 - .1 Provisions made to prevent fatigue should ensure that excessive or unreasonable overall working hours are not undertaken. In particular, the minimum rest periods specified in section A-VIII/I should not be interpreted as implying that all other hours may be devoted to watchkeeping or other duties;
 - .2 That the frequency and length of leave periods, and the granting of compensatory leave, are material factors in preventing fatigue from building up over a period of time; and
 - .3 the provisions may be varied for ships on short-sea voyages, provided special safety arrangements are put in place.



Model format for a record of hours of work or hours of rest of seafarers¹

Page 1 of 2

Name of Ship: _____ IMO Number (if any): _____ Flag of Ship: _____
Seafarer (full name): _____ Position/Rank: _____
Month and Year: _____ Watchkeeper:² yes ☐ no ☐

Record of hours of work/rest³

Please mark the periods or rest, as applicable, with an 'X', or using a continuous line or arrow.

COMPLETE THE TABLE ON THE REVERSE SIDE

The following national laws, regulations and/or collective agreements governing limitations on working hours or minimum rest periods apply to this ship:

I agree that this record is an accurate reflection of the hours of work or rest of the seafarer concerned.

Name of master or person authorised by master to sign this record: _____

Signature of master or authorised person: _____ Signature of seafarer: _____

A copy of this record is to be given to the seafarer.

This form is subject to examination and endorsement under the procedures established by the **MALTA MARITIME AUTHORITY**

¹ The terms used in this model table are to appear in the working language or languages of the ship and in English.

² Check as appropriate.

³ Delete as appropriate.

