



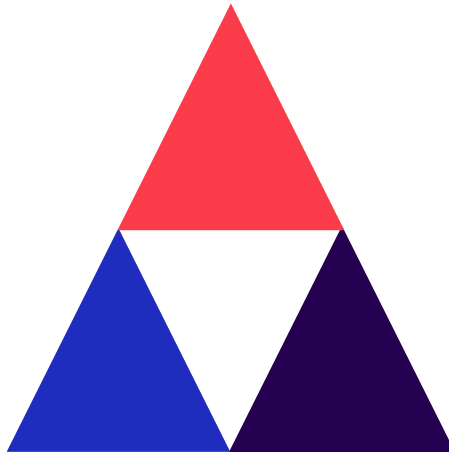
International
Labour
Organization



▶ STCMLC/Part I/2021/3

▶ Final report

Fourth meeting of the Special Tripartite Committee established
under Article XIII of the Maritime Labour Convention, 2006,
as amended - Part I
(Online, 19–23 April 2021)



International Labour Standards Department
Sectoral Policies Department
Geneva, 2021

This paper contains general information on all documents which have been prepared to facilitate the discussion of the Special Tripartite Committee (STC) established under the Maritime Labour Convention, 2006, as amended (MLC, 2006), concerning the instruments relating to maritime labour (seafarers) which will be reviewed at its fourth meeting (19–23 April 2021).

This paper sets out the key concepts for understanding the thematic technical notes.

▶ Table of contents

	Page
I. Introduction.....	5
II. Composition of the Special Tripartite Committee	5
III. Opening statements.....	6
IV. Exchange of information related to the implementation of the MLC, 2006.....	13
(a) COVID-19 and maritime labour issues	13
(b) IMO request to set up a joint IMO–ILO working group	27
(c) Hours of work and rest: Presentation of a World Maritime University study.....	31
(d) The MLC, 2006 and digitalization: Use of electronic documents	36
V. Review of maritime-related international labour standards.....	38
VI. Consideration of draft resolutions	49
VII. Any other business	54
VIII. Closure of the meeting	54
 Appendices	
I. Agenda (Rev. 6, April 2021).....	59
II. Resolution concerning the implementation and practical application of the MLC, 2006 during the COVID-19 pandemic.....	60
III. Resolution concerning COVID-19 vaccination for seafarers	63

▶ I. Introduction

1. The Special Tripartite Committee (STC) was established by the 318th Session (June 2013) of the Governing Body of the International Labour Organization (ILO), in accordance with Article XIII of the Maritime Labour Convention, 2006, as amended (MLC, 2006), which provides that: “The Governing Body of the International Labour Office shall keep the working of this Convention under continuous review through a committee established by it with special competence in the area of maritime labour standards.” At its 340th Session (October–November 2020), the Governing Body decided that the fourth meeting of the STC would be held in two parts: Part I in a virtual format (online) from 19 to 23 April 2021. Part II will be held from 25 to 29 April 2022 (subject to formal approval by the Governing Body) at the headquarters of the ILO in Geneva. This report has been prepared by the International Labour Office.

▶ II. Composition of the Special Tripartite Committee

2. In accordance with paragraph 2 of Article XIII of the MLC, 2006, the STC is composed 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”. In addition, as provided in paragraph 3 of Article XIII, “Government representatives of Members which have not yet ratified this Convention may participate in the Committee” but have no right to vote on any matter dealt with in accordance with the Convention. The meeting was attended remotely by 338 Government, 43 Shipowner and 61 Seafarer representatives. Representatives of a number of intergovernmental organizations and non-governmental international organizations, as well as interested parties, also attended the meeting. The list of participants is available on the website of the meeting.
3. The Officers of the STC, who were appointed in 2018 for a three-year term, are as follows:
Chairperson: Ms Julie Carlton (Government member, United Kingdom)
Vice-Chairpersons: Mr Martin Marini (Government, Singapore)
Mr Dirk Max Johns (Shipowners)
Mr Mark Dickinson (Seafarers)
4. The STC set up a drafting group (responsible for reviewing the amendments to two draft resolutions) composed of the following members:
Governments: Ms Eva Lianne Berger-Veldkamp, Dominica, Ms Carlota Leitão Correia, Portugal and Mr Yasuhiro Urano, Japan
Shipowners: Mr Tim Springett, Ms Nicola Spencer and Hilde Peeters
Seafarers: Mr Charles Boyle, Ms Lena Dyring and Ms Dorotea Zec

▶ III. Opening statements

5. **The Chairperson** opened the meeting and welcomed the participants to the first virtual meeting of the STC. She acknowledged the presence of three members of the Committee of Experts on the Application of Conventions and Recommendations (CEACR), the Chairperson Dr Dixon-Caton, Professor Athanassiou and Judge Thomas-Felix. She recalled the mandate of the STC and reviewed its tasks for its fourth meeting. She drew attention to the special arrangements and rules of procedure applicable to the fourth meeting of the STC, and the draft programme of work, and noted their acceptance by the meeting. The agenda of the meeting is reproduced in Appendix I.
6. **The Secretary-General** (Director, International Labour Standards Department) welcomed the participants to a meeting that was being held in very challenging times. The general observation of the CEACR, published in December 2020, emphasized that it was precisely at times of crisis that the protective coverage of the MLC, 2006 assumed its full significance and needed to be most scrupulously applied, particularly as it set out only minimum standards for the protection of seafarers' rights. She thanked the members of the CEACR who would be following the discussions of the STC. With the 11 additional countries that had ratified the MLC, 2006 since the third meeting of the STC, the Convention had now been ratified by 97 ILO member States, representing over 91 per cent of the world fleet. Indications had also been received that other countries, including Egypt, Georgia, Israel, Pakistan, Turkey and Ukraine, were well advanced in the ratification process. This very good news confirmed that the reach of the Convention was continuing to grow, thereby consolidating its role as the fourth pillar of the international maritime regime. However, the current crisis called for renewed strong commitment by all ratifying countries and all other countries with maritime interests, including flag, port and labour supplying States, to ensure the full enforcement and harmonious implementation of the MLC, 2006 around the world. It was to be hoped that the discussions of the STC, its decisions this week and the action taken in the months to come would mark a turning point in reinforcing the necessary cooperation between and within member States for the delivery of tangible solutions to overcome the current challenges faced by the industry and to ensure decent living and working conditions for seafarers.
7. **The Shipowner Vice-Chairperson** paid tribute to the excellent support provided over the last extremely challenging year by the Chairperson of the STC and the Secretariats of the ILO, International Maritime Organization (IMO) and World Health Organization (WHO) and thanked the International Transport Workers' Federation (ITF) for its ongoing willingness to collaborate on matters of concern. Collaboration had been frequent, trustful and pragmatic, and cooperation had moved to an entirely new level of confidence and trust. He also gave thanks to other bodies, such as the International Seafarers' Welfare and Assistance Network (ISWAN), the International Maritime Health Association (IMHA) and the International Christian Maritime Association (ICMA), for their help. In hindsight, the leitmotiv for all the activities of the partners over the past 14 months had been very surprising. The world had come to a standstill. Many economic activities had ceased, and some had still not resumed. But during that period vessels had continued to move, and the food supplies, energy, medicines and the consumer and electronic goods needed in home-offices had been delivered. But such seamless logistics had only been possible because seafarers had continued to work non-stop, with hundreds of thousands of seafarers immediately assuming their responsibilities and going far beyond their duty. The fate of those seafarers had been the subject of hundreds of meetings between the parties concerned.

8. Recalling that the first task of the STC, under Article XIII of the MLC, 2006, was to continuously review the working of the Convention, he drew attention to differences of interpretation of the provisions of the MLC, 2006, by the various member States. In contrast, the high level of world tonnage covered by ratifying States, combined with the no more favourable treatment provision in Article V, meant that most ocean-going ships were now compliant with the requirements of the Convention. It was not the fault of the ship or its crew if such national interpretations or determinations differed from those of the port State. Such differences, unless hazardous to seafarer safety and health, should not be used to detain ships, but should rather be brought to the attention of the STC or, in very serious cases, the Office, in accordance with Regulation 5.2 of the MLC, 2006. Countries that had not yet ratified the MLC, 2006 should be encouraged to do so urgently to ensure the achievement of the level playing field. He expressed gratitude to the CEACR for its excellent work and analysis, and its response to the concerns raised by the social partners regarding the pandemic. The appeals by the social partners had been heard, understood and acted upon, offering encouraging indications that the MLC, 2006 worked in practice. Governments should be encouraged to make use of the opportunity provided by the STC to discuss the issues that had arisen and see how they could be prevented in future. With reference to the second task of the STC, namely to consider proposals for the amendment of the Convention, he emphasized that every proposal for amendment would need to be carefully balanced against any additional administrative burdens for member States, shipowners and seafarers. When the second part of the fourth meeting of the STC considered proposals for amendments to the Convention, it should avoid amendments only intended to meet specific or topical issues already well covered by the general obligations, as well as amendments resurrecting issues that had not previously achieved tripartite approval. The amendments considered and agreed upon should therefore only address issues that had not already been covered and those that the STC considered to require improvement, and should avoid excessive additional administrative burden.
9. He emphasized that the ILO was a unique organization and the MLC, 2006, was a unique instrument. While much had been achieved in the 20 years since the Geneva Accord in 2001, it had to be acknowledged that the present pandemic had not been envisaged during the drafting of the Convention. It might therefore be appropriate to consider whether any revisions were necessary so that it could be applied more effectively under conditions similar to those experienced during the pandemic. For that purpose, Governments should identify areas in which maritime and labour administrations exercised control, and those that were the domain of other departments, such as those responsible for health or homeland security. The problems encountered during the pandemic led to the belief that, in some countries, those other departments had not been adequately consulted during the ratification process. Finally, the consideration of further amendments to the Convention should be approached carefully, as a multitude of amendments could act as a disincentive to countries that had not yet ratified the Convention, which had now been ratified by just over half of ILO member States. The aim was to achieve ratification by all ILO member States so as to ensure the same level of ratification as the other three IMO pillar Conventions. The Shipowners looked forward to continuing the well embedded spirit of tripartite cooperation in determining solutions that were for the benefit of seafarers and the shipping industry.
10. **The Seafarer Vice-Chairperson** recalled that the COVID-19 crisis had exposed the global seafaring community to many challenges, with serious deprivations affecting the well-being, safety and health of seafarers, including their mental health. It was difficult to find the words to describe how utterly devastating the impact had been on seafarers, even though they were apparently considered to be key workers. It was important to

acknowledge that the pandemic had shown the system for the regulation of shipping to be a failure, in a damning indictment of the consideration in which seafarers and the shipping industry were held. Unlike many other segments of the global economy, which had come to a halt to protect workers, seafarers had been expected to continue working to keep global supply chains moving. Over the past 12 months, the industry had needed to come together, put aside differences and, with the involvement of many other organizations, work tirelessly and in partnership to ensure that the work and dedication of seafarers was not forgotten and that they enjoyed equal treatment with all other workers on the front line of the global supply chain. Many governments had seemed deaf to the plight of seafarers. The purpose of the present meeting was not to promote the measures that had been adopted by the social partners, the Office and other specialized United Nations agencies and welfare organizations for the benefit of seafarers and shipping, but to discuss the very instrument that was designed to protect seafarers, while at the same time acknowledging that it had failed them. The MLC, 2006, a consolidation of international minimum standards that had been ratified by nearly 100 countries, and which had been amended three times since its entry into force, was intended to protect and continuously improve the fundamental employment and social rights of seafarers. It was often referred to as the “Seafarers’ Bill of Rights”. However, it appeared that countries could ignore those rights when it suited them to do so. The present meeting offered a golden opportunity to discuss those issues openly and frankly. The question was why the authority of the Convention had been so readily and easily challenged. However, rather than naming and shaming governments, the focus of the meeting should be on holding a frank exchange of views, highlighting the evident failures and proposing solutions for the world’s 1.8 million seafarers and their employers. It was necessary to start the process of re-establishing trust in the United Nations system and the rule of international law, the ILO, the MLC, 2006, and the fundamental rights it was intended to guarantee. It should be recalled that the provisions of the MLC, 2006 represented minimum standards intended to contribute to decent work and a level playing field on which commercial success was not at the expense of the exploitation of seafarers. The pandemic had highlighted the fragility and fragmentation of the maritime industry, with the major flag States not having the necessary political weight to insist on the policy changes that would have helped during the pandemic. Shipowners from countries with developed economies did not enjoy national political support because their ships were flagged in other countries. And labour supply countries did not have the power to influence global decisions that affected their citizens. The structure of the shipping industry had been wholly incapable of dealing with the consequences of the unexpected pandemic. Strict measures had been put in place to protect borders and citizens, with the extreme efforts made to contain the virus resulting in many countries shutting down industrial production and supporting jobs through financial measures. However, once countries had eased the restrictions, seafarers had been left behind. They had not been deemed worthy of special consideration based on their dedication and sense of responsibility towards the global community. Many lives had been lost because of repeated breaches of the MLC, 2006, including the refusal to provide medical care and to allow seafarers to return to their countries of origin, the imposition of conditions tantamount to forced labour and the obstructive and discriminatory approach adopted by some administrations towards seafarers, who were seen as carriers of the disease. Those actions had contributed to undermining the credibility of international instruments and would have long-term consequences for the industry, as many seafarers were looking elsewhere for future employment.

11. The ITF was conducting a survey on the impact of the pandemic on the lives of seafarers. While the results had not yet been fully analysed, a snapshot of over 2,000 respondents revealed that they were still on board, on overdue contracts. Some 25 per cent of respondents indicated that they had applied for shore-based jobs, and nearly 50 per cent were still unsure about vaccination. While many governments were vaunting their national vaccinations plans and easing restrictions, it was left to the creativity of shipping companies and the lobbying of the social partners to deal with complicated and inconsistent rules that prevented effective crew change planning. The fact that the comments of the CEACR addressing such issues had been ignored by some countries highlighted one of the key issues before the STC, namely the identification of structural measures that could rebuild the credibility and reinforce the implementation of the MLC, 2006. The lack of consultation by governments with social partners during the pandemic, as well as in other circumstances, had led to a situation in which unilateral decisions had been taken on matters related to the Convention. Agreement was therefore needed between the parties to the MLC, 2006 to acknowledge the authoritative role played by the CEACR in clarifying matters related to the Convention and to ensure that its recommendations are followed by all the parties to the Convention. The enforceability of the Convention and its full implementation should be the aim of all those attending the meeting, and consensual solutions needed to be found to ensure the consistency, obligations and responsibility owed to seafarers and to shipping.
12. **A representative of the Government of Portugal, speaking on behalf of the Member States of the European Union (EU) and Albania, Montenegro, the Republic of North Macedonia and Serbia**, said that the entry into force of the MLC, 2006, in 2013 had been an important milestone in promoting decent living and working conditions for seafarers and fairer competition for shipowners worldwide. However, during the COVID-19 pandemic, an estimated 800,000 seafarers and their families had been affected by the restrictions imposed, jeopardizing their health and livelihoods. Seafarers had been denied repatriation, medical assistance and shore leave, and many of them had had to work far beyond the duration of their contracts and sometimes even beyond the maximum period of service set out in the MLC, 2006. International shipping and the 2 million seafarers in the industry were key to ensuring the continued supply of goods, including energy, medical supplies and food. The EU had rapidly taken action, including the recommendation for seafarers to be designated as key workers, and had issued guidelines on facilitating their free movement, health and safety, and on crew changes and repatriation during the pandemic. The EU warmly welcomed the initiatives taken by the Office, the Officers of the STC, the international social partners, IMO and other United Nations agencies and programmes to address the situation. The EU had also been actively involved in a coordinated international response to remedy the situation, including the negotiation of the United Nations General Assembly Resolution on international cooperation to address challenges faced by seafarers as a result of the COVID-19 pandemic to support global supply chains (A/75/L.37) and the ILO Governing Body Resolution concerning maritime labour issues and the COVID-19 pandemic. The EU had supported the MLC, 2006 from the outset and its efforts were geared towards the broadest possible ratification and effective implementation of the Convention with a view to achieving a level playing field in the maritime industry. All non-landlocked EU Member States had ratified the Convention and were implementing its provisions through national laws and regulations. The bulk of the Convention had also been implemented in EU law through an agreement of the social partners.

- 13. An observer representing Seafarers' Rights International (SRI)** indicated that SRI was currently engaged in a project to evaluate the effectiveness of the MLC, 2006 in terms of its implementation and enforcement. The project was being expanded to evaluate how COVID-19 had affected the implementation of the Convention. Three matters were particularly important. It was widely documented that core provisions of the MLC, 2006, had been denied, diminished or ignored during the pandemic. The United Nations system and the international maritime industry had responded with an unprecedented level of cooperation. The increasingly urgent calls made by over 700 entities to address the plight of seafarers and support the maritime industry had produced positive achievements. However, many problems persisted, which had created a humanitarian crisis of depression, despair and suicide, further exacerbated by the lack of access to vaccines. The integrity, authority and reputation of the MLC, 2006 had been seriously undermined and a completely new "COVID-19 amendment" was therefore needed to ensure full and effective enforcement of the Convention in the future. Such an amendment should build on the achievements already made, be in the interests of governments, shipowners and seafarers equally, and be enforceable. Without such an amendment, the next pandemic would render the MLC, 2006 meaningless. The pandemic had severely worsened the physical and mental fatigue of seafarers, which in turn increased the risk of casualties. More than ever, seafarers needed fair treatment following maritime casualties. Over the years, SRI had conducted face-to-face interviews with over 8,600 seafarers of around 70 different nationalities, and over 80 per cent of those interviewed indicated that they feared criminalization in the event of maritime incidents, a fear that was increasing. Although many improvements were being made in law and practice, more needed to be done. Fair treatment was in the interests of seafarers, shipowners and member States alike, and the MLC, 2006 did not currently provide for the fair treatment of seafarers following a maritime casualty. The Convention should therefore be amended to provide protection for seafarers against unfair treatment and criminalization, especially in the context of the pandemic.
- 14.** Finally, the findings of the SRI project evaluating the effectiveness of the Convention, based on interviews with 5,000 seafarers from ten countries, had revealed many concerns, particularly in relation to wages, fatigue and career development. Seafarers had expressed concern about the timely payment of wages, underpayment, practices of double accounting and security for wages and jobs. Seafarers were prepared to turn to lawyers to recover their wages, but lawyers had little knowledge of the MLC, 2006. There was therefore a need for education for the legal profession, including judges, on the MLC, 2006. In relation to fatigue, which was not a new issue, seafarers referred to pervasive violations in the observance of hours of work and hours of rest, which represented a collective failure of the international community and was a profound threat to safety. With regard to career and skills development, seafarers indicated that they were anxious about future skills needs in the context of automation. And now, with the added anxiety of the pandemic, more seafarers than ever indicated that mistreatment was driving them to question their careers at sea. The full results of the project would be released later in 2021.
- 15. An observer representing the International Association of Classification Societies (IACS)** recalled that IACS was a membership organization of classification societies which established minimum technical standards and requirements addressing maritime safety and environmental protection and ensured their consistent application. As recognized organizations, authorized by the competent authorities of various ILO member States, IACS members carried out inspections to verify compliance and the issuance of certificates related to the MLC, 2006. For example, in 2019, IACS member societies had performed nearly 17,500 inspections of compliance with the MLC, 2006. They had continued to carry

out regular shipboard inspections in 2020 and 2021 despite the challenges and constraints of the pandemic. Examples of the situations observed in practice by IACS members in the implementation of the Convention could help to streamline the execution of MLC, 2006 activities in future. Some of the examples could necessitate amendment of the Convention's requirements and/or Guidelines for flag State inspections. Firstly, for example, with respect to the completion of MLC, 2006 inspections after the expiry of the interim Maritime Labour Certificate (MLC), the situation was not defined in the Convention, which led to different approaches by ratifying States. While some States required the issuance of a conditional MLC certificate, others authorized the extension of the interim certificate and the performance of the inspections after the expiry date of the interim certificate or the reissuance of an interim MLC certificate with limited validity. Second, the Declaration of Maritime Labour Compliance (DMLC) and the MLC could be considered as two separate documents and the date and place of issuance of the DMLC could be omitted from the MLC certificate, as the current requirement left open the possibility of different interpretations concerning whether the DMLC issuance date should be registered on the MLC certificate in cases where the DMLC, Part II, had been amended for any reason that did not require on-board inspection. Alternatively, additional guidance could be provided on whether the DMLC issuance date and place should be registered on the MLC certificate in cases when the DMLC, Part II, was amended, but no on-board inspection was required (for example, in the event of a change of the shipowner's name and/or address). Thirdly, in the certificate or other documentary evidence of financial security referred to in Standards A2.5.2 and A4.2.1 of the Convention, the term "name of the shipowner" could be replaced with "name of the insurer". The standard practice was for certificates of financial security provided by P&I Clubs to be issued to the owners of the ship as members of P&I Clubs and not to entities declared as "MLC, 2006 Shipowners", which meant that the entity indicated on the certificate of financial security and the "MLC, 2006 shipowner" did not currently correspond. Moreover, as the DMLC, Part II, was not ship specific and did not contain ship details, a single DMLC, Part II, approval for an entire fleet operated by the same MLC, 2006 shipowner under one specific flag, regardless of ship type, could be envisaged. More detailed information and guidance could be provided on DMLC, Part II, approval for the entire fleet operated by the same MLC, 2006 shipowner. Finally, due to digitalization and the increased use of electronic documents, more detailed guidance could be provided indicating that electronic certificates were permitted and that documents could be reviewed on shore using digital solutions. The requirement for posting the MLC and the DMLC in a conspicuous place could be extended to include the possibility of using electronic certificates.

Address by the ILO Director-General

- 16. The Director-General of the ILO** said that the huge number of participants in the first virtual meeting of the STC despite the severe challenges posed by the pandemic was a testament to the resilience and dedication of the parties. Never had the work of the STC been more important. The world remained in the midst of an economic and social crisis, with 255 million full-time jobs lost, an over 8 per cent reduction in labour income, hundreds of thousands of enterprises shut down or threatened, and an alarming resurgence of poverty. The pandemic had hit virtually all economic sectors, including the maritime industry, which had been affected in its own specific and dramatic way. Yet, maritime shipping and its 2 million seafarers had heroically kept global supply chains moving. The world was grateful and the contribution of shipping was today widely recognized. However, too many seafarers had personally paid a heavy price, with hundreds of thousands unable to leave their ships to return home and an equal number unable to leave home to

replace them. Many had even been denied medical care ashore. The resulting humanitarian crisis had had an immense impact on their mental and physical health. From the outset, the ILO had sought to provide guidance on how to apply the MLC, 2006 during these challenging times and, in collaboration with governments, the International Chamber of Shipping (ICS), ITF, IMO and other United Nations agencies, to address problems and search for concrete solutions, in particular regarding crew changes. Many strong statements and resolutions had been adopted, inter alia by the United Nations General Assembly, the IMO and the ILO Governing Body. The social partners in the industry had also engaged in numerous joint initiatives to support shipowners and seafarers and had joined forces in an unprecedented manner with the United Nations family. The excellent example of social dialogue at the international level between the ICS and the ITF confirmed the shipping industry as a model of international sectoral social dialogue. Initially, all parties had recognized the need for flexibility and pragmatism in applying the MLC, 2006, during the pandemic. But today, more than one year after the beginning of the crisis, there was a need for full compliance with the seafarers' rights set out in the Convention, in accordance with the strong call made in December 2020 by the CEACR. Although the figures were decreasing, more than 200,000 seafarers were still trapped on board. It was to be hoped that the present meeting of the STC would mark a turning point in the crisis, and that all member States, in their different capacities, would: ensure respect for decent working conditions for seafarers; recognize seafarers as key workers and allow them to travel to and from ships; and prioritize their access to vaccines, as travel was intrinsic to their challenging occupation. Immediate action was needed, as well as the development of longer-term solutions to build back better.

17. **The Shipowner Vice-Chairperson** agreed with the Director-General in welcoming the excellent collaboration between the social partners, the Office and the United Nations. The efforts of the ILO and other partners had demonstrated the real benefits of international cooperation, although there was still a tough road ahead to steer a course out of the pandemic. The time had come for a post-COVID employment manifesto. The industry partners gathered together in the STC faced numerous challenges, including ensuring the provision of vaccines, not only for seafarers, but also for fishers.
18. **The Seafarer Vice-Chairperson** welcomed the acknowledgement by the Director-General of the extraordinary role played by seafarers in keeping supply chains open. The social partners in the industry had once again stepped up to the plate in response to the challenge, with an important role being played by the Office and the Officers of the STC, who had met frequently during the crisis. The support provided by the Office in that context had been exceptional. It was to be hoped that further cooperation at the present meeting would result in the adoption of an important resolution. It would not be possible to resolve the problems faced without ongoing collaboration between all the stakeholders, with the very valuable support of the Office.

▶ IV. Exchange of information related to the implementation of the MLC, 2006

(a) COVID-19 and maritime labour issues

(1) Did any provisions of the MLC, 2006 prove insufficient in the face of the challenges presented by the pandemic?

- 19. The Seafarer Vice-Chairperson** expressed concern that both the Articles and the Code of the Convention had been substantially undermined in a systematic manner by all ratifying States to various degrees during the pandemic, from slight adjustments to an outright refusal to adhere to their obligations in certain cases. The Seafarers believed that the provisions of the Convention were, for the most part, sufficient to address the issues arising during the pandemic, although that did not mean that there should not be improvements or amendments. However, the fundamental issue was that the provisions of the Convention had been repeatedly ignored by port, flag and labour supplying States with a view to ensuring the uninterrupted flow of goods. Moreover, the measures adopted to vary the provisions of the Convention were too often focused disproportionately, and sometimes solely, on business and commercial needs. The failure to pay sufficient attention to the human factor had taken a toll. The denial of medical care, the unlimited extension of contractual terms and the refusal to allow adequate shore leave were all factors that had resulted in a backlog, at its peak, of over 600,000 seafarers stranded at sea. The situation was still not back to normal. In signing and ratifying the MLC, 2006, flag and port States assumed the legal obligation of its implementation. But the disparity of treatment and implementation had been highlighted and amplified by COVID-19. The provisions of the Convention set standards for the minimum rights of seafarers, as well obligations that they had to abide by, including flag State regulations, seafarers' employment agreements and collective agreements, and the penalties that they could incur if in default. The same did not apply to flag or port States, nor did flag States routinely apply penalties to shipowners that failed to comply with the requirements of the Convention. That resulted in a disparity of treatment, which had been highlighted during the pandemic, with seafarers being repeatedly called upon to prolong their contracts, refused repatriation and obliged to remain on board with little choice in the matter. On many occasions, the rules giving effect to the Convention had been amended by national authorities and agencies responsible for immigration, transport, health and the interior. The question therefore arose of whether the signatories to the Convention had been aware of their responsibilities at the time of ratification. A gap analysis could prove useful in ensuring that all government agencies were fully informed and updated concerning their obligations under the Convention.
- 20. The Shipowner Vice-Chairperson**, echoing many of the concerns raised by the Seafarers, considered that the provisions of the Convention were almost entirely adequate. However, certain essential provisions had not been given full effect during the pandemic, including those relating to crew changes and shore leave. Certain provisions should be the focus of attention during the discussions, particularly those relating to medical care. Seafarers had been frequently denied medical and dental care during the pandemic, including prescriptions and sanitary products. Difficulties had arisen in dealing with corpses following the death of seafarers. Experience showed that some of the provisions of the Convention were not sufficiently clear and that it was too easy to deny medical care, which should never happen. Moreover, during the process of drawing up the Convention, no one had thought

of the requirement for vaccination during a pandemic. It was to be hoped that a common approach to the vaccination of seafarers could be agreed by all countries. In addition, the Convention did not establish clear and formal channels of communication and collaboration among ratifying States. Some clarification might therefore be needed on the respective responsibilities of flag, port and labour supplying States. During the pandemic, a number of labour supplying States had refused to readmit their own seafarers to their territories, thereby preventing them from returning home. That should never happen again. Many of the concerns raised also applied to fishers. It was necessary to reaffirm that the MLC, 2006 was applicable in all situations, including during difficult and challenging times such as pandemics, when its provisions were even more important. Some back doors had been left open and they should be closed by the present session of the STC. Those States willingly and knowingly abrogating their responsibilities under the MLC, 2006 should be sanctioned.

- 21. The Government Vice-Chairperson** noted the broad consensus among Government representatives that the provisions of the MLC, 2006 were even more relevant during the pandemic. During their discussions, member States had shared experiences of the plight of the shipping industry, and more importantly of seafarers and their difficulties in leaving and joining ships. Other issues that had arisen included the extension of certificates and seafarers' employment agreements. Moreover, there appeared to be anecdotal evidence of an increase in the number of seafarers lost overboard and of suicides, although there was currently no consolidated data on the issue. The border control and sanitary restrictions imposed by member States to combat the pandemic had often resulted in breaches of seafarer's rights, with difficulties in giving effect to the requirements of the Convention being exacerbated by the fact that transport and maritime authorities did not have jurisdiction over health and border control measures. The first reaction of the responsible authorities was to protect their own citizens. Nevertheless, some countries had adopted measures to facilitate crew changes, and also to give a certain priority to vaccinating workers in the sector, including seafarers. Many proposals were under consideration on how to cope better with this and future pandemics, including the possibility of amending or revising the provisions of the MLC, 2006, for example with a view to capturing more effectively incidents of the suicide or loss at sea of seafarers, establishing safeguards concerning the extension of seafarers' employment agreements in times of emergency and securing more fully the right to crew changes and to leave the ship. Several Government representatives urged caution in proposing amendments to the Convention, out of a fear that overhasty amendments could have unintended consequences. Others suggested the Convention would require amendment to cope better with COVID-19 and any future pandemics, including the strengthening of its provisions respecting the death of seafarers at sea, the extension of employment agreements, crew changes, shore leave and repatriation, medical care and the vaccination of seafarers. Many of the problems experienced appeared to be due less to the inadequacy of the provisions of the MLC, 2006, than to inconsistency in their application. There was also a need for improved coordination between the various stakeholders, including other national authorities, stakeholders in the shipping sector (manning agencies, port and flag State maritime authorities, shipowners, seafarers and international agencies, including United Nations bodies such as IMO, WHO and the United Nations Conference on Trade and Development (UNCTAD)). It had been suggested that further reflection was needed so that more meaningful proposals on how to cope with future pandemics could be considered by the second part of the meeting. It was clear that a coordinated and global effort would be more effective in dealing with future emergencies than an ad hoc, piecemeal approach.

- 22. A representative of the Government of Portugal, speaking on behalf of the Member States of the European Union (EU),** noted the gravity of the situation of seafarers during the pandemic, with 200,000 seafarers still unable to leave their ships and an equal number waiting to replace them. The EU welcomed the efforts made by all the stakeholders to try to find solutions and mitigate the effects of the crisis among seafarers, and particularly the resolutions adopted by the ILO Governing Body and the United Nations General Assembly, as well as the efforts made by the IMO. The EU noted the findings of the CEACR highlighting all aspects of the implementation of the MLC, 2006 that had been affected by the crisis and the exceptional circumstances in which compliance with some of the obligations set out in the MLC, 2006 might be materially impossible. However, as noted by the CEACR, the pandemic should not be used as an excuse to breach the provisions of the Convention, leading to a failure to respect fundamental labour rights and significant risks to the safety of navigation. The EU fully supported further efforts to ensure effective implementation of the Convention and the recognition of seafarers as key workers and shipping as a vital service for the global community. It was important to ensure that vaccination programmes were developed for seafarers, within the scope of the competence of Member States to define their own strategies in this area. Measures should be adopted to facilitate crew change, the access of seafarers to medical care and shore leave, irrespective of their nationality and the flag of the ships calling at ports. The CEACR's recommendations to port authorities and flag States should be implemented directly to address the health and safety of those involved in the supply chain. The pandemic had demonstrated the importance of the coherent and effective implementation of the MLC, 2006, especially in times of crisis, as well as the challenges in doing so. The proactive approach taken by the ILO during the pandemic was to be welcomed, including its efforts to maintain close coordination with the IMO and other United Nations bodies. The flexibility shown by the ILO was also welcome in authorizing member States to extend the validity of certificates. All stakeholders should focus on building on the lessons learned from the crisis, particularly in relation to work and rest hours, annual leave, health and safety conditions, access to medical care and preventive medicine, the default 11 months as the maximum period of service on board, and consequently for entitlement to repatriation, which also applied in times of crisis. Force majeure should only be invoked on a case-by-case basis and under duly justified circumstances, and not automatically in a situation such as the COVID-19 pandemic.
- 23. A representative of the Government of Cyprus** highlighted the many initiatives that had been adopted worldwide for the vaccination of seafarers. In recognition of the importance of keeping the maritime transport industry operational, Cyprus had been one of the first countries to recognize seafarers as key workers and to take the necessary measures to facilitate crew changes during the pandemic, resulting in over 12,000 seafarers moving through its ports and airports since May 2020. Cyprus recognized the challenges relating to the vaccination of seafarers, including their country of origin or residence, travel restrictions, the availability of vaccines, the two-stage vaccination process and the subsequent time required for seafarers to be considered inoculated. It was therefore proposing a practical and global approach to address the issue of the vaccination of seafarers, based on the duration of the voyage. For short sea shipping, national measures remained workable and regional cooperation would be easier to achieve. In the case of deep-sea shipping, it was proposed that vessels operating on long-distance intercontinental routes should be designated as an isolated COVID-19 zone, or "bubble". The focus should therefore be on seafarers ashore, with a coordinated global approach being adopted to ensure the availability of adequate numbers of vaccines for seafarers in their country of residence before they travelled to join their ships. A mapping exercise should be

undertaken to determine the numbers of seafarers in labour supplying countries who were waiting to board their ships. The Government of Cyprus would propose a draft resolution to the STC outlining that approach.

24. **A representative of the Government of Japan**, with reference to the country's recent experiences relating to Covid-19 and maritime labour issues, indicated that Japan had conducted inter-ministerial coordination and coordination with the shipping industry to facilitate crew changes and the repatriation of seafarers. Recognizing the important role of seafarers as key workers, priority had been given to balancing the facilitation of safe crew changes and infection prevention measures, including strict border control. With such coordination, Japan had adopted measures aligned with the protocols recommended by IMO. As a result, the number of ship crew changes in Japan had returned to a level similar to before the pandemic. In the case of the "Diamond Princess" cruise ship, as a port State, Japan had taken the necessary measures without delay to provide the required assistance, including medical treatment and the necessary protective equipment for passengers and seafarers on board.
25. **A representative of the Government of the Republic of Korea** said that the pandemic had given rise to numerous challenges for his country, especially in facilitating timely crew changes, as well as ensuring compliance with the requirements of the MLC, 2006, for example in relation to the continuation of seagoing service despite the expiry of the certification of seafarers. It was to be hoped that the STC would outline more effective ways of complying with the requirements of the Convention and of protecting the basic and human rights of seafarers during the crisis.
26. **A representative of the Government of Panama** referred to the experience of his country in giving effect to the MLC, 2006 during the pandemic. As a country with more than 8,500 vessels flying its flag, representing the interests of over 318,000 seafarers, Panama fully recognized the importance of the Convention for the achievement of better living conditions and decent work for thousands of seafarers worldwide. Being in force for over seven years, and with 97 ratifications, the Convention represented a joint effort by all ratifying States, including flag, port and labour supplying States, as well as shipowners and seafarers. With the support of the representative organizations of seafarers and the maritime authorities, the application of the Convention guaranteed respect for the rights of seafarers, who had become very aware of its existence. This had been demonstrated by the complaints filed by seafarers to the Panama Maritime Authority in 2020, which had resulted in the recovery of over US\$2 million in wages from shipowners and financial guarantee providers, and over 500 repatriations of seafarers worldwide. The role played by maritime authorities was vital for the implementation of the Convention. However, difficulties had been experienced in ensuring the full application of the rules respecting repatriation in cases of abandoned seafarers. The 2014 amendments to the MLC, 2006, which had entered into force in 2017, providing for a financial guarantee system for the repatriation of seafarers, had given rise to great difficulties for the maritime authorities. Port authorities in States which had not ratified the Convention did not require ships visiting their ports or waters to have a financial guarantee covering cases of abandoned seafarers, which meant that such cases occurred more frequently. Problems also arose in the completion of repatriation processes by the provider of the financial guarantee in cases where maritime authorities did not allow the disembarkation of the entire crew for repatriation, as they would not allow the ship to be left unmanned. Moreover, the minimum period of validity of the guarantees issued by P&I Clubs had not been uniformly established, which made it difficult for the competent authorities to control them. Those issues were of great concern to the Government of Panama and had resulted in large numbers of

seafarers having to stay on board their ships for indefinite periods of time, even though under Regulation 2.5 of the Convention it was the responsibility of the financial security provider to undertake repatriation. For example, the master of the “Kanen Mete” ship, which flew the Panamanian flag, had been abandoned and had not been repatriated since August 2020. The provider of the financial guarantee had repatriated the entire crew with the exception of the master, whose departure had not been authorized by the local authorities. The repatriation of the master did not depend on Panama, and the assistance of the Shipowners’ group was therefore requested in calling on the owner of the ship to take responsibility with the local authorities so that the master could leave.

- 27. A representative of the Government of Norway** welcomed the efforts made by the social partners and their pragmatism in developing guidance through the IMO and ILO on measures to be taken in the context of the pandemic. The guidance provided had been instrumental in informing policy in his country. The Prime Minister of Norway had raised the issue in the United Nations General Assembly of the importance of considering seafarers as key workers. However, caution should be exercised regarding any further amendments to the MLC, 2006, which had not proved to be ineffective in itself, although its implementation had given rise to difficulties. Amendments would take years to be developed and enter into force, and could well give rise to new issues. With regard to the opinions issued by the CEACR concerning the implementation of the Convention during and even before the pandemic, its view of a default maximum period of service was problematic. Since the entry into force of the Convention, the period of maximum service at sea appeared to have become a separate requirement, rather than a condition for other rights or obligations. The only explicit reference to a maximum period of service in the Convention was related to repatriation in Standard A2.5.1, and that period was 12 months. The default period of 11 months referred to by the CEACR was arrived at taking into account Standard A2.4, which set out the right of seafarers to 2.5 calendar days of leave for each month of employment, although that right was subject to the provisions of collective agreements, or laws or regulations providing for an appropriate method of calculation that took into account the special needs of seafarers. The view of the CEACR might have the effect of establishing 11 months as a maximum period of service – with which the Government had no problem of principle – subject to port State control, which might also create difficulties for cadets who, under the terms of the International Convention on Standards of Training Certification and Watchkeeping for Seafarers (STCW), needed to complete 12 months of seagoing service to obtain their certificates. The STC should have the opportunity to discuss this matter further.
- 28. A representative of the Government of Indonesia** said that the COVID-19 pandemic represented an unprecedented global challenge that required a concerted commitment by the global community. She expressed appreciation of the role played by the ILO in protecting the livelihood and welfare of seafarers during the course of the pandemic, including in relation to crew changes. As the third largest seafarer supplying country, Indonesia was committed to ensuring the process of crew change, with 11 ports being used to facilitate crew changes and repatriation. It had also put forward a resolution on the challenges faced by seafarers, which had been adopted by the United Nations General Assembly in 2020 and called for concrete action and international cooperation, including facilitating crew changes and considering seafarers as key workers. There had been a tendency during the pandemic for seafarers to be mistreated and they had been at greater risk of exposure to the virus in the course of their work. There was an urgent need to further enhance health support for seafarers and to prioritize their vaccination, based on a spirit of

close cooperation and enhanced collaboration between all the stakeholders and concerned bodies.

- 29. A representative of the Government of Australia** indicated that higher numbers of suicides and incidents of seafarers lost overboard had been observed during the pandemic. However, in the absence of a reliable source of international information, it had not been possible to confirm whether this represented a global trend. No single international database existed that captured all the fatalities in the industry. Flag States were required to report operational fatalities to the IMO, but there was no requirement to specify the reasons for the fatalities, such as medical events, natural causes, loss overboard or suicide. Without such mandatory reporting, the maritime community would not be able to address effectively areas of emerging concern, such as mental health. The Government of Australia intended to submit a proposal to amend the MLC, 2006, with a view to capturing data on deaths at sea in a meaningful format and reporting it to the ILO, and it was seeking to work with other constituents for that purpose. The proposal would not involve any large administrative burden on the competent authorities.
- 30. A representative of the Government of the Philippines** highlighted four areas of concern arising out of the pandemic. First, the crew change crisis required an urgent response from stakeholders, including port authorities, such as the establishment of green lanes to facilitate the speedy and safe travel of seafarers and crew changes, both for nationals and for foreign seafarers. Second, his Government supported the move under the MLC, 2006 to maximize digitalization and the use of electronic documents, especially during the pandemic, with a view to facilitating safe and contactless transactions, which offered a range of benefits, including the monitoring of manning agencies and the use of seafarers' identity documents. Third, the application of the principles and regulations of the MLC, 2006 could be further enhanced in the areas of worker monitoring, repatriation and support for the mental health and well-being of seafarers during prolonged stays at sea, either through amendments to the Convention or possibly also via bilateral agreements. Finally, as vaccination programmes were rolled out in some countries, and begun in others, it was important for seafarers be provided with vaccines, where they were readily available, which should be facilitated by their employers.
- 31. A representative of the Paris Memorandum of Understanding Port State Control Committee** reported on the experience of monitoring compliance with the MLC, 2006 during the pandemic. Since March 2020, the number of port State control inspections had substantially decreased, but the number of deficiencies related to the Convention had remained roughly the same, with the exception of a substantial increase in deficiencies relating to the seafarers' employment agreements. The Paris MOU had issued PS Circular 97 for port State control authorities on how to handle inspections in such challenging times, taking into account the difficulties encountered by shipowners and crews and with reference to the guidance issued by the ILO and IMO. At the beginning of the crisis, the Paris MOU had advocated the application of a flexible and pragmatic approach to ships that were not able to comply with the MLC, 2006. The Circular had been revised on several occasions and, in the version that was to be issued shortly, the recommendation was to reduce flexibility and increase the focus on compliance with the rights of seafarers set out in the MLC, 2006, as it had been observed that the pragmatism proposed for exceptional cases was becoming standard practice for certain flag States. Further developments would be monitored and the guidance adjusted as and when necessary.
- 32. The Shipowner Vice-Chairperson** agreed that flexibility and pragmatism had been necessary in the context of the pandemic, but hoped that in future it would not be required

to the same extent as during the course of 2020. He emphasized that flexibility is only acceptable to the benefit of the seafarers and not to their disadvantage. It was also important to ensure equal treatment of national and foreign seafarers. With regard to the difficulties experienced in ensuring the application of the Convention by bodies other than national maritime authorities, he warned that the Convention was applicable irrespective of the views of national authorities other than maritime authorities, otherwise it would be rendered meaningless. Acceptance was required from all national authorities when the decision was made to ratify the Convention and it was important to understand that the MLC, 2006, was applicable in all situations, irrespective of the views of other national agencies and bodies. The classification of seafarers as key workers, as had been done by over 50 countries, was important, although it was necessary to clarify what that meant. It should include priority for access to travel, medical care and vaccination. The approach to the vaccination of seafarers proposed by the Government of Cyprus was to be welcomed, although vaccination should be ensured not only for seafarers ashore, but also for those on board, whether they were on duty or awaiting repatriation, as well as for fishers. The representative of the Government of Norway had raised an important point concerning the clarification required relating to the maximum period of service on board. The argument of Norway was welcomed and supported. Finally, while precise figures concerning deaths at sea and the reasons for such deaths would be useful, priority needed to be given to avoiding such deaths.

- 33. The Seafarer Vice-Chairperson** shared the views expressed by the Shipowner Vice-Chairperson that any prioritization of national seafarers went against the spirit of the MLC, 2006. The rights and obligations set out in the Convention applied in all circumstances and to all seafarers, irrespective of nationality. While welcoming the designation of seafarers as key workers, it was important to ensure that this classification was meaningful in practice. The prioritization of seafarers for vaccination was to be welcomed and the initiative taken by the Government of Cyprus was important. However, the logistics of vaccination ashore and at sea remained problematic, particularly in view of the two-dose requirement, and the lack of universal access to vaccines meant that there was no realistic opportunity for the vaccination of many seafarers in the near future. Caution was therefore required with regard to any proposals to introduce a vaccination passport or other forms of verification, which could have the effect of jeopardizing seafarers' employment. Seafarers and shipowners were confronted with great difficulties during the pandemic in relation to access to visas, for example as a result of the closure of embassies and constant changes in border requirements. Governments should make every effort to resolve those difficulties. Finally, with regard to the maximum period of service at sea, the CEACR was clear that the maximum period was 11 months. Consistent and universal respect for the findings of the CEACR was of great importance for the effective implementation of the Convention.
- 34. A representative of the Government of Dominica** expressed firm support for the world's seafarers and shared the concerns raised with regard to seafarers' issues and the human element. Finding solutions to resolve the humanitarian crisis at sea needed to be a top priority for all maritime-related companies, coastal States, flag States, insurance companies and other stakeholders. The request by the IMO to strengthen partnership with the ILO on those important matters was therefore to be welcomed. Since it had entered into force in 2013, the MLC, 2006 had failed in its original goals of establishing minimum working and living conditions for all seafarers and ensuring fair competition and a level playing field. The situation had been persistently deteriorating in some areas, and had been aggravated by the COVID-19 pandemic. Despite the requirements set out in the Convention respecting repatriation and the payment of the wages of abandoned crew, an increasing number of

seafarers were being deserted on ships, often in inhumane and unacceptable conditions. The Convention failed to hold P&I Clubs, insurers, shipowners, flag and coastal States fully responsible for their obligations towards seafarers. In the case of the termination of insurance, the requirement of 30 days' notice was often not enforced and seafarers on board ships were simply forgotten. The current system of compulsory insurance of shipowners tended to lead to procrastination, with insurance companies and P&I Clubs seeking to avoid liability. The limitation or denial of coverage in the case of piracy or abandonment had become normalized, and it was common practice to reject crew claims and to fail to conduct good faith investigations. In order to ensure a viable and healthy maritime workforce in the future, it would be necessary to invest in education, including online education and examination, the value of which had been demonstrated during the pandemic. It was vital for education to cover the mental aspect of human health. The governments and authorities of coastal States had an essential role to play in resolving the humanitarian crisis at sea through the interconnected maritime network of their ports, particularly in the areas of repatriation, medical treatment, quarantine, COVID-19 testing and seafarer abandonment. More effective protection was required for all the basic maritime rights negatively impacted by the pandemic, including those related to training and qualifications, recruitment and placement, employment agreements, hours of work and rest, annual leave, repatriation, manning levels, accommodation, shipowners' liability and financial security, safety and health and social security. In light of the terrible injustice and the lack of a unified global commitment to uphold seafarers' basic rights, all parties needed to take a holistic approach to finding solutions to guarantee seafarers the safe and secure working conditions to which they were entitled.

- 35. A Shipowner spokesperson**, in response to the criticism of the MLC, 2006 by the Government representative of Dominica, reaffirmed that the social partners had worked tirelessly for the adoption, entry into force and implementation of the Convention. P&I Clubs were unstinting in their efforts to repatriate seafarers. Shipowners continued to support the ratification of the Convention and its objectives of enhancing seafarers' rights and ensuring a level playing field in the industry, including the implementation of Standard A2.5.2 on financial security. It was misguided and incorrect to imply that the MLC, 2006 was a failure.
- 36. A representative of the Government of Panama** referred to Guideline B4.3.5 of the Convention related to the requirement for the competent authority to keep, analyse and publish statistics of occupational accidents and occupational injuries and diseases of seafarers. The extension of periods of service on board, as indicated by the social partners, raised concerns regarding the mental health of seafarers. During the pandemic, there had been an increase in reported cases of injury and illness, and particularly serious cases involving the loss of life, with the number of cases doubling or tripling during the pandemic in relation to the average over the past five years. By the end of 2020, a total of 234 cases had been reported on ships flying the Panamanian flag, including 5 cases of suicide, 27 occupational accidents and 27 cases of death from natural causes, with other cases which may have been directly related to fatigue, frustration, despair, or in other words the human element on board ship. Although slightly more encouraging in 2021, the incidence of such cases continued to be very high. In accordance with the guidance provided by the IMO and the CEACR, analysis of incident reports, the evaluation of their causes and better risk assessment with a view to improving occupational safety and health management, paying special attention to the human factor, could provide a basis for action to help resolve the issues, combined with better respect for hours of work and rest, the provision of information to the crew and the work of the on-board safety committee.

37. A representative of the Government of Nigeria described the many challenges that had arisen during the pandemic in responding to the needs of local and international seafarers, as communicated by the seafarers themselves, shipping companies, labour supply agencies and welfare bodies. The action taken had been guided by communication and exchanges of information with the ILO, IMO, ITF and seafarers' welfare organizations. The key action taken, in accordance with the MLC, 2006, included the urgent identification and meetings with stakeholders, the designation of seafarers as key workers through a Marine Notice and the development of guidelines on crew joining and leaving vessels to ensure the application of the respective protocols to prevent infection. The measures taken had resulted in crew changes and repatriation involving over 500 seafarers. One of the challenges related to the victimization of crew members who made complaints to the authorities, and the consequent need to re-examine the complaint procedure under the Convention. A focal point for crew change and repatriation was about to be designated in Nigeria and the protocols of the various agencies on COVID-19 for the maritime sector would be harmonized.

(2) Are there any structural and governance factors that COVID-19 has exposed and which the ILO and other relevant United Nations agencies should consider in more detail to seek to ensure that in the future the fundamental rights of seafarers, as provided for in the MLC, 2006, are respected?

38. The Government Vice-Chairperson emphasized the importance of ensuring the implementation of the provisions of the Convention, both in normal times and during pandemics. Several Government representatives had emphasized the need for better communication between all the stakeholders in the maritime sector, including flag and port States, seafarers and shipowners, to address the problems that arose during the pandemic, with particular reference to cases of abandonment and fatalities on board ship. There was a need to reconcile differences in the responses to the pandemic by the various national authorities and bodies, and it should be emphasized that the ratification and implementation of the Convention was a matter for all national bodies, and not just the maritime authorities. The guidelines and protocols issued by the ILO, IMO and the social partners had proved to be very useful in ensuring compliance with the Convention, particularly when engaging with the authorities responsible for public health in relation to the problem of the repatriation of seafarers. It was very clear that the provisions of the Convention were applicable notwithstanding the pandemic and that a coordinated response was required by all the relevant authorities to respond to the issues and challenges, and particularly crew changes and medical treatment on shore.

39. A representative of the Government of the Republic of Korea welcomed the guidance on extremely complex issues provided by the ILO during the pandemic. The measures proposed by the ILO and IMO were very helpful, although there remained issues relating to their implementation. Only slightly over 50 member States had so far designated seafarers as key workers. One of the major obstacles had been the failure of health authorities to understand the critical role played by seafarers, which should justify their exemption from certain rules and give them priority for vaccination. It was urgent to take action at the international level to protect seafarers' rights, and exemptions from the related requirements should be allowed only in very exceptional cases. A new and more effective approach needed to be developed in cooperation with the relevant international agencies in preparation for further waves of COVID-19 or other pandemics, which should be set out

in a mandatory international instrument and should encompass such measures as the designation of seafarers as key workers with quarantine and vaccine privileges.

- 40. The Seafarer Vice-Chairperson** emphasized the importance of the analysis contained in the background paper prepared by the Office (STCMLC/Part I/2021/1), including its review of the findings of the CEACR in relation to the situation faced by seafarers during the pandemic and the implementation of the MLC, 2006. The major issue concerning governance and structural factors during the pandemic had been the inability of major flag States, and particularly the three most important registers covering 40 per cent of the global ocean-going fleet, to ensure respect for the fundamental social and employment rights of seafarers. It was clearly important to understand the reasons why those States had been unable to guarantee compliance with the Convention and ensure that the issues were resolved in future. Article I, paragraph 2, of the Convention, which established the requirement for ratifying States to cooperate for the purpose of ensuring the effective implementation and enforcement of the Convention, was crucial in the context of crew changes during a global pandemic. However, when faced with unilateral travel restrictions, member States had completely failed to coordinate efforts to allow the continued travel of seafarers, despite pressure from the social partners and United Nations agencies, in a fundamental breach of the Convention. Moreover, in breach of Articles V and VII of the Convention, there had been no consultations with the social partners on possible derogations from the provisions of the Convention during the pandemic, with many countries adjusting or derogating from the applicable rules unilaterally, under the pretext that compliance with some of the obligations set out in the Convention was materially impossible in the circumstances. Under the terms of the Convention, any exemptions or derogations had to be decided upon in consultation with the social partners and reported to the ILO. Moreover, the General Observation adopted by the CEACR in 2020 on matters arising from the application of the Convention during the pandemic made it very clear that, however difficult or cumbersome they might be, whenever alternatives were available, the notion of force majeure could no longer be invoked. The consequences of the failure to arrange for repatriation at the end of seafarers' contracts resulted in practice in the forced extension of contracts, or the continuation of labour without a contract, in circumstances in which consent could clearly not be given freely. That raised questions concerning the participation of the international community in a form of forced labour on ships worldwide, and at their most serious some derogations amounted to potential breaches of the ILO's eight fundamental Conventions. In its General Observation, the CEACR emphasized that the failure to apply any of the core principles under the pretext of a protracted health crisis risked rendering the Convention meaningless, especially at a time and in circumstances where its protective coverage was most needed. That was of particular concern when compounded by the fact that for extended periods of time seafarers were unable to leave vessels under any circumstances, leading to a situation in which they could not withdraw their labour and could not exercise their fundamental rights, including the right to strike, despite an increasingly dangerous work situation caused by the fatigue and stress of extended periods on board. The pandemic had highlighted a number of areas in which States were not adhering to the requirements of the Convention, or were adopting alternative interpretations, with examples including the increase in cases of abandoned seafarers, lack of access to medical and dental care on shore and the refusal to facilitate repatriation. Although there had been such cases prior to the pandemic, those guarantees were being withdrawn precisely when they were most needed. In future, workers' organizations would seek to make better use of the failures pointed out by the ILO supervisory bodies. Port State administrations played a fundamental role in inspection and

the implementation of the Convention, although port State control appeared to be driven by national directives, rather than the requirements of the Convention. The issue of the non-mandatory nature of the port State inspection guidelines produced by the ILO would perhaps need to be addressed to reinforce the capacity of Port State Control officers to ascertain shipboard conditions, irrespective of the exemptions granted by flag States. Another cause of concern was the inclusion of “no crew change” clauses in charters during the pandemic. Private contractual clauses could not override the MLC, 2006, and clauses preventing crew changes had to be regarded as a failure to comply with DMLCs. Although the majority of shipowners were in compliance with the regulations, a number of them, who were not represented on the STC, were not, and there were significant gaps in human rights due diligence across the industry. Greater action was needed to ensure that maritime supply chains were free from exploitation, for example by encouraging users of shipping services to engage in greater scrutiny of their human rights records, which would in turn lead to more business for sound operators and an increase in standards in the industry. It was of great concern that, despite the international guidance adopted by the ILO, the United Nations, the IMO and other agencies calling for the designation of seafarers as key workers and the full implementation of the Convention, seafarers were still facing considerable obstacles to travel to and from their homes.

- 41. The Shipowner Vice-Chairperson** expressed agreement concerning the relevance of the documents prepared by the CEACR and for the present meeting. The failure to give effect to Article I, paragraph 2, of the Convention highlighted the need for cooperative solutions, particularly in difficult times. It was not in the spirit of the Convention for self-preservation to prevail and essential bodies to be shut down in times of emergency. However, there was no evidence to back the claim that major flag States were particularly at fault. Control mechanisms existed, and it was not in the interests of shipowners for seafarers to be unduly fatigued. The recognition by Government representatives that the Convention was binding on all national authorities and that its implementation was a matter for the State as a whole was encouraging. It was also important to emphasize that the Convention continued to apply in difficult situations and national emergencies, except in very limited cases. Although the circumstances arising during the pandemic had given rise to impressive international cooperation, it had to be acknowledged that the action taken had been on an ad hoc basis, with a certain confusion among the actors as to their roles. Improved coordination might therefore be needed at the international level. Moreover, some of the helpful guidance had been produced by the industry partners, for example on safety protocols, testing and quarantine facilities, medical care and vaccination. Governments should be encouraged to take the lead on such matters in future. In times of war, the Geneva Conventions called for the provision of the medical care required by a person’s state of health. In peacetime, seafarers should be treated no less well than other categories of workers. The pandemic had provided perspective on the implementation of the Convention, which was intended to protect seafarers, but governments had not been fulfilling their obligations under the Convention in recent months, particularly with regard to: repatriation; medical and dental care and vaccinations; visa requirements, particularly for key workers; and the necessity of the holistic application of the Convention by all State authorities.
- 42. A representative of the Government of Portugal, speaking on behalf of the Member States of the European Union,** emphasized the need for cooperation between all stakeholders in difficult times, including between the various government agencies, medical authorities and shipowners, with a view to the full and effective implementation of the Convention, in accordance with the provisions of Article I.

- 43. A representative of the Government of Panama** described the issues that had arisen since February 2020 as a result of the pandemic, particularly in relation to its international fleet. In comparison with the 197 complaints from seafarers on labour matters received by the Panama Maritime Administration in 2019, a total of 427 had been received in 2020 concerning in particular wages owed, pending repatriation and cases of abandonment. The situation had been aggravated by the closure of borders, ports and airports, and the failure to recognize seafarers as key workers and to give effect to IMO protocols respecting crew changes. Over 3,500 seafarers on board ships flying the Panamanian flag had experienced situations between February and September 2020 in which their employment agreements had expired, or the maximum period of service on board had been exceeded without crews being changed. As a result, in order to safeguard the welfare of seafarers, it had been necessary, for example, to require ships to make detours from their commercial routes to ports of disembarkation. Particularly difficult situations had arisen as a result of the refusal of certain labour supplying countries to accept the return of their national seafarers, affecting hundreds of seafarers, especially in the cruise industry. In view of this situation, Panama had declared seafarers to be key workers and had kept all its international ports open in both the Atlantic and the Pacific for the purpose of crew changes. In June 2020, Panama had adopted protocols on crew changes allowing seven different procedures for safe repatriation and crew changes, and had kept its international airports open for charter and humanitarian assistance flights, resulting in 12,000 seafarers being repatriated or joining ships. Rapid access was provided on shore for seafarers in need, irrespective of their nationality or the flag of their ship. It should be noted that Panama had been the only country in the region to provide humanitarian assistance in March 2020 to the *Zaandem* and *Rotterdam* cruise ships affected by COVID-19, allowing the transfer of passengers and crew, the provision of supplies, medicines and medical equipment, and allowing their passage through the Panama canal. In response to the urgent need to restore protection for seafarers, Panama had been one of the first countries to revise its guidance on coronavirus and seafarers' employment agreements, setting the limit of 14 September 2020 for extensions to employment agreements, after which date strict compliance with the provisions of the MLC, 2006 would be required. Action was being coordinated between the Panama Maritime Authority and the Ministry of Health to give Panamanian seafarers priority for vaccination, as key workers. All governments should support the efforts made by international organizations such as the IMO and ILO to support seafarers and the shipping industry in view of their essential role in the global economy.
- 44. The Chairperson** noted that the speakers had recognized the extraordinary and unprecedented nature of the situation and welcomed the intervention of United Nations agencies in support of national administrations, even though that intervention had been somewhat ad hoc in its nature. They had emphasized the key importance of communication, not only between international organizations, but also between national agencies and bodies. They agreed that it was crucial for all national bodies to recognize the important role played by seafarers as key workers. The possibility had been raised of the establishment of a specialized international institution to address situations such as the current pandemic.

(3) Are any additional measures, including new standards, needed to resolve the current crisis and be better equipped to ensure the enforcement of the MLC, 2006, in future, in particular under strain?

- 45. The Government Vice-Chairperson** said that there was very broad agreement among Government representatives that the Convention was applicable at all times, including during crises, and that it was more important than ever in emergency situations. It was also important to designate seafarers as key workers, although such a designation would be meaningless unless it had practical effects, such as facilitating their access to the necessary visas. Governments had been doing their best to give effect to the guidance issued by the IMO, the ILO and the social partners on crew changes. Another important consideration was the coverage of seafarers by vaccination programmes, not just for nationals, but also seafarers on ships calling in at national ports. However, that also gave rise to logistical issues, for example in relation to the provision of two doses of vaccines, while prioritization for vaccines would clearly depend on their availability in the various countries and the implementation of an international programme to help countries that had only limited access to vaccines. There was broad consensus in the Government group on the need to ensure that crew changes could be carried out, although difficulties could arise in relation to the public health measures adopted.
- 46. A representative of the Government of Portugal, speaking on behalf of the Member States of the European Union,** considered that any additional measures that were proposed should be considered and discussed before the second part of the present STC meeting was held. The view expressed by the CEACR concerning the maximum period of service at sea of 11 months should prevail. It should be borne in mind when considering any further measures in relation to the Convention that the present situation, or a similar one, could happen again.
- 47. A representative of the Government of France** considered that the current wording of the Code of the Convention could give rise to confusion as it set out a maximum period of service at sea of less than 12 months, while the interpretation of the CEACR was a maximum period of 11 months. It was the interpretation of the CEACR that should prevail. The current wording of Standard A2.4, paragraph 3, concerning any agreement to forgo the minimum period of annual leave with pay could give rise to problems as experience showed that exceptions were very numerous and tended to undermine the spirit of the rule, which was to prohibit agreements to forgo leave. The subjects of repatriation and the maximum period of service at sea were not at the same level as the 16 other matters for inspection (Appendices A5-I and A5-III of the MLC, 2006), which did not facilitate their enforcement. It was difficult to know precisely the number of seafarers concerned by periods in excess of the maximum period of service at sea of 11 months, as current figures were only estimates. Those difficulties would need to be taken into consideration for the development of relevant policies, both for periods of crisis and normal times. The improvement of the text of the Convention could therefore be one of the options to be considered.
- 48. A representative of the Government of the Republic of Korea** said that, as the MLC, 2006 set out the minimum standards guaranteeing the rights of seafarers, it would not be advisable to allow mitigation for all the provisions of the Convention in the event of outbreaks of infectious diseases. Nevertheless, with a view to resolving the issues that had arisen in relation to the implementation of the Convention, it would be necessary to establish special regulations respecting matters that might require exceptions or mitigation, while minimizing the potential for reductions in the minimum rights of

seafarers, for example in relation to medical certificates, education and certification, MLCs and DMLCs.

- 49. The Seafarer Vice-Chairperson** said that it appeared clear from the discussion that the mechanisms for its effective implementation were already built into the Convention. The issues that arose concerned their application. That was not to say that the Convention could not be improved and the Seafarers intended to propose certain amendments in reaction to the situation that had arisen during the pandemic for consideration during the second part of the present meeting of the STC. The criticisms levelled by the Government representative of Dominica were probably due to frustration at problems of implementation of the Convention during a situation of emergency, rather than real shortcomings in the instrument. Greater use should be made of the work of the CEACR and the supervisory bodies to raise issues of implementation and compliance with the Convention. A consolidation and analysis of the comments of the CEACR, without necessarily naming the countries concerned, could assist in identifying the breaches of the Convention that were most recurrent in pandemic situations. The pandemic had also exposed failings in the governance of the shipping industry derived from its fragmentation which could not be resolved solely through the ILO. It would therefore be consistent with United Nations General Assembly resolution A.75/L.37 on international cooperation to address challenges faced by seafarers as a result of the COVID-19 pandemic to support global supply chains to establish an inter-agency task force to examine the international regulatory framework covering the shipping industry, including the impact on the fundamental rights of seafarers. Attention would also need to be paid to the concept of key workers. Although over 50 countries had designated seafarers as key workers, there was no universal understanding of what that meant in practice, for example in relation to vaccination. The cooperation between the social partners and other stakeholders, including welfare organizations, which had secured effective solutions to the crew change crisis, despite government inaction, would need to be continued to ensure that the same situation did not reoccur in future.
- 50. The Shipowner Vice-Chairperson** agreed that what was needed was mainly compliance with the existing provisions of the Convention, rather than the creation of additional measures or standards. It was important to remember that the same problems arose for other categories of workers, including fishers and offshore workers. There needed to be a relaxation of restrictions on issuing visas for seafarers, fishers and offshore workers so that they could leave or join their ship or place of work. Attention should be focused on the meaning of the concept of key workers and the needs of seafarers. Some governments, such as that of Panama, gave seafarers priority for vaccination. Support would be required to increase the provision of vaccines for seafarers, for example through an international vaccination programme. Guidance would be needed on how cooperation could be improved between port, flag and labour supplying States. In particular, in view of the numerous cases of countries refusing to accept returning seafarers, it was necessary to place a specific obligation on labour supplying countries to allow the return of their nationals. There was perhaps a need to consider amendments to the Convention to introduce sanctions for governments which failed to give effect to their obligations under the instrument. Specific guidance should also be developed on the circumstances in which exemptions could be allowed to the provisions of the Convention, the provisions concerned and for how long. Finally, in the case of States that ratified the Convention in future, there would need to be specific acceptance of the resulting obligations by all the national authorities.

51. The Chairperson noted that emphasis had been placed during the discussion on the need for seafarers to be designated as key workers and for clarification and enforcement of the rules respecting the maximum period of service on board ship. The discussion had referred to ways of improving international cooperation, particularly in response to crises, and the possibility of establishing an international task force. The need had been raised of specifying what was covered by medical care ashore, including vaccination. The Shipowner and Seafarer representatives had raised the possibility of establishing sanctions for governments which failed to give effect to their obligations under the Convention, and had raised the issue of improving compliance, for example through better use of the reports and findings of the CEACR. Calls had also been made for further clarification on the circumstances in which exemptions were permitted from the provisions of the Convention, and the limitations applicable to such exemptions.

(b) IMO request to set up a joint IMO–ILO working group

52. An observer representing the IMO recalled that seafarer-related issues had featured in the IMO's work for several decades. As seafarers were ultimately responsible for implementing several IMO instruments, standards for seafarer training, certification and watchkeeping had been developed and enshrined in the STCW Convention. The human element matters covered by the IMO also related to safe manning, drills, fatigue, operational and procedural safety, security, environmental protection and pollution response, occupational safety and health, including living and working conditions, and the facilitation of maritime transport. The well-being of the almost 2 million seafarers working on board seagoing ships continued to be the priority of the IMO, as reflected in its continuing work on issues such as abandonment, fair treatment and liability and compensation for seafarers, as well as the holding of the annual Day of the Seafarer celebrated each year on 25 June, when the IMO campaigned globally for wider recognition of seafarers. The ILO and IMO had jointly developed numerous instruments in recent years, including: (i) the IMO resolution concerning provision of financial security in case of abandonment of seafarers and the IMO resolution on shipowners' responsibilities in respect of contractual claims for personal injury to or death of seafarers, both developed in 1999 by the Joint IMO/ILO Ad Hoc Working Group on liability and compensation regarding claims for death, personal injury and abandonment of seafarers; and (ii) the Guidelines on fair treatment of seafarers in the event of a maritime accident, prepared in 2006 by the Joint IMO/ILO Ad Hoc Expert Working Group on fair treatment of seafarers in the event of a maritime accident. In December 2020, the IMO Legal Committee had expressed strong commitment to preserving the rights of seafarers and had agreed to: (i) include a new output in its work programme on the fair treatment of seafarers detained on suspicion of committing maritime crimes; (ii) include a new output in its work programme on the development of guidelines for port State and flag State authorities on how to deal with seafarer abandonment cases; and (iii) request the STC, as a matter of urgency, to authorize the establishment of an ILO–IMO tripartite working group to identify and address seafarers' issues and the human element, which would need to be endorsed by the ILO Governing Body at its session in November 2021. The IMO Subcommittee on the Human Element, Training and Watchkeeping had previously noted that the 2019 ILO Sectoral Meeting on the Recruitment and Retention of Seafarers and the Promotion of Opportunities for Women Seafarers had agreed that the ILO should strengthen its partnership with the IMO on issues such as flag and port State control inspections and barriers to recruitment and retention of seafarers; and that the ILO and IMO should establish an ILO/IMO tripartite working group to identify and address seafarers' issues and the human element. The STC was invited to

take note of the information provided in the IMO submission and to authorize or endorse the establishment of an ILO–IMO tripartite working group to identify and address seafarers' issues and the human element, for approval by the ILO Governing Body. It was important to note that the IMO submission provided a general framework for such a joint working group. It was not envisaged as an open-ended working group with a free mandate, as it would only meet and undertake its work following the agreement of specific terms of reference for each of its sessions by the relevant bodies of the ILO and IMO. However, the fact that such a group was readily available to work on outputs approved by the ILO and IMO would result in such work being undertaken more expeditiously and efficiently. In response to requests for clarification, he explained that, as a result of the disruption of the normal schedule of meetings during the pandemic, the proposal had not yet been considered by the IMO Council, where it would be discussed in June 2021. As the group would not be open-ended, specific experts would be identified for each proposed output. The standing body would only be activated when ad hoc terms of reference were agreed upon for specific outputs. Two specific outputs were identified in the proposal: proposals on the fair treatment of seafarers detained on suspicion of committing maritime crimes; and the development of guidelines for port State and flag State authorities on how to deal with seafarer abandonment cases.

- 53. The Legal Adviser** noted that the authority to approve the establishment of the proposed joint tripartite working group was vested in the Governing Body, based on the recommendation of the STC. In its recommendation, the STC should provide specific guidance on the terms of reference of such a working group, including its composition, time frame, reporting lines and expected outcome(s). The rules of procedure could be determined by the working group itself. In its recommendation, the STC should address such aspects as the relationship between the proposed working group and the mandate of the STC in terms of the subjects covered and reporting. Any recommendations the STC might wish to make in this matter should take the form of a resolution and should be transmitted to the Governing Body through the Chairperson's report on the work of the fourth meeting of the STC.
- 54. The Government Vice-Chairperson** said that there was broad support in principle among Government representatives for the proposed joint working group or groups. The subjects outlined in the proposal were all important issues, with their urgency being heightened by the plight of seafarers during the pandemic. However, there had not been sufficient time to specify the various procedural issues, such as the composition and reporting of the proposed body, or whether there should be a single permanent standing working group, or several groups with more specific tasks and deliverables. In either case, the terms of reference would need to be examined carefully and agreed upon by the ILO and IMO. With reference to the subjects identified in the IMO proposal, namely the fair treatment of seafarers detained on suspicion of committing maritime crimes, and cases of abandonment, it would be useful to develop guidelines or standard operating procedures to guide the action taken by port and flag States, although the adoption of specific rules or regulations should be avoided. Work on those key issues should start as soon as possible.
- 55. The Shipowner Vice-Chairperson** welcomed the proposal by the IMO to work with the ILO. Collaboration between the two agencies in the past, for example in 1999 and 2006, had produced valuable outputs and the cooperation during the pandemic offered a good omen. The establishment of tripartite working groups on both of the specific subjects outlined in the IMO proposal would be welcome, although the list of other potential subjects was very broad and some prioritization and clarification would be required. There was also a need for clarification concerning the rationale for proposing an umbrella standing group and

ad hoc specific groups, which seemed to be a complex approach. Further specification would also be needed on procedural issues, including the reporting lines of the working groups, their duration, composition, chairs and modalities (for example, whether they would work by correspondence or be sitting groups). Nor was it yet clear how the tasks of the working groups would impinge on the work of the STC, and it was important to ensure that there was no hindrance to the STC in fulfilling its mandate. The ILO secretariat could perhaps further develop the proposal and refer it back to the STC for consideration. It would be premature to adopt a resolution on the subject at the present meeting of the STC.

- 56. The Seafarer Vice-Chairperson** welcomed the positive proposal by the IMO for enhanced cooperation with the ILO, which reflected the exceptional degree of collaboration between both agencies during the course of the pandemic. Recognition of the need for the working group to be tripartite in composition was also positive, and should be a basic principle for any future working groups. He agreed with the Shipowner Vice-Chairperson that any bodies that were established should not interfere with or overlap the basic mandate of the STC in relation to the operation and improvement of the MLC, 2006. There was a clear need for collaboration and urgent work on the issues of the fair treatment for seafarers and abandonment, as illustrated by several recent cases, including in Egypt, Mauritius, Mexico and Sri Lanka, which bore witness to the severity and relevance of such incidents in the life of seafarers. Moreover, cases of the abandonment of seafarers had increased during the pandemic. Other issues also required urgent work, including fatigue due to overwork and excessive working hours, safe manning and the enforcement of existing rules. The key modalities of such a working group or groups should be development in a pragmatic manner.
- 57. A representative of the Government of Japan** expressed general agreement with the proposal to establish a joint working group, and called for careful consideration to be given to its terms of reference. The issues outlined in the IMO proposal were very broad, and included the urgent matters of the fair treatment of seafarers and abandonment, which would require attention by the joint working group very soon. The working group could then go on to discuss other issues outlined by the ILO or IMO.
- 58. A representative of the Government of the United States** noted that experience of participation in many ad hoc working groups showed that they were only successful when guided by very strict terms of reference agreed upon by their membership. In terms of the human element, there were a broad range of issues that fell outside the scope of the STC and that could benefit from joint IMO and ILO input. The creation of a broader standing group would ensure that work could be initiated in a timely manner, instead of having to obtain a new mandate from the respective statutory bodies on each occasion. The IMO proposal outlined a series of possible themes, from which the IMO and ILO would need to select specific tasks.
- 59. A representative of the Government of Portugal, speaking on behalf of the Member States of the EU,** welcomed the request made by IMO, which was intended to build on the cooperation with stakeholders developed during the pandemic on a number of aspects of the human element. It would be important to formulate clear terms of reference setting out the tasks and scope of the tripartite working group.
- 60. The observer representing the IMO,** in response to several requests for clarification, said that the IMO proposal contained an umbrella subject list and two specific issues that fell under that umbrella. The group or groups would not be “free for all”, but would only work on specific outputs agreed upon by the IMO and ILO, which could include guidelines or recommendations for amendments to ILO or IMO instruments. They would be expected to

work on a tripartite basis. It was hoped that guidelines on cases of the abandonment of seafarers could be completed by 2022, and those on the fair treatment of seafarers suspected of committing crimes by 2023. The proposal for a standing body was largely based on expediency as a shell into which specific tasks could be funnelled through the establishment of ad hoc working groups. Work could accordingly be initiated rapidly on such tasks without the need to seek a mandate on each occasion from the statutory bodies of both organizations. A standing working group would also allow better planning for the use of secretariat resources. What was being sought was guidance from the STC to report back to the IMO Legal Committee, so that ways could be found of moving forward with the ILO.

- 61. The Deputy Secretary-General** pointed out an inaccuracy concerning the document submitted by the IMO secretariat. This paper stated at paragraph 9, that at the Sectoral Meeting on the Recruitment and Retention of Seafarers held at the ILO in February 2019, the following recommendations had been agreed to: (1) ILO should strengthen its partnership with IMO on issues such as flag and port State control inspections and barriers to recruitment and retention of seafarers; and (2) ILO and IMO should establish an ILO/IMO tripartite working group to identify and address seafarers' issues and the human element, which would be submitted to the 337th Session of the Governing Body of ILO (October–November 2019) for its consideration. It was important to clarify that the establishment of the joint ILO–IMO working group had not been submitted to the Governing Body. The Governing Body had only approved the report of the meeting, authorized the Director-General to publish the final report of the meeting, and requested the Director-General to bear in mind, when drawing up proposals for future work, the recommendations for future action by the ILO made by meetings referred to in section I of GB.337/POL/2 (which included the Sectoral Meeting on Recruitment and Retention of Seafarers and the Promotion of Opportunities for Women Seafarers).
- 62.** During a discussion on how to move forward on the IMO request, the issue of timing was raised, including the possibility of preparing a draft resolution for consideration by the second part of the current meeting of the STC, which could then be submitted to the Governing Body for approval in June 2022. However, several speakers, including a **representative of the Government of Canada**, who was also the Vice-Chairperson of the IMO Legal Committee, considered that the two priority items identified in the IMO proposal were very time sensitive and a decision on the IMO proposal would therefore be welcome as early as possible. Work on the two priority issues would be significantly delayed if a proposal could not be considered by the IMO Legal Committee at its meeting in July 2022.
- 63. The Chairperson** noted the general support expressed for the IMO proposal. The tripartite nature of the proposed body was welcomed. There had been some discussion on priorities, with firm support for work on the two issues identified in the IMO proposal, namely fair treatment for seafarers detained on suspicion of committing maritime crimes and guidelines on how to deal with cases of seafarer abandonment. More clarity was required on the terms of reference, including the question of reporting, and whether that would be through the STC or directly to the Governing Body. Although it was suggested that the new body would sit outside the structure of the STC, matters relating to the MLC, 2006 should clearly remain with the STC.
- 64.** Following consultation between the Officers of the STC, the Chairperson proposed, in light of the discussion and the preference expressed for a pragmatic and expeditious response to the IMO request, that, with a view to drawing up a resolution recommending the establishment of the joint IMO–ILO working group and also setting out the precise terms of

reference of the new body, the Office would liaise with the IMO Secretariat and prepare a draft resolution in close consultation with, and under the overall guidance of, the Officers of the STC. Once a draft resolution had been finalized between the ILO and IMO secretariats, and approved unanimously by the Officers of the STC, it would be communicated to the STC members for possible adoption by correspondence. That was an exceptional decision-making method whereby STC members would be given a week to respond and indicate whether they approved the proposed text or objected to it, and in the latter case, whether they intended to block consensus or not. If consensus was not reached, the text would be circulated again for a formal vote by correspondence. If adopted by correspondence, the draft resolution would be included in the Chairperson's report, which would be submitted to the 343rd Session (October–November 2021) of the ILO Governing Body for consideration and decision, or alternatively to the 344th Session (March 2022), in the event that the proposals could not be agreed in time for its October–November session.

65. It was so agreed.

(c) Hours of work and rest: Presentation of a World Maritime University study

66. **The President of the World Maritime University (WMU)**, after briefly presenting the WMU as the premier global institution in maritime education and capacity building with a global network of alumni, emphasized that, despite the entry into force and widespread ratification of IMO and ILO instruments, fatigue was still a major issue among seafarers worldwide. The WMU had therefore decided to undertake a study on hours of work and rest and practices relating to the recording of hours of work in the maritime industry, with the support of the ITF Seafarers' Trust. The research had focused on three categories: seafarers, maritime stakeholders and Port State Control (PSC) officers. The objectives of the study in relation to seafarers were to examine on-board recording practices of hours of work and rest, identify implementation challenges and analyse the reasons for any adjustments in recording. With a view to integrating the social partners, broadening perspectives and comparing findings from different sources, other maritime stakeholders had also been included, such as representatives of shipping companies, professional organizations, trade unions and maritime casualty investigation bodies. Finally, PSC officers had been interviewed with a view to identifying enforcement challenges. Concurrent evidence had rapidly confirmed that the complaints by seafarers of adjustments of records of work and rest hours were commonplace. The research team had noted practices such as instructions to personnel to make up records and the use of software to edit and erase evidence of non-compliance. It had been found that seafarers feared reporting cases of non-compliance to shore-based management, as such feedback was often neglected or used to blacklist crew members, and seafarers feared for their jobs or bonuses. A general culture of the adjustment of records was prevalent in the industry, and was not confined to hours of work and rest. It appeared to be passed on from one generation to the next, with senior officers instructing cadets and junior officers to fake records to avoid inspection and improve performance indicators. The fake records hid the truth relating to the high levels of fatigue, which deeply affected morale and gave rise to operational issues. There was condemnation but little surprise at the situation, as the whole industry appeared to be aware of widespread violations, but accepted them as inevitable. The PSC officers interviewed acknowledged the issues of fatigue among seafarers and complacency in record-keeping, particularly of hours of work and rest. They emphasized that in the very short time available during inspections they were only able to verify a minimum number of items and that inspections rarely went

beyond initial requirements. Time constraints and the priorities established made it difficult to cross check and verify records. It could therefore be concluded that the normalization of the adjustment of records was tacitly accepted in the industry in what amounted to a systemic failure, with most seafarers failing to record their hours of work and rest accurately due to job insecurity, because they were offered incentives to do so, or out of fear of retaliation. The cause of the problem was widely considered by those interviewed to be the inadequacy of manning levels. There was a need to align the regulatory framework with operational conditions and for reliable evidence-based research to be undertaken concerning fatigue in the industry. There was clear evidence of chronic mistrust and conflicting agendas between shore and sea-based operations. The inspection regime would need to be reviewed, as the accuracy of the records was rarely verified. The study accordingly called for a reinforcement of implementation and enforcement, and a re-examination of the thresholds set out in Standard A2.3 of the MLC, 2006, and Code A-VIII/1 of the STCW, and of the two-watch system. The study raised very important concerns and issues, and it was critical to ensure that further attention was paid to improving implementation of the respective requirements.

- 67. The Seafarer Vice-Chairperson** emphasized that, as a former seafarer, he was shocked but not surprised by the findings of the study, which was full of revelations that could no longer be ignored. However, it should be acknowledged that seafarers shared some of the responsibility. Seafarers' organizations would therefore need to encourage their members to record accurately their hours of work and rest and to report violations using the reporting procedure in the ISM Code or the procedure provided for in the MLC, 2006. Seafarers needed protection against the very real possibility of victimization if they denounced such violations and refused to go along with the false recording of hours of work. Seafarers and their organizations expected to receive support from flag and port States and from the IMO and ILO, which should all work together to take up the challenge of addressing the issues relating to the hours of work and rest of seafarers and safe manning raised in the report. It was necessary to give seafarers the means to take control of their hours of work and rest. The use of software designed to undermine the system for the recording of the hours worked by seafarers was simply unacceptable. He hoped that a process would now begin of resolving the issues raised, through the ILO and the provisions in the MLC, 2006, as well as the IMO under the terms of the STCW. The focus on the human factor in the industry offered a good opportunity to address those important issues. On behalf of current seafarers and young people who were considering a career at sea, it was necessary to drop the obsession with technology intended to further reduce manning levels, and recognize that inadequate levels of manning were the core issue in relation to fatigue, stress and accidents at sea. Technology should aim to humanize and enhance living and working conditions on board ship, and assist and support humans in their endeavours to ensure the safe and environmentally friendly operation of shipping.
- 68. The Shipowner Vice-Chairperson** recalled that the WMU report consisted of research commissioned by a lobbying organization. It could not be considered genuine academic research and was necessarily one-sided as it was a paid-for piece of work. The starting point of the report was the under-reporting of hours of work and rest, which was insinuated to be a fact. The whole report was built on relatively weak evidence. There could well have been other starting points for the research, such as the close cooperation developed with the IMO to address the issues of safe manning levels and fatigue, with the development of guidelines on the subject in 2019. Another starting point could have been maritime accidents, for which statistics showed that the total number of casualties in 2020, at least for Europe, had fallen by 18 per cent in comparison with 2019, despite the pandemic, and

that the number of lives lost at sea had fallen by 48 per cent, except for fishing vessels. Pollution incidents at sea had fallen by 70 per cent since 2014. Why had such evidence been entirely ignored? There were serious issues regarding the methodology used for the study, based on interviews and study groups. A mere 20 seafarers had been interviewed, out of a workforce of 1.8 million. The researchers had also spoken to ten unions and there had been two focus groups, of which one consisted solely of ITF inspectors. In other words, the researchers had basically spoken to those who had paid for the research. And yet, the President of the WMU had made grave allegations of a “culture of adjustment”, not only in respect of hours of work and rest, but also records in many other areas, such as maintenance, drills, checklists, risk assessments and official logbook entries. The very wide-ranging allegations of normalized deviance were completely unfounded, and had to be refuted in the strongest terms. Moreover, the accusation that inspections failed to verify compliance and that the guidance and instructions for PSC regimes should be amended to include systematic verification of the accuracy of records called into question not the PSC regimes but the MLC, 2006. The report was clearly heading in the wrong direction. Finally, the report called for companies to establish a “genuine link” with their crews, which suggests that companies should only employ their own nationals. That appeared to suggest an approach involving nationalism and protectionism, to which shipowners were very strongly opposed and which had no place in the current discussions. By speaking of a “culture of adjustment”, the report was in practice accusing seafarers, shipowners, flag States and inspectors of being involved in systematic evasion, which amounted to organized crime, and as such did a great disservice to the trust and cooperation developed between stakeholders in the industry. The Shipowners did not accept blanket accusations that the vast majority of seafarers are involved in criminal deeds. Criminalization of seafarers is wrong, unfounded and unhelpful. With its lack of academic credibility, minimal database and incorrect accusations the report proved to be unusable.

- 69. The Government Vice-Chairperson** said that the Government representatives took the findings of the WMU report seriously. Issues of hours of work and rest were key aspects of working conditions on which the respective provisions of the MLC, 2006 and the STCW represented a delicate balance arrived at after many hours of negotiation and discussion. The requirements relating to hours of work and rest were not negotiable and complete alignment was required with the provisions of the MLC, 2006 and the STCW. However, enforcement of those provisions was not easy, and inspectors had only a short time available to verify compliance in many areas. The proposed joint working group could look into any misalignment related to the MLC, 2006, the STCW and other instruments, such as the ISM Code. Government representatives expressed broad appreciation of the WMU for undertaking the study. Addressing the problem effectively would require close cooperation between the ILO, IMO and other stakeholders, in order to ensure the alignment of regional instruments and consider possible amendments or other action. Certain Government representatives had raised the possibility of the clarification of the respective provisions of the MLC, 2006 and particularly Standard A.3. One possibility was that digital tracking and reporting technologies could be developed, which might go some way to resolving the problem. The Government representatives took note of the report and shared the concerns raised.
- 70. A representative of the Government of China** endorsed the statement by the Seafarers’ group and said that his country always attached great importance to the human element and the way in which it affected work at sea. China had adopted measures to prevent fatigue among seafarers. Joint research on hours of work and rest of seafarers in 2014 under the Tokyo and Paris MOUs had produced positive results. China had normalized intensive

inspections of daily hours of work and supported the integration of the recording of hours of work into work management systems based on the testing and development of innovative record-keeping systems to ensure authentic reporting. There were many causes of fatigue and consideration needed to be given not only to increasing manning levels, but also reducing workloads.

71. **A representative of the Government of the United States** welcomed the study, although she shared the concerns expressed regarding the population of seafarers surveyed. For both flag and port States, it was very hard to ensure the implementation of the requirements of the STCW. The most problematic issue was how to track hours of work and rest. The adoption of a rolling system made it impossible to know when a seafarer was working or was at rest. A related problem concerned the derogations permitted under both the STCW and the MLC, 2006, respecting hours of work and hours of rest, which made it almost impossible to track them.
72. **A representative of the Government of the United Kingdom** fully supported the report and its findings but acknowledged the points raised by the Shipowners concerning the numbers of seafarers interviewed for the study. The study raised concerns that had not really been fully addressed by the stakeholders, including the evidence that fatigue and long working hours contributed to accidents. The United Kingdom has previously called for more international action on fatigue and working hours and hoped the report would encourage genuine dialogue. The issues raised needed further discussion and research covering a greater number of seafarers and operators, and action should be taken and supported by all the tripartite stakeholders.
73. **A representative of the Government of Portugal, speaking on behalf of the Member States of the European Union**, acknowledged the findings of the study and noted with concern that the malpractices referred to were widely reported. Hours of work and rest were a fundamental issue, and seafarers had been affected by particular problems in that respect during the pandemic, when port authorities and shipowners had failed to comply with their obligations. The Member States of the European Union supported full compliance with all the provisions of the Convention and called for greater cooperation between stakeholders for that purpose.
74. **A representative of the Government of Norway** indicated that many of the issues raised in the study were very well known. It was clear that there were challenges relating to compliance with the regime for hours of work and hours of rest, especially in keeping registers and their verification by inspectors. However, the problem lay more in implementation, rather than in the basic requirements. The issue had been discussed extensively in the IMO and addressed through safe manning resolutions and more recently guidelines on the avoidance of fatigue. A regulatory solution would not be the best approach, as new regulations would give rise to further compliance issues. Action was required to change attitudes. He indicated that he did not agree with all of the recommendations of the study.
75. **A representative of the Government of the Philippines** expressed support for the aims of the study, which analysed the perceptions of the stakeholders and assessed barriers to the effective implementation of the requirements relating to hours of work and rest. Moving forward, consideration could be given to engaging with more inspection bodies, and not just recognized organizations (ROs). Continuous monitoring of practices on board ships could be powered by technology. The approach adopted should be forward-looking and applicable not only during the pandemic, but also in the new normal.

- 76. An observer representing the World Federation of Trade Unions (WFTU)** said that the rights of workers, including seafarers, were under attack in the context of the pandemic and the crisis of capitalism. The rights of shipowners in Greece were set out in national laws and the Constitution. Although the MLC, 2006 had been ratified by Greece and implemented through legislation, Greece, in the same way as other countries, had enacted the necessary laws to give effect to the binding provisions of the Convention, but not to the guidelines including, for example, those on equal remuneration. Moreover, recent legislation in Greece was seeking to undermine fundamental rights, including social security and trade union rights. Under the current Greek legislation, the hours of work on ships amounted to 72 hours a week over seven days. The resulting intensification of work was leading to an increased incidence of diseases, accidents and safety issues. Those conditions had been made much worse during the pandemic by restrictions on movement, with certain countries prohibiting seafarers from disembarking in their ports. The crisis affecting passenger shipping was resulting in an explosion of unemployment, with many of those affected lacking entitlement to unemployment benefits. The seafarers in Greece should be supported in their action to protest against their loss of rights, including through strikes.
- 77. The Seafarer Vice-Chairperson** expressed shock, not only at the findings of the report, but at the reaction of the Shipowner group. It should be recalled that the ITF family of unions represented over 1 million seafarers worldwide, who all confirmed the findings of the WMU study. Seafarers often worked as many as 91 or 98 hours a week, with the derogations permitted under the STCW aggravating the situation. Although the IMO called for safe levels of manning, the most recent reviews had not increased minimum manning levels. Indeed, existing flag State regimes were competing to set lower manning requirements. There were many reports and research confirming that fatigue was one of the major causes of accidents at sea. The Shipowner group had been right to raise the issue of criminality regarding the failure to keep adequate records of hours of work and rest, which was a very real cause of concern. There was also a culture of the adjustment of records to avoid paying overtime. ITF inspectors routinely collected US\$30 million in unpaid wages each year, one third of which consisted of unpaid overtime hours or unpaid hours of work. Such staggering levels of cheating and criminality meant that another appropriate title for the WMU study could have been “an inconvenient truth”. Despite all the positive cooperation between stakeholders in the industry over the past year in response to the pandemic, there was still a tendency to sweep inconvenient truths under the carpet. That could not continue. The issue of hours of work and rest needed to be addressed effectively, and it should not have required the present report to focus minds on proper compliance with the existing standards of the MLC, 2006 and the STCW. The WMU should be applauded for the study and for speaking the truth to those in power.
- 78. The President of the WMU** thanked the members of the STC for the opportunity to present the study, which had been carried out as objectively as possible, without favour or interference. The majority of seafarers were from the developing world and it was important to look clearly at the issues and how they could be addressed. The world depended on the maritime industry and both shipowners and seafarers recognized the value of seafarers coming from such a wide range of countries. She emphasized that, as an academic institution, the WMU, which was part of the IMO, was independent and objective. The WMU was self-financed and sought funding for all its work. It viewed issues with a critical eye as a contribution to ensuring the growth of a maritime industry that could offer opportunities for young seafarers.
- 79. A Professor of the WMU**, the main author of the report, welcomed the interesting comments and input from the members of the STC. Research had been carried out for many

years into the inconvenient truth of the adjustment of the recording of hours of work and rest, which had also been highlighted by casualty investigations. The research for the study had collected the views and experience of a wide range of stakeholders, including seafarers' and shipowners' organizations. It should be emphasized that what was being discussed was an ongoing issue, which had been highlighted by the pandemic. The systematic nature of the problem of fatigue was clearly a compliance issue. Such practices, which were recognized by other stakeholders, could not be justified.

- 80. The Shipowner Vice-Chairperson** refuted the unjustified allegations made by the observer representing the WFTU, which flew in the face of the spirit of cooperation shown by the stakeholders in the industry over recent months. Despite the series of accusations made during the discussion, and in the WMU report, it should be recalled that shipowners took great care to protect their own assets. If the allegations were true, the business model would be endangered. What advantage would be gained by overly fatiguing ships crews? In that regard, the interests of shipowners and seafarers were aligned. While the Shipowners were willing to examine and discuss improvements, that should not be done on the basis of such an ill-founded report.
- 81. The Chairperson** noted the recognition during the discussion that fatigue was a difficult issue to address. Government representatives had pointed out the difficulties of enforcing the rules, particularly in light of the complex possibilities for derogation. Very different views had been expressed on certain findings of the report, with support from some Government representatives and the Seafarer group and disagreement from the Shipowners. A suggestion had been made that more electronic recording of hours of work and rest could help to resolve the issues. The discussion could provide a basis for further reflection on possible solutions to improve the implementation of the current rules.

(d) **The MLC, 2006 and digitalization: Use of electronic documents**

- 82. The Government Vice-Chairperson** indicated that many Government representatives were very supportive of efforts to digitalize certificates for ships and seafarers and other documents issued by maritime administrations. Many countries that had already introduced digitalization strongly endorsed moving to electronic certificates. As the industry moved to a more digital environment, there would be an increasing need for harmonization and cooperation at the international level, including through the ILO and IMO. International guidance would be very helpful, for example for those countries facing the challenge of which certificates to prioritize for digitalization.
- 83. A representative of the Government of Denmark** strongly supported the introduction of digital certificates and highlighted the need to facilitate their acceptance and recognition at the international level. A register of documents could be provided so that seafarers could have access to all their documents, including medical certificates and certificates of competency, which would be available online through a smartphone or computer browser. However, an additional layer of security would be needed and digital signatures would have to be coded so that they could be traced. His country had been testing the use of digital certificates in collaboration with several countries at varying levels of development, with encouraging results. The provisions of the MLC, 2006 did not appear to restrict the use of electronic documents, although the development of international guidelines on the subject should be encouraged. The Government of Denmark would be ready to share good practices and experience on this matter.

84. **A representative of the Government of the Republic of Korea** encouraged the use of electronic certificates, which offered many benefits, provided that security was enhanced. It was vital to ensure the protection of seafarers' personal information and other data before envisaging digitalization on a global scale. Security levels should be determined in accordance with the IMO Convention on Facilitation of International Maritime Traffic (FAL).
85. **A representative of the Government of Panama** shared his country's positive experience and the steps implemented in digitalizing maritime documents, including the DMLC, Part II. In 2013, his country had started implementing electronic formats, and in 2016 had issued guidelines for QR codes to enable inspectors to verify the information contained in the declarations. By 2018, the Panama Maritime Administration had accredited 17 organizations to issue electronic certificates, including seafarer certificates in accordance with the provisions of the MLC, 2006. Since December 2020, the Panama Maritime Administration had issued over 90,000 electronic documents. Digitalization allowed for the immediate issuance and verification of electronic documents needed by inspectors, and it was user- and eco-friendly. The COVID-19 pandemic had accelerated digitalization.
86. **A representative of the Government of China** welcomed the discussion and supported the promotion of digital documents and electronic certificates. China had achieved significant developments in IT and had the largest number of Internet users in the world. The maritime department actively promoted the use of electronic certificates for ships and seafarers. The development of international guidelines based on the experience acquired could play an important role in overcoming the significant gap between levels of digitalization in the industry in the various countries. It was to be hoped that the ILO and other inter-governmental agencies could lay the basis for the further development of digitalization in the industry.
87. **A representative of the Government of France, speaking on behalf of the Member States of the European Union**, welcomed the discussion and noted that the digitalization of maritime documents would facilitate many processes and was in line with the European Digital Strategy. Data protection standards were of paramount importance, including the protection and recognition of electronic documents based on common guidelines. The rights of seafarers needed to be protected at all times when using electronic documents. Cooperation between the ILO and the IMO would be of the utmost importance in providing guidance and building on current best practice at the international level. The Paris MOU had also developed a digital strategy.
88. **A representative of the Government of Spain** said that his country was already making progress with the development and testing of digital solutions in the maritime industry. The experience had been very positive, including in carrying out inspections under the MLC, 2006. Where ships had Internet access, remote inspection could be envisaged, especially under conditions such as those experienced during the current pandemic.
89. **A representative of the Government of Singapore** offered to share information on his country's experience and progress in digitalizing maritime documents.
90. **A representative of the Government of the Philippines** said that the use of digitalization during the pandemic had improved levels of service, for example of manning agencies. It would be important to learn from the experiences of other countries, particularly in relation to the integration of procedures between the various agencies concerned, international interoperability and acceptance, and data security.

91. **The Shipowner Vice-Chairperson** warmly welcomed the strong endorsement during the discussion of the development and use of electronic documents and digital certificates. There had been a leap forward in the use of digitalization in the industry over the past year during the pandemic, thereby offering at least one positive outcome from a difficult year. Cooperation was essential at the international level in order to unify standards for digital documents, which would need to be in full compliance with the FAL Convention and guidelines and the MLC, 2006.
92. **The Seafarer Vice-Chairperson** thanked the Office for its review of the current situation with regard to digitalization. Although there was an inevitability about the development of technology, the past year had seen very rapid progress. Various tools existed to ensure the security and validation of digital documents and certificates, which had been shown to be efficient and reliable. Although the risk of forgery continued to exist, it was also a challenge for paper documents. One area of concern continued to be the protection of seafarers' personal data, including seafarers' identity documents, employment contracts and wage accounts. The documents concerned were all important for port and flag State inspections and, while access to them would clearly need to be controlled, access should not be denied to those with a genuine role in the industry, including seafarers, inspectors and other bodies that assisted seafarers.
93. **The Chairperson** welcomed the sharing of experience, much of which had been acquired over the past year. Emphasis had been placed during the discussion on the need for international standards and harmonization, particularly in accordance with the provisions of the FAL and the related guidelines. Concerns had been expressed regarding the security of personal data, although there was recognition that effective solutions existed. Moreover, despite digitalization, there remained the need for physical inspections by port and flag States to control the implementation of requirements relating to the living and working conditions of seafarers. Nothing in the MLC, 2006 appeared to prevent the use of electronic documents or digitalization.

▶ V. Review of maritime-related international labour standards

94. **The Chairperson** recalled that, at its first meeting in February 2016, the Standards Review Mechanism Tripartite Working Group (SRM TWG) had referred the review of 68 maritime instruments to the STC. In view of the number of Conventions and Recommendations to be reviewed, the Officers of the STC had decided to organize them into thematic groups and to carry out the review in two stages. A first group of 34 instruments had been examined by the third meeting of the STC, and a second group of 34 instruments was being presented to the fourth meeting (Technical Notes 11 to 19). In addition, five Conventions classified as "outdated" in 2018 would be reviewed once again by the STC (Technical Note 20).
95. **The Shipowner Vice-Chairperson** indicated that the standards under review might also have effects for fishing vessels that would need to be taken into account.

Review of six instruments relating to crew accommodation and recreation facilities

96. The review concerned the Accommodation of Crews Convention, 1946 (No. 75), the Accommodation of Crews Convention (Revised), 1949 (No. 92), the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), the Bedding, Mess Utensils and Miscellaneous Provisions (Ships' Crews) Recommendation, 1946 (No. 78), the Crew Accommodation (Air Conditioning) Recommendation, 1970 (No. 140), and the Crew Accommodation (Noise Control) Recommendation, 1970 (No. 141).¹
97. **The Government Vice-Chairperson** agreed with the proposed recommendations contained in Technical Note 11. It would be useful for the Office to provide information on the situation of ships that had been fitted according to the specifications of Conventions Nos 92 and 133 in the event of the abrogation of those instruments.
98. **A representative of the Government of Portugal, speaking on behalf of the Member States of the European Union**, indicated that some non-metropolitan territories of some Member States of the European Union were still bound by the provisions of Conventions Nos 92 and 133. Special considerations would therefore apply to those territories. She supported the proposed recommendations.
99. **A representative of the Government of France** indicated that the MLC, 2006 was not yet applicable in the French Southern and Antarctic Territories and French Polynesia. However, several ILO instruments for which abrogation, withdrawal or classification as outdated were proposed were applicable to the two territories and were important for their legal systems and the protection of seafarers. The Government of France was considering the possibility of extending the application of the MLC, 2006 to those territories, but was concerned by the time that would be needed to ensure the conformity of the local legislation and to undertake the respective reforms.
100. In response to a request for clarification, **the Clerk** (the Head of Maritime Unit), referring to Regulation 3.1, paragraph 2, of the MLC, 2006, indicated that, even following their possible abrogation, the requirements relating to ship construction and equipment that are set out in Conventions Nos 92 and 133 would continue to apply through the MLC, 2006, in relation to the ships constructed before the date of entry into force of the MLC, 2006 for the country concerned.
101. **The Shipowner Vice-Chairperson** agreed with the proposed recommendations. Conventions Nos 92 and 133 should remain in force until the countries that were currently bound by them were no longer covered. However, their abrogation in 2030 would allow the necessary time.
102. **The Seafarer Vice-Chairperson** indicated that, with reference to all of the instruments under review by the present meeting of the STC, where the recommendation was for outdated instruments to be abrogated or withdrawn, specific campaigns should be undertaken for the ratification of the MLC, 2006, or, where appropriate, the Work in Fishing Convention, 2007 (No. 188), directed at those countries still bound by the outdated instruments. The campaigns should include the necessary technical support for the ratification of the updated instruments and the ILO should report on the action taken at the

¹ See Technical Note 11.

next meeting of the STC. He agreed with the proposed recommendations in Technical Note 11.

103. The STC agreed on the following recommendations:

- (1) to classify Convention No. 75 as “outdated” and propose its withdrawal as soon as possible;
- (2) to classify Conventions Nos 92 and 133 as “outdated” and propose their abrogation at the 118th Session (2030) of the International Labour Conference and, in this regard:
 - (a) to encourage member States that are still bound by Conventions Nos 92 and 133 to ratify the MLC, 2006, which would involve the automatic denunciation of Conventions Nos 92 and 133;
 - (b) to encourage member States which have already ratified the MLC, 2006, but which remain bound by Conventions Nos 92 and 133 for non-metropolitan territories, to extend the application of the MLC, 2006, to those territories;
- (3) to classify Recommendations Nos 78, 140 and 141 as “outdated” and propose their withdrawal as soon as possible.

Review of two instruments relating to food and catering

104. The review concerned the Food and Catering (Ships’ Crews) Convention, 1946 (No. 68), and the Certification of Ships’ Cooks Convention, 1946 (No. 69).²

105. **The Government Vice-Chairperson** supported the proposed recommendations.

106. **A representative of the Government of the Bahamas** said that the abrogation of Convention No. 69 would give rise to a situation in which there were no minimum standards for the training of cooking personnel on ships. Although the ILO had issued very good guidance on the subject, ships cooks would be the only crew members for which there were no international requirements for their certification.

107. **A representative of the Government of Portugal, speaking on behalf of the Member States of the European Union**, indicated that some non-metropolitan territories of some Member States of the European Union were still bound by the provisions of Conventions Nos 68 and 69. Special considerations would therefore apply to those territories. She supported the proposed recommendations.

108. **The Shipowner Vice-Chairperson** also supported the proposed recommendations, but indicated that the recommended action might be relevant to fishing vessels.

109. **A Shipowner spokesperson** noted that the ICS had prepared guidance on the competences required for ships cooks, which was available on its website.

110. **The Seafarer Vice-Chairperson** supported the proposed recommendations.

² See Technical Note 12.

111. The STC agreed on the following recommendations:

- (1) to classify Conventions Nos 68 and 69 as “outdated”, and propose their abrogation at the 118th Session (2030) of the International Labour Conference;
- (2) to request the Office to launch an initiative to promote the ratification on a priority basis of the MLC, 2006, among those countries still bound by Conventions Nos 68 and 69;
- (3) to encourage States which have already ratified the MLC, 2006, but remain bound by Conventions Nos 68 and 69 in respect of non-metropolitan territories, to extend the application of the MLC, 2006, to those territories.

Review of three instruments relating to medical care

112. The review concerned the Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164), the Ships’ Medicine Chests Recommendation, 1958 (No. 105), and the Medical Advice at Sea Recommendation, 1958 (No. 106).³

113. The Government, Shipowner and Seafarer Vice-Chairpersons agreed with the proposed recommendations.

114. A representative of the Government of Portugal, speaking on behalf of the Member States of the European Union, indicated that Guideline B4.1 of the MLC, 2006 referred to the *International Medical Guide for Ships*, and other international guidance, which would fill any gaps in guidance resulting from the withdrawal of Recommendation No. 105 in respect of medical chests. On that basis, she supported the proposed recommendations.

115. The STC agreed on the following recommendations:

- (1) to classify Convention No. 164 as “outdated” and propose its abrogation at the 118th Session (2030) of the International Labour Conference;
- (2) to request the Office to launch an initiative to promote ratification on a priority basis of the MLC, 2006 and Convention No. 188 among those countries still bound by Convention No. 164;
- (3) to classify Recommendations Nos 105 and 106 as “outdated” and propose their withdrawal as soon as possible.

Review of one instrument relating to shipowners’ liability

116. The review concerned the Shipowners’ Liability (Sick and Injured Seamen) Convention, 1936 (No. 55).⁴

117. The Government, Shipowner and Seafarer Vice-Chairpersons agreed with the proposed recommendations.

118. A representative of the Government of Portugal, speaking on behalf of the Member States of the European Union, indicated that some non-metropolitan territories of some Member States of the European Union were still bound by the provisions of Convention No. 55. Special considerations would therefore apply to those territories. She supported the proposed recommendations.

³ See Technical Note 13.

⁴ See Technical Note 14.

119. The STC agreed on the following recommendations:

- (1) to classify Convention No. 55 as “outdated” and propose its abrogation at the 118th Session (2030) of the International Labour Conference;
- (2) to request the Office to launch an initiative to promote the ratification on a priority basis of the MLC, 2006, and, as the case may be, Convention No. 188 among those countries still bound by Convention No. 55;
- (3) to encourage the member State which has already ratified the MLC, 2006, but remains bound by Convention No. 55 in respect of a non-metropolitan territory, to extend the application of the MLC, 2006, to that territory.

Review of two instruments relating to health and safety protection and accident protection

120. The review concerned the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134), and the Prevention of Accidents (Seafarers) Recommendation, 1970 (No. 142).⁵

121. The Government, Shipowner and Seafarer Vice-Chairpersons agreed with the proposed recommendations.

122. A representative of the Government of Portugal, speaking on behalf of the Member States of the European Union, indicated that some non-metropolitan territories of some Member States of the European Union were still bound by the provisions of Convention No. 134. Special considerations would therefore apply to those territories. She supported the proposed recommendations.

123. The STC agreed on the following recommendations:

- (1) to classify Convention No. 134 as “outdated” and propose its abrogation at the 118th Session (2030) of the International Labour Conference;
- (2) to request the Office to launch an initiative to promote ratification on a priority basis of the MLC, 2006, and Convention No. 188 among those countries still bound by Convention No. 134;
- (3) to encourage the member State which has already ratified the MLC, 2006, but remains bound by Convention No. 134 in respect of a non-metropolitan territory, to extend the application of the MLC, 2006, to that territory;
- (4) to classify Recommendation No. 142 as “outdated” and propose its withdrawal as soon possible.

Review of four instruments relating to access to shore-based welfare facilities

124. The review concerned the Seafarers’ Welfare Convention, 1987 (No. 163), the Seamen’s Welfare in Ports Recommendation, 1936 (No. 48), the Seafarers’ Welfare Recommendation, 1970 (No. 138), and the Seafarers’ Welfare Recommendation, 1987 (No. 173).⁶

⁵ See Technical Note 15.

⁶ See Technical Note 16.

- 125. The Government, Shipowner and Seafarer Vice-Chairpersons, and a representative of the Government of Portugal, speaking on behalf of the Member States of the European Union,** agreed with the proposed recommendations.
- 126.** The STC agreed on the following recommendations:
- (1) to classify Convention No. 163 as “outdated” and propose its abrogation as soon as possible;
 - (2) to request the Office to launch an initiative to promote ratification on a priority basis of the MLC, 2006, among those countries still bound by Convention No. 163;
 - (3) to classify Recommendations Nos 48, 138 and 173 as “outdated” and propose their withdrawal as soon as possible.

Review of six instruments relating to social security

- 127.** The review concerned the Sickness Insurance (Sea) Convention, 1936 (No. 56), the Social Security (Seafarers) Convention, 1946 (No. 70), the Social Security (Seafarers) Convention (Revised), 1987 (No. 165), the Unemployment Insurance (Seamen) Recommendation, 1920 (No. 10), The Seafarers’ Social Security (Agreements) Recommendation, 1946 (No. 75), and the Seafarers (Medical Care for Dependants) Recommendation, 1946 (No. 76).⁷
- 128. The Government and Shipowner Vice-Chairpersons** agreed with the proposed recommendations.
- 129. A representative of the Government of Portugal, speaking on behalf of the Member States of the European Union,** indicated that some non-metropolitan territories of some Member States of the European Union were still bound by the provisions of Convention No. 56. Special considerations would therefore apply to those territories. She supported the proposed recommendations.
- 130. The Seafarer Vice-Chairperson** supported the proposed recommendations, but expressed certain caveats concerning Convention No. 56, which was no longer open to ratification. Regulation 4.5 of the MLC, 2006, and the corresponding provisions of Convention No. 188, did not go into the same level of detail concerning sickness insurance for seafarers as the provisions of Convention No. 56. He therefore called for a meeting to be held to develop guidance on social security in the maritime sector. He recalled that the Resolution concerning social security adopted by the 94th (Maritime) Session of the Conference in 2006 highlighted the need for effective social protection and social security for seafarers.
- 131.** The STC agreed on the following recommendations:
- (1) to classify Convention No. 56 as “outdated” and propose its abrogation at the 118th Session (2030) of the International Labour Conference and:
 - (a) to request the Office to launch an initiative to promote the ratification on a priority basis of the MLC, 2006, and Convention No. 188 among those countries still bound by Convention No. 56; and
 - (b) to encourage the two States which have already ratified the MLC, 2006, and Convention No. 188, but remain bound by Convention No. 56 in respect of non-metropolitan territories, to extend the application of the MLC, 2006, and of Convention No. 188 to those territories;

⁷ See Technical Note 17.

- (2) to classify Conventions Nos 70 and 165 and Recommendations Nos 10, 75 and 76 as “outdated” and propose their withdrawal as soon as possible.

Review of eight instruments relating to compliance and enforcement

- 132.** The review concerned the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (P147), the Labour Inspection (Seafarers) Convention, 1996 (No. 178), the National Seamen’s Codes Recommendation, 1920 (No. 9), the Labour Inspection (Seamen) Recommendation, 1926 (No. 28), the Social Conditions and Safety (Seafarers) Recommendation, 1958 (No. 108), the Merchant Shipping (Improvement of Standards) Recommendation, 1976 (No. 155), and the Labour Inspection (Seafarers) Recommendation, 1996 (No. 185).⁸
- 133. The Government Vice-Chairperson** supported the proposed recommendations for all the instruments, but expressed certain doubts concerning the proposal to abrogate Convention No. 147. Several member States were still bound by the instrument and had not yet ratified the MLC, 2006. In their case, Convention No. 147 provided the basis for their legal regimes in areas such as inspection.
- 134. A representative of the Government of Portugal, speaking on behalf of the Member States of the European Union,** indicated that some Member States were still bound by the provisions of Convention No. 147. Special considerations would therefore apply to those member States, which should be provided with support to facilitate the ratification of the MLC, 2006.
- 135. A representative of the Government of the United States,** recalling that her country was bound by Convention No. 147, but was not a party to the MLC, 2006, said that Convention No. 147 provided a legal framework for the adoption of measures in such areas as inspection, the receipt and examination of complaints by seafarers, health and safety and hazard prevention. If the Convention were to be abrogated, the States parties to it would have a reduced ability to address complaints by crew members and reports of health and safety hazards. Moreover, abrogation would remove the requirement to report on the application of the Convention and supervision by the CEACR would cease. Convention No. 147 therefore continued to be of value.
- 136. The Shipowner Vice-Chairperson** took careful note of the concerns expressed by the representative of the Government of the United States, which would also apply to other States that remained bound by Convention No. 147. The Convention retained a certain importance for seafarers and the international community and, although the ratification of the MLC, 2006, by the States concerned would represent progress, the situation with regard to Convention No. 147 should be reviewed again before it was proposed for abrogation. He agreed with the other proposed recommendations, including the recommendations to encourage member States that were still bound by Convention No. 147 to ratify the MLC, 2006, and to extend the application of the MLC, 2006, to any non-metropolitan territories to which it had not been declared applicable.

⁸ See Technical Note 18.

- 137. The Seafarer Vice-Chairperson** agreed that the priority was to encourage the ratification of the MLC, 2006, and Convention No. 188. Efforts should be made by those States that were still bound by Convention No. 147 to remove any obstacles that were preventing the ratification of the MLC, 2006, and the Office should engage with them for that purpose. It should also be recalled that, once a Convention had been ratified and provisions adopted at the national level, those provisions remained in force. The principle of non-regression applied to all ratified instruments. However, he agreed that the status of Convention No. 147 could be reviewed at one of the next meetings of the STC.
- 138.** Following further discussion concerning scheduling, **the Secretary-General** suggested that the recommendation could be to review the situation with regard to Convention No. 147 at the sixth meeting of the STC in order to decide on its possible abrogation or withdrawal.
- 139.** It was so agreed and the STC agreed on the following recommendations:
- (1) to classify Convention No. 147 as “outdated” and review the situation of this Convention at the sixth meeting of the STC in order to decide on its possible abrogation or withdrawal and, in this regard:
 - (a) encourage member States that are still bound by Convention No. 147 to ratify the MLC, 2006, which would involve the denunciation ipso jure of Convention No. 147;
 - (b) encourage member States that have already ratified the MLC, 2006, but which remain bound by Convention No. 147 only for non-metropolitan territories, to extend the application of the MLC, 2006, to those territories;
 - (2) to classify Protocol No. 147 as “outdated” and propose its withdrawal as soon as possible;
 - (3) to classify Convention No. 178 as “outdated” and propose its withdrawal as soon as possible. In this respect, the ratification of the MLC, 2006 and of Convention No. 188 by the member State still bound by Convention No. 178 should be encouraged;
 - (4) to classify Recommendations Nos 9, 28, 108, 155 and 185 as “outdated” and propose their withdrawal as soon as possible.

Review of two Conventions not revised by the MLC, 2006

- 140.** The review concerned the Seafarers’ Pensions Convention, 1946 (No. 71), and the Seafarers’ Identity Documents Convention, 1958 (No. 108).⁹
- 141. The Government Vice-Chairperson** agreed with the proposed recommendation for Convention No. 71, but noted that certain countries were still bound by Convention No. 108. While acknowledging that the Seafarers’ Identity Documents Convention (Revised), 2003, as amended (No. 185), was the up-to-date instrument respecting seafarers’ identity documents, several countries had indicated that they faced difficulties in giving effect to Convention No. 185 and did not agree with the proposal to abrogate Convention No. 108. Although the Government representatives broadly agreed with the proposal to convene a meeting of experts on Convention No. 185, there was a diversity of views on the proposal to encourage member States that were still bound by Convention No. 108 to ratify Convention No. 185.

⁹ See Technical Note 19.

- 142. A representative of the Government of Portugal, speaking on behalf of the Member States of the European Union**, indicated that some non-metropolitan territories of some Member States were still bound by the provisions of Conventions Nos 71 and 108. Special considerations would therefore apply to those member States. While supporting the proposed recommendation for Convention No. 71, Convention No. 185 was still only sparsely ratified and it might be better to review the situation with regard to Convention No. 108 at a later stage. A meeting of experts could be held to review the implementation of Convention No. 185.
- 143. The Shipowner Vice-Chairperson** considered that Convention No. 71 should be maintained. Moreover, in view of the lack of ratifications of Convention No. 185, Convention No. 108 should be maintained for the foreseeable future. He supported the proposal to convene a tripartite meeting of experts to examine the challenges relating to the implementation and ratification of Convention No. 185.
- 144. The Seafarer Vice-Chairperson** supported the proposed recommendation concerning the abrogation of Convention No. 71 and welcomed the proposal to convene a tripartite meeting of experts. However, seafarers' pensions were an important issue regarding social protection and he recalled his request concerning Technical Note 17 and that issues relating to social protection could be included within the remit of the meeting of experts. He also agreed that the proposal to abrogate Convention No. 108 was premature and with the proposal to convene a meeting of experts. Convention No. 108 was outdated, but there were not yet enough ratifications of Convention No. 185.
- 145. A representative of the Government of Norway** recalled that Convention No. 108 was still quite widely ratified and it could not be taken for granted that all the States that were currently parties to Convention No. 108 would go on to ratify Convention No. 185. He added that, during the preparatory negotiations concerning the MLC, 2006, it had been decided, at the request of the Seafarers, not to include Convention No. 71 among the instruments to be revised by the consolidated instrument. Although it was important to ensure the provision of pensions for seafarers, under the terms of Standard A4.5 of the MLC, 2006, social security protection had to be provided for seafarers in at least three of the nine branches listed, which meant that ratifying States could exclude the pensions branch. The issue clearly deserved attention, but it was doubtful that it would be realistic at present to develop a new instrument on seafarers' pensions, or to revise Convention No. 71.
- 146. The Seafarer Vice-Chairperson** said that the reason for the proposal to abrogate Convention No. 71 was its low rate of ratification. He recalled that the reason that Convention No. 71 had not been included in the list of instruments to be updated by the MLC, 2006, was the fear that the inclusion of mandatory provisions on pensions in the Convention could prevent agreement on the instrument. However, seafarers were often excluded from shore-based social security schemes, and further discussion was needed on the action to be taken in that regard.
- 147. The Shipowner Vice-Chairperson** considered that very broad support would be needed from Government representatives for any initiative to adopt an instrument on seafarers' pensions, and such support did not appear to exist.
- 148. A representative of the Government of France, speaking on behalf of the Member States of the European Union**, noted that Convention No. 71 was fairly old and had only been ratified by a few member States. He therefore agreed with the proposed recommendation to classify the Convention as requiring further action to ensure continued

and future relevance, as it was now difficult to envisage widespread ratification of the instrument.

149. The Secretary-General noted that, during the previous review of ILO instruments, Convention No. 71 had been classified as requiring revision, particularly since some of its provisions no longer reflected modern approaches to social security. The proposed meeting of experts would be intended to share experience concerning the implementation of the Convention and the reasons for its low ratification rate, rather than considering the possibility of developing a new instrument. If there was no firm view on the status of the Convention, the STC could make a recommendation to defer the review of its status until after the tripartite meeting of experts had been held. In response to a request for clarification, she indicated that the financing of such a meeting would fall under the review of standards.

150. The STC agreed on the following recommendations:

- (1) concerning Convention No. 71, the STC recommends the Governing Body to convene a tripartite meeting of experts aimed at sharing knowledge concerning the implementation of the Convention and the reasons for the non-ratification of the instrument, so as to determine the action to be taken and review the situation of this Convention at the sixth meeting of the STC;
- (2) to classify Convention No. 108 as “outdated” and review the situation of this Convention at the sixth meeting of the STC in order to decide on its possible abrogation or withdrawal. In this regard, the STC recommends:
 - (a) to encourage member States that are still bound by Convention No. 108 to ratify Convention No. 185;
 - (b) to encourage the member State that has already ratified Convention No. 185, but which remains bound by Convention No. 108 for non-metropolitan territories, to extend the application of Convention No. 185 to those territories; and
 - (c) to convene a tripartite meeting of experts on Convention No. 185 to examine the challenges that remain for its implementation and ratification, and to determine the action to be taken as soon as possible.

Review of five instruments classified as “outdated” by the STC in 2018 and submitted for further review

151. The review concerned the Seamen’s Articles of Agreement Convention, 1926 (No. 22), the Repatriation of Seamen Convention, 1926 (No. 23), the Minimum Age (Sea) Convention (Revised), 1936 (No. 58), the Seafarers’ Annual Leave with Pay Convention, 1976 (No. 146), and the Repatriation of Seafarers Convention (Revised), 1987 (No. 166).¹⁰

152. The Government, Shipowner and Seafarer Vice-Chairpersons agreed with the proposed recommendations.

153. A representative of the Government of France, speaking on behalf of the Member States of the European Union, indicated that some non-metropolitan territories of some Member States were still bound by the provisions of Convention No. 58. Special

¹⁰ See Technical Note 20.

considerations would therefore apply in those cases. Emphasis should be placed on the global efforts to combat child labour and the importance of ensuring strict compliance with minimum age requirements.

154. The STC agreed on the following recommendations:

- (1) to propose the abrogation of Convention No. 22 at the 118th Session (2030) of the International Labour Conference and, in this regard, to:
 - (a) to encourage once again the States still bound by this Convention to ratify the MLC, 2006. This would result in the automatic denunciation of Convention No. 22;
 - (b) to encourage once again the States which have already ratified the MLC, 2006, but remain bound by Convention No. 22 in respect of non-metropolitan territories, to extend the application of the MLC, 2006, to those territories;
- (2) to propose the abrogation of Conventions Nos 23 and 166 at the 118th Session (2030) of the International Labour Conference and, in this regard:
 - (a) to encourage once again States still bound by this Convention to ratify the MLC, 2006. This would result in the automatic denunciation of Conventions Nos 23 and 166;
 - (b) to encourage once again States that have already ratified the MLC, 2006, but remain bound by Convention No. 23 in respect of non-metropolitan territories, to extend the application of the MLC, 2006, to those territories;
- (3) to propose the abrogation of Convention No. 58 at the 118th Session (2030) of the International Labour Conference and, in this regard:
 - (a) to encourage States still bound by this Convention to ratify the MLC, 2006. This involves the automatic denunciation of Convention No. 58;
 - (b) to encourage States that have already ratified the MLC, 2006, but remain bound by Convention No. 58 in respect of non-metropolitan territories, to extend the application of the MLC, 2006, to those territories;
 - (c) to encourage States still bound by Convention No. 58 that have ratified the Minimum Age Convention, 1973 (No. 138), specifying a minimum age of 14 years to:
 - (i) set a minimum age of at least 16 years, in accordance with Standard A1.1, paragraph 1, of the MLC, 2006; or
 - (ii) for those that have set the minimum age for maritime labour at 18 years, to send a declaration to the Office stating that Article 3 of Convention No. 138 is applicable to maritime labour. Following the recommendations under (i) and (ii) would result in the automatic denunciation of Convention No. 58;
- (4) to propose the abrogation of Convention No. 146 during the 118th Session (2030) of the International Labour Conference and, in this regard:
 - (a) to encourage States still bound by this Convention to ratify the MLC, 2006. This would result in the automatic denunciation of Convention No. 146;
 - (b) to encourage States that have already ratified the MLC, 2006, but remain bound by Convention No. 146 only in respect of non-metropolitan territories, to extend the application of the MLC, 2006, to those territories.

- 155. A Shipowner spokesperson** noted that several of the instruments reviewed were still applied in the fishing sector by several countries. Such countries should be actively targeted by ILO action to promote their ratification of Convention No. 188.
- 156. The Seafarer Vice-Chairperson** supported the comments of the spokesperson of the Shipowner group.
- 157. The Secretary-General** indicated that the Office was already committed to promoting the ratification of Convention No. 188, and it made sense to target such action at countries currently applying outdated instruments. She added that, as part of the standards review process, the ratification was being promoted of a large body of up-to-date standards with funds from the regular budget. Up-to-date maritime instruments were included in that action.
- 158. The Chairperson** noted that the STC had agreed with the proposed recommendations for most instruments, but had agreed on further action in relation to Conventions Nos 71, 108 and 147, the status of which would be reviewed at the sixth meeting of the STC. Emphasis had been placed on the importance of encouraging and supporting the ratification of the MLC, 2006, by countries that had not yet done so. The comments concerning the application of the instruments under review in the fishing sector and the need to promote the ratification of Convention No. 188 were noted.

▶ VI. Consideration of draft resolutions

- 159.** The Committee considered two draft resolutions submitted in accordance with the time limits set by the Officers.

(a) Draft resolution concerning the implementation and practical application of the MLC, 2006, during the COVID pandemic

- 160.** The draft resolution was submitted by the Seafarer and Shipowner groups.
- 161. A Seafarer spokesperson,** introducing the draft resolution, recalled that Article I, paragraph 2, of the Convention required cooperation between ratifying States to ensure its effective implementation and enforcement of the rights of seafarers. Notwithstanding the pandemic, which had not been foremost in the minds of those drafting the instrument, there was no provision in the Convention for its provisions to be abrogated or deviated from in times of emergency. Moreover, the Convention was binding on all the authorities of member States, and not just their maritime authorities, and it was the obligation of all national administrations to ensure that full effect was given to its provisions. The draft resolution called on the ILO to renew the call for seafarers to be designated as key workers, for their right to travel to be ensured, with exemption from quarantine requirements, the provision of medical and dental treatment ashore and to ascertain that they were not required to stay on board longer than the period specified in their employment agreement.
- 162. The Seafarer Vice-Chairperson** added that the draft resolution was intended to ensure that a commitment was made to follow up the good intentions expressed during the meeting and ensure that the violations of seafarers' rights that had occurred during the pandemic would not be repeated.

- 163. The Chairperson** recalled that the drafting group had worked hard on both resolutions that were before the STC and had reached agreement on most points, but had left certain issues that required further examination within square brackets. She drew attention to the square brackets contained in subparagraph (i) of the first operative paragraph.
- 164. The Shipowner Vice-Chairperson** said that the MLC, 2006, did not envisage any restrictions on the movement of seafarers, who needed to be able to travel to carry out their work. He therefore proposed the removal of the words “any unnecessary or disproportionate”, which were in square brackets.
- 165. The Seafarer Vice-Chairperson** emphasized the importance of seafarers in keeping global supply chains moving and agreed with the deletion of the words within square brackets.
- 166. The Government Vice-Chairperson** agreed with the removal of the words between square brackets.
- 167. A representative of the Government of Portugal, speaking on behalf of the Member States of the European Union**, said that, despite her concern at the situation of the hundreds of thousands of seafarers affected by restrictions imposed as a result of the pandemic, the words within square brackets should be retained to offer a more balanced text. Any measures that were required during the pandemic should be transparent and temporary. The retention of the words in square brackets was also supported by the representatives of the Governments of France, Italy, Japan, Norway and the United States.
- 168. A representative of the Government of the United Kingdom** reminded the members of the STC that the text of a resolution was not legally binding on governments, and was aspirational in setting out the best efforts that should be made. All governments should be supportive of working towards those goals.
- 169. The Chairperson**, in light of the difference of views, suggested that the subparagraph should end after the words “their place of work”.
- 170. The Seafarer Vice-Chairperson** indicated that the proposal by the Chairperson gave rise to substantial difficulties, but could be accepted in a spirit of compromise.
- 171.** It was so agreed.
- 172. The Government Vice-Chairperson**, with reference to subparagraph (iii), said that the Government representatives supported the idea behind the text. Most of them also supported the current proposed wording, although some would prefer an earlier version of the text which had called for a negative COVID-19 test.
- 173. The Shipowner Vice-Chairperson** urged the STC not to insist on the requirement of a negative test, which would give rise to logistical problems. For example, if the test result took 48 hours to be returned and the transit time of the ship was 48 hours, crew members would be unable to disembark.
- 174. Representatives of the Governments of Norway and Portugal** agreed with the Shipowner Vice-Chairperson.
- 175. A representative of the Government of Japan** considered that the proposed wording, “except where they test positive for COVID-19”, could give rise to difficulties in the case of seafarers who had not yet received the results of their tests, but who in the end tested positive.

176. Following further discussion, in which it was emphasized that the text of the resolution was aspirational and not binding upon governments, it was agreed to accept the text proposed by the drafting committee.
177. **A representative of the Government of the Republic of Korea**, with reference to the last operative paragraph, noted that the scope of the proposed ad hoc United Nations inter-agency task force would go beyond the MLC, 2006, and therefore proposed to replace the words “MLC, 2006” by the words “the international regulatory framework”.
178. **A representative of the Government of the United States** said that the proposed modification by the representative of the Government of the Republic of Korea went beyond the competence of the STC, and that she therefore preferred the original wording.
179. **A representative of the Government of Norway** supported the view of the representative of the Government of the United States.
180. **The Seafarer Vice-Chairperson**, while seeing the value of the proposed amendment, preferred to retain the current wording, which enjoyed broad support.
181. It was so agreed.
182. **A representative of the Government of the United States** indicated that the term “Members” used in the preambular paragraphs should be replaced by “ratifying States”, as the MLC, 2006 was only binding on States which had ratified the Convention.
183. It was so agreed and the STC adopted the resolution, as amended. The resolution, as adopted, is contained in Appendix II.

(b) Draft resolution concerning COVID-19 vaccination for seafarers

184. The draft resolution was submitted by the Government of Cyprus.
185. **A representative of the Government of Cyprus** indicated that the draft resolution was intended to offer a pragmatic and realistic solution to a very real problem faced by seafarers through the adoption of a cooperative and collective approach. It focused on seafarers who were on shore, as it was easier for them to be vaccinated before they went on board. When seafarers had been on a ship for over two weeks, the ship could be considered as a COVID-free bubble. The resolution also proposed a mapping exercise to identify the numbers of seafarers in need of vaccination to assist in the procurement of the required vaccine supplies.
186. **The Government Vice-Chairperson** reported a divergence of views between Government representatives. Many felt that the draft resolution, in both its preambular and operative parts, went beyond the mandate of the STC. Moreover, the question arose of whether the draft resolution referred only to seafarers, or also included fishers and offshore workers. In contrast, other Government representatives strongly supported the text as refined by the drafting committee.
187. **The Legal Adviser**, in response to the comments made by the Government Vice-Chairperson, said that the mandate of the Committee was quite broad, as it included keeping the operation of the Convention under review. It should be recalled that the Convention covered such issues as safety and health. In that regard, it should also be recalled that resolutions were aspirational and gave expression to the collective will of the constituents concerned. If the text of the resolution were to be approved by the Governing

Body, it would be intended for the guidance of constituents, but would not and could not create any legally binding obligations. With regard to the personal scope of the resolution, this should be understood within the meaning of Article II of the MLC, 2006, according to which the Convention applies to all seafarers but not to fishers.

188. **The Shipowner Vice-Chairperson** thanked the Government of Cyprus for proposing a very important resolution. Vaccines were part of the medical care covered by Regulation 4.1 of the Convention with a view to protecting the health of seafarers, and they clearly fell within the purview of the Convention and the remit of the STC.
189. **The Seafarer Vice-Chairperson** agreed that the draft resolution went to the heart of the obligations of member States to maintain the health and safety of seafarers. Vaccinations were a routine requirement for seafarers and the draft resolution was very much within the remit of the Committee. Although resolutions did not create binding commitments, they were meaningful statements of intent and direction.
190. **A representative of the Government of Denmark** fully supported the views expressed by the social partners concerning the importance of the vaccination of seafarers. Vaccination was a way out of the pandemic and vaccines were needed to facilitate travel. However, the draft resolution covered matters that did not lie within the competence of the STC. Vaccines were a matter for health authorities, and the WHO.
191. **A representative of the Government of Sweden**, while fully appreciating the importance of vaccinations for seafarers and to keep the global economy moving, agreed with the representative of the Government of Denmark.
192. **A representative of the Government of Finland** indicated that seafarers had been designated as key workers in her country and expressed support for freedom of movement and vaccination as a way out of the current situation, but considered that vaccination campaigns were a matter for member States and therefore she fully supported the comments made by the Government representatives of Denmark and Sweden.
193. **A representative of the Government of the United States** said that in her country the coverage of seafarers by the vaccination campaign was a matter for individual States. She could not support the draft resolution in its present form.
194. **A representative of the Government of Panama** did not feel that the draft resolution was appropriate. Panama was working hard to provide vaccines for its seafarers, but difficulties arose with seafarers from other countries. For example, would they have to stay in the country long enough to receive a second dose?
195. **A representative of the Government of Portugal**, while supporting the intent of the draft resolution and emphasizing the efforts made in her country to ensure the vaccination of seafarers, could not support the present wording of the text.
196. **A representative of the Government of the Netherlands**, while fully supporting the rights of seafarers as key workers, considered that the draft resolution was not within the remit of the STC, and covered matters more within the purview of the WHO.
197. **A representative of the Government of the Philippines** supported the principle of seafarers being designated as key workers and their right to safety and health. He supported the principle of an international vaccination campaign for seafarers.

- 198. A representative of the Government of France** welcomed the proposals made by the Government of Cyprus. The French Government was doing all it could to provide vaccines for the population, but at present the demand was too high to offer vaccination to seafarers calling in at French ports.
- 199. A representative of the Government of the United Kingdom** supported the draft resolution and indicated that the vaccination of seafarers fell under the general healthcare provisions of the Convention. The vaccination campaign in the United Kingdom covered all those who were legally in the country. He recognized that restrictions on shore leave could make it difficult for seafarers to have access to vaccines.
- 200. A representative of the Government of Dominica** expressed surprise at the opposition to the draft resolution, which constituted a humanitarian initiative in support of those who were ensuring the delivery of goods and services to the countries of the world, and who had in some cases been enslaved for up to two years.
- 201. A representative of the Government of Malaysia** supported the draft resolution and the assignment of priority to seafarers in the vaccination programme, which would ensure the minimum level of disruption to crew changes.
- 202. A representative of the Government of Indonesia** supported the draft resolution and emphasized the importance of an international vaccination programme for seafarers as key workers.
- 203. The Shipowner Vice-Chairperson** welcomed the broad support expressed for the draft resolution, which was intended as a recommended practice. It did not oblige all countries to provide vaccinations for foreign seafarers. However, later in the year, when it was to be hoped that countries would be in a better position to give priority to seafarers, if only half of the countries in the world did so, the situation would still be much better.
- 204. The Seafarer Vice-Chairperson** recalled that the majority of seafarers came from countries which were suffering badly from the pandemic and which were struggling with access to vaccines. A coordinated approach to the vaccination of seafarers would appear to be logical, for example through the establishment of special vaccination hubs, without impinging on national sovereignty. It was to be hoped that governments would see the resolution as a positive move.
- 205. A representative of the Government of Canada** fully supported the vaccination of seafarers. However, the third operative paragraph of the draft resolution caused some concern in its current wording. The question arose of how cooperation could be organized between ports to ensure that seafarers received two doses of the vaccine.
- 206. A representative of the Government of the United States** suggested that the difficulty expressed by the previous speaker might be overcome by changing the wording in the third operative paragraph from “taking into account their national vaccination programmes” to “in accordance with their national vaccination programmes”.
- 207. The Shipowner Vice-Chairperson**, although preferring the original wording, could agree to the proposed modification as a compromise.
- 208.** It was so agreed.
- 209. A representative of the Government of Japan** noted with regard to the two options left in square brackets for the final operative paragraph that the wording of the second option was very similar to wording that had been adopted in the first draft resolution examined by the STC. He suggested that the same wording could be adopted in the present resolution,

namely "Calls upon Members to ensure that seafarers are provided with access to COVID-19 vaccination at the earliest opportunity."

210. It was so agreed.

211. The Chairperson, noting that the majority of the Committee supported the text of the resolution as agreed above, asked whether the Committee was in a position to adopt the resolution as a whole.

212. It was so agreed. The resolution, as adopted, is contained in Appendix III.

▶ VII. Any other business

Nomination of the Officers of the Committee

213. In accordance with article 6(2) of its Standing Orders, the Government members of the STC decided to nominate to the Governing Body Mr Martin Marini (Singapore) for appointment as Chairperson of the STC for the three-year period 2021–2024.

214. In accordance with article 6(3) of its Standing Orders, the STC appointed the following representatives as Vice-Chairpersons for the STC for the same period:

Vice-Chairpersons: Mr Yasuhiro Urano (Government member, Japan)
Mr Dirk Max Johns (Shipowner member, Germany)
Mr Mark Dickinson (Seafarer member, United Kingdom)

215. The STC agreed to recommend to the Governing Body that the term of the newly appointed Officers starts, exceptionally, after the end of the second part of the fourth meeting of the STC. The term of the current Officers would, as a result, be extended accordingly.

Date of the second part of the fourth meeting of the Special Tripartite Committee

216. It was agreed that the second part of the fourth meeting of the STC would be held from 25 to 29 April 2022. The deadline for the submission of proposed amendments to the MLC, 2006, would be 11 October 2021.

▶ VIII. Closure of the meeting

Statements concerning the recent imposition of further travel restrictions

217. The Shipowner Vice-Chairperson, on the last day of the meeting, noted with very great concern that throughout the week a growing number of governments around the world had introduced a number of strict travel restrictions that applied to seafarers and severely restricted free movement once again, thereby hindering crew changes. During the week, over 300 delegates from around the world had met to support and strengthen the living and working conditions of seafarers under the terms of the MLC, 2006, which should be a

strong and consistent Convention to ensure respect for seafarers' working and living conditions. Unfortunately, it had been seen that several governments had felt obliged during the course of the week to reinstate emergency measures to mitigate the health risks resulting from a new wave of the pandemic and concerns relating to a new COVID variant. Those measures would now have an immediate effect on the restriction of travel. That once again directly affected seafarers, repatriation and crew changes and placed a substantial risk on the maintenance of the global supply chain. The Shipowners were extremely concerned as they had hoped to overcome major hurdles, which were now back again. They understood that no one who came to the meeting wished to name and shame anyone. Everyone had been exposed to unprecedented circumstances. But the Shipowners believed that the new restrictions imposed during the week showed how important it was to work together to resolve the current impasse, and in particular to avoid seafarers once again bearing the brunt of the new spike in cases. They urged those governments that had felt it necessary to impose new restrictions on entry over the past few days to ensure that seafarers, as essential key workers, were exempted, providing they followed the agreed framework of protocols for safe crew changes.

- 218. The Seafarer Vice-Chairperson** associated his group with the statement by the Shipowners.
- 219. A representative of the Government of China** acknowledged the concern expressed with regard to seafarers. With reference to the restrictions on the movement of Indian seafarers in relation to the Hong Kong Special Administrative Region (China) and China, he indicated that the need had arisen to impose restrictions on movement from high-risk areas, including on flights from India. The restrictions were public health measures and it was hoped that the pandemic would end in the very near future.
- 220. A representative of the Government of India** noted that restrictions had recently been imposed by certain governments on the movement of ships and seafarers from India. He assured the Committee that standard operating protocols were being followed, including the sanitization of ships and the application of other protective measures. The restrictions were unfortunate as they restricted travel by key workers.
- 221. A representative of the Government of Singapore** indicted that border measures had been introduced by the Ministry of Health in light of the situation in India, where there was concern with regard to the spread of new COVID variants within the local community. Imported cases had been found from India, which risked widespread community transmission. Border measures for travellers who had recently visited India had therefore been tightened. Within the last day, other countries had also tightened border measures. From midnight on 23 April, all long-term pass holders and short-term visitors with a recent travel history to India within the past 14 days would not be allowed to enter or transit through Singapore. In accordance with those measures, Singapore would restrict changes of crew with a recent travel history to India. He recalled that Singapore had kept its port open, even during the early stages of the pandemic in 2020, and had since facilitated over 128,000 crew changes, irrespective of the nationalities of the crew and the flag of the vessels. The crew change procedures would continue to be reviewed and enhanced to ensure that crew who were signed on board in Singapore were not infected. That was important to prevent downstream issues that would have to be dealt with by shipping companies if a crew member was found to be COVID-19 positive on board, especially with the double mutant strain. The maritime community in Singapore, including the ICS and the seafarers' unions, had worked collectively with the authorities to battle the virus, and were to be thanked for their understanding and efforts. Singapore would continue to closely

monitor the global situation and adjust its border measures to manage the risk of importing and transmission of the virus to the community.

- 222. A representative of the Government of the United Kingdom** said that restrictions had been introduced in England on travel by Indian nationals, although there was an exemption for seafarers, including seafarers from India, for the purposes of work or transit.

Closing statements

- 223. A representative of the Government of Portugal, speaking on behalf of the Member States of the European Union,** thanked all those involved for the positive outcome of the meeting, even in its unique virtual format. Seafarers played a vital role in keeping global supply chains working and the MLC, 2006, was of great and even renewed importance in promoting decent living and working conditions for seafarers and fairer competition for shipowners worldwide. The European Union and its Member States acknowledged and supported the pivotal role played by the ILO in helping to address the challenges in the industry and were committed to assisting all those affected as a constructive and engaged partner.
- 224. A representative of the Government of the Philippines** said that the MLC, 2006, had stood the test of time and welcomed the support of the tripartite constituents in reviewing its implementation. He thanked the present Chairperson and looked forward to working with the new Chair.
- 225. The Secretary-General** thanked all those who had contributed to the success of the meeting, the staff behind the scenes and the members of the Committee, who should take pride in their achievement in showing a constructive spirit of cooperation under difficult circumstances. The spirit demonstrated during the meeting was testimony to the commitment to ensure the full implementation of the MLC, 2006, to protect seafarers during this time of crisis and ensure the continued functioning of the shipping industry, on which everyone relied.
- 226. The Shipowner Vice-Chairperson** joined in thanking all those involved, and particularly participants who were not in the European time zone. Despite the time and logistical constraints, he welcomed the fruitful discussions and the adoption of two important resolutions, as well as the approval in principle of the establishment of a joint IMO-ILO tripartite working group. However, with reference to the preparations for the next meeting of the STC, he noted that, just because it was possible to make amendments to the Convention, that did not mean it had to be amended. The work of the present meeting outlined new directions for the partners in the industry and the ILO, with particular reference to crew changes, employment agreements and vaccination. It was to be hoped that the Convention would receive an increasing number of ratifications so that it could achieve the same level of support as the other pillar Conventions in the maritime sector. Shipowners fully recognized their responsibility towards the welfare of the seafarers who worked on the world's vessels. It was a matter of continuing concern that there were an increasing number of cases of abandoned seafarers reported to the ILO and IMO, in which context the very recent news of the repatriation of Chief Officer Mohamad Aisha, of the Aman, who had been abandoned since May 2017, was particularly welcome. He called on governments to fulfil their obligations under the MLC, 2006, and other international instruments and hoped that the STC would continue to ensure the effective implementation of the MLC, 2006, in a true spirit of tripartite cooperation.

- 227. The Seafarer Vice-Chairperson** recalled that some of the assessments made of the implementation of the Convention had been harsh in view of the failure of many member States to recognize the crucial role played by seafarers, who were in the frontline in keeping supply chains open during the pandemic. He hoped that the countries concerned would learn from their mistakes and recognize that seafarers had delivered 24 hours a day 365 days a year, and continued to do so. But seafarers, like all workers, were human, and it was totally unacceptable for their employment agreements to be extended without their consent for up to 17 months, for them to be denied medical and dental treatment, and to be abandoned. Action was also clearly needed to combat fatigue and ensure the observance of decent hours of work, as the working week of seafarers at present could in some cases be as long as 90 or more hours. Travel from India and certain other countries, where COVID case numbers were on the increase again, had now restricted travel again. Although seafarers were exempt from travel restrictions in some countries, the measures announced by others would have a clear and significant impact on the work and lives of seafarers. Too many countries were still acting unilaterally. Nevertheless, the results of the meeting had been positive, with two important resolutions adopted. The programming of two tripartite meetings of experts to consider the working of instruments on seafarers' identity documents and pensions and social security for seafarers was also to be welcomed, and he renewed the call for countries which ratified the MLC, 2006, to extend the social security coverage provided for seafarers from the minimum of three branches of social security to all nine branches covered by the Convention. It was extremely urgent to support seafarers as key workers, for example by ensuring their right to vaccination without discrimination. Further and closer collaboration between the ILO and IMO on the human element would be essential and it was to be hoped that the request to the UN to set up a task force would help to bring an end to the systemic failures the pandemic had exposed and would lead to greater respect of seafarers' rights. Finally, he thanked all the participants and all those who had contributed to the success of the meeting, including the social partners and the outgoing and newly elected Chairpersons.
- 228. The Government Vice-Chairperson** shared the sentiments expressed by the other Vice-Chairpersons and welcomed the collegial spirit shown by the participants.
- 229. The Chairperson** thanked all the participants and support staff for their contribution to overcoming the many challenges during the week, including the virtual format, in what had been a remarkably smooth and productive meeting. She looked forward to the second part of this fourth meeting in April 2022 and declared the meeting closed.

▶ Appendix I

Agenda (Rev. 6, April 2021)

1. Exchange of information related to the implementation of the MLC, 2006.
 - (a) COVID-19 and maritime labour issues
 - (b) IMO request on setting up a joint IMO–ILO working group
 - (c) Hours of work and rest: Presentation of a World Maritime University’s study
 - (d) MLC, 2006 and digitalization: Use of electronic documents
2. Review of maritime-related international labour standards (on the basis of the request formulated by the Governing Body in the context of the functioning of the Standards Review Mechanism).¹
3. Any other business.

¹ The Governing Body “referred the maritime instruments (sets of instruments 18 and 20), to the Special Tripartite Committee established under Article XIII of the Maritime Labour Convention, 2006 (MLC, 2006), for its expert review and report to the Governing Body”. See document GB.326/LILS/3/2. Decision available at: http://www.ilo.org/gb/decisions/GB326-decision/WCMS_461376/lang--en/index.htm.

► Appendix II

Resolution concerning the implementation and practical application of the MLC, 2006 during the COVID-19 pandemic

The Special Tripartite Committee established by the Governing Body of the International Labour Office under Article XIII of the Maritime Labour Convention, 2006, as amended (MLC, 2006), on the occasion of the first part of its fourth meeting, which took place virtually from 19–23 April 2021,

Noting that, under Article XIII of the MLC, 2006, the Governing Body shall keep the working of the MLC, 2006 under continuous review through this Committee,

Noting also Article I(2) of the MLC, 2006, which requires that ratifying States shall cooperate with each other for the purpose of ensuring the effective implementation and enforcement of the Convention; Article III which obliges ratifying States to respect the fundamental rights and principles; Article V(6) that requires that ratifying States shall prohibit violations of the requirements of the Convention,

Noting further that the Preamble of the MLC, 2006 recalls that Article 94 of the United Nations Convention on the Law of the Sea, 1982, establishes the duties and obligations of a flag State with regard to, inter alia, labour conditions, crewing and social matters and Article V(2) of the MLC, 2006, which requires that each ratifying State shall exercise its jurisdiction and control over ships that fly its flag by establishing a system of ensuring compliance with the requirements of the Convention,

Noting also the COVID-19 pandemic declared by the World Health Organization (WHO) on 11 March 2020 and the resulting control measures introduced and still applicable in many countries,

Recalling that many of these control measures have caused seafarers all over the world to be prevented from exercising their rights to repatriation, maximum periods of shipboard service, shore leave, medical treatment ashore and access to shore-based welfare facilities to which they are entitled under the MLC, 2006,

Recalling also the observations contained in the Report of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) adopted at its 91st Session (2020)¹ referring to the increased importance of the MLC, 2006 during the pandemic and that the MLC, 2006 is intended to set the minimum standards to be observed by ratifying States, and that non-observance of fundamental rights during such a time may render the Convention meaningless,

Recalling the Resolution of the Governing Body concerning maritime labour issues and the COVID-19 pandemic adopted on 8 December 2020 calling for global co-operation and full implementation of MLC, 2006,²

¹ https://www.ilo.org/ilc/ILCSessions/109/reports/reports-to-the-conference/WCMS_736204/lang--en/index.htm.

² https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_760649.pdf.

Recalling also the United Nations General Assembly Resolution on international cooperation to address challenges faced by seafarers as a result of the COVID-19 pandemic to support global supply chains adopted on 1 December 2020,³

Having noted the Recommended framework of protocols for ensuring safe ship crew changes and travel during the coronavirus (COVID-19) pandemic, which was proposed by a broad cross section of global industry associations representing the maritime transportation sector and enjoying consultative status at the International Maritime Organization (IMO) (MSC.1/Circ. 1636), and which is promoted by the ILO,

Noting also that there are seafarers who have lost their employment as a result of the pandemic and the consequent reduction or cessation of their employers' operations, whilst others have suffered poor health or deprivation, leading some to rethink the choice of career, which has implications for the future of shipping,

Noting with great concern that, more than a year after the declaration by the WHO of a pandemic, hundreds of thousands of seafarers remain impacted,

Noting that, in spite of the severe toll that the pandemic has taken on seafarers, they have continued to keep supply lines operational, ensuring the movement of essential food, fuel, medicines, medical equipment, vaccines and all other goods and commodities,

Noting that the requirements of the MLC, 2006 apply at all times and that there is no provision that allows them to be suspended under any circumstances,

Noting that the CEACR stresses that the notion of force majeure may no longer be invoked from the moment that options are available to comply with the provisions of the MLC, 2006, although more difficult or cumbersome, and urges ratifying States which have not yet done so, to adopt all necessary measures without delay to restore the protection of seafarers' rights and comply to the fullest extent with their obligations under the Convention,

Believing that the ability of shipowners to fulfil many of their duties to seafarers that are imposed on them by the MLC, 2006 depends on the cooperation of States and, in particular, their facilitation of seafarer repatriation, shore leave, transit and access to shore-based welfare services, and medical care including dental care,

Believing also that the fulfilment of all obligations under the MLC, 2006 by ratifying States is essential to ensure the health and safety of seafarers,

Noting further that national requirements for COVID-19 testing and quarantine measures implemented by governments have been applied to seafarers, in many cases disproportionately,

Requests the ILO to renew its call on Members to designate and treat seafarers as key workers and also to call on Members to take all necessary steps to ensure that seafarers:

- (i) can travel to and from their country or place of residence and their place of work,
- (ii) can transit between regions and States and within countries for the purposes of taking up employment, being repatriated, or for medical care including dental care ashore,
- (iii) are exempted from quarantine requirements, if any, upon arrival in the jurisdictions in which they join or leave their vessel, except where they test positive for COVID-19,
- (iv) can obtain medical care including dental care ashore when required,

³ <https://www.undocs.org/en/A/75/L.37>.

- (v) can obtain shore leave and access to shore-based welfare services,
- (vi) are permitted to access training necessary for their employment, where it is available,
- (vii) are not required to stay on board a vessel longer than the period specified in their seafarer's employment agreement without their consent, and under no circumstances for longer than the maximum period of service stipulated by the MLC, 2006.

and to co-operate with each other to promote the well-being of seafarers and respect their fundamental rights and principles under the MLC, 2006;

Requests Members, in accordance with applicable national laws and regulations, to consider the acceptance of internationally recognized documentation carried by seafarers, including seafarers' identity documents delivered in conformity with the Seafarers' Identity Documents Convention, 1958 (No. 108), and the Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185);

Requests Members, in accordance with applicable national laws and regulations, to consider temporary measures including waivers, exemptions or other changes to visa or documentary requirements that might normally apply to seafarers;

Requests that the ILO remind Members of the aforementioned Resolutions adopted by the ILO Governing Body and the UN General Assembly and of the IMO Recommended framework of protocols for ensuring safe ship crew changes and travel during the coronavirus (COVID-19) pandemic;

Requests the ILO to call on Members to ensure that seafarers are provided with access to COVID-19 vaccination at the earliest opportunity as well as to promote the mutual acceptance of vaccine certificates, where issued, including when in transit to or from their ships and when taking shore leave, in order to protect their health and safeguard their ability to carry out their duties as key workers maintaining global supply chains;

Calls on Members and shipowners' and seafarers' organizations to work jointly to ensure the promotion and respect for seafarers' rights under the MLC, 2006;

Further recommends that the ILO Governing Body convey the contents of this Resolution to the United Nations Secretary-General with a request to convene an ad-hoc UN Inter-Agency Task Force to examine the implementation and practical application of the MLC, 2006 during the pandemic, including its impact on seafarers' fundamental rights and on the shipping industry.

▶ Appendix III

Resolution concerning COVID-19 vaccination for seafarers

The Special Tripartite Committee established by the Governing Body of the ILO under Article XIII of the Maritime Labour Convention, 2006, as amended (MLC, 2006), on the occasion of the first part of its fourth meeting, which took place virtually from 19–23 April 2021,

Noting that, under Article XIII of the MLC, 2006, the Governing Body of the ILO shall keep the working of the MLC, 2006 under continuous review through this Committee,

Noting also Article I (2) of the MLC, 2006, which requires that ratifying States shall cooperate with each other for the purpose of ensuring the effective implementation and enforcement of the Convention; Article III which obliges ratifying States to respect the fundamental rights and principles; Article V(6) that requires that ratifying States shall prohibit violations of the requirements of the Convention,

Noting with great concern the threat posed to human health by COVID-19,

Recognizing the importance of maritime transport and the role of seafarers as key workers,

Stressing the challenging living and working conditions at sea faced by seafarers due to COVID-19,

Recalling the Joint Statement of the International Civil Aviation Organization (ICAO), the International Labour Organization (ILO), the International Maritime Organization (IMO), the World Health Organization (WHO) and the International Organization for Migration (IOM), of 25 March 2021,¹ calling on governments to prioritize seafarers and aircrew in their national COVID-19 vaccination programmes together with other essential workers,

Recalling the United Nations General Assembly Resolution on international cooperation to address challenges faced by seafarers as a result of the COVID-19 pandemic to support global supply chains adopted on 1 December 2020,² and the Resolution of the Governing Body of the International Labour Office concerning maritime labour issues and the COVID-19 pandemic adopted on 8 December 2020,³

Mindful of difficulties with the rolling out of vaccination programmes, particularly in the countries of origin, residence or transit of seafarers and;

Conscious that combating the pandemic requires solidarity, multilateral cooperation and a collective response;

Recognizing the challenges relating to transport restrictions, availability of approved or authorized vaccines, the current two-stage vaccination process, which means that seafarers may be at different locations when they receive each dose and the uncertainty as to when they may be considered adequately protected;

¹ https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/statement/wcms_777033.pdf.

² <https://www.undocs.org/en/A/75/L.37>.

³ [wcms_760649.pdf \(ilc.org\)](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/statement/wcms_760649.pdf).

Recognizing the ongoing need for governments and shipowners to continue to protect seafarers' health and safety through preventative and protective measures;

Calls upon Members, in consultation and cooperation with shipowners' and seafarers' organizations, to carry out a mapping exercise, in order to assist with the procurement of adequate supplies of vaccines for the inoculation of seafarers in their country of residence or other appropriate location;

Calls upon all relevant UN bodies to recognize the need for a collective approach to secure the number of vaccines identified as being required by the mapping exercise;

Calls upon governments, in accordance with their national vaccination programmes, to make supplies of WHO Emergency Use List (WHO-EUL) vaccines available for seafarers on ships visiting ports in their territories, in order to facilitate necessary crew changes and minimise disruption to global supply chains;

Calls upon governments to consider establishing vaccination hubs for seafarers in ports where there is sufficient capacity, where significant numbers of ships call and where sufficient supplies of WHO-EUL vaccines can be made available;

Encourages States to accept vaccines given to seafarers by other States, particularly if a national, regional or other form of vaccine certification is required to permit movement of individuals;

Encourages governments, in consultation with shipowners' and seafarers' organizations and in coordination with the WHO and IMO, to consider the possibility of establishing an international programme for seafarers that will facilitate access to vaccination ashore, including where seafarers are joining or leaving a ship or taking shore leave; and

Calls upon Members to ensure that seafarers are provided with access to COVID-19 vaccination at the earliest opportunity.