



PACIFIC MARINE SERVICES

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CIRCULAR

Page No (2)

ILO INFORMATION NOTE ON MLC ISSUES AND COVID-19 INFORMATION

Notice to :

Ship Owners / Manager / operators / Representatives of Togo flagged vessels / Recognized-authorized ROs surveyors / Flag State Administrations.

Dear Sirs,

The International Labour Organization has issued an information note on maritime labour issues and COVID-19.

The COVID-19 pandemic has created a global crisis and in the maritime sector it has severely disrupted the functioning of shipping and affected the work of nearly 2 million seafarers worldwide.

Numerous governments, seafarers and shipowners have turned to the ILO for guidance on how best to address the complexities of the current crisis in light of the provisions of the Maritime Labour Convention, 2006.

The **Information note on maritime labour** aims to respond to such requests by referring to the MLC, 2006, the work of the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), a statement of the Officers of the Special Tripartite Committee of the MLC, 2006, (STC) and, when relevant, the recommendations published by the International Maritime Organization (IMO) and the World Health Organization (WHO).

In general, it is recalled that under the MLC, 2006, derogations, exemptions or other clauses allowing for flexible application of the Convention by governments must be decided in consultation with shipowners and seafarers, with any determinations that are made reported to the ILO by the government concerned. The CEACR has on numerous occasions underlined the importance of these consultations for the implementation of the MLC, 2006. This is seen as a necessary and important approach to ensuring that all countries, irrespective of national circumstances, can engage with the international legal system and that international obligations are respected and implemented, to the extent possible, while efforts continue to be made to improve existing conditions. Governments are thus strongly encouraged to consult national seafarers' and shipowners' organizations in order to address several issues in the current context created by the COVID-19 pandemic in light of the MLC, 2006.

Finally, it is noted that the current circumstances might render compliance with some of the obligations set out in the MLC, 2006, materially impossible. As noted on a few occasions below, these circumstances could constitute cases of force majeure. Force majeure is "the occurrence of an irresistible force or of an unforeseen event, beyond the control of the State, making it materially impossible in the circumstances to perform the obligation" and which excuses noncompliance with an obligation. These circumstances "do not annul or terminate the obligation; rather they provide a justification or excuse for non-performance while the circumstance in question subsists" and entail that compliance must resume as "soon as the factors causing and justifying the non-performance are no longer present". There must be a causal link between material impossibility and the unforeseen circumstances. In short, the parties involved should make every attempt to comply with their obligations under the MLC, 2006, non-compliance only being excused when compliance is materially and objectively impossible by reason of the occurrence of an irresistible event. While authorities are encouraged to be pragmatic in their approach under the current circumstances, they should also ensure that the COVID-19 pandemic is not used as an excuse to breach the MLC, 2006.

For further information, please refer to PMS Circulars on Website of (www.pmsclass.org/circulars)

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PACIFIC MARINE SERVICES

The ILO information note consist issues raised as listed below :

1. Seafarers' safety and health
2. Facilitation of transit and transfer of seafarers and repatriation
3. Expiry of seafarers' employment agreements
4. Maximum period of service on board and safeguards
5. Reduction of minimum manning
6. Expiry of medical certificates
7. Certification in respect of training and qualifications
8. Maritime labour certificate and inspections
9. Social protection: Seafarers' entitlement to paid sick leave in case of infection or quarantine
10. Shore leave and welfare facilities during the pandemic
11. Abandonment of seafarers

ACT NOW

Ship Owners/ Managers/ Operators should take into consideration the ILO informative note and ensure their fleet and crew compliance with MLC, 2006 in the highest possible level

- FOR MORE INFORMATION AND GETTING THE DETAILS FOR THIS MAY YOU FIND THE ATTACHED
(Information note on maritime labour issues and coronavirus (COVID-19)).

Kind Regards,

CONTACT US



For further information, please refer to PMS Circulars on Website of (www.pmsclass.org/circulars)

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International
Labour
Organization

► **Information note on maritime labour issues and coronavirus (COVID-19)**

Including a joint statement of the Officers of the Special Tripartite Committee of the Maritime Labour Convention, 2006, as amended

International Labour Standards Department (NORMES) / Sectoral Policies Department (SECTOR)

Geneva, 7 April 2020

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1. The coronavirus (COVID-19) pandemic has created a global crisis which has impacted all aspects of life and badly affected the world of work.¹ In the maritime sector, it has severely disrupted the functioning of shipping and affected the work of nearly 2 million seafarers worldwide.
2. Numerous governments and seafarers' and shipowners' organizations have turned to the International Labour Office (hereinafter the Office) for guidance on how best to address the complexities of the current crisis in light of the provisions of the Maritime Labour Convention, 2006, as amended (MLC, 2006).
3. This information note aims to respond to such requests by referring to the MLC, 2006, the work of the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR),² a statement of the Officers of the Special Tripartite Committee of the MLC, 2006, (STC)³ and, when relevant, the recommendations published by the International Maritime Organization (IMO) and the World Health Organization (WHO). It should be noted that both the International Chamber of Shipping and the International Transport Workers' Federation have been active since the beginning of this crisis to support seafarers and shipowners worldwide and provide advice to their members.⁴

¹ See ILO, [COVID-19 and the world of work: Impact and policy responses](#). For more general information on international labour standards see [ILO Standards and COVID-19 \(coronavirus\), FAQ](#).

² The competent body to supervise the application of the MLC, 2006.

³ The Special Tripartite Committee of the Maritime Labour Convention, 2006, as amended (STC) is the tripartite body established under Article XIII of the MLC, 2006, to keep the working of the Convention under continuous review. The Officers of the STC have been appointed by the ILO Governing Body for a period of three years. They currently are Ms Julie Carlton from the United Kingdom (Chairperson), Mr Martin Marini from Singapore (Government Vice-Chairperson), Mr Mark Dickinson (acting Seafarer Vice-Chairperson) and Mr Max Johns from Germany (Shipowner Vice-Chairperson). On 26 March 2020, the Officers adopted a [statement on the coronavirus disease \(COVID-19\)](#).

⁴ The International Chamber of Shipping published [Coronavirus \(COVID-19\): Guidance for Ship Operators for the Protection of the Health of Seafarers](#). The International Transport Workers' Federation published [COVID-19 advice to ships](#) and seafarers.

4. In general, it is recalled that under the MLC, 2006, derogations, exemptions or other clauses allowing for flexible application of the Convention by governments must be decided in consultation with shipowners' and seafarers' organizations, with any determinations that are made reported to the Office by the government concerned. The CEACR has on numerous occasions underlined the importance of these consultations for the implementation of the MLC, 2006.⁵ This is seen as a necessary and important approach to ensuring that all countries, irrespective of national circumstances, can engage with the international legal system and that international obligations are respected and implemented, to the extent possible, while efforts continue to be made to improve existing conditions. Governments are thus strongly encouraged to consult national seafarers' and shipowners' organizations in order to address a number of issues in the current context created by the COVID-19 pandemic in light of the MLC, 2006.
5. Finally, it is noted that the current circumstances might render compliance with some of the obligations set out in the MLC, 2006, materially impossible. As noted on a few occasions below, these circumstances could constitute cases of force majeure. Force majeure is "the occurrence of an irresistible force or of an unforeseen event, beyond the control of the State, making it materially impossible in the circumstances to perform the obligation" and which excuses non-compliance with an obligation.⁶ These circumstances "do not annul or terminate the obligation; rather they provide a justification or excuse for non-performance while the circumstance in question subsists" and entail that compliance must resume as "soon as the factors causing and justifying the non-performance are no longer present".⁷ There must be a causal link between material impossibility and the unforeseen circumstances. In short, the parties involved should make every attempt to comply with their obligations under the MLC, 2006, non-compliance

⁵ See for example the [direct request](#) adopted in 2019 by the CEACR concerning Honduras.

⁶ United Nations, *Yearbook of the International Law Commission, 2001*, Vol. II, Part Two, Article 23, p. 27.

⁷ United Nations, *Yearbook of the International Law Commission, 2001*, op. cit., p. 71.

only being excused when compliance is materially and objectively impossible by reason of the occurrence of an irresistible event. While authorities are encouraged to be pragmatic in their approach under the current circumstances, they should also ensure that the COVID-19 pandemic is not used as an excuse to breach the MLC, 2006.

6. The explanations provided below are subject to the usual understanding that the Constitution of the ILO confers no special competence upon the Office to give an authoritative interpretation of an international labour Convention and that the opinions expressed are without prejudice to any position that the ILO's supervisory bodies might take with respect to its subject matter.

1. Seafarers' safety and health

7. Under Article IV, paragraphs 1 and 4, of the MLC, 2006, every seafarer has the right to a safe and secure workplace that complies with safety standards and to health protection, medical care, welfare measures and other forms of social protection.
8. According to Regulation 4.1, paragraph 1, of the MLC, 2006, flag States must ensure, in particular in the context of the COVID-19 pandemic, and bearing in mind current global shortages in some medical equipment, that all seafarers on ships that fly their flag are covered by adequate measures for the protection of their health – including the provision of alcohol-based handrub and personal protective equipment – and that they have access to prompt and adequate medical care whilst working on board. As the Office has received allegations ⁸ of cases where seafarers did not receive the same protection as passengers on board cruise ships,

⁸ For example, on 7 February 2020, the ILO received a request for urgent help from the Seafarers' Union of Russia and the International Transport Workers' Federation concerning the situation of the crew on board the Diamond Princess cruise ship, quarantined with more than 3,500 persons on board. Seafarers were concerned about their possible exposure to COVID-19 and the availability on board of personal protective equipment (such as masks and disinfectants) and medical care.

the need to respect these provisions of the MLC, 2006, is to be emphasized.

9. Pursuant to Regulation 4.1, paragraph 3, of the MLC, 2006, port States must ensure that seafarers on board ships in their territory who are in need of immediate medical care are given access to the Member's medical facilities on shore. The exceptional measures adopted by some governments to contain the COVID-19 pandemic cannot be invoked as such as a valid reason not to comply with this international obligation.
10. Seafarers, shipowners and maritime authorities are encouraged to refer to the WHO [Operational considerations for managing COVID-19 cases/outbreak on board ships](#). This document, among others, contains information on the measures to be adopted prior to boarding a ship and to manage suspected cases on board.
11. In their joint statement, the Officers of the STC indicated that "It is imperative that Member States do all that they can to facilitate the delivery of essential **medical supplies, fuel, water, spare parts and provisions** to ships. It is disturbing that ports in some parts of the world have refused to allow some ships to enter because they had previously called at ports in areas affected by the coronavirus, which has prevented vessels from obtaining such essential supplies. It is also extremely alarming to hear reports that suppliers have been prevented from boarding ships in some parts of the world and from supplying masks, overalls and other personal protective equipment to crews. It is essential that seafarers have access to plentiful supplies and equipment, in line with the *International Medical Guide for Ships*, third edition, and the guidance provided by the International Maritime Health Association, the International Chamber of Shipping and the World Health Organization".



Seafarers' individual claims

The following resources are available to obtain information or raise concerns concerning the impact of the COVID-19 pandemic on seafarers.

ITF Seafarers' support team

Email – seafsupport@itf.org.uk

SMS – +44 7984 356573

WhatsApp/Viber – +44 7523 515097

Facebook

ITF Seafarers' Support page – <https://www.facebook.com/itfseafarerssupport>

ITF Seafarers' Support group –

<https://www.facebook.com/groups/191907568040511>

ITF Wellbeing page – <https://www.facebook.com/ITFWellbeing>

Website

ITF Seafarers – www.itfseafarers.org

COVID-19 Country Map (Information for seafarers) –

<https://www.itfseafarers.org/en/embed/covid-19-country-information-seafarers>

Mobile phone apps

ITF Seafarers' app – available on iOS and Android

ITF Wellbeing app – available on iOS and Android

ITF Global app – available on iOS and Android

ISWAN – International Seafarers' Welfare and Assistance Network

Phone – +44 (0)3000124279

Email – iswan@iswan.org.uk

Seafarers' help

Website – <https://www.seafarerhelp.org/>

Phone – +44 207 323 2737 (Free International, confidential, multilingual helpline for seafarers and their families)

Email – help@seafarerhelp.org

2. Facilitation of transit and transfer of seafarers and repatriation

12. Two ILO Conventions deal with the importance of facilitating the transit and transfer of seafarers.⁹ In particular, under Article 6, paragraph 7, of the Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185), "Each Member for which this Convention is in force shall, in the shortest possible time, also permit the entry into its territory of seafarers holding a valid seafarers' identity document supplemented by a passport, when entry is requested for the purpose of: (a) joining their ship or transferring to another ship; (b) passing in transit to join their ship in another country or for repatriation; or any other purpose approved by the authorities of the Member concerned".
13. Under Regulation 2.5 of the MLC, 2006, seafarers have a right to be repatriated at no cost to themselves in the circumstances and under the conditions specified in the Code of the Convention. Pursuant to Standard A2.5.1, paragraph 7, each Member shall facilitate the repatriation of seafarers serving on ships which call at its ports or pass through its territorial or internal waters, as well as their replacement on board.
14. It is critical that the right of seafarers to return home is guaranteed during the pandemic in accordance with the provisions of the MLC, 2006, without prejudice to the need for competent authorities to take proportionate and specifically adapted measures to minimize the risk of contagion.¹⁰

⁹ The Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185), ratified by 35 countries, and the Seafarers' Identity Documents Convention, 1958 (No. 108), ratified by 64 countries.

¹⁰ Along the same lines, see the [Communication](#) from the European Commission on the implementation of the Green Lanes under the Guidelines for border management measures to protect health and ensure the availability of goods and essential services, 23 March 2020.

15. Following travel bans, border closures and quarantine measures, numerous seafarers cannot travel to and from ships. The maritime industry called upon the ILO and the international community to make sure that, in these unprecedented circumstances, member States ensure that the flow of essential goods, energy, food, medicines and many other products is not disrupted by measures that impede the safe and efficient movement of shipping and of the seafarers who operate them. While welcoming the coordinated efforts undertaken by social partners and the international community to respond to the crisis created by the COVID-19 pandemic in the maritime sector, this request was recently echoed by the ILO Director-General, Mr Guy Ryder, who called upon governments “to ensure that, in these challenging times, seafarers are adequately protected from the COVID-19 pandemic, have access to medical care, and can travel to and from their ships, as necessary, in order to continue to play their crucial role”.¹¹ The IMO Secretary-General, Mr Kitack Lim, stated in this regard that “In these difficult times, the ability for shipping services and seafarers to deliver vital goods, including medical supplies and foodstuffs, will be central to responding to, and eventually overcoming, this pandemic”. The IMO recently published a Circular Letter regarding a preliminary list of recommendations for governments and relevant national authorities on the facilitation of maritime trade during the COVID-19 pandemic.¹²
16. In their joint statement, the Officers of the STC addressed the issue of crew change during the COVID-19 pandemic and indicated that: “Seafarers should be officially recognized as **key workers**, and be granted exemptions from any travel restrictions and special considerations to enable them to join and leave their ships and return home without impediment, while complying with good practice in infection control.” “It is important that Member States recognize the need for a highly globalized industry like shipping, with its multinational workforce, to be able to smoothly undertake **crew changes** and **repatriation** around the world.” “Clear directions should be given to port authorities and local health authorities to enable ships to continue

¹¹ ILO, [Treat seafarers with “dignity and respect” during COVID-19 crisis](#).

¹² IMO, [Circular Letter No.4204/Add.6](#), 27 March 2020.

trading, and to enable the swift disembarkation and repatriation of crew members.” “It is vital that labour supply countries facilitate the return home of those seafarers who have completed their contracts, and allow seafarers to leave their home country to join their ships, after appropriate medical screening”.

3. Expiry of seafarers’ employment agreements

17. As a result of the measures taken by governments in the current crisis, numerous seafarers have been requested to stay on board beyond the period originally foreseen in their seafarers’ employment agreements. The extension of seafarers’ employment agreements must be conducted in accordance with applicable national laws and regulations. It is to be underlined that, in all cases, the seafarer’s consent remains a fundamental requirement for any such extension. Regulation 2.1, paragraph 2, of the MLC, 2006, states in this regard that seafarers’ employment agreements shall be agreed to by the seafarer under conditions which ensure that the seafarer has an opportunity to review and seek advice on the terms and conditions in the agreement and *freely accepts them before signing*.
18. In their joint statement, the Officers of the STC affirmed that: “In cases where seafarers’ tours of duty have to be extended beyond the duration specified in their employment agreements or under national laws applying the Maritime Labour Convention, 2006, as amended, a pragmatic approach is needed to enable them to remain on board for a reasonable period beyond their scheduled tours of duty”.

4. Maximum period of service on board and safeguards

19. Some seafarers, due to prohibitions on crew changes or on travel to and from ships, have to remain on board for periods that go beyond the default 11-month maximum period of service that is derived from the

provisions of the MLC, 2006.¹³ In response to a specific question formulated by one government in this regard, the Office considered that competent authorities may authorize – within specific limits – exceptions to the prohibition on forgoing annual leave under Standard A2.4, paragraph 3, of the MLC, 2006, for imperative reasons of public health emergency such as the need to contain the current COVID-19 pandemic. Nonetheless, exceptions should be accompanied by appropriate safeguards to avoid any risk of abuse, including provisions to require the seafarer's consent, to ensure no loss of repatriation or annual leave entitlements and to review the situation at regular short intervals.

20. Taking into account the danger posed by the fatigue of seafarers, especially of those whose duties involve navigational safety and the safe and secure operation of the ship, the extension of the period of service on board beyond the default 11 months should be authorized only when strictly necessary to face the emergency situation created by the pandemic.
21. Furthermore, the Office considered that, even in the absence of an exception specifically authorized by the competent authority, the maximum continuous period of shipboard service may be exceeded in situations of force majeure or necessity, in other words in situations where an unforeseen event (or events) beyond the control of the State and/or shipowner make it materially impossible in the circumstances to perform the obligations arising out of the provisions of Standards A2.4 and A2.5.1 of the MLC, 2006 (for instance, in the event that a ship is placed under quarantine).

¹³ The CEACR has “consistently considered that, from the combined reading of *Standard A2.4, paragraphs 2 and 3*, on annual leave and *Standard A2.5.1, paragraph 2(b)*, on repatriation, that the maximum continuous period of shipboard service without leave is in principle 11 months. Indeed, as it has clearly been indicated by the Committee, *Standard A2.4, paragraph 3*, of the MLC, 2006, does not lay down an absolute prohibition as exceptions may be authorized by the competent authority. While the Convention is silent about the nature and scope of permissible exceptions, the Committee considers that this provision needs to be read restrictively in order not to defeat the purpose of *Regulation 2.4*. ... However, exceptions are indeed permitted on the basis of specific cases provided for by the competent authority taking into account the needs of seafarers and the particularities of sea voyage itself.” See ILO, *Report of the Committee of Experts on the Application of Conventions and Recommendations*, ILC.108/III(A) (2019), paras 105–113 (General Report).

22. In March 2020, the [Memorandum of Understanding on Port State Control in the Asia-Pacific Region](#), the [Indian Ocean Memorandum of Understanding on Port State Control](#) and the [Paris Memorandum of Understanding on Port State Control](#) each adopted temporary guidance for their respective member authorities on dealing with the impact of the outbreak of COVID-19.¹⁴

5. Reduction of minimum manning

23. Under Standard A2.7, paragraphs 1 and 3, of the MLC, 2006, every ship shall be manned by a crew that is adequate, in terms of size and qualifications, to ensure the safety and security of the ship and its personnel, under all operating conditions, in accordance with the minimum safe manning document or equivalent issued by the competent authority, and taking into account requirements concerning food and catering.
24. Travel bans, border closures and quarantine measures are disrupting crew changes. In the context of the COVID-19 pandemic, some maritime administrations have envisaged the reduction of the minimum manning levels as a possible solution to the difficulties encountered by shipowners in respect of having the required number of seafarers on board. However, taking into account that the current situation has led to extensions of the periods of service on board for numerous seafarers, the Office is of the view that a reduction of the minimum manning levels could only contribute to increasing the fatigue of seafarers, thereby jeopardizing the safe, efficient and secure operation of ships. Administrations must therefore continue to comply with Standard A2.7, even during the COVID-19 pandemic.

¹⁴ In general, they call for a pragmatic approach to be adopted on a case-by-case basis, for periods of up to three months, with regard to medical and competence certification, the extension of seafarers' periods of service onboard and the delay of periods for inspections.

6. Expiry of medical certificates

25. The current crisis has also interfered with the possibility to renew the medical certificates of seafarers. These certificates are dealt with under Regulation I/9 of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW Convention), and Regulation 1.2 of the MLC, 2006. Under both international treaties, the maximum validity of medical certificates is two years. If the period of validity of a medical certificate expires in the course of a voyage, then the medical certificate shall continue in force until the next port of call, where a medical practitioner recognized by the Party is available, provided that the period shall not exceed three months.
26. The Office recognizes that restrictions imposed to contain the pandemic may, under certain circumstances, constitute a situation of force majeure in which it becomes materially impossible to renew a medical certificate within the maximum period of three months foreseen by the MLC, 2006, and the STCW Convention.
27. In this regard, issuing administrations are encouraged to take a pragmatic and practical approach with regard to the extension of medical certificates, as strictly necessary, and to notify ships, seafarers and relevant administrations accordingly. Port State control authorities are also encouraged to take a pragmatic and practical approach in relation to medical certificates and their acceptance in the exercise of control procedures in accordance with Title 5 of the MLC, 2006.¹⁵
28. Medical certificates must be renewed as soon as the situation improves. Maritime administrations are requested to regularly review the evolution of the situation.

¹⁵ See in this regard the joint statement by the IMO, the WHO and the ILO on medical certificates of seafarers, ship sanitation certificates and medical care of seafarers in the context of the COVID-19 pandemic, to be published soon.

7. Certification in respect of training and qualifications

29. According to Regulation 1.3 of the MLC, 2006, seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties. Training and certification in accordance with the relevant provisions of the STCW Convention shall be considered as meeting this requirement.
30. The Office refers to the guidance provided by the IMO in this regard, which states that the actions taken worldwide as a result of the outbreak pose a serious challenge for maritime administrations in respect of allowing the continued training of seafarers, revalidating certificates and issuing endorsements attesting recognition of certificates in accordance with the STCW Convention.¹⁶ In this context, issuing administrations are encouraged to take a pragmatic and practical approach with regard to the extension of such certificates and endorsements, as strictly necessary, and to notify ships, seafarers and relevant administrations accordingly. Port State control authorities are also encouraged to take a pragmatic and practical approach in relation to these certificates and endorsement extensions and their acceptance in the exercise of control procedures in accordance with article X (Control) and regulation I/4 (Control procedures) of the STCW Convention and Title 5 of the MLC, 2006.
31. The Office recognizes that restrictions imposed to contain the pandemic, including travel bans, quarantine and the cancellation of courses, may, under certain circumstances, constitute a situation of force majeure in which it becomes materially impossible to allow the continued training of seafarers, to revalidate certificates and to issue endorsements attesting recognition of certificates in compliance with Regulation 1.3 of the MLC, 2006, and the relevant provisions of the STCW Convention. Nonetheless, although the current situation would seem to call for some flexibility with

¹⁶ IMO, [Circular Letter No. 4204/Add.5/Rev.1](#), 2 April 2020.

regard to the extension of certificates, it would not in principle allow for a departure from the requirements applicable to the initial issuance of such certificates.

32. Competence certificates must be renewed as soon as the situation improves. Maritime administrations are requested to regularly review the evolution of the situation.
33. In their joint statement, the Officers of the STC indicated that: “A similarly pragmatic approach is required to support seafarers who may face problems in undertaking training or refresher courses for certification. Flag States and port States should work with other maritime nations to extend the validity of seafarers’ certificates for at least three months, or until further notice when the situation has eased.”

8. Maritime labour certificate and inspections

34. The outbreak of COVID-19 has meant that the shipping industry and maritime authorities are facing challenges in respect of conducting the inspections required in accordance with Title 5 of the MLC, 2006.
35. The Office recognizes that the current circumstances may at times lead to situations of force majeure in which it becomes materially impossible to conduct the intermediate and renewal inspections required under Title 5 of the MLC, 2006, within the time frame foreseen by the Convention.
36. Some governments and port State control regimes have referred to the possibility to extend the validity of certificates for periods that shall not exceed three months from the date of expiry of the original certificate. Others have opted for the possibility to issue interim certificates when the renewal inspection required under Standard A5.1.3, paragraph 3, cannot take place. While these possibilities are not foreseen in the Convention, the Office is of the view that situations of force majeure

created by the pandemic could justify such measures, when and as strictly necessary.

37. The inspections required under Title 5 must be conducted as soon as the situation improves. Maritime administrations are requested to regularly review the evolution of the situation.
38. In their joint statement, the Officers of the STC affirmed that: “It is also important to stress the need for a pragmatic approach and for special consideration in cases where ships cannot undertake vetting and inspection or receive externally provided maintenance and support as a consequence of travel restrictions affecting specialized staff, surveyors and technicians. Similarly, flexibility in ship certification may be necessary, to respond to difficulties in meeting dry-docking intervals.”

9. Social protection: Seafarers’ entitlement to paid sick leave in case of infection or quarantine

39. According to Standard A4.2.1, paragraph 1 (a), of the MLC, 2006, shipowners shall be liable to bear the costs for seafarers working on their ships in respect of sickness and injury of the seafarers occurring between the date of commencing duty and the date upon which they are deemed duly repatriated, or arising from their employment between those dates. According to paragraph 3 of the same Standard, where the sickness or injury results in incapacity for work the shipowner shall be liable: to pay full wages as long as the sick or injured seafarers remain on board or until the seafarers have been repatriated in accordance with the Convention; and to pay wages in whole or in part as prescribed by national laws or regulations or as provided for in collective agreements from the time when the seafarers are repatriated or landed until their recovery or, if earlier, until they are entitled to cash benefits under the legislation of the Member concerned. In this context, seafarers who have contracted COVID-19 should be entitled to paid sick leave or sickness benefits as long as they are incapacitated to work, in order to compensate them for the suspension of earnings that they suffer as a consequence.

Quarantine periods on board and ashore for seafarers – whether they have symptoms, have been exposed or are quarantined as a safety precaution – are equally covered by the above-mentioned provisions of the MLC, 2006.

40. Importantly, before or during the process of repatriation, the expense of medical care and board and lodging for periods spent by seafarers in self-isolation or in quarantine – whether the seafarers have symptoms, have been exposed or are quarantined as a safety precaution – must be covered by the shipowner until the seafarers are considered to be duly repatriated, unless the expense is assumed by public authorities in accordance with the applicable national legislation.¹⁷

10. Shore leave and welfare facilities during the pandemic

41. Under Regulation 2.4, paragraph 2, of the MLC, 2006, seafarers shall be granted shore leave to benefit their health and well-being and consistent with the operational requirements of their positions.
42. Maritime authorities must continue to respect this obligation, without prejudice to the proportionate and specifically adopted measures to minimize the risk of contagion. Access to port-based welfare services should also be ensured, as far as possible, during the COVID-19 pandemic.

¹⁷ According to Standard A4.2.1, paragraph 1(c), of the MLC, 2006, shipowners shall be liable to defray the expense of medical care, including medical treatment and the supply of the necessary medicines and therapeutic appliances, and board and lodging away from home until the sick or injured seafarer has recovered, or until the sickness or incapacity has been declared of a permanent character. Also relevant in this context is Standard A4.2.1, paragraph 6, according to which national laws or regulations may exempt the shipowner from liability to defray the expense of medical care and board and lodging and burial expenses in so far as such liability is assumed by the public authorities.

43. In their joint statement, the Officers of the STC indicated that: “In recent times, there has been widespread and welcome acknowledgement of the inherent stress, isolation and social pressures that seafarers experience. COVID-19 clearly exacerbates these problems, and has an adverse impact on the mental and physical well-being of seafarers and their families. It is worrying to hear of port-based welfare services being closed or curtailed as a response to the current situation, and it is vital that full support is given to seafarer welfare services.”

11. Abandonment of seafarers

44. The measures adopted to contain the pandemic are creating additional challenges with regard to resolving the cases of abandonment that occurred before the outbreak of COVID-19. Such measures might, in the near future, lead to new cases of abandonment. It is recalled that, even against the background of the COVID-19 crisis, flag States, port States and labour-supplying States remain bound by the requirements concerning repatriation set out in Regulation 2.5 of the MLC, 2006, and the relevant provisions of the Code of the Convention. Member States must deploy all necessary efforts to promptly resolve situations of abandonment and ensure that seafarers affected by this plight are repatriated as soon as possible and receive the payment of outstanding wages, in accordance with the relevant provisions of the MLC, 2006.
45. In their joint statement, the Officers of the STC indicated that: “The social partners express concern about a potential increase in cases of abandonment due to shipowners not having the financial ability to support their fleet operations. It is essential to monitor the situation and emerging trends and to have effective reporting on abandonment, as this is the only way of understanding the impact and the measures necessary to assist seafarers in view of the restrictions in place during the COVID-19 crisis.”