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Chamber of Shipping

Shaping the Future of Shipping

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17 September 2018

LA(18)42

TO: LABOUR AFFAIRS COMMITTEE

Copy: All Full and Associate Members (for information)

MINUTES OF THE LABOUR AFFAIRS COMMITTEE

Action Required: *Members are invited to review the Minutes of the Labour Affairs Committee Meeting held on Wednesday 12th September 2018, attached at Annex A.*

Members are also invited to review the other annexes attached which are referenced in the minutes.

Members are also invited to advise the undersigned if there are any proposed amendments.

Natalie Shaw
Director Employment Affairs

INTERNATIONAL CHAMBER OF SHIPPING



MINUTES OF THE LABOUR AFFAIRS COMMITTEE MEETING

12 SEPTEMBER 2018

Attendees

Dr Max Johns

Sarah Cerche
Anders Brodje
Hilde Peeters
Bruce Burrows
Anne Windfeldt Trolle
Esther Dahl
Frederikos Vergados
Capt. Gautam Ramaswamy
Laurence Martin
Capt. Toshihiro Tanaka
Tim Clark
Tim Springett
Robert Carington
Sanne Koeleman
Paal Tangen

Chairman

Australia
Bahamas
Belgium
Canada
Denmark
Faroe Islands
Greece
Hong Kong
Italy
Japan
Japan
UK
UK
Netherlands
Norway

Nikos Mertzanidis
Claudia Vella Casagrande

CLIA
ECSA

With

Natalie Shaw
Stewart Inglis

ICS
ICS

Apologies

George Koltsidopoulos
Tjitso Westra
Kathy Metcalf
Gerardo Borromeo
Guy Platten
Francesco Gargiulo

Greece
Netherlands
USA
Philippines
ICS
IMEC

The Chairman welcomed all present to the meeting which was his first as Chair following the retirement of the previous Chairman after retiring from his position on completion of the Special Tripartite Committee Meeting in April 2018.

1. STATEMENT OF COMPLIANCE WITH COMPETITION LAW

The Chairman referred members to the statement of competition policy below:

ICS is firmly committed to maintaining a fair and competitive environment in international shipping. As such, it is the policy of ICS to comply fully with all applicable competition laws. ICS will endeavour to ensure that all meetings will be conducted in compliance with applicable competition laws.

2. STATEMENT OF COMPLIANCE WITH PRIVACY LAW

The Chairman referred members to the statement of privacy below:

ICS complies with all applicable data protection law, notably the EU General Data Protection Regulation (EU 2016/679) as implemented by the UK Data Protection Act (2018). Members' attention is drawn to the use of personal data as outlined in the ICS privacy policy which can be found on the ICS website. Questions regarding the use of personal data should be raised directly in writing to legal@ics-shipping.org

3. MINUTES FROM PREVIOUS MEETING

Members approved the minutes of the Labour Affairs Committee Meeting held on **7th February 2018** issued under circular LA (18)13.

4. MARITIME LABOUR CONVENTION 2006

a) SPECIAL TRIPARTITE COMMITTEE 2018

Ms Cerche (Australia), newly appointed Shipowner Group Spokesperson at the ILO reported to the committee regarding the outcome of the Special Tripartite Committee which was held at the ILO from 23 – 27 April 2018 and was the last meeting at which Mr. Bowring (Hong Kong) had acted as Shipowner Group Spokesperson.

The third meeting of the Special Tripartite Committee was established by the Governing Body in accordance with Article XIII of the Maritime Labour Convention, 2006 (MLC, 2006) .

ICS coordinated the Shipowner Group which included 33 members on the benches at the meeting. Many thanks were expressed to all National Associations who sent representatives.

The STC meeting was chaired by Ms. Julie Carlton (United Kingdom) who was also confirmed as Chairperson for the next -Triennium. A special dinner was held to honour Mr. Bowring.

She advised that there had been a number of items on the agenda of the meeting:-

- Proposed amendment to the Convention

- Request for Consultation Under Article V11 of the MLC 2006.
- Report from the ILO Committee of Experts
- Discussion of the maintenance or abrogation of Maritime Instruments apart from the MLC 2006.
- Resolutions for the consideration of the ILO governing body.

Other matters were raised at the meeting, as part of the agenda as the discussion is not only confined to the proposed amendments included:

- The use of electronic certificates, broadly supported but it was noted that further work needed to be done to ensure that this could comply with EU Privacy laws: and
- The Paris MOU concentrated inspection campaign, including an intervention by the shipowner chair Arthur Bowing due to the premise that the holding of MLC certificates is prima facie evidence of compliance and the convention specifically articulates when a more detailed inspection is warranted.

Proposed Amendments to the Convention

The Committee had an important role under Article XV of the Convention with respect to consideration of amendments to the Code of the MLC, 2006. Two sets of proposals were tabled, one from ITF to amend the convention and a counter proposal from the Shipowner Group for Guidance outside of the Convention. This counter proposal was used as a fallback to ensure that any red lines in the Seafarers proposal could be rejected. ICS met with some friendly states before the meeting and all advised that they thought it necessary to put some words of comfort into the text regarding continuation of payment of seafarers during situations of piracy and armed robbery, but that the governments did not wish for additional financial security provision that the seafarers group proposed. This advanced information was in line with events played out at the meeting and the final agreed amendments are contained in **Annex 1**. The fallback proposal for standalone guidance was then taken off the table by the Shipowners once an appropriate text was agreed.

The amendments are likely to enter into force approximately 27 months after the meeting. The final date will be advised once the amendments are endorsed by the ILO Governing Body and International Labour Conference respectively.

Request for Consultation Under Article V11 of the MLC 2006.

The Committee was also tasked to consider any request for consultation under Article VII of the MLC, 2006. There was no discussion on this issue.

Report from the ILO Committee of Experts

Ms Cerche advised that Mrs Lia Athanassiou, the Maritime Law Specialist on the Committee of Experts made a presentation at the STC. A copy of this presentation was issued to members under circular LA (18) 17. A major concern had been expressed by the Shipowner group in response to a comment related to Entitlement to Leave. The Shipowner group did not agree with the views of the Committee of Experts and subsequently a letter has been sent to the Committee of Experts explaining ICS's views as to why this analysis was wrong. A response was still awaited and members would be advised accordingly.

Discussion of the maintenance or abrogation of Maritime Instruments apart from the MLC 2006.

Ms Cerche advised that one of the other major tasks at the meeting was to start to review the appropriateness of whether to maintain previous maritime Conventions and recommendations which are still on the ILO Statute book. This work is being carried out in parallel to work to look at all other Conventions as well. This work was scheduled for discussion both at STC3 and also at STC4. All the conventions and recommendations scheduled for discussion at STC3 were debated and appropriate actions advised to the ILO secretariat. However, where decisions were requested which would affect the fishing sector these were referred back to the review mechanism as these are outside the STC's sphere of competence.

Joint Resolutions

Ms Cerche advised that various resolutions were discussed at the STC meeting.

1. Regarding a Lacuna arising in relation to notifying the office about entry into force of the amendments (This was subsequently withdrawn following extensive discussions).
2. Expressing Concerns in relation to situations of Abandonment of Seafarers (Adopted)
3. Expressing Concerns in relation to the provision of shore leave. (Adopted)
4. Expressing a desire for regular update of the Flag and Port State Guidelines following any amendments to the Convention – to ensure the Guidelines adequately reflect the requirements within the MLC. (Adopted)
5. Expressing a desire for a sectoral meeting on Inland Navigation. (As this sector is not covered by ICS we abstained from the discussion.

The Chairman then requested members who attended the STC to give their thoughts.

Mr Brodje (Bahamas) explained that this was the first ILO meeting he had attended and he found the process slow and different to that which was adopted at IMO. However, he realised that this was the nature of Social dialogue.

Mr. Springett (United Kingdom) stated that he believed that the outcome reached with regard to the amendment relating to payment in situations of piracy was probably the best that could have been achieved given the past circumstances which had arisen which had resulted in the issue having been raised at ILO in the first place. He believed that the outcome achieved by way of the final text was just a codification of the practices already adopted by responsible shipowners.

He also pointed out that it was the 3rd meeting of the STC where the option to request Consultation Under Article V11 of the MLC 2006 had been tabled but that no party had sought to do so. This demonstrated that there was little appetite to do so.

Mr. Tangen (Norway) advised that he believed that the Shipowner Group were very well prepared for the meeting thanks to the work conducted in advance of the meeting. This could not be said of either the Government group or ITF. He wondered if more pre – meeting work could be done in order to assist the smoother running of meetings.

The Chairman advised that going forward he would encourage everyone in the room to attend all meetings at ILO so that they could understand the way that the meetings operate. It was important to have a large delegation to counter that of the seafarers and also to show that the Shipowners were concerned about the issues being tabled and wished to be properly engaged in the discussions. He advised that the MLC was a live convention that was undergoing change and this was what was happening at the ILO and it was important for us to be sure that such changes were appropriate for the sector.

The Chairman asked for views as to whether it would be appropriate to retable the issue of the lacuna at the next meeting. Following discussion, it was considered inappropriate to consider doing this unless there was further evidence of a similar problem with new amendments and their entry into force.

b) MLC CERTIFICATION.

No issues were raised under this agenda item.

c) MLC UPDATE

Mr. Springett (United Kingdom) advised that within the UK there appeared to be a flag state issue regarding cadets who are not classified as seafarers under UK Maritime Law but who are considered supernumeraries as part of their training contracts being permitted to serve on board Singapore Flagged Vessels. Following discussion, it was agreed that Mr Springett would liaise with Captain Ang (ASA) to see what if anything could be done to resolve this issue.

The Director of Employment Affairs advised that it was important for ICS to be able to say that all its member countries had ratified the MLC 2006. Currently 5 member countries were still to ratify namely, Brazil, Kuwait, Mexico, Turkey and the United

States. ICS sought the assistance of the national associations in these countries to encourage their countries to progress their ratifications as soon as possible.

5. ILO MINIMUM WAGE DISCUSSIONS

The Chairman advised that the ILO minimum wage discussions which were scheduled to have taken place in June 2018 were postponed by the ILO secretariat as a result of a sudden decision of the Pope to visit Geneva at the same time. All UN buildings were shut down on the day making it impossible to be able to hold the meeting. The ILO had prepared some an initial report for the consideration of the meeting but this was based on figures from the end of last year. ICS had requested the ILO Secretariat to produce a new set of figures which would be based on data from nearer to the meeting. The new meeting was scheduled for 19 – 20 November 2018 and the Chairman would be leading the shipowner group delegation.

Any member wishing to attend the meeting who had not already advised the ICS secretariat would still be very welcome but needed to advise the Director of Employment Affairs as soon as possible.

Members attending the meeting will receive all paperwork regarding the discussions through the ILO minimum wage e-room.

It was noted that Mr. Dickinson ITF had requested to meet prior to the discussions and that Mr Johns would go back to him as appropriate.

A meeting of the Shipowner group delegation will be held on the night preceding the negotiations.

Actions Required

Members who have not already done so should advise the Director of Employment Affairs if they wish to attend the meeting.

Members who have not already done so should advise the Director of Employment Affairs if they wish to access the ILO Minimum Wage E room.

6. ILO MEETING ON RECRUITMENT AND RETENTION OF SEAFARERS

The Director of Employment Affairs advised that the ILO was planning to hold a sectoral meeting on the Recruitment and Retention of Seafarers paying attention to women seafarers between 25th February 2019 to 2 March 2019. A meeting of the Shipowner group delegation will be held on the night preceding the discussions. I

LO have provided 8 funded places for the meeting which have already been allocated based on the special skills and insights sought as part of our delegation. However, any other members would be very welcome to participate if they are able to fund their attendance. Ms Cerche will be the Shipowner Group Spokesperson at the meeting.

The meeting will cover a diversity of topics which have a bearing on the recruitment and retention of seafarers and will also include discussions on harassment and bullying, mental health, automation, culture etc.

The aim of the meeting is to produce a list of recommended actions for follow up by the industry and governments.

ILO is in the process of producing a paper for the meeting and it is hoped that a draft version of the report will be provided to the secretariat inviting feedback before the final report is issued. Any report will be posted as a highly confidential document within the recruitment and retention e room and should not be shared with anyone outside of our group.

Ms Cerche welcomed any feedback from members that could be injected into the debate and asked for examples of good practice to be passed to the Director of Employment Affairs so that these could be posted up into the e room and cited where appropriate. Also it would be helpful to understand specific challenges which were currently facing shipping companies as well so that these can be raised too.

Mr Burrows (Canada) advised that targets were being set for equal representation across all sectors including maritime in Canada and asked if this was the case in other countries too.

Mr Springett (United Kingdom) handed out a copy of the Maritime UK Women in Maritime Charter which he thought may be of interest. A copy of this has been posted into the e room.

Ms Cerche (Australia) stated that some work was underway in Australia to see what could be done to assist women in Maritime who could no longer be away from home for long periods due to parental responsibilities. She also stated that work was being undertaken to map particular career paths which were available.

Ms Windtfeldt –Trolle (Denmark) advised that a lot of work had been done to promote maritime careers via the Blue Denmark initiative and she would be happy to share examples of projects undertaken to date.

Mr. Springett (Chair of ECSA Social Dialogue Committee) advised that ECSA and ETF had held a workshop on women in shipping and he would be happy to share the outcome of this meeting with the group.

Actions Required

Members who have not already done so should advise the Director of Employment Affairs if they wish to attend the meeting.

Members who have not already done so should advise the Director of Employment Affairs if they wish to access the Recruitment and Retention E room.

Members should provide examples of best practice and specific concern to the Director of Employment Affairs.

7. ITF FOC CAMPAIGN

Members were invited to consider whether now was the appropriate time to take on the ITF in regard to their FOC Campaign. Following discussion, it was concluded it was not the right time to consider doing this.

8. FACILITATION OF MOVEMENT OF SEAFARERS

a) Schengen Visas.

The chairman invited Ms Vella Casagrande (ECSA) to report on the latest situation with regard to Schengen visa issuance.

Ms Vella Casagrande advised that this issue was now being further complicated due to the reluctance of countries wishing to offer multiple entry visas whilst there were a high number of migrants trying to enter European territories. There was a lot of pressure from member states to tighten immigration controls and as a consequence this was having an adverse effect on previous discussions which had recognised that seafarers were a special group of individuals who were not seeking to abscond from their vessels to start a life in another country. Discussions were ongoing in various committees and ECSA was working hard with CLIA to try to get some progress in this area.

b) Other facilitation problems

Ms Windtfeldt Trolle expressed concern that it was becoming much more difficult for seafarers to enter into countries and to leave them without having to report to police authorities.

Mr Springett (United Kingdom) advised that there were currently problems with regard to people wishing to work on offshore windfarm vessels in the UK. The UK Chamber was working in conjunction with IMCA on this matter. The issue related to who is allowed to come to work on board these vessels and it appeared that there were different rules for different groups.

The Director Employment Affairs advised that Mr Hohlmann (Denmark) had recently contacted her with regard to transit issues in Brazil relating to C185 and C 108 seafarers' identity documents. She advised she had contacted Mr Wagner at ILO on this who was following up with Mr Hahn the ILO Director in Brazil. She would chase this for a third time at the end of the month.

9. NATIONAL LABOUR AFFAIRS UPDATE

Mr Tangen (Norway) advised that there was currently work underway with regard to new legislation relating to construction vessels working on the Norwegian Continental Shelf. It was looking at the safety on board these vessels and how this compared to work ashore.

Ms Windtfeldt Trolle (Denmark) advised she was receiving a lot of questions from her members with regard to the latest status of the EMSA audit in the Philippines. The Director of Employment Affairs advised that this also seemed to be a concern now being expressed by members of Intermanager. However, this issue was also cyclical and arose around the same time each of the last few years. ICS had raised

these concerns with Mr Borromeo who had advised that action was being taken in the Philippines to address these concerns. Some members advised that they had heard similar comments from FSA in the past but more needed to be demonstrated to show that the Philippines was taking the concerns identified seriously. The Director of Employment Affairs agreed to contact Mr Borromeo accordingly.

Mr Springett (United Kingdom) advised that the UK Chamber were continuing to make contingency plans for the exit from the European Union in March 2019. There were concerns as to the availability of suitable crew upon exit for certain sectors.

There were also concerns that UK Seafarers would become considered as third country seafarers as a result of Brexit and likewise that it may also be more difficult to be able to recruit EU nationals to fill some vacancies as they may be considered 3rd country nationals by the UK government.

He also expressed concern that the UK Shipping Minister was looking to extend the applicability of the UK Minimum wage to ships trading in UK Waters. Mr Tangen stated that this was also an issue in Norway.

Mr Vergados (Greece) advised that there were strikes currently in the coastal navigation sector.

Ms Koeleman (Netherlands) explained that there were recently CBA negotiations which were conducted with the Dutch Unions.

Ms Peeters (Belgium) advised that there would be CBA negotiations within Belgium in the next few months.

Captain Tanaka (Japan) advised that JSA was currently working to ensure appropriate training was delivered to meet STCW and Polar Code requirements.

Captain Ramaswamy (Hong Kong) advised that he was pleased to announce that China had finally extended its ratification of the MLC 2006 to Hong Kong. There had been some problems relating to previous insurance requirement differences for the 2014 amendments which hopefully would now soon be resolved. ✓

Ms Cerche (Australia) confirmed that the Maritime Union of Australia had now merged with the construction workers' union in Australia to create a much larger entity. The people involved in the maritime section though still appeared to be the same old faces, with the same issues! She had not really seen much change on the Maritime side but was expecting more change with regard to Stevedoring.

She also advised that there had been a significant change in the eligibility for the issuance of visas for personnel on board offshore vessels. This was having a particularly adverse effect on the employment of Scandinavian workers and visas were now only being issued to Australians and New Zealanders. This was creating a skills challenge for the sector.

Mr Johns (Germany) advised that VDR had just concluded some successful CBA negotiations for German employees with Verdi although the numbers affected were really small and only a few employers affected. The negotiations would cover a three-year period.

Ms Martin (Confitarma) advised that national negotiations had been conducted in relation to national contracts.

She also advised that work was being undertaken to promote maritime careers both at sea and within the wider maritime cluster.

10. FEEDBACK FROM THE MANNING AND TRAINING COMMITTEE

The Secretary of the Manning & Training Sub-Committee provided a report on the issues on the agenda of the Sub-Committee, including:

- New STCW training requirements for personnel on ships subject to the IGF Code, personnel on ships operating in polar waters, and personnel on passenger ships;
- Variations in the implementation of the refresher training requirements introduced by the 2010 Manila Amendments; and
- Training related to ballast water management and the BWM Convention.

Regarding matters of common interest with the Labour Affairs Committee, the Sub-Committee had discussed how it may assist with preparations for the ILO meeting on Recruitment and Retention and Opportunities for Women Seafarers. In that regard, the Sub-Committee had agreed to share information being compiled on examples of national seafarer training and recruitment initiatives and to draft some possible general recommendations relating to seafarer training and certification.

A brief report was also provided on the recent meeting of IMO's Sub-Committee on Human Element, Training and Watchkeeping (HTW 5). After several years of protracted discussions and considerable engagement by the ICS delegations, revised IMO Guidelines on Fatigue were finalized and forwarded to the next session of the IMO Maritime Safety Committee (MSC 100) for approval. ICS had sought to keep the guidelines holistic and practicable to avoid emphasis on ship's manning and/or fatigue risk management systems as the sole approaches to mitigate fatigue, and had successfully questioned whether it was appropriate to recommend specific tools to assess or monitor fatigue/sleep in the guidance. The revised Fatigue Guidelines will be circulated after their approval and issuance by IMO, expected in early 2019.

11. WELFARE HANDBOOK UPDATE

The Director Employment Affairs explained that the text had now been finalised and was currently with the typesetters. She thanked Ms Jorgens and Ms Cerche for their assistance with the production of this document which will be issued jointly by ICS and ITF under the title of "Guidelines for implementing the welfare aspects of the Maritime Labour Convention 2006". The document will be sent to National Associations for dissemination in final quarter 2018 and will also be available for download from the ICS and ITF websites. Members are welcome to submit any

feedback on potential areas to be included in any future revisions to the Director of Employment Affairs.

Action Required

The Director of Employment Affairs will ensure copies are issued to all members in final quarter 2018. Copies will also be made available for download from the ICS website.

12. ITF AUTOMATION PROJECT

The Chairman invited Mr Carrington to brief the group. He advised that WMU had prepared a report on automation to be available for distribution at the ITF Congress in October 2018. It was therefore agreed that the paper ICS had commissioned from Hamburg Business School should also be available for publication at this time. A copy of the draft report had been posted in the ICS Automation e room and any final comments for inclusion should be submitted to the Director of Employment Affairs by 17th September 2018.

The Director of Employment Affairs advised members that some typos had already been identified to HSBA for amendment and that the chapeau to the document would need to be redrafted. In addition, Mr Carrington invited some more text to be provided under the welfare section. The Director Employment Affairs agreed to produce this section.

The finalised report will be disseminated by circular to all members and also shared with both Maritime and non-maritime press in October through the ICS press agents.

Action Required

The Director of Employment Affairs will produce new text for the welfare section.

The Director of Employment Affairs will ensure copies are issued to all members in final quarter 2018.

Copies will also be made available for download from the ICS website and shared with the maritime and non-maritime press along with a Press release.

13. ABANDONMENT CASES

The chairman advised that he had become aware of the amount of work undertaken by ICS in relation to abandonment cases since he had taken on this role. He was amazed by the complexity of the issues and the different challenges each case posed. He invited the Director of Employment Affairs to brief the committee on the latest issues.

The Director of Employment Affairs advised the committee that the latest status shown on the ILO/ IMO abandonment database showed that there were currently 37 unresolved cases and 67 disputed cases. The cases which were disputed were those where either the owner, ICS or flag state believed the cases to be closed but where ITF did not believe this to be the case. This included issuances where wages

were owed for over the 4 months for which compensation was now required by the MLC., other contractual requirements had not been met or the cases were long standing or related to seafarers from flags which had not ratified the MLC and where insurance provision was not available.

The Director of Employment Affairs advised she would be meeting the new person at ITF responsible for handling of these cases, Jonathan Warring during the next week to see if any progress could be made in closing off some of the disputed or current cases.

The director of Employment Affairs advised that the committee may wish for information relating to our concerns on these issues to be forwarded to the IMO legal committee and STC4. A briefing paper on this will be prepared for discussion at the next Labour Affairs Committee Meeting.

Actions Required.

The Director of Employment Affairs to meet with the ITF legal officer to discuss outstanding cases week commencing 16th September 2018 and to report back to the Labour Affairs Committee.

The Director of Employment Affairs to prepare a briefing paper to discuss possible actions at ILO and IMO before the next Labour Affairs Committee Meeting.

14. FATALITIES REPORTING

Ms Cerche (Australia) shared a document with the committee attached at Annex 2 which showed a potential taxonomy database that AMSA was considering be introduced internationally to report fatalities. It was clarified in response to a question of the Committee that the reporting would be done by administrations not be individual shipowners as many administrations currently required the reporting of such incidents. Following discussion, it was noted that it was unclear where AMSA wished this to be introduced i.e., IMO in relation to SOLAS or ILO in relation to title 4 reporting for the MLC 2006. It was suggested that Ms Cerche should go back to AMSA to ask for more detail on this project and to report back as appropriate to the committee. Concern was also expressed as to how proof could be verified particularly when possible suicides were being suggested, but where it could have been a genuine accident or the result of foul play on board.

Action Required.

Ms Cerche should go back to AMSA to ask for more detail on this project and report back as appropriate to the committee.

15. SEAFARER HEALTH ISSUES

Concern was expressed regarding the increased focus on mental health issues within the maritime sector. Whilst it was acknowledged that more work was being done in this area, and more articles were being printed in this regard in the maritime press there was little big data available to really identify if mental health issues are increasing. It was felt that the issues have always existed but the focus before had been on more fundamental hygiene factors which had now been addressed by the

MLC. This had left a gap for more focus on mental health issues. It was also noted that easier access to internet and phones have also resulted in a wider awareness of concerns emanating from seafarers' families contacting their loved ones and the seafarers feeling helpless to be able to assist at difficult times.

Action required

The Director of Employment Affairs will investigate what is being done currently in this regard and report back to the committee at its next meeting.

16. ANY OTHER BUSINESS

Human Rights at Sea

The Chairman expressed concern with regard to a document produced for Human Rights at Sea and which was shared with members in circular LA (18)37. He advised that he would work with Ms Cerche and The Director of Employment Affairs to produce a response that should be sent back to the authors at the University of Bristol Human Rights Department.

Action required

The Chairman will work with Ms Cerche and The Director of Employment Affairs to produce a response that should be sent back to the authors at the University of Bristol Human Rights Department.

IBF

The Chairman also advised that the IBF negotiations had now been concluded and that he would request Mr Gargiulo to make a presentation on the outcome of these talks at the next LAC meeting.

Action required

Mr Gargiulo requested to make a presentation on the outcome of the IBF talks at the next LAC meeting.

17. DATE OF THE NEXT MEETING

The Chairman advised that the date of the next meeting was still to be determined but it was hoped to schedule this alongside the next bipartite meeting with ITF if ITF wishes to hold a meeting early next year. Currently ITF were slow to respond to any requests before completion of their congress in October 2018.

Members will be advised once a date is finalised.

International Labour Conference Conférence internationale du Travail

AMENDMENTS OF 2018 TO THE CODE
OF THE MARITIME LABOUR CONVENTION, 2006,
AS AMENDED (MLC, 2006),
APPROVED BY THE CONFERENCE
AT ITS ONE HUNDRED AND SEVENTH SESSION,
GENEVA, 5 JUNE 2018

AMENDEMENTS DE 2018 AU CODE
DE LA CONVENTION DU TRAVAIL MARITIME, 2006,
TELLE QU'AMENDÉE (MLC, 2006),
APPROUVÉS PAR LA CONFÉRENCE
À SA CENT SEPTIÈME SESSION,
GENÈVE, 5 JUIN 2018

**AMENDMENTS OF 2018 TO THE CODE
OF THE MARITIME LABOUR CONVENTION, 2006,
AS AMENDED (MLC, 2006)**

**Amendment to the Code of the MLC, 2006,
relating to Regulation 2.1**

Standard A2.1 – Seafarers’ employment agreements

Insert a new paragraph 7:

7. Each Member shall require that a seafarer’s employment agreement shall continue to have effect while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, regardless of whether the date fixed for its expiry has passed or either party has given notice to suspend or terminate it. For the purpose of this paragraph, the term:

- (a) *piracy* shall have the same meaning as in the United Nations Convention on the Law of the Sea, 1982;
- (b) *armed robbery against ships* means any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State’s internal waters, archipelagic waters and territorial sea, or any act of inciting or of intentionally facilitating an act described above.

**Amendment to the Code of the MLC, 2006,
relating to Regulation 2.2**

Standard A2.2 – Wages

Insert a new paragraph 7:

7. Where a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, wages and other entitlements under the seafarers’ employment agreement, relevant collective bargaining agreement or applicable national laws, including the remittance of any allotments as provided in paragraph 4 of this Standard, shall continue to be paid during the entire period of captivity and until the seafarer is released and duly repatriated in accordance with Standard A2.5.1 or, where the seafarer dies while in captivity, until the date of death as determined in accordance with applicable national laws or regulations. The terms *piracy* and *armed robbery against ships* shall have the same meaning as in Standard A2.1, paragraph 7.

**Amendment to the Code of the MLC, 2006,
relating to Regulation 2.5**

Guideline B2.5.1 – Entitlement

Replace paragraph 8 by the following:

8. The entitlement to repatriation may lapse if the seafarers concerned do not claim it within a reasonable period of time to be defined by national laws or regulations or collective agreements, except where they are held captive on or off the ship as a result of acts of piracy or armed robbery against ships. The terms *piracy* and *armed robbery against ships* shall have the same meaning as in Standard A2.1, paragraph 7.

**AMENDEMENTS DE 2018 AU CODE
DE LA CONVENTION DU TRAVAIL MARITIME, 2006,
TELLE QU'AMENDÉE (MLC, 2006)**

**Amendement au code de la MLC, 2006,
concernant la règle 2.1**

Norme A2.1 – Contrat d'engagement maritime

Insérer un nouveau paragraphe 7, comme suit:

7. Tout Membre exige qu'un contrat d'engagement maritime continue à produire ses effets lorsque, à la suite d'actes de piraterie ou de vols à main armée à l'encontre des navires, le marin est tenu en captivité à bord du navire ou ailleurs, même si la date fixée pour son échéance est passée ou que l'une ou l'autre partie a notifié sa suspension ou résiliation. Aux fins du présent paragraphe, l'expression:

a) *piraterie* s'entend au sens de la Convention des Nations Unies sur le droit de la mer de 1982;

b) *vols à main armée à l'encontre des navires* désigne tout acte illicite de violence, de détention ou de déprédation, ou menace de tels actes, autre qu'un acte de piraterie, commis à des fins privées contre un navire, ou contre des personnes ou des biens à son bord, dans les eaux intérieures, les eaux archipélagiques ou la mer territoriale d'un Etat, ou tout acte ayant pour but d'inciter à commettre un acte défini ci-dessus ou commis dans l'intention de le faciliter.

**Amendement au code de la MLC, 2006,
concernant la règle 2.2**

Norme A2.2 – Salaires

Insérer un nouveau paragraphe 7, comme suit:

7. Lorsque, à la suite d'actes de piraterie ou de vols à main armée à l'encontre des navires, un marin est tenu en captivité à bord du navire ou ailleurs, le salaire et autres prestations prévus dans son contrat d'engagement maritime, la convention collective ou la législation nationale applicables continuent de lui être versés, et les virements prévus continuent d'être effectués, conformément au paragraphe 4 de la présente norme, pendant toute la période de captivité, jusqu'à ce que le marin soit libéré et dûment rapatrié, conformément à la norme A2.5.1 ou, lorsque le marin décède pendant sa captivité, jusqu'à la date de son décès telle que déterminée conformément à la législation nationale applicable. Les expressions *piraterie* et *vols à main armée à l'encontre des navires* ont la même signification qu'au paragraphe 7 de la norme A2.1.

**Amendement au code de la MLC, 2006,
concernant la règle 2.5**

Principe directeur B2.5.1 – Conditions des droits au rapatriement

Remplacer le paragraphe 8 par ce qui suit:

8. Le droit au rapatriement peut expirer si le marin intéressé ne le revendique pas dans un délai raisonnable défini par la législation nationale ou les conventions collectives, sauf lorsque le marin est tenu en captivité à bord du navire ou ailleurs, à la suite d'actes de piraterie ou de vols à main armée à l'encontre des navires. Les expressions *piraterie* et *vols à main armée à l'encontre des navires* ont la même signification qu'au paragraphe 7 de la norme A2.1.

The foregoing is the authentic text of the Amendments duly approved by the General Conference of the International Labour Organization during its One hundred and seventh Session which was held at Geneva and declared closed the eighth day of June 2018.

IN FAITH WHEREOF we have appended our signatures this day of June 2018.

Le texte qui précède est le texte authentique des amendements dûment approuvés par la Conférence générale de l'Organisation internationale du Travail dans sa cent septième session qui s'est tenue à Genève et qui a été déclarée close le huitième jour de juin 2018.

EN FOI DE QUOI ont apposé leurs signatures, ce
jour de juin 2018:

*The President of the Conference,
La Présidente de la Conférence,*

*The Director-General of the International Labour Office,
Le Directeur général du Bureau international du Travail,*

11/05/2018

Tele meeting held between Michelle Grech (AMSA), Sarah Cerche (MIAL) and Dean Summers (ITF)

Deaths at sea investigations

- How do we get a better picture of what is going on out there?
- We cannot force other flag States to investigate or to even provide a report, working through the IMO doesn't necessarily work.
- We need to have a simple taxonomy first for recording deaths
- This will provide us with information to identify where the issue lies and what we should focus on
- In order for ILO to consider it, AMSA would like support and feedback from the seafarer and owners groups to include this in MLC, this would include support from other flag states to agree on including this topic.
- General consensus to form a working group in between meetings
- Consensus that the more support we have, the higher chance we have in having this discussed at the next ILO meeting.
- See action item update below 10/2017 - 7.1

AMSA to work with MIAL and ITF to develop a simple fatality taxonomy which can be used internationally.

Discussion today:

- Agreed that ILO would possibly be the best avenue to pursue this moving on the same lines as the abandonment at sea database
- Dean to discuss this further with ITF colleagues when overseas
- AMSA's simple taxonomy can be used as a basis to start with
- Sarah and Dean will review and provide feedback
- Michelle will try and have further discussions at IMO HTW 5 with flag states on this

Simple taxonomy for fatality classifications

Personal_Consequence	Seafarer	Seafarer Illness/Disease
Personal_Consequence	Seafarer	Seafarer Death (Natural Cause)
Personal_Consequence	Seafarer	Seafarer Fatality
Personal_Consequence	Seafarer	Seafarer MOB (Survived)
Personal_Consequence	Seafarer	Seafarer MOB (Presumed/Deceased)
Personal_Consequence	Seafarer	Seafarer Missing Ashore
Personal_Consequence	Seafarer	Seafarer Birth
Personal_Consequence	Seafarer	Seafarer Injury
Personal_Consequence	Seafarer	Dangerous Occurrence
Personal_Consequence	Seafarer	Seafarer Suicide
Personal_Consequence	Seafarer	Other