

This chapter has been prepared in response to a request by the UN General Assembly in its resolution on “International cooperation to address challenges faced by seafarers as a result of the COVID-19 pandemic to support global supply chains”

(A/RES/75/17), at para. 7.

The shipping industry has played a vital role in the global response to the COVID-19 pandemic – delivering food, medical supplies, fuel, and other essential goods, and helping keep global supply chains and commerce running. This is to a large extent due to the world’s 1.9 million seafarers, who through these extraordinary times have demonstrated great professionalism and dedication.

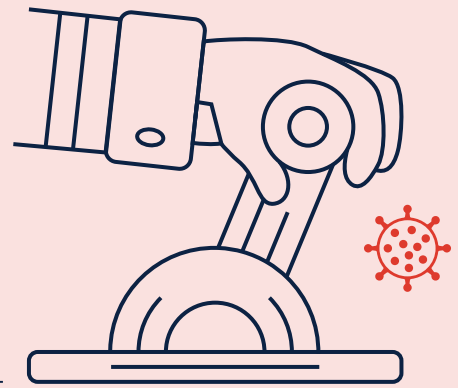
But their work has come at some risk to the seafarers themselves, many of whom have been unable to leave their ships. This chapter considers issues related to seafarers’ health, safety, security and welfare. It highlights areas where industry, governments, and international organizations can cooperate to protect seafarers’ human and legal rights and implement relevant labour standards, including those agreed in the Maritime Labour Convention 2006, and in particular, alleviate their plight resulting from the COVID-19 pandemic. Such support should be part of the implementation of the broader 2030 Agenda – in particular, SDG 8, which aims to ensure decent work and economic growth. Beyond protecting the rights and welfare of seafarers and their families, this would also support the economies of their home countries, help maintain world trade and ensure the flow of goods across supply chains.

Key shipping stakeholders, including international bodies, governments, and industry, have issued guidance and recommendations for ensuring that seafarers are medically fit and have access to medical care, with mechanisms to prevent, and respond to, COVID-19 emergencies at sea – and that ships and port facilities meet international sanitary requirements. They have also argued that seafarers should be recognized as key workers and vaccinated as a matter of priority. However, as the pandemic continues for a second year the crew change crisis appears to be worsening, with continuing logistical obstacles to the repatriation of seafarers. Stakeholders will need to redouble their efforts while also regularly updating their guidance and recommendations in line with the latest scientific insights.

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The COVID-19 seafarer crisis

The COVID-19 seafarer crisis



Seafarers, many of whom from developing countries, are playing a vital role in ensuring the flow of critical goods across supply chains and keeping the world trade moving.

All should be working together to implement relevant labour standards, protect seafarers' human rights and advance the objectives of SDG 8 of decent work and economic growth for sustainable development.



Vaccination

Concerted collaborative efforts by industry, governments and international organizations should ensure that seafarers are designated as key workers and are vaccinated as a matter of priority



Crew changes

Governments and industry should continue to work together, including through the Neptune Declaration initiative, and in collaboration with relevant international organizations, to facilitate crew changes, in accordance with international standards and in line with public health considerations



Route deviations

Charterers and other industry stakeholders should be flexible in accepting requests from shipping companies for route deviation to facilitate crew changes



International legal framework

States and other relevant stakeholders should keep under review the relevant legal framework and ensure that international obligations are respected and implemented



Maritime single windows

Port community systems should implement the Single Window concept to cover all the information and formalities resulting from FAL and other relevant instruments



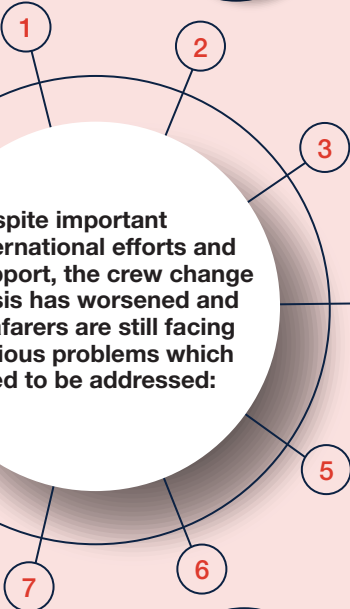
Information exchange

Relevant public and private sector stakeholders should continue their regular exchange of views and best practices on seafarers' situation and needs

Outbreaks and emergencies at sea

Specific guidance on measures to prevent and deal with COVID-19 and other outbreaks at sea should be updated regularly, in line with developing scientific insights

Despite important international efforts and support, the crew change crisis has worsened and seafarers are still facing serious problems which need to be addressed:



A. SEAFARERS CRISIS – RECENT DEVELOPMENTS

Shipping and seafarers are vital to global supply chains and the world economy – transporting over 80 per cent of world trade by volume. Around 1.9 million seafarers work to facilitate the way we live, and during the COVID-19 pandemic seafarers have continued to demonstrate great professionalism and dedication, helping to deliver food, medical supplies, fuel, and other essential goods, and keep supply chains active and global commerce running.

Recognizing this, key shipping stakeholders, including international bodies, governments, and industry, have issued guidance and recommendations to support seafarers during the pandemic.¹ The aim is to ensure that seafarers are protected from COVID-19, are medically fit and have access to medical care; that ships and port facilities meet international sanitary requirements; that seafarers are recognised as key workers; and that they are vaccinated as a matter of priority.

However, the pandemic has seriously disrupted crew changes. Each month, a large number of seafarers need to be changed over – to prevent fatigue and to comply with international maritime regulations for safety, crew health and welfare. Aiming to protect public health, as variants of the virus emerge, governments are continuing to impose border closures, lockdowns and preventative measures which include suspending crew changes and prohibiting crews from disembarking at port terminals. Due to these restrictions, and the shortage of international flights, even one year into the pandemic hundreds of thousands of seafarers remain stranded at sea, far beyond the expiration of their contracts (De Beukelaer, 2021). As yet, there is no global consensus on uniform measures that may allow for efficient crew changes and transfer.

The social partners, international organizations, and industry bodies have expressed concern about this humanitarian crisis. IMO, ILO, ICS, ITF, and UNCTAD have urged member States to designate seafarers and other marine personnel as key workers and accept their identity documents as evidence of this status. They have also asked for greater flexibility for ship owners and managers to divert ships and to call in ports where crew change is possible, without imposing penalties. See IMO 2020a, ITF 2020, IMO 2020b, and UNCTAD 2020d.

On 1 December 2020, the UN General Assembly unanimously adopted a resolution on ‘International cooperation to address challenges faced by seafarers as a result of the COVID-19 pandemic to support global supply chains’ (A/RES/75/17).² Indonesia, which supplies much of the maritime labour force, facilitated the negotiation, supported by UNCTAD, ILO and IMO. Co-sponsored by 71 countries, the resolution urges member States to designate seafarers and other marine personnel as key workers and encourages governments and other stakeholders to implement the “Industry recommended framework of protocols for ensuring safe ship crew changes and travel during the Coronavirus (COVID-19) pandemic”, the importance of which was recognized by the Maritime Safety Committee of the IMO (IMO, 2021a).³ The resolution also calls upon governments to facilitate maritime crew changes by enabling them to embark and disembark and expediting travel and repatriation efforts, while also ensuring access to medical care.

In addition, on 8 December 2020, the Governing Body of the International Labour Organization adopted a ‘Resolution concerning maritime labour issues and the COVID-19 pandemic’ (ILO, 2020b). This urges all Members, to collaborate to identify obstacles to crew changes; designate seafarers as “key workers”, for the purpose of facilitation of safe and unhindered movement for embarking or disembarking a vessel, and the facilitation of shore leave. Members should also accept seafarer’s internationally recognized documentation, including seafarers’ identity documents delivered in conformity with ILO Conventions Nos 108 and 185, and also consider temporary waivers, exemptions or other changes to visa or documentary requirements that might normally apply to seafarers. In addition, they should ensure access

¹ See further UNCTAD, 2020a, Chapter 5.E. See also COVID-19-related IMO circulars, <https://www.imo.org/en/MediaCentre/HotTopics/Pages/Coronavirus.aspx>. For a list of COVID-19 related communications on measures taken by IMO Member states/Associate Members (updated weekly), see <http://www.imo.org/en/MediaCentre/HotTopics/Pages/COVID-19-Member-States-Communications.aspx>, as well as weekly updates from BIMCO on implementation measures imposed by governments and UN bodies, for sea transport including for crew changes <https://www.bimco.org/news/ports/20210528-bimco-covid-19-weekly-report>. For calls for action by UNCTAD, see UNCTAD, 2020b, 2020c, 2020d. Also see UNCTAD, 2020e, and 2020f, ILO, 2020, WHO, 2020a, and INTERTANKO, 2020. For a roadmap to improve and ensure good indoor ventilation in the context of COVID-19, see WHO, 2021a. For policy and technical considerations for implementing a risk-based approach to international travel in the context of COVID-19, including for seafarers, see WHO, 2021b and 2021c.

² <https://undocs.org/en/A/RES/75/17>. Inter alia, the Resolution also requests IMO and UNCTAD to report on issues related to the resolution.

³ Subsequently revised in April 2021, to include reference to vaccination.

to medical facilities ashore, emergency medical treatment and, where necessary, emergency repatriation for seafarers regardless of nationality.

On 21 September 2020, another relevant resolution was adopted by the Maritime Safety Committee of the IMO – ‘Recommended action to facilitate ship crew change, access to medical care and seafarer travel during the COVID-19 pandemic’ (IMO, 2020c). The IMO urged governments and relevant national authorities to engage nationally and internationally in discussions on the implementation of the industry protocols and consider applying them to the maximum extent possible; designate seafarers as “key workers” providing an essential service, in order to facilitate safe and unhindered movement for embarking or disembarking a vessel; consider temporary measures including (where possible under relevant law) waivers, exemptions or other relaxations from any visa or documentary requirements that might normally apply to seafarers; encourage the use of prevention measures, such as tests on crews before embarkation and provide seafarers with immediate access to medical care ashore.

In response, echoing the above calls, in January 2021, more than 600 companies and organizations signed the ‘Neptune Declaration on Seafarer Wellbeing and Crew Change’ (Global Maritime Forum, 2021a).⁴ The declaration recognizes their shared responsibility to resolve the crew change crisis and calls for the implementation of the industry protocols. For this purpose, it defines four main actions: recognize seafarers as key workers and give them priority access to COVID-19 vaccines; establish and implement gold-standard health protocols based on existing best practice; increase collaboration between ship operators and charterers to facilitate crew changes; and ensure air connectivity between key maritime hubs for seafarers. Subsequently, the signatories developed a set of best practices that serve as a framework for charterers to facilitate crew changes and work with ship owners to minimize the disruptions to operations (Global Maritime Forum, 2021b). In addition, they developed a Neptune Declaration Crew Change Indicator which aggregates data from 10 leading ship managers covering about 90,000 seafarers, to estimate the number affected by the crisis (Global Maritime Forum, 2021c).⁵ At the peak of the crisis, more than 400,000 crew were trapped on board their ships. As of March 2021, around 200,000 seafarers remained on board commercial vessels beyond the expiry of their contracts (IMO, 2021b, Aljazeera, 2021).

In March 2021, IMO, ICAO, ILO, WHO and IOM, issued a joint statement on priority vaccination of seafarers and aircrews (IMO, 2021c, IMO, 2021d; ILO, 2021a). Around that time, there were other important documents published, including an industry paper ‘COVID-19: Legal, liability and insurance Issues arising from vaccination of seafarers’ (ICS et al, 2021a), and a ‘Practical guide on vaccination for seafarers and shipowners’ (ICS et al, 2021b). A further publication by the ICS in May 2021 was ‘Coronavirus (COVID-19): Roadmap for vaccination of international seafarers’ (ICS et al, 2021c).

The ILO has a Special Tripartite Committee established under the 2006 Maritime Labour Convention (MLC). In April 2021, the Committee adopted a ‘Resolution concerning the implementation and practical application of the MLC, 2006, during the COVID-19 pandemic’ which called on Members to designate and treat seafarers as key workers, and take other necessary steps to ensure their rights (ILO, 2021b). This would mean providing them with access to COVID-19 vaccination at the earliest opportunity and promoting the mutual acceptance of vaccine certificates. The Committee also adopted a ‘Resolution concerning COVID-19 vaccination for seafarers’ (ILO, 2021c), and recommendations concerning the review of maritime-related instruments (ILO, 2021d). In addition, the ILO, following formal requests from shipowner and seafarer organizations, has intervened with member States that have ratified MLC 2006, to remind them of their obligations, notably the obligation of port States to grant access to seafarers in need of medical care in foreign ports (ILO, 2021e).

In May 2021, the IMO Maritime Safety Committee adopted Resolution MSC.490 (103): ‘Recommended action to prioritize COVID-19 vaccination of seafarers’ (IMO, 2021e), recommending that member States and relevant national authorities prioritize their seafarers, as far as practicable, in their national COVID-19 vaccination programmes, taking into account the WHO SAGE Roadmap (WHO, 2020b). And, while bearing in mind their national vaccines supplies, they should also consider extending COVID-19 vaccines to seafarers of other nationalities.

Seafarers should also be designated as “key workers” and since they frequently travel across borders member States should consider exempting them from requiring proof of COVID-19 vaccination as a condition for entry. In addition, the 109th Session of the International Labour Conference in June 2021

⁴ Signed by more than 800 companies and organizations, as of June 2021.

⁵ Anglo- Eastern, Bernhard Schulte, Columbia Shipmanagement, Fleet Management (FLEET), OSM, Synergy Marine, Thome, V.Group, Wallem, and Wilhelmsen Ship Management.

adopted a 'Global call to action for a human-centred COVID-19 recovery' which prioritizes the creation of decent jobs for all and addresses the inequalities caused by the crisis (ILO, 2021f; ILO, 2021g).

According to IMO, as of the end of June 2021, 60 member States and two associate members had signed on to designate seafarers as key workers (IMO, 2021f). However, despite a gradual easing, many countries still maintain restrictions on crew changes based on nationality or travel history. Problems are also being created in certain contracts of carriage, preventing crew changes while the charterer's cargo is onboard and not allowing the ship to deviate to ports where crew changes could take place (ILO, 2021h; IMO, 2020d). Seafarers also have problems in obtaining visas or travel permits to transit countries.

Despite the above efforts, the crew-change crisis appears to be getting worse. The latest Neptune Declaration Crew Change Indicator published in July 2021 shows that the number of seafarers on board beyond the expiry of their contracts continued to rise in June 2021, as did the number of seafarers on board for over 11 months (table 5.1) (Global Maritime Forum, 2021d). Since the launch of the Indicator in May 2021, the proportion of seafarers on board vessels beyond the expiry of their contract had increased from 5.8 to 8.8 per cent – an increase of over 50 per cent. The number of seafarers on board for over 11 months had increased from 0.4 to 1 per cent – an increase of 150 per cent. According to the MLC 2006, the default maximum period of service on board, following which a seafarer is entitled to repatriation, is 11 months (Regulation 2.5 and Regulation 2.4). In July 2021, the International Chamber of Shipping estimated that, the number of seafarers remaining on board beyond the expiry of their contract, was around 250,000.

	Percentage of seafarers on board beyond the expiry of their contracts		Percentage of seafarers on board for over 11 months	
	Monthly percentage	Percentage point change from previous month	Monthly percentage	Percentage point change from previous month
May 2021	5.8	-	0.8	-
June 2021	7.2	+1.4	0.4	-0.4
July 2021	8.8	+1.6	1.0	+0.6

Source: Global Maritime Forum 2021.

As part of the reporting for the Neptune Declaration Crew Change Indicator, contributing ship managers also highlighted the following key developments: "Continual high infection rates and subsequent domestic lockdowns are still challenging crew changes and causing disruption to crew movements; a decrease of daily inbound flights to the Philippines as well as the travel ban announced by the Philippine Government for seafarers traveling from United Arab Emirates, Oman, Nepal, Bangladesh, Sri Lanka, Pakistan are causing a general disruption to crew movements; travel restrictions continue to prevent seafarers from going back home and many flights have been cancelled; and leading maritime crew nations continue to have low vaccination rates and seafarers continue to have limited vaccine access."⁶ (see also box 5.1).

Crew changes and repatriation of seafarers thus still entail serious logistical challenges. Moreover, seafarer access to medical care and priority vaccination remains inadequate, with important repercussions for their health and safety, as well as for public health (DevPolicy, 2021).

In June 2021, it was reported that a cargo ship's captain, who developed COVID-19 symptoms shortly after the vessel set sail, died on board after 11 days (CNN, 2021). Successive ports refused to allow the vessel to call, and no medical evacuation measures were taken. For six weeks, despite repeated pleas for assistance, the ship was stranded offshore, unable to find a port that would take the corpse. As a result, the crew was stuck at sea for weeks, with a potential COVID-19 outbreak on its hands.

This state of affairs is clearly unacceptable. Seafarers should not just be designated as key workers and vaccinated but also provided with speedy and effective emergency medical assistance in the event of a COVID-19 outbreak at sea.

It will also be important to keep abreast of the latest guidance, which should be updated in line with the latest scientific insights on transmission pathways, variants, vaccine efficacy, and related risks.

⁶ According to ICS, informal industry survey data about vaccinations by nationality of seafarers suggests that, with some notable exceptions, only a small proportion of the world's seafarers has been currently vaccinated.

The latest industry guidance for ship-operators (ICS et al., 2021d), draws on sector-specific WHO guidance published in August 2020 (WHO, 2020a).⁷ A good model is that of Belgium which in July 2021, started a vaccination programme for all seafarers arriving in a Belgian port, regardless of their nationality (Safety4Sea, 2021). Other countries have seafarer vaccination programmes, including Australia, Cyprus, Germany, the Netherlands, and the United States. In India the National Union of Seafarers has started a programme to offer 5,000 doses to seafarers and their families (TradeWinds, 2021).

Addressing the complex issues arising in the context of facilitating global trade in times of a pandemic while protecting the health of seafarers and the public at large will require the continued engagement of all stakeholders, including in the negotiations of legal instruments, guidelines and recommendations under the auspices of UN bodies, including ILO, IMO, and UNCTAD, and in respect of relevant national and local implementation. Reflecting the continued need to raise awareness and alleviate the plight of seafarers, while recognizing their vital role in world trade, it is worth noting that “Seafarers: at the core of shipping’s future” was selected as the World Maritime theme for 2021.⁸

According to the BIMCO/ICS Seafarer Workforce Report 2021 (BIMCO/ICS 2021), in 2021 around the world there were 1,892,720 seafarers, of whom 857,540 were officers and 1,035,180 were ratings – skilled seafarers who carry out support work for officers. The largest supplier for both officers and ratings was the Philippines followed by the Russian Federation, Indonesia, China, and India (table 5.2). Together, these countries supplied 44 per cent of the global seafarer workforce. These numbers are growing.

Box 5.1 The case of the Philippines

Seafarer supply

The Philippines is now the world’s largest source of seafarers, with an estimated 700,000 deployed on domestic or foreign-flagged seagoing vessels. Over a quarter of all global merchant shipping crew members come from the Philippines. As of 2019, there were 380,000 Filipino seafarers overseas. By mid-2020, over the three months after the onset of the COVID-19 pandemic and the quarantine imposed in the country, 50,000 Filipino seafarers had been repatriated, but only 17,845 outbound or deployed seafarers were recorded by the authorities. As reported by Business Mirror, during July–September 2020, according to the Philippine Overseas Employment Administration, the deployment of Filipino seafarers started to return to normal, with over 136,000 sailors able to board ships traveling in international waters.

Seafarer remittances

In 2019, the Philippines earned more than \$30.1 billion from overseas Filipino workers, including \$6.5 billion from seafarers. In 2019, the remittances of overseas Filipino workers constituted 9.3 per cent of the Philippines’ GDP and 7.3 per cent of gross national income. By the end of 2020, total remittances of overseas foreign workers amounted to \$29.9 billion a 0.8 per cent decline that year. Of this amount, \$6.3 billion was remitted by sea-based workers – a 2.8 per cent decline.

Seafarer vaccination

When it comes to vaccination against COVID-19, seafarer-supplying nations are at a disadvantage. According to the *New York Times* vaccination tracker, as of the beginning of August 2021, globally on average 53 doses of the COVID-19 vaccines had been administered for every 100 people, but the Philippines had delivered only 18 doses for every 100 people. Among the world’s five-largest seafarer providers every country except China (117) had delivered less than the global average: Russian Federation, 42; Indonesia, 25; and India, 34.

Sources: Maritime Industry Authority (2020). A Letter to All Filipino Seafarers Around the World. 13 April. <https://marina.gov.ph/2020/04/13/a-letter-to-all-filipino-seafarers-around-the-world>. The World Bank. <https://data.worldbank.org>. Philippines Overseas Employment Administration <https://www.poea.gov.ph/ofwstat/ofwstat.html>. Global Maritime Forum (2020). S.E.A.F.A.R.E.R. 30 September. <https://www.globalmaritimeforum.org/news/s-e-a-f-a-r-e-r>. Business Mirror (2020). 136,000 Filipino seafarers deployed aboard international vessels overseas since July’. 1 October. <https://businessmirror.com.ph/2020/10/01/136000-filipino-seafarers-deployed-aboard-international-vessels-overseas-since-july>. Bangko Sentral ng Pilipinas (2021). Statistics. Overseas Filipinos’ Cash Remittances. <https://www.bsp.gov.ph/statistics/external/ofw2.aspx>. Philippine Statistics Authority. <https://psa.gov.ph/national-accounts/base-2018/data-series>.

⁷ The industry guidance also refers to non-sector specific guidance for the general public (WHO, 2020c).

⁸ <https://www.imo.org/en/MediaCentre/PressBriefings/pages/DOTS-2021.aspx>.

Table 5.2 Five largest seafarer-supply countries, 2021

	All Seafarers	Officers	Ratings
1	Philippines	Philippines	Philippines
2	Russian Federation	Russian Federation	Russian Federation
3	Indonesia	China	Indonesia
4	China	India	China
5	India	Indonesia	India

Source: BIMCO/ICS, Seafarer Workforce Report 2021, London, 2021.

The 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) establishes basic requirements on training, certification and watchkeeping. Between 2015 and 2021 the supply of STCW -certified officers increased by 11 per cent and that of STCW-certified ratings by 19 per cent (BIMCO/ICS 2015).

B. SEAFARER CRISIS – IMPLEMENTATION OF THE ILO MARITIME LABOUR CONVENTION, 2006, AS AMENDED (MLC 2006)

The ILO Maritime Labour Convention 2006, entered into force on 20 August 2013 and, as of July 2021, had been ratified by 98 of the 187 ILO member States. The Convention comprehensively sets out rights and responsibilities, as well as minimum standards for seafarers' working and living conditions. It covers a wide range of issues, including minimum age, employment agreements, hours of work or rest, payment of wages, paid annual leave, repatriation at the end of contract, and onboard medical care. It also addresses licensed private recruitment and placement services, accommodation, food and catering, health and safety protection and accident prevention and complaint handling. In addition, the Convention introduces compliance and enforcement components for flag State inspection and for port State control. The MLC 2006,⁹ taken together with other instruments, thus helps guarantee the health, safety, security and welfare of seafarers as well as their human rights.¹⁰

Nevertheless, as result of COVID-19 restrictions many seafarers have been stranded. As a recent UN report highlights, “hundreds of thousands of seafarers are trapped on ships as routine crew changes cannot be carried out, while hundreds of thousands are stranded on land, prevented from re-joining ships. Those stranded on ships are being denied their human rights, including their rights to physical and mental health, to family life, and to freedom of movement, and are often forced to work beyond the default 11-month maximum period of service on board, as established by MLC 2006. This is resulting in cases that could amount to forced labour” (UN Global Compact, et al., 2021). The report addresses seafarers' rights, and offers cargo owners, charterers and logistics providers guidance and a checklist for conducting due diligence across their supply chains. The aim is to identify, prevent, mitigate and address adverse human rights impacts for seafarers affected by the ongoing COVID-19 crisis.

On 12 December 2020, the ILO Committee of Experts on the Application of Conventions and Recommendations, adopted a document entitled ‘General observation on matters arising from the application of the MLC, 2006, during the COVID-19 pandemic’ (ILO, 2021i). The Committee noted with deep concern the impact that COVID-19 restrictions have had on the protection of seafarers' rights as laid out in the Convention. The Committee also took note of the observations of the International Transport Workers' Federation received on 1 October 2020 and of the International Chamber of Shipping on 26 October 2020 that ratifying States had failed to comply with major provisions of the Convention during the COVID-19 pandemic – notably regarding cooperation among Members, access to medical care and repatriation of seafarers. In addition, they noted the risk that fatigue and other health issues could lead to serious maritime accidents.¹¹ It therefore, strongly encouraged ratifying States in their different capacities as flag States, port States or labour-supplying States that have not yet done so, “to recognize seafarers as key workers without delay and to draw in practice the consequences of such qualification, in order to restore the respect of their rights as provided for in the MLC, 2006.”

⁹ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:91:0::NO::P91_INSTRUMENT_ID:312331.

¹⁰ The protection of human rights is a cross cutting issue for the 2030 Agenda for Sustainable Development, which seeks to realize the human rights of all (see A/RES/70/1, Preamble). Thus, the 2030 Agenda and human rights are interwoven and inextricably tied together (OHCHR, 2015).

¹¹ For further information on the labour rights and standards involved, see ILO, 2020c, 2020d.

In February 2021, ILO, through a revised information note, published guidance, on how best to address the complexities of the current crisis in light of the provisions of MLC, 2006. This was updated to reflect the observations of the ILO Committee of Experts on the Application of Conventions and recommendations (ILO, 2021j), and also made reference to the MLC, 2006 and previous work of ILO bodies¹², as well as to recommendations from the IMO and WHO, and related work by the ICS and the ITF.

The Committee advises that the notion of ‘force majeure’, i.e., unforeseen or unforeseeable circumstances making it impossible to comply with the MLC 2006, may no longer be invoked from the moment that options are available to comply with the provisions of the Convention, although more difficult or cumbersome, and urged 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 MLC 2006.

The note urges all *ratifying States* to:

- Adopt the necessary measures or reinforce existing ones without delay to ensure that, in no case, are seafarers forced to continue working on extended contractual arrangements without their formal, free, and informed consent.
- Recognize seafarers as key workers without delay and to draw in practice the consequences of such qualification, in order to restore the respect of their rights as provided for in the MLC, 2006.
- Adopt necessary measures, in consultation with relevant seafarers’ and shipowners’ organizations, to further enhance cooperation with each other to ensure the effective implementation and enforcement of the Convention, in particular during the COVID-19 pandemic.

Flag States are urged to ensure that:

- The ships that fly their flags fully comply with the provisions of the Convention and adopt the necessary measures and/or reinforce the existing ones without delay, including through more frequent inspections, if necessary.
- Seafarers on ships that fly their flags are covered by adequate measures for the protection of their health and have access to prompt and adequate medical care whilst working on board, including access to vaccination (Regulation 4.1).
- Seafarers are provided with occupational health protection and live, work and train on board ship in a safe and hygienic environment (Regulation 4.3).
- The prohibition to forgo minimum annual leave with pay is strictly enforced, with the limited exceptions authorized by the competent authority (Regulation 2.4 and Standard A2.4, paragraph 3).
- Seafarers are repatriated at no cost to themselves in the circumstances specified in the Convention, with strict respect of the default 11 months maximum period of service on board derived from the provisions of the Convention (Regulation 2.5 and Regulation 2.4).
- Ships that fly their flag have sufficient of seafarers employed on board to ensure that ships are operated safely, efficiently and with due regard to security under all conditions, taking into account concerns about seafarer fatigue and the particular nature and conditions of the voyage (Regulation 2.7).
- No fees or other charges for seafarer recruitment or placement, including the cost of any quarantine obligations before joining the ship, are borne directly or indirectly, in whole or in part, by the seafarer, other than the cost authorized under Standard A1.4, paragraph 5.
- Seafarers are granted shore leave for their health and well-being and consistent with the operational requirement of their positions, subject to the strict respect of any public health measures applicable to the local population.

Port States are urged to:

- Ensure that seafarers on board ships in their territory who are in need of immediate medical care, are given access to medical facilities on shore (Regulation 4.1).
- Facilitate the repatriation of seafarers serving on ships which call at their ports or pass through their territorial or internal waters (Standard A2.5.1, paragraph 7).

¹² Including the CEACR and the Special Tripartite Committee of MLC 2006.

- Allow and facilitate the replacement of seafarers who have disembarked and consequently ensure the safe manning of ships, by providing an expeditious and non-discriminatory treatment of new crew members who enter their territory exclusively to join their ships (Standard A2.5.1, paragraph 7).

Labour-supplying States which have not yet done so, are called upon to:

- adopt the necessary and immediate measures to ensure that the required facilities are put in place in relation to transport, testing and quarantine of seafarers.
- While encouraging a pragmatic approach regarding certificates in respect of training and qualifications since the beginning of the pandemic, *all ratifying States* are urgently called upon 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 MLC 2006.
- With respect to maritime labour certificates and inspections, while recognizing challenges since the outbreak of COVID-19, in respect of conducting the inspections required in accordance with MLC 2006, all ratifying countries with responsibilities as *flag States* and *port States* are urged to adopt the necessary measures without delay, to ensure compliance with the Convention.

In addition, the guidance notes that the measures adopted to contain the pandemic are creating additional challenges in resolving the cases of abandonment that occurred before the outbreak of COVID-19. The IMO/ILO database on reported incidents of abandonment of seafarers, shows a dramatic increase in cases of abandonment in the second part of 2020, with some of those cases linked to COVID-19-related measures.¹³ It was recalled that, even in the context of the COVID-19 pandemic, 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 undertake all necessary action to promptly resolve situations of abandonment and ensure that affected seafarers are repatriated as soon as possible and receive the payment of outstanding wages, in accordance with the relevant provisions of the MLC 2006 (ILO, 2021j). According to ILO, as of mid-July 2021, 60 cases had been reported for 2021, which, if that rate continued, would surpass the number of cases in 2020. Also, resolution of a number of abandonment cases had been delayed due to the pandemic (e.g., not being able to repatriate seafarers due to restrictions on disembarkation and travel).

C. CREW CHANGES AND KEY WORKER STATUS – OTHER RELEVANT INTERNATIONAL LEGAL INSTRUMENTS

In addition to the MLC 2006, a number of other international conventions and instruments contain provisions aiming to reduce the formalities and documents required, and to facilitate and simplify crew changes. These cover issues such as seafarers' repatriation, transit and joining ships, and the issuance and harmonization of seafarers' identity documents, while enhancing border and port security. Adopting and implementing these instruments would ease the situation of seafarers during the COVID-19 pandemic and beyond.

ILO Convention No. 108 on Seafarers' Identity Documents, 1958

It has been a longstanding common practice to allow seafarers shore leave to access medical, communications and other onshore welfare facilities. In addition, to join or change ships seafarers may need to transit or transfer through countries, which requires border facilitation at seaports and airports. For this purpose, they have traditionally been issued with a seafarers' identity document (SID). Although a SID is not considered a travel documents per se, like a passport or visa it may be subject to the same national laws.

The Seafarers' Identity Documents Convention, 1958 (No. 108) entered into force on 19 February 1961, and has been ratified by 64 States.¹⁴ The Convention specifies the minimum mandatory details that should be contained in the SID but does not require any security features, or specific form of the document. As a result, various countries subsequently developed their own, making it difficult for border and port authorities to determine whether a document is legitimate.

¹³ <https://www.ilo.org/dyn/seafarers/seafarersbrowse.home>. For more information on work by IMO/ILO in cooperation with ITF, on the issue of abandonment of seafarers, see <https://www.imo.org/en/OurWork/Legal/Pages/Seafarer-abandonment.aspx>.

¹⁴ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C108.

ILO Convention No. 185 on Seafarers' Identity Documents (Revised) 2003, as amended

Following the terrorist attacks of 11 September 2001, the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), was adopted.¹⁵ It included innovations that related to the form of the SID, which in addition to a photograph and other details could include biometric security features such as fingerprints as well as verification options for uniformity and machine readability. The Convention also contains minimum requirements for the SID's issuance processes and procedures, including quality control, national databases, and national focal points to provide information to border authorities. In particular, article 6, paragraph 7, of the Convention, provides: "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."

Convention No.185 entered into force in February 2005, but so far has been ratified by only 36 out of 187 ILO member States, including only few port States. Although some countries have made considerable investment to properly implement this Convention, they can therefore only count on only a few other countries to recognize their SIDs. Moreover, only a few ratifying countries are in a position to issue SIDs that conform with the Convention, while 64 countries still remain Parties only to the 1958 Convention.

Implementation has been slow partly because the specified fingerprint technology and biometric features were soon considered out of date. Instead, since 2003 many border authorities have been using the standards of the International Civil Aviation Authority, namely, ICAO Doc 9303 on Machine Readable Travel Documents.¹⁶ This is now universally followed for travel and similar documents and includes the facial image in a contactless chip – as in electronic passports.

In 2016, ILO Convention No.185 was subsequently amended to align its biometric requirements with those of ICAO Doc 9303.¹⁷ This way, the SID should look and function like an e-passport, booklet, or card and can be issued, read, and verified with the same equipment – enhancing security while simplifying the processes for seafarers when they arrive in ports, or transit or cross international borders.

The amended version entered into force in June 2017, and the amendments are applicable to all member States to the original Convention No.185, except for Marshall Islands. Authorities issuing SIDs, were given a five-year transition period to update their systems, i.e., until 2022, although individual countries may issue the new SIDs as soon as they are able to. All the 1.9 million seafarers could benefit from the new SIDs, which would allow them to travel without a visa to join their ships and to disembark in ports. Unfortunately, implementation appears to have slowed due to the COVID-19 pandemic.

IMO Convention on Facilitation of International Maritime Traffic, 1965 (FAL Convention)

The IMO Convention on Facilitation of International Maritime Traffic, 1965 (FAL Convention) entered into force on 5 March 1967, and has been ratified by 125 out of 174 IMO member States.¹⁸ Its objective is "to facilitate maritime traffic by simplifying and reducing to a minimum the formalities, documentary requirements and procedures on the arrival, stay and departure of ships engaged in international voyages." Rather than address trade-related aspects of shipping, it focuses on the formalities and procedures for ships calling in ports, including those related to the arrival and departure of seafarers.

The FAL Convention contains standards and recommended practices and rules for simplifying formalities and documentary requirements. Customs and immigration officials and port authorities should ask for the minimum of information at the appropriate time, and offer documents to be completed in a standard format, while those providing information, should provide accurate data, at the appropriate time and in the agreed format.

¹⁵ https://seafarersrights.org/wp-content/uploads/2018/03/INTERNATIONAL_TREATY_ILO-CONVENTION-C185_2003_ENG.pdf.

¹⁶ <https://www.icao.int/publications/pages/publication.aspx?docnum=9303>.

¹⁷ https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C185.

¹⁸ <https://euoflag.lu/wp-content/uploads/2019/03/Convention-on-Facilitation-of-International-Maritime-Traffic-1965-as-amended-FAL-Convention-2.7.4-Recommended-Practice.pdf>. For more information on the FAL Convention, see Chapter 5, *Review of Maritime Transport 2021*.

- *2009 amendments to the FAL Convention*¹⁹ – These entered into force on 15 May 2010 and include changes related to the contents and purpose of documents: “A passport or an identity document issued in accordance with relevant ILO conventions, or else a valid and duly recognized seafarer’s identity document, shall be the basic document providing public authorities with information relating to the individual member of the crew on arrival or departure of a ship.”
- *2016 amendments to the FAL Convention*²⁰ – These entered into force on 1 January 2018 and provide for additional guarantees. Any discrimination is prohibited, and shore leave should be granted to crew members, irrespective of the ship’s flag State. Since 2019, ships and ports have had to exchange FAL data electronically and are encouraged to use a “single window”, in which all the many agencies and authorities exchange data via a single point of contact. Following the expected adoption of further amendments in 2022, and their subsequent entry into force, the single window could become obligatory from January 2024.

*The IMO Compendium on Facilitation and Electronic Business*²¹

This is an important IMO instrument for accelerating digitalization and connectivity in the maritime industry. It facilitates the exchange of information ship to shore and enables interoperable single windows – reducing port formalities by harmonizing the data elements required and standardizing electronic messages. Its key components are the IMO Data Set and the IMO Reference Data Model which provide common semantics and representation of the data needed to fulfil ship reporting requirements. The IMO data elements are mapped across the main models (e.g., UN/CEFACT, WCO Data Model and ISO) ensuring full interoperability between standards for ship clearance. Since 2019, the Compendium has been extended beyond FAL forms and is now connected to several IMO instruments, such as MARPOL for advance notification of waste delivery to port reception facilities. From 2020, the Compendium also included the Maritime Declaration of Health (MDH), a requirement of the WHO International Health Regulations.

IMO Guidelines for setting up a maritime single window

The IMO has developed guidelines for setting up a maritime single window (MSW).²² These offer information, advice and guidance along with examples of the experience and knowledge gained by some member States in introducing an MSW. Single windows, mainly for cargo, are currently being developed under various technical assistance projects in developing countries, including in cooperation with ASYCUDA.²³ MSW and port community systems can smooth formalities, (e.g., data elements included in the crew list, the passenger list and the maritime declaration of health).²⁴

D. THE WAY FORWARD

Despite important international support, seafarers are still facing serious problems as a result of the COVID-19 pandemic. This requires urgent action in a number of important areas.

- *Vaccination* – Concerted collaborative efforts by industry, governments and international organizations should ensure that seafarers are designated as key workers and are vaccinated as a matter of priority.
- *Crew changes* – Governments and industry should continue to work together, including through the Neptune Declaration initiative, and in collaboration with relevant international organizations, to facilitate crew changes, in accordance with international standards and in line with public health considerations. They should also ensure the availability and access to related seafarer data.
- *Route deviations* – Charterers and other industry stakeholders should be flexible in accepting requests from shipping companies for route deviation to facilitate crew changes and should refrain from using “no crew change” clauses in charterparties.

¹⁹ <https://www.imo.org/fr/MediaCentre/MeetingSummaries/Pages/FAL-35th-Session.aspx>.

²⁰ <https://www.imo.org/fr/MediaCentre/MeetingSummaries/Pages/FAL-40th-session.aspx>.

²¹ <https://www.imo.org/en/OurWork/Facilitation/Pages/IMOCompendium.aspx>.

²² <https://wwwcdn.imo.org/localresources/en/OurWork/Facilitation/Facilitation/FAL.5-CIRC.42-REV.1.pdf>.

²³ <https://asycuda.org/en/>. Also see Chapter 6, part on trade facilitation.

²⁴ For further information on Single Windows, see Chapter 5 of the *Review of Maritime Transport 2021*. Also see Premti A., Asariotis R., 2021.

- *International legal framework* – States and other relevant stakeholders should, in consultations and meetings on seafarers’ issues at ILO and IMO, keep under review the relevant legal framework and ensure that international obligations are respected and implemented.
- *Maritime single windows* – Port community systems should implement the Single Window concept, similarly to the customs-centric Single Window powered by ASYCUDA, to cover all the information and formalities resulting from FAL and other relevant instruments.
- *Information exchange* – Relevant public and private sector stakeholders should continue their regular exchange of views and best practices on seafarers’ situation and needs, and lessons learned, including from the COVID-19 pandemic, and promote further harmonization and standardization.
- *Outbreaks and emergencies at sea* – In line with developing scientific insights, governments, international organizations and all stakeholders should regularly update specific guidance on measures to prevent and deal with COVID-19 and other outbreaks at sea and ensure that mechanisms are in place to reduce, and respond to medical emergencies at sea.

Public and private stakeholders must continue to work together to implement relevant labour standards and address health, safety, security, welfare, and other challenges faced by seafarers. All should be working to protect seafarers’ human rights and advance the objectives of SDG 8 of decent work and economic growth for sustainable development.

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