

MEDICAL ISSUES IN THE ILO'S DRAFT CONSOLIDATED MARITIME LABOUR CONVENTION

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ABSTRACT

Following a recommendation of the shipowners and seafarers representatives within the ILO's Joint Maritime Commission (JMC) in what is called the „Geneva Accord”, the ILO decided to consolidate the entire body of its international maritime labour standards in a single instrument.

A high level tripartite working group was established and met several times between 2001 and 2004 to prepare a draft text. A Preparatory Technical Maritime Conference was held in September 2004 and a Maritime Session of the International Labour Conference is due to be held in February 2006 for the adoption of the consolidated instrument.

The contents and structure of this instrument, which consolidates sixty maritime labour Conventions and Recommendations, with particular stress on its medical issues are briefly presented.

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Among the medical issues covered are the following: medical care on board and ashore, medical examinations of seafarers, their health protection, ship's medical chests and medical advice at sea, welfare of seafarers, safety of work at sea and prevention of accidents; and social security including sickness and injury coverage.

INTRODUCTION

The current maritime labour standards are covered by 60 instruments: 30 international Conventions, 29 Recommendations, and 1 Protocol, adopted between the year 1920 and the present time, on the following issues: conditions for admission to employment, for example minimum age; compulsory medical examination prior to employment; repatriation of seafarers at the end of employment; entitlement to social security benefits; standards for vocational training and welfare facilities; measures to prevent occupational accidents on board and investigation procedures for such accidents; minimum standards for food, catering and accommodation (1,2).

The objectives of the proposed Consolidated Convention are: to incorporate in one instrument all relevant standards, draft the text in easily understandable language and easy to update, monitor and enforce, to secure widest possible acceptability and wide-scale ratification.

The new consolidated Convention will contain a clear set of fundamental rights and principles of seafarers' employment and social rights pursuant to the ILO's Decent Work Agenda.

A new approach to enforcement will be proposed, with clearly defined measures and responsibilities at national and international level.

A certification system for labour standards will be introduced: a maritime labour certificate and a declaration of labour compliance, with quality control procedures.

A strong enforcement regime, backed by the certification system for compliance with the Convention will be proposed.

There will be no favourable treatment clause for ships of non-ratifying Members.

The new instrument will have great impact on the rights of seafarers, due to wider application with expected increased ratification of the new consolidated Convention.

Certification after inspection of ships will be the practice. Complaints procedures onboard and ashore will be clearly defined.

This should improve the social dialogue on better conditions of work of ships' crews at national level.

The above mentioned considerations and future revisions of the Convention will secure better protection of the rights of seafarers.

Its text will be presented in 5 Titles:

Title 1. Minimum requirements for seafarers to work on a ship

Title 2. Conditions of employment

Title 3. Accommodation, recreational facilities, food and catering on ships

Title 4. Health protection, medical care, welfare and social protection

Title 5. Compliance and enforcement

The subject of this presentation are issues covered by Title 4. of the consolidated Convention: Health protection, medical care, welfare and social protection of seafarers.

HEALTH PROTECTION, MEDICAL CARE, WELFARE AND SOCIAL PROTECTION OF SEAFARERS

The texts of the relevant previously adopted international labour Conventions and Regulations will be modified and consolidated.

The modified text will inter alia cover the following points.

Medical examinations of seafarers and their medical certificates

All seafarers employed on ships should be medically fit.

The competent authority shall require that, prior to their beginning work on a ship, seafarers hold a valid medical certificate attesting that they are medically fit to perform the duties they are to carry out at sea.

In order to ensure that medical certificates genuinely reflect seafarers' state of health, in light of the duties they are to perform, the competent authority shall, after consultations with the organizations of the shipowners and of the seafarers, and giving due consideration to applicable international guidelines prescribe the nature of the medical examination and certificate.

Such medical certificate shall be issued by a qualified medical practitioner. Practitioners must enjoy full professional independence exercising their medical judgement in terms of the medical examinations procedures.

Seafarers that have been refused a certificate or have had a limitation imposed on their ability to work, shall be given the opportunity to have a further examination by another independent medical practitioner or referee.

The medical certificate should state that the hearing and sight of seafarers are satisfactory, and that they are not suffering from any medical condition likely to be aggravated by service at sea or to render them unfit for such service or to endanger the health of other persons on board.

A medical certificate should be valid for a maximum period of two years.

If seafarer is under 18 years of age, the maximum validity shall be one year.

If the period of validity of a certificate expires in the course of a voyage the certificate shall continue in force until the end of that voyage.

All concerned with the conduct of medical fitness examinations of seafarers should be required to follow the Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers, including any revised versions and any other applicable international guidelines promulgated by the ILO, IMO and WHO (3).

Medical care on board ship

Measures for providing health protection and medical and dental care for seafarers working on board a ship are adopted which:

- ensure that seafarers are given health protection and medical care as comparable as possible to that which is generally available to workers ashore, including prompt access to the necessary medicines, medical equipment and facilities for diagnosis and treatment, including the right to visit a qualified medical doctor without delay in ports of call, with medical care provided free of charge to seafarers,
- ensure that these services are not limited to treatment of sick or injured seafarers but include measures of a preventive character.

A standard medical report should be used, and its contents should be kept confidential and be used for no other purpose than to facilitate the treatment of seafarers.

National laws and regulations shall at minimum provide for the following requirements:

- (a) ships carrying 15 or more seafarers and engaged in a voyage of more than 3 days' duration shall provide separate hospital accommodation, easy to access and providing comfortable housing for the occupants,
- (b) all ships shall carry a medicine chest, medical equipment and a medical guide,

- (c) ships carrying 100 or more persons and engaged in international voyages of more than 3 days' duration shall carry a qualified medical doctor who is responsible for providing medical care,
- (d) ships, which do not carry a medical doctor shall have at least one seafarer on board who is in charge of medical care, or who is competent to provide medical first aid. Such persons shall have satisfactorily completed training that meets the requirements of the STCW Code,
- (e) the competent authority shall ensure by a prearranged system that medical advice by radio or satellite communication to ships at sea is available (free of charge) at any hour of the day or night

This authority should require that:

- (a) ships which ordinarily are capable of reaching qualified medical care and medical facilities within 8 hours should have at least one designated seafarer with the approved first aid training which will enable such persons to take immediate, effective action in case of accidents or illness likely to occur on board a ship and to make use of medical advice by radio.
- (b) all other ships should have at least one designated seafarer with approved training in medical care, including practical training and training in life-saving techniques,
- (c) Such persons should undergo refresher courses.

The medicine chest, medical equipment and medical guide carried on board should be properly maintained and inspected at least in 12 months intervals.

Where dangerous cargo is transported, the necessary information on the nature of the substance, the risks involved, the necessary personal protective devices and specific antidotes should be made available to the seafarers.

All ships should carry a complete up-to-date list of radio stations through which medical advice can be obtained.

Medical care ashore

Measures should be taken to ensure that seafarers have access when in port to:

- (a) outpatient treatment for sickness and injury,
- (b) hospitalization,
- (c) facilities for dental treatment.

The treatment of sick seafarers should be facilitated by prompt admission to clinics and hospitals in ports.

Medical assistance to other ships and international cooperation

The international cooperation in the area of assistance, programmes and research in health protection and medical care of seafarers might cover the following matters:

- (a) coordinating search and rescue efforts and arranging prompt medical help and evacuation at sea for the seriously ill or injured on board a ship, in conformity with the provisions of the International Convention, 1979,
- (b) making optimum use of fishing ships carrying a doctor and stationing ships at sea which can provide hospital and rescue facilities,
- (c) repatriating seafarers hospitalized abroad as soon as practicable, and arranging personal assistance for them during repatriation,
- (d) collecting and evaluating statistics concerning occupational accidents, diseases and fatalities to seafarers,
- (e) organizing international exchanges of technical information, training material and personnel, as well as international training courses, seminars and working groups,
- (f) making available to seafarers general health, medical and rehabilitation services.

Shipowners' liability

Seafarers should be protected from the financial consequences of sickness, injury or death occurring in connection with their employment. Shipowners are responsible for health protection and medical care of all seafarers.

They shall be liable to defray (to a period of not less than 16 weeks from the day of injury or the commencement of the sickness) the expense of medical care and medicines, 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.

Where the sickness or injury results in incapacity for work the shipowner shall be liable:

- (a) to pay full wages as long as the sick or injured seafarer remain on board or are left behind in the territory of the State other than the Member,
- (b) to pay wages in whole or in part as prescribed by national laws or regulations from the time when the seafarers are repatriated or landed until their recovery.

Health and safety protection and accident prevention

The laws and regulations to be adopted in accordance with this paragraph shall include the following subjects:

- the adoption and effective implementation and promotion of occupational safety and health policies and programmes on ships, including risk evaluation, training and instruction of seafarers,
- reasonable precautions to prevent occupational accidents, injuries and diseases on board ship, including measures to reduce and prevent the risk of exposure to harmful levels of ambient factors and chemicals as well as the risk of injury or disease that may arise from the use of equipment and machinery on board ships,
- on-board programmes for the prevention of occupational accidents, injuries and diseases and for continuous improvement in occupational safety and health protection, taking account of preventive measures, including engineering and design control and procedures for collective and individual tasks, and the use of personal protective equipment.

The above provisions shall clearly specify the obligation of shipowners and seafarers to comply with the applicable standards of safety, and should specify the duties of the master in this respect.

The competent authority shall ensure that occupational accidents, injuries and diseases are adequately reported; and that comprehensive statistics are kept, analyzed, published, and followed up by research.

The competent authority should ensure that the national guidelines for the management of occupational safety and health address the following matters, in particular:

- structural features of the ship and machinery,
- the effects of noise in the workplace and in shipboard accommodation,
- special safety measures on and below deck,
- loading and unloading equipment,
- fire prevention and fire-fighting,
- anchors, chains and lines,
- dangerous cargo and ballast,
- personal protective equipment for seafarers,
- work in enclosed spaces,
- physical and mental effects of fatigue,
- the effects of drug and alcohol dependency,
- HIV/AIDS protection and prevention,
- emergency and accident response.

Welfare and social protection. Seafarers in a foreign port

Members shall provide shore-based welfare, cultural, recreational and information facilities and services to all seafarers, irrespective of nationality, race, colour, sex, religion or social origin and irrespective of the State of the flag flown by the ship on which they are employed.

For the protection of seafarers in ports in which they are not nationals, measures should be taken to facilitate access to their consuls, and effective cooperation between consuls and the national authorities.

Seafarers who are detained in a foreign port should be dealt with promptly under due process of law and with appropriate consular protection.

Social security

Members shall ensure that all seafarers have access to social security protection, according to their national rules and regulations. To be considered are: medical care, sickness benefit, unemployment, old-age, employment injury, family, maternity, invalidity, and survivors' benefits.

The seafarers' employment agreement should identify the means by which the various branches of social security protection will be provided to the seafarer by the shipowner.

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