

Z A K O N
O POTVRĐIVANJU KONVENCIJE MEĐUNARODNE
ORGANIZACIJE RADA O RADU POMORACA, 2006

Član 1.

Potvrđuje se Konvencija Međunarodne organizacije rada o radu pomoraca, 2006, usvojena 23. februara 2006. godine u Ženevi, u originalu na engleskom i francuskom jeziku.

Član 2.

Tekst Konvencije o radu pomoraca, 2006, u originalu na engleskom jeziku i u prevodu na srpski jezik, glasi:

MARITIME LABOUR CONVENTION, 2006

PREAMBLE

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninety-fourth Session on 7 February 2006, and

Desiring to create a single, coherent instrument embodying as far as possible all up-to-date standards of existing international maritime labour Conventions and Recommendations, as well as the fundamental principles to be found in other international labour Conventions, in particular:

- the Forced Labour Convention, 1930 (No. 29);
- the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
- the Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
- the Equal Remuneration Convention, 1951 (No. 100);
- the Abolition of Forced Labour Convention, 1957 (No. 105);
- the Discrimination (Employment and Occupation) Convention, 1958 (No. 111);
- the Minimum Age Convention, 1973 (No. 138);
- the Worst Forms of Child Labour Convention, 1999 (No. 182); and

Mindful of the core mandate of the Organization, which is to promote decent conditions of work, and

Recalling the ILO Declaration on Fundamental Principles and Rights at Work, 1998, and

Mindful also that seafarers are covered by the provisions of other ILO instruments and have other rights which are established as fundamental rights and freedoms applicable to all persons, and

Considering that, given the global nature of the shipping industry, seafarers need special protection, and

Mindful also of the international standards on ship safety, human security and quality ship management in the International Convention for the Safety of Life at Sea, 1974, as amended, the Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended, and the seafarer training and competency requirements in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended, and

Recalling that the United Nations Convention on the Law of the Sea, 1982, sets out a general legal framework within which all activities in the oceans and seas must be carried out and is of strategic importance as the basis for national, regional and global action and cooperation in the marine sector, and that its integrity needs to be maintained, and

Recalling that Article 94 of the United Nations Convention on the Law of the Sea, 1982, establishes the duties and obligations of a flag State with regard to, inter alia, labour conditions, crewing and social matters on ships that fly its flag, and

Recalling paragraph 8 of article 19 of the Constitution of the International Labour Organisation which provides that in no case shall the adoption of any Convention or Recommendation by the Conference or the ratification of any Convention by any

Member be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for in the Convention or Recommendation, and

Determined that this new instrument should be designed to secure the widest possible acceptability among governments, shipowners and seafarers committed to the principles of decent work, that it should be readily updateable and that it should lend itself to effective implementation and enforcement, and

Having decided upon the adoption of certain proposals for the realization of such an instrument, which is the only item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this twenty-third day of February of the year two thousand and six the following Convention, which may be cited as the Maritime Labour Convention, 2006.

GENERAL OBLIGATIONS

Article I

1. Each Member which ratifies this Convention undertakes to give complete effect to its provisions in the manner set out in Article VI in order to secure the right of all seafarers to decent employment.
2. Members shall cooperate with each other for the purpose of ensuring the effective implementation and enforcement of this Convention.

DEFINITIONS AND SCOPE OF APPLICATION

Article II

1. For the purpose of this Convention and unless provided otherwise in particular provisions, the term:

(a) *competent authority* means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;

(b) *declaration of maritime labour compliance* means the declaration referred to in Regulation 5.1.3;

(c) *gross tonnage* means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention; for ships covered by the tonnage measurement interim scheme adopted by the International Maritime Organization, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969);

(d) *maritime labour certificate* means the certificate referred to in Regulation 5.1.3;

(e) *requirements of this Convention* refers to the requirements in these Articles and in the Regulations and Part A of the Code of this Convention;

(f) *seafarer* means any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies;

(g) *seafarers' employment agreement* includes both a contract of employment and articles of agreement;

(h) *seafarer recruitment and placement service* means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners;

(i) *ship* means a ship other than one which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;

(j) *shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organization or persons fulfil certain of the duties or responsibilities on behalf of the shipowner.

2. Except as expressly provided otherwise, this Convention applies to all seafarers.
3. In the event of doubt as to whether any categories of persons are to be regarded as seafarers for the purpose of this Convention, the question shall be determined by the competent authority in each Member after consultation with the shipowners' and seafarers' organizations concerned with this question.
4. Except as expressly provided otherwise, this Convention applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks. This Convention does not apply to warships or naval auxiliaries.
5. In the event of doubt as to whether this Convention applies to a ship or particular category of ships, the question shall be determined by the competent authority in each Member after consultation with the shipowners' and seafarers' organizations concerned.
6. Where the competent authority determines that it would not be reasonable or practicable at the present time to apply certain details of the Code referred to in Article VI, paragraph 1, to a ship or particular categories of ships flying the flag of the Member, the relevant provisions of the Code shall not apply to the extent that the subject matter is dealt with differently by national laws or regulations or collective bargaining agreements or other measures. Such a determination may only be made in consultation with the shipowners' and seafarers' organizations concerned and may only be made with respect to ships of less than 200 gross tonnage not engaged in international voyages.
7. Any determinations made by a Member under paragraph 3 or 5 or 6 of this Article shall be communicated to the Director-General of the International Labour Office, who shall notify the Members of the Organization.
8. Unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to the Regulations and the Code.

FUNDAMENTAL RIGHTS AND PRINCIPLES

Article III

Each Member shall satisfy itself that the provisions of its law and regulations respect, in the context of this Convention, the fundamental rights to:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

SEAFARERS' EMPLOYMENT AND SOCIAL RIGHTS

Article IV

1. Every seafarer has the right to a safe and secure workplace that complies with safety standards.
2. Every seafarer has a right to fair terms of employment.
3. Every seafarer has a right to decent working and living conditions on board ship.
4. Every seafarer has a right to health protection, medical care, welfare measures and other forms of social protection.
5. Each Member shall ensure, within the limits of its jurisdiction, that the seafarers' employment and social rights set out in the preceding paragraphs of this Article are fully implemented in accordance with the requirements of this Convention. Unless specified otherwise in the Convention, such implementation may be achieved through national laws or regulations, through applicable collective bargaining agreements or through other measures or in practice.

IMPLEMENTATION AND ENFORCEMENT RESPONSIBILITIES

Article V

1. Each Member shall implement and enforce laws or regulations or other measures that it has adopted to fulfil its commitments under this Convention with respect to ships and seafarers under its jurisdiction.
2. Each Member shall effectively exercise its jurisdiction and control over ships that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention, including regular inspections, reporting, monitoring and legal proceedings under the applicable laws.
3. Each Member shall ensure that ships that fly its flag carry a maritime labour certificate and a declaration of maritime labour compliance as required by this Convention.
4. A ship to which this Convention applies may, in accordance with international law, be inspected by a Member other than the flag State, when the ship is in one of its ports, to determine whether the ship is in compliance with the requirements of this Convention.
5. Each Member shall effectively exercise its jurisdiction and control over seafarer recruitment and placement services, if these are established in its territory.
6. Each Member shall prohibit violations of the requirements of this Convention and shall, in accordance with international law, establish sanctions or require the adoption of corrective measures under its laws which are adequate to discourage such violations.
7. Each Member shall implement its responsibilities under this Convention in such a way as to ensure that the ships that fly the flag of any State that has not ratified this

Convention do not receive more favourable treatment than the ships that fly the flag of any State that has ratified it.

REGULATIONS AND PARTS A AND B OF THE CODE

Article VI

1. The Regulations and the provisions of Part A of the Code are mandatory. The provisions of Part B of the Code are not mandatory.
2. Each Member undertakes to respect the rights and principles set out in the Regulations and to implement each Regulation in the manner set out in the corresponding provisions of Part A of the Code. In addition, the Member shall give due consideration to implementing its responsibilities in the manner provided for in Part B of the Code.
3. A Member which is not in a position to implement the rights and principles in the manner set out in Part A of the Code may, unless expressly provided otherwise in this Convention, implement Part A through provisions in its laws and regulations or other measures which are substantially equivalent to the provisions of Part A.
4. For the sole purpose of paragraph 3 of this Article, any law, regulation, collective agreement or other implementing measure shall be considered to be substantially equivalent, in the context of this Convention, if the Member satisfies itself that:
 - (a) it is conducive to the full achievement of the general object and purpose of the provision or provisions of Part A of the Code concerned; and
 - (b) it gives effect to the provision or provisions of Part A of the Code concerned.

CONSULTATION WITH SHIPOWNERS' AND SEAFARERS' ORGANIZATIONS

Article VII

Any derogation, exemption or other flexible application of this Convention for which the Convention requires consultation with shipowners' and seafarers' organizations may, in cases where representative organizations of shipowners or of seafarers do not exist within a Member, only be decided by that Member through consultation with the Committee referred to in Article XIII.

ENTRY INTO FORCE

Article VIII

1. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.
2. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered by the Director-General.
3. This Convention shall come into force 12 months after the date on which there have been registered ratifications by at least 30 Members with a total share in the world gross tonnage of ships of 33 per cent.
4. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

DENUNCIATION

Article IX

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which does not, within the year following the expiration of the period of ten years mentioned in paragraph 1 of this Article, exercise the right of denunciation provided for in this Article, shall be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each new period of ten years under the terms provided for in this Article.

EFFECT OF ENTRY INTO FORCE

Article X

This Convention revises the following Conventions:

Minimum Age (Sea) Convention, 1920 (No. 7)

Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)

Placing of Seamen Convention, 1920 (No. 9)

Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)

Seamen's Articles of Agreement Convention, 1926 (No. 22)

Repatriation of Seamen Convention, 1926 (No. 23)

Officers' Competency Certificates Convention, 1936 (No. 53)

Holidays with Pay (Sea) Convention, 1936 (No. 54)

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)

Sickness Insurance (Sea) Convention, 1936 (No. 56)

Hours of Work and Manning (Sea) Convention, 1936 (No. 57)

Minimum Age (Sea) Convention (Revised), 1936 (No. 58)

Food and Catering (Ships' Crews) Convention, 1946 (No. 68)

Certification of Ships' Cooks Convention, 1946 (No. 69)

Social Security (Seafarers) Convention, 1946 (No. 70)

Paid Vacations (Seafarers) Convention, 1946 (No. 72)

Medical Examination (Seafarers) Convention, 1946 (No. 73)

Certification of Able Seamen Convention, 1946 (No. 74)

Accommodation of Crews Convention, 1946 (No. 75)

Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76)

Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91)

Accommodation of Crews Convention (Revised), 1949 (No. 92)

Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93)

Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109)

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)
Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)
Continuity of Employment (Seafarers) Convention, 1976 (No. 145)
Seafarers' Annual Leave with Pay Convention, 1976 (No. 146)
Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)
Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)
Seafarers' Welfare Convention, 1987 (No. 163)
Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)
Social Security (Seafarers) Convention (Revised), 1987 (No. 165)
Repatriation of Seafarers Convention (Revised), 1987 (No. 166)
Labour Inspection (Seafarers) Convention, 1996 (No. 178)
Recruitment and Placement of Seafarers Convention, 1996 (No. 179)
Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180).

DEPOSITARY FUNCTIONS

Article XI

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, acceptances and denunciations under this Convention.
2. When the conditions provided for in paragraph 3 of Article VIII have been fulfilled, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

Article XII

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, acceptances and denunciations registered under this Convention.

SPECIAL TRIPARTITE COMMITTEE

Article XIII

1. The Governing Body of the International Labour Office shall keep the working of this Convention under continuous review through a committee established by it with special competence in the area of maritime labour standards.
2. For matters dealt with in accordance with this Convention, the Committee shall consist of two representatives nominated by the Government of each Member which has ratified this Convention, and the representatives of Shipowners and Seafarers appointed by the Governing Body after consultation with the Joint Maritime Commission.
3. The Government representatives of Members which have not yet ratified this Convention may participate in the Committee but shall have no right to vote on any matter dealt with in accordance with this Convention. The Governing Body may invite other organizations or entities to be represented on the Committee by observers.

4. The votes of each Shipowner and Seafarer representative in the Committee shall be weighted so as to ensure that the Shipowners' group and the Seafarers' group each have half the voting power of the total number of governments which are represented at the meeting concerned and entitled to vote.

AMENDMENT OF THIS CONVENTION

Article XIV

1. Amendments to any of the provisions of this Convention may be adopted by the General Conference of the International Labour Organization in the framework of article 19 of the Constitution of the International Labour Organisation and the rules and procedures of the Organization for the adoption of Conventions. Amendments to the Code may also be adopted following the procedures in Article XV.

2. In the case of Members whose ratifications of this Convention were registered before the adoption of the amendment, the text of the amendment shall be communicated to them for ratification.

3. In the case of other Members of the Organization, the text of the Convention as amended shall be communicated to them for ratification in accordance with article 19 of the Constitution.

4. An amendment shall be deemed to have been accepted on the date when there have been registered ratifications, of the amendment or of the Convention as amended, as the case may be, by at least 30 Members with a total share in the world gross tonnage of ships of at least 33 per cent.

5. An amendment adopted in the framework of article 19 of the Constitution shall be binding only upon those Members of the Organization whose ratifications have been registered by the Director-General of the International Labour Office.

6. For any Member referred to in paragraph 2 of this Article, an amendment shall come into force 12 months after the date of acceptance referred to in paragraph 4 of this Article or 12 months after the date on which its ratification of the amendment has been registered, whichever date is later.

7. Subject to paragraph 9 of this Article, for Members referred to in paragraph 3 of this Article, the Convention as amended shall come into force 12 months after the date of acceptance referred to in paragraph 4 of this Article or 12 months after the date on which their ratifications of the Convention have been registered, whichever date is later.

8. For those Members whose ratification of this Convention was registered before the adoption of an amendment but which have not ratified the amendment, this Convention shall remain in force without the amendment concerned.

9. Any Member whose ratification of this Convention is registered after the adoption of the amendment but before the date referred to in paragraph 4 of this Article may, in a declaration accompanying the instrument of ratification, specify that its ratification relates to the Convention without the amendment concerned. In the case of a ratification with such a declaration, the Convention shall come into force for the Member concerned 12 months after the date on which the ratification was registered. Where an instrument of ratification is not accompanied by such a declaration, or where the ratification is registered on or after the date referred to in paragraph 4, the Convention shall come into force for the Member concerned 12 months after the date on which the ratification was registered and, upon its entry into force in accordance with paragraph 7 of this Article, the amendment shall be binding on the Member concerned unless the amendment provides otherwise.

AMENDMENTS TO THE CODE

Article XV

1. The Code may be amended either by the procedure set out in Article XIV or, unless expressly provided otherwise, in accordance with the procedure set out in the present Article.
2. An amendment to the Code may be proposed to the Director-General of the International Labour Office by the government of any Member of the Organization or by the group of Shipowner representatives or the group of Seafarer representatives who have been appointed to the Committee referred to in Article XIII. An amendment proposed by a government must have been proposed by, or be supported by, at least five governments of Members that have ratified the Convention or by the group of Shipowner or Seafarer representatives referred to in this paragraph.
3. Having verified that the proposal for amendment meets the requirements of paragraph 2 of this Article, the Director-General shall promptly communicate the proposal, accompanied by any comments or suggestions deemed appropriate, to all Members of the Organization, with an invitation to them to transmit their observations or suggestions concerning the proposal within a period of six months or such other period (which shall not be less than three months nor more than nine months) prescribed by the Governing Body.
4. At the end of the period referred to in paragraph 3 of this Article, the proposal, accompanied by a summary of any observations or suggestions made under that paragraph, shall be transmitted to the Committee for consideration at a meeting. An amendment shall be considered adopted by the Committee if:
 - (a) at least half the governments of Members that have ratified this Convention are represented in the meeting at which the proposal is considered; and
 - (b) a majority of at least two-thirds of the Committee members vote in favour of the amendment; and
 - (c) this majority comprises the votes in favour of at least half the government voting power, half the Shipowner voting power and half the Seafarer voting power of the Committee members registered at the meeting when the proposal is put to the vote.
5. Amendments adopted in accordance with paragraph 4 of this Article shall be submitted to the next session of the Conference for approval. Such approval shall require a majority of two-thirds of the votes cast by the delegates present. If such majority is not obtained, the proposed amendment shall be referred back to the Committee for reconsideration should the Committee so wish.
6. Amendments approved by the Conference shall be notified by the Director-General to each of the Members whose ratifications of this Convention were registered before the date of such approval by the Conference. These Members are referred to below as «the ratifying Members». The notification shall contain a reference to the present Article and shall prescribe the period for the communication of any formal disagreement. This period shall be two years from the date of the notification unless, at the time of approval, the Conference has set a different period, which shall be a period of at least one year. A copy of the notification shall be communicated to the other Members of the Organization for their information.
7. An amendment approved by the Conference shall be deemed to have been accepted unless, by the end of the prescribed period, formal expressions of disagreement have been received by the Director-General from more than 40 per

cent of the Members which have ratified the Convention and which represent not less than 40 per cent of the gross tonnage of the ships of the Members which have ratified the Convention.

8. An amendment deemed to have been accepted shall come into force six months after the end of the prescribed period for all the ratifying Members except those which had formally expressed their disagreement in accordance with paragraph 7 of this Article and have not withdrawn such disagreement in accordance with paragraph 11. However:

- (a) before the end of the prescribed period, any ratifying Member may give notice to the Director-General that it shall be bound by the amendment only after a subsequent express notification of its acceptance; and

- (b) before the date of entry into force of the amendment, any ratifying Member may give notice to the Director-General that it will not give effect to that amendment for a specified period.

9. An amendment which is the subject of a notice referred to in paragraph 8(a) of this Article shall enter into force for the Member giving such notice six months after the Member has notified the Director-General of its acceptance of the amendment or on the date on which the amendment first comes into force, whichever date is later.

10. The period referred to in paragraph 8(b) of this Article shall not go beyond one year from the date of entry into force of the amendment or beyond any longer period determined by the Conference at the time of approval of the amendment.

11. A Member that has formally expressed disagreement with an amendment may withdraw its disagreement at any time. If notice of such withdrawal is received by the Director-General after the amendment has entered into force, the amendment shall enter into force for the Member six months after the date on which the notice was registered.

12. After entry into force of an amendment, the Convention may only be ratified in its amended form.

13. To the extent that a maritime labour certificate relates to matters covered by an amendment to the Convention which has entered into force:

- (a) a Member that has accepted that amendment shall not be obliged to extend the benefit of the Convention in respect of the maritime labour certificates issued to ships flying the flag of another Member which:

- (i) pursuant to paragraph 7 of this Article, has formally expressed disagreement to the amendment and has not withdrawn such disagreement; or

- (ii) pursuant to paragraph 8(a) of this Article, has given notice that its acceptance is subject to its subsequent express notification and has not accepted the amendment; and

- (b) a Member that has accepted the amendment shall extend the benefit of the Convention in respect of the maritime labour certificates issued to ships flying the flag of another Member that has given notice, pursuant to paragraph 8(b) of this Article, that it will not give effect to that amendment for the period specified in accordance with paragraph 10 of this Article.

AUTHORITATIVE LANGUAGES

Article XVI

The English and French versions of the text of this Convention are equally authoritative.

EXPLANATORY NOTE TO THE REGULATIONS AND CODE OF THE MARITIME LABOUR CONVENTION

1. This explanatory note, which does not form part of the Maritime Labour Convention, is intended as a general guide to the Convention.

2. The Convention comprises three different but related parts: the Articles, the Regulations and the Code.

3. The Articles and Regulations set out the core rights and principles and the basic obligations of Members ratifying the Convention. The Articles and Regulations can only be changed by the Conference in the framework of article 19 of the Constitution of the International Labour Organisation (see Article XIV of the Convention).

4. The Code contains the details for the implementation of the Regulations. It comprises Part A (mandatory Standards) and Part B (non-mandatory Guidelines). The Code can be amended through the simplified procedure set out in Article XV of the Convention. Since the Code relates to detailed implementation, amendments to it must remain within the general scope of the Articles and Regulations.

5. The Regulations and the Code are organized into general areas under five 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

Title 4: Health protection, medical care, welfare and social security protection

Title 5: Compliance and enforcement

6. Each Title contains groups of provisions relating to a particular right or principle (or enforcement measure in Title 5), with connected numbering. The first group in Title 1, for example, consists of Regulation 1.1, Standard A1.1 and Guideline B1.1, relating to minimum age.

7. The Convention has three underlying purposes:

(a) to lay down, in its Articles and Regulations, a firm set of rights and principles;

(b) to allow, through the Code, a considerable degree of flexibility in the way Members implement those rights and principles; and

(c) to ensure, through Title 5, that the rights and principles are properly complied with and enforced.

8. There are two main areas for flexibility in implementation: one is the possibility for a Member, where necessary (see Article VI, paragraph 3), to give effect to the detailed requirements of Part A of the Code through substantial equivalence (as defined in Article VI, paragraph 4).

9. The second area of flexibility in implementation is provided by formulating the mandatory requirements of many provisions in Part A in a more general way, thus leaving a wider scope for discretion as to the precise action to be provided for at the

national level. In such cases, guidance on implementation is given in the non-mandatory Part B of the Code. In this way, Members which have ratified this Convention can ascertain the kind of action that might be expected of them under the corresponding general obligation in Part A, as well as action that would not necessarily be required. For example, Standard A4.1 requires all ships to provide prompt access to the necessary medicines for medical care on board ship (paragraph 1(b)) and to «carry a medicine chest» (paragraph 4(a)). The fulfilment in good faith of this latter obligation clearly means something more than simply having a medicine chest on board each ship. A more precise indication of what is involved is provided in the corresponding Guideline B4.1.1 (paragraph 4) so as to ensure that the contents of the chest are properly stored, used and maintained.

10. Members which have ratified this Convention are not bound by the guidance concerned and, as indicated in the provisions in Title 5 on port State control, inspections would deal only with the relevant requirements of this Convention (Articles, Regulations and the Standards in Part A). However, Members are required under paragraph 2 of Article VI to give due consideration to implementing their responsibilities under Part A of the Code in the manner provided for in Part B. If, having duly considered the relevant Guidelines, a Member decides to provide for different arrangements which ensure the proper storage, use and maintenance of the contents of the medicine chest, to take the example given above, as required by the Standard in Part A, then that is acceptable. On the other hand, by following the guidance provided in Part B, the Member concerned, as well as the ILO bodies responsible for reviewing implementation of international labour Conventions, can be sure without further consideration that the arrangements the Member has provided for are adequate to implement the responsibilities under Part A to which the Guideline relates.

THE REGULATIONS AND THE CODE

TITLE 1. MINIMUM REQUIREMENTS FOR SEAFARERS TO WORK ON A SHIP

Regulation 1.1 – Minimum age

Purpose: To ensure that no under-age persons work on a ship

1. No person below the minimum age shall be employed or engaged or work on a ship.
2. The minimum age at the time of the initial entry into force of this Convention is 16 years.
3. A higher minimum age shall be required in the circumstances set out in the Code.

Standard A1.1 – Minimum age

1. The employment, engagement or work on board a ship of any person under the age of 16 shall be prohibited.
2. Night work of seafarers under the age of 18 shall be prohibited. For the purposes of this Standard, «night» shall be defined in accordance with national law and practice. It shall cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m.
3. An exception to strict compliance with the night work restriction may be made by the competent authority when:
 - (a) the effective training of the seafarers concerned, in accordance with established programmes and schedules, would be impaired; or

(b) the specific nature of the duty or a recognized training programme requires that the seafarers covered by the exception perform duties at night and the authority determines, after consultation with the shipowners' and seafarers' organizations concerned, that the work will not be detrimental to their health or well-being.

4. The employment, engagement or work of seafarers under the age of 18 shall be prohibited where the work is likely to jeopardize their health or safety. The types of such work shall be determined by national laws or regulations or by the competent authority, after consultation with the shipowners' and seafarers' organizations concerned, in accordance with relevant international standards.

Guideline B1.1 – Minimum age

1. When regulating working and living conditions, Members should give special attention to the needs of young persons under the age of 18.

Regulation 1.2 – Medical certificate

Purpose: To ensure that all seafarers are medically fit to perform their duties at sea

1. Seafarers shall not work on a ship unless they are certified as medically fit to perform their duties.

2. Exceptions can only be permitted as prescribed in the Code.

Standard A1.2 – Medical certificate

1. The competent authority shall require that, prior to 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.

2. 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 consultation with the shipowners' and seafarers' organizations concerned, and giving due consideration to applicable international guidelines referred to in Part B of this Code, prescribe the nature of the medical examination and certificate.

3. This Standard is without prejudice to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended ("STCW"). A medical certificate issued in accordance with the requirements of STCW shall be accepted by the competent authority, for the purpose of Regulation 1.2. A medical certificate meeting the substance of those requirements, in the case of seafarers not covered by STCW, shall similarly be accepted.

4. The medical certificate shall be issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate. Practitioners must enjoy full professional independence in exercising their medical judgement in undertaking medical examination procedures.

5. Seafarers that have been refused a certificate or have had a limitation imposed on their ability to work, in particular with respect to time, field of work or trading area, shall be given the opportunity to have a further examination by another independent medical practitioner or by an independent medical referee.

6. Each medical certificate shall state in particular that:

(a) the hearing and sight of the seafarer concerned, and the colour vision in the case of a seafarer to be employed in capacities where fitness for the work to be performed is liable to be affected by defective colour vision, are all satisfactory; and

(b) the seafarer concerned is not suffering from any medical condition likely to be aggravated by service at sea or to render the seafarer unfit for such service or to endanger the health of other persons on board.

7. Unless a shorter period is required by reason of the specific duties to be performed by the seafarer concerned or is required under STCW:

(a) a medical certificate shall be valid for a maximum period of two years unless the seafarer is under the age of 18, in which case the maximum period of validity shall be one year;

(b) a certification of colour vision shall be valid for a maximum period of six years.

8. In urgent cases the competent authority may permit a seafarer to work without a valid medical certificate until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that:

(a) the period of such permission does not exceed three months; and

(b) the seafarer concerned is in possession of an expired medical certificate of recent date.

9. If the period of validity of a certificate expires in the course of a voyage, the certificate shall continue in force until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that the period shall not exceed three months.

10. The medical certificates for seafarers working on ships ordinarily engaged on international voyages must as a minimum be provided in English.

Guideline B1.2 – Medical certificate
Guideline B1.2.1 – International guidelines

1. The competent authority, medical practitioners, examiners, shipowners, seafarers' representatives and all other persons concerned with the conduct of medical fitness examinations of seafarer candidates and serving seafarers should follow the *ILO/WHO Guidelines for Conducting Presea and Periodic Medical Fitness Examinations for Seafarers*, including any subsequent versions, and any other applicable international guidelines published by the International Labour Organization, the International Maritime Organization or the World Health Organization.

Regulation 1.3 – Training and qualifications

Purpose: To ensure that seafarers are trained or qualified to carry out their duties on board ship

1. Seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties.

2. Seafarers shall not be permitted to work on a ship unless they have successfully completed training for personal safety on board ship.

3. Training and certification in accordance with the mandatory instruments adopted by the International Maritime Organization shall be considered as meeting the requirements of paragraphs 1 and 2 of this Regulation.

4. Any Member which, at the time of its ratification of this Convention, was bound by the Certification of Able Seamen Convention, 1946 (No. 74), shall continue to carry out the obligations under that Convention unless and until mandatory provisions covering its subject matter have been adopted by the International Maritime Organization and entered into force, or until five years have elapsed since the entry

into force of this Convention in accordance with paragraph 3 of Article VIII, whichever date is earlier.

Regulation 1.4 – Recruitment and placement

Purpose: To ensure that seafarers have access to an efficient and well-regulated seafarer recruitment and placement system

1. All seafarers shall have access to an efficient, adequate and accountable system for finding employment on board ship without charge to the seafarer.
2. Seafarer recruitment and placement services operating in a Member's territory shall conform to the standards set out in the Code.
3. Each Member shall require, in respect of seafarers who work on ships that fly its flag, that shipowners who use seafarer recruitment and placement services that are based in countries or territories in which this Convention does not apply, ensure that those services conform to the requirements set out in the Code.

Standard A1.4 – Recruitment and placement

1. Each Member that operates a public seafarer recruitment and placement service shall ensure that the service is operated in an orderly manner that protects and promotes seafarers' employment rights as provided in this Convention.
2. Where a Member has private seafarer recruitment and placement services operating in its territory whose primary purpose is the recruitment and placement of seafarers or which recruit and place a significant number of seafarers, they shall be operated only in conformity with a standardized system of licensing or certification or other form of regulation. This system shall be established, modified or changed only after consultation with the shipowners' and seafarers' organizations concerned. In the event of doubt as to whether this Convention applies to a private recruitment and placement service, the question shall be determined by the competent authority in each Member after consultation with the shipowners' and seafarers' organizations concerned. Undue proliferation of private seafarer recruitment and placement services shall not be encouraged.
3. The provisions of paragraph 2 of this Standard shall also apply – to the extent that they are determined by the competent authority, in consultation with the shipowners' and seafarers' organizations concerned, to be appropriate – in the context of recruitment and placement services operated by a seafarers' organization in the territory of the Member for the supply of seafarers who are nationals of that Member to ships which fly its flag. The services covered by this paragraph are those fulfilling the following conditions:
 - (a) the recruitment and placement service is operated pursuant to a collective bargaining agreement between that organization and a shipowner;
 - (b) both the seafarers' organization and the shipowner are based in the territory of the Member;
 - (c) The Member has national laws or regulations or a procedure to authorize or register the collective bargaining agreement permitting the operation of the recruitment and placement service; and
 - (d) the recruitment and placement service is operated in an orderly manner and measures are in place to protect and promote seafarers' employment rights comparable to those provided in paragraph 5 of this Standard.
4. Nothing in this Standard or Regulation 1.4 shall be deemed to:
 - (a) prevent a Member from maintaining a free public seafarer recruitment and placement service for seafarers in the framework of a policy to meet the

needs of seafarers and shipowners, whether the service forms part of or is coordinated with a public employment service for all workers and employers; or

(b) impose on a Member the obligation to establish a system for the operation of private seafarer recruitment or placement services in its territory.

5. A Member adopting a system referred to in paragraph 2 of this Standard shall, in its laws and regulations or other measures, at a minimum:

(a) prohibit seafarer recruitment and placement services from using means, mechanisms or lists intended to prevent or deter seafarers from gaining employment for which they are qualified;

(b) require that no fees or other charges for seafarer recruitment or placement or for providing employment to seafarers are borne directly or indirectly, in whole or in part, by the seafarer, other than the cost of the seafarer obtaining a national statutory medical certificate, the national seafarer's book and a passport or other similar personal travel documents, not including, however, the cost of visas, which shall be borne by the shipowner; and

(c) ensure that seafarer recruitment and placement services operating in its territory:

(i) maintain an up-to-date register of all seafarers recruited or placed through them, to be available for inspection by the competent authority;

(ii) make sure that seafarers are informed of their rights and duties under their employment agreements prior to or in the process of engagement and that proper arrangements are made for seafarers to examine their employment agreements before and after they are signed and for them to receive a copy of the agreements;

(iii) verify that seafarers recruited or placed by them are qualified and hold the documents necessary for the job concerned, and that the seafarers' employment agreements are in accordance with applicable laws and regulations and any collective bargaining agreement that forms part of the employment agreement;

(iv) make sure, as far as practicable, that the shipowner has the means to protect seafarers from being stranded in a foreign port;

(v) examine and respond to any complaint concerning their activities and advise the competent authority of any unresolved complaint;

(vi) establish a system of protection, by way of insurance or an equivalent appropriate measure, to compensate seafarers for monetary loss that they may incur as a result of the failure of a recruitment and placement service or the relevant shipowner under the seafarers' employment agreement to meet its obligations to them.

6. The competent authority shall closely supervise and control all seafarer recruitment and placement services operating in the territory of the Member concerned. Any licences or certificates or similar authorizations for the operation of private services in the territory are granted or renewed only after verification that the seafarer recruitment and placement service concerned meets the requirements of national laws and regulations.

7. The competent authority shall ensure that adequate machinery and procedures exist for the investigation, if necessary, of complaints concerning the activities of

seafarer recruitment and placement services, involving, as appropriate, representatives of shipowners and seafarers.

8. Each Member which has ratified this Convention shall, in so far as practicable, advise its nationals on the possible problems of signing on a ship that flies the flag of a State which has not ratified the Convention, until it is satisfied that standards equivalent to those fixed by this Convention are being applied. Measures taken to this effect by the Member that has ratified this Convention shall not be in contradiction with the principle of free movement of workers stipulated by the treaties to which the two States concerned may be parties.

9. Each Member which has ratified this Convention shall require that shipowners of ships that fly its flag, who use seafarer recruitment and placement services based in countries or territories in which this Convention does not apply, ensure, as far as practicable, that those services meet the requirements of this Standard.

10. Nothing in this Standard shall be understood as diminishing the obligations and responsibilities of shipowners or of a Member with respect to ships that fly its flag.

Guideline B1.4 – Recruitment and placement

Guideline B1.4.1 – Organizational and operational guidelines

1. When fulfilling its obligations under Standard A1.4, paragraph 1, the competent authority should consider:

(a) taking the necessary measures to promote effective cooperation among seafarer recruitment and placement services, whether public or private;

(b) the needs of the maritime industry at both the national and international levels, when developing training programmes for seafarers that form the part of the ship's crew that is responsible for the ship's safe navigation and pollution prevention operations, with the participation of shipowners, seafarers and the relevant training institutions;

(c) making suitable arrangements for the cooperation of representative shipowners' and seafarers' organizations in the organization and operation of the public seafarer recruitment and placement services, where they exist;

(d) determining, with due regard to the right to privacy and the need to protect confidentiality, the conditions under which seafarers' personal data may be processed by seafarer recruitment and placement services, including the collection, storage, combination and communication of such data to third parties;

(e) maintaining an arrangement for the collection and analysis of all relevant information on the maritime labour market, including the current and prospective supply of seafarers that work as crew classified by age, sex, rank and qualifications, and the industry's requirements, the collection of data on age or sex being admissible only for statistical purposes or if used in the framework of a programme to prevent discrimination based on age or sex;

(f) ensuring that the staff responsible for the supervision of public and private seafarer recruitment and placement services for ship's crew with responsibility for the ship's safe navigation and pollution prevention operations have had adequate training, including approved sea-service experience, and have relevant knowledge of the maritime industry, including the relevant maritime international instruments on training, certification and labour standards;

(g) prescribing operational standards and adopting codes of conduct and ethical practices for seafarer recruitment and placement services; and

(h) exercising supervision of the licensing or certification system on the basis of a system of quality standards.

2. In establishing the system referred to in Standard A1.4, paragraph 2, each Member should consider requiring seafarer recruitment and placement services, established in its territory, to develop and maintain verifiable operational practices. These operational practices for private seafarer recruitment and placement services and, to the extent that they are applicable, for public seafarer recruitment and placement services should address the following matters:

(a) medical examinations, seafarers' identity documents and such other items as may be required for the seafarer to gain employment;

(b) maintaining, with due regard to the right to privacy and the need to protect confidentiality, full and complete records of the seafarers covered by their recruitment and placement system, which should include but not be limited to:

(i) the seafarers' qualifications;

(ii) record of employment;

(iii) personal data relevant to employment; and

(iv) medical data relevant to employment;

(c) maintaining up-to-date lists of the ships for which the seafarer recruitment and placement services provide seafarers and ensuring that there is a means by which the services can be contacted in an emergency at all hours;

(d) procedures to ensure that seafarers are not subject to exploitation by the seafarer recruitment and placement services or their personnel with regard to the offer of engagement on particular ships or by particular companies;

(e) procedures to prevent the opportunities for exploitation of seafarers arising from the issue of joining advances or any other financial transaction between the shipowner and the seafarers which are handled by the seafarer recruitment and placement services;

(f) clearly publicizing costs, if any, which the seafarer will be expected to bear in the recruitment process;

(g) ensuring that seafarers are advised of any particular conditions applicable to the job for which they are to be engaged and of the particular shipowner's policies relating to their employment;

(h) procedures which are in accordance with the principles of natural justice for dealing with cases of incompetence or indiscipline consistent with national laws and practice and, where applicable, with collective agreements;

(i) procedures to ensure, as far as practicable, that all mandatory certificates and documents submitted for employment are up to date and have not been fraudulently obtained and that employment references are verified;

(j) procedures to ensure that requests for information or advice by families of seafarers while the seafarers are at sea are dealt with promptly and sympathetically and at no cost; and

(k) verifying that labour conditions on ships where seafarers are placed are in conformity with applicable collective bargaining agreements concluded between a shipowner and a representative seafarers' organization and, as a matter of policy, supplying seafarers only to shipowners that offer terms and conditions of employment to seafarers which comply with applicable laws or regulations or collective agreements.

3. Consideration should be given to encouraging international cooperation between Members and relevant organizations, such as:

- (a) the systematic exchange of information on the maritime industry and labour market on a bilateral, regional and multilateral basis;
- (b) the exchange of information on maritime labour legislation;
- (c) the harmonization of policies, working methods and legislation governing recruitment and placement of seafarers;
- (d) the improvement of procedures and conditions for the international recruitment and placement of seafarers; and
- (e) workforce planning, taking account of the supply of and demand for seafarers and the requirements of the maritime industry.

TITLE 2. CONDITIONS OF EMPLOYMENT

Regulation 2.1 – Seafarers’ employment agreements

Purpose: To ensure that seafarers have a fair employment agreement

1. The terms and conditions for employment of a seafarer shall be set out or referred to in a clear written legally enforceable agreement and shall be consistent with the standards set out in the Code.
2. Seafarers’ employment agreements shall be agreed to by the seafarer under conditions which ensure that the seafarer has an opportunity to review and seek advice on the terms and conditions in the agreement and freely accepts them before signing.
3. To the extent compatible with the Member’s national law and practice, seafarers’ employment agreements shall be understood to incorporate any applicable collective bargaining agreements.

Standard A2.1 – Seafarers’ employment agreements

1. Each Member shall adopt laws or regulations requiring that ships that fly its flag comply with the following requirements:
 - (a) seafarers working on ships that fly its flag shall have a seafarers’ employment agreement signed by both the seafarer and the shipowner or a representative of the shipowner (or, where they are not employees, evidence of contractual or similar arrangements) providing them with decent working and living conditions on board the ship as required by this Convention;
 - (b) seafarers signing a seafarers’ employment agreement shall be given an opportunity to examine and seek advice on the agreement before signing, as well as such other facilities as are necessary to ensure that they have freely entered into an agreement with a sufficient understanding of their rights and responsibilities;
 - (c) the shipowner and seafarer concerned shall each have a signed original of the seafarers’ employment agreement;
 - (d) measures shall be taken to ensure that clear information as to the conditions of their employment can be easily obtained on board by seafarers, including the ship’s master, and that such information, including a copy of the seafarers’ employment agreement, is also accessible for review by officers of a competent authority, including those in ports to be visited; and
 - (e) seafarers shall be given a document containing a record of their employment on board the ship.

2. Where a collective bargaining agreement forms all or part of a seafarers' employment agreement, a copy of that agreement shall be available on board. Where the language of the seafarers' employment agreement and any applicable collective bargaining agreement is not in English, the following shall also be available in English (except for ships engaged only in domestic voyages):

- (a) a copy of a standard form of the agreement; and
- (b) the portions of the collective bargaining agreement that are subject to a port State inspection under Regulation 5.2.

3. The document referred to in paragraph 1(e) of this Standard shall not contain any statement as to the quality of the seafarers' work or as to their wages. The form of the document, the particulars to be recorded and the manner in which such particulars are to be entered, shall be determined by national law.

4. Each Member shall adopt laws and regulations specifying the matters that are to be included in all seafarers' employment agreements governed by its national law. Seafarers' employment agreements shall in all cases contain the following particulars:

- (a) the seafarer's full name, date of birth or age, and birthplace;
- (b) the ship owner's name and address;
- (c) the place where and date when the seafarers' employment agreement is entered into;
- (d) the capacity in which the seafarer is to be employed;
- (e) the amount of the seafarer's wages or, where applicable, the formula used for calculating them;
- (f) the amount of paid annual leave or, where applicable, the formula used for calculating it;
- (g) the termination of the agreement and the conditions thereof, including:
 - (i) if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the shipowner than for the seafarer;
 - (ii) if the agreement has been made for a definite period, the date fixed for its expiry; and
 - (iii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged;
- (h) the health and social security protection benefits to be provided to the seafarer by the shipowner;
- (i) the seafarer's entitlement to repatriation;
- (j) reference to the collective bargaining agreement, if applicable; and
- (k) any other particulars which national law may require.

5. Each Member shall adopt laws or regulations establishing minimum notice periods to be given by the seafarers and shipowners for the early termination of a seafarers' employment agreement. The duration of these minimum periods shall be determined after consultation with the shipowners' and seafarers' organizations concerned, but shall not be shorter than seven days.

6. A notice period shorter than the minimum may be given in circumstances which are recognized under national law or regulations or applicable collective bargaining agreements as justifying termination of the employment agreement at shorter notice or without notice. In determining those circumstances, each Member shall ensure that the need of the seafarer to terminate, without penalty, the employment agreement on shorter notice or without notice for compassionate or other urgent reasons is taken into account.

Guideline B2.1 – Seafarers' employment agreements

Guideline B2.1.1 – Record of employment

1. In determining the particulars to be recorded in the record of employment referred to in Standard A2.1, paragraph 1(e), each Member should ensure that this document contains sufficient information, with a translation in English, to facilitate the acquisition of further work or to satisfy the sea-service requirements for upgrading or promotion. A seafarers' discharge book may satisfy the requirements of paragraph 1(e) of that Standard.

Regulation 2.2 – Wages

Purpose: To ensure that seafarers are paid for their services

1. All seafarers shall be paid for their work regularly and in full in accordance with their employment agreements.

Standard A2.2 – Wages

1. Each Member shall require that payments due to seafarers working on ships that fly its flag are made at no greater than monthly intervals and in accordance with any applicable collective agreement.

2. Seafarers shall be given a monthly account of the payments due and the amounts paid, including wages, additional payments and the rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to.

3. Each Member shall require that shipowners take measures, such as those set out in paragraph 4 of this Standard, to provide seafarers with a means to transmit all or part of their earnings to their families or dependants or legal beneficiaries.

4. Measures to ensure that seafarers are able to transmit their earnings to their families include:

(a) a system for enabling seafarers, at the time of their entering employment or during it, to allot, if they so desire, a proportion of their wages for remittance at regular intervals to their families by bank transfers or similar means; and

(b) a requirement that allotments should be remitted in due time and directly to the person or persons nominated by the seafarers.

5. Any charge for the service under paragraphs 3 and 4 of this Standard shall be reasonable in amount, and the rate of currency exchange, unless otherwise provided, shall, in accordance with national laws or regulations, be at the prevailing market rate or the official published rate and not unfavourable to the seafarer.

6. Each Member that adopts national laws or regulations governing seafarers' wages shall give due consideration to the guidance provided in Part B of the Code.

Guideline B2.2 – Wages

Guideline B2.2.1 – Specific definitions

1. For the purpose of this Guideline, the term:

(a) *able seafarer* means any seafarer who is deemed competent to perform any duty which may be required of a rating serving in the deck department, other than the duties of a supervisory or specialist rating, or who is defined as such by national laws, regulations or practice, or by collective agreement;

(b) *basic pay or wages* means the pay, however composed, for normal hours of work; it does not include payments for overtime worked, bonuses, allowances, paid leave or any other additional remuneration;

(c) *consolidated wage* means a wage or salary which includes the basic pay and other pay-related benefits; a consolidated wage may include compensation for all overtime hours which are worked and all other pay-related benefits, or it may include only certain benefits in a partial consolidation;

(d) *hours of work* means time during which seafarers are required to do work on account of the ship;

(e) *overtime* means time worked in excess of the normal hours of work.

Guideline B2.2.2 – Calculation and payment

1. For seafarers whose remuneration includes separate compensation for overtime worked:

(a) for the purpose of calculating wages, the normal hours of work at sea and in port should not exceed eight hours per day;

(b) for the purpose of calculating overtime, the number of normal hours per week covered by the basic pay or wages should be prescribed by national laws or regulations, if not determined by collective agreements, but should not exceed 48 hours per week; collective agreements may provide for a different but not less favourable treatment;

(c) the rate or rates of compensation for overtime, which should be not less than one and one-quarter times the basic pay or wages per hour, should be prescribed by national laws or regulations or by collective agreements, if applicable; and

(d) records of all overtime worked should be maintained by the master, or a person assigned by the master, and endorsed by the seafarer at no greater than monthly intervals.

2. For seafarers whose wages are fully or partially consolidated:

(a) the seafarers' employment agreement should specify clearly, where appropriate, the number of hours of work expected of the seafarer in return for this remuneration, and any additional allowances which might be due in addition to the consolidated wage, and in which circumstances;

(b) where hourly overtime is payable for hours worked in excess of those covered by the consolidated wage, the hourly rate should be not less than one and one-quarter times the basic rate corresponding to the normal hours of work as defined in paragraph 1 of this Guideline; the same principle should be applied to the overtime hours included in the consolidated wage;

(c) remuneration for that portion of the fully or partially consolidated wage representing the normal hours of work as defined in paragraph 1(a) of this Guideline should be no less than the applicable minimum wage; and

(d) for seafarers whose wages are partially consolidated, records of all overtime worked should be maintained and endorsed as provided for in paragraph 1(d) of this Guideline.

3. National laws or regulations or collective agreements may provide for compensation for overtime or for work performed on the weekly day of rest and on public holidays by at least equivalent time off duty and off the ship or additional leave in lieu of remuneration or any other compensation so provided.

4. National laws and regulations adopted after consulting the representative shipowners' and seafarers' organizations or, as appropriate, collective agreements should take into account the following principles:

(a) equal remuneration for work of equal value should apply to all seafarers employed on the same ship without discrimination based upon race, colour, sex, religion, political opinion, national extraction or social origin;

(b) the seafarers' employment agreement specifying the applicable wages or wage rates should be carried on board the ship; information on the amount of wages or wage rates should be made available to each seafarer, either by providing at least one signed copy of the relevant information to the seafarer in a language which the seafarer understands, or by posting a copy of the agreement in a place accessible to seafarers or by some other appropriate means;

(c) wages should be paid in legal tender; where appropriate, they may be paid by bank transfer, bank cheque, postal cheque or money order;

(d) on termination of engagement all remuneration due should be paid without undue delay;

(e) adequate penalties or other appropriate remedies should be imposed by the competent authority where shipowners unduly delay, or fail to make, payment of all remuneration due;

(f) wages should be paid directly to seafarers' designated bank accounts unless they request otherwise in writing;

(g) subject to subparagraph (h) of this paragraph, the shipowner should impose no limit on seafarers' freedom to dispose of their remuneration;

(h) deduction from remuneration should be permitted only if:

(i) there is an express provision in national laws or regulations or in an applicable collective agreement and the seafarer has been informed, in the manner deemed most appropriate by the competent authority, of the conditions for such deductions; and

(ii) the deductions do not in total exceed the limit that may have been established by national laws or regulations or collective agreements or court decisions for making such deductions;

(i) no deductions should be made from a seafarer's remuneration in respect of obtaining or retaining employment;

(j) monetary fines against seafarers other than those authorized by national laws or regulations, collective agreements or other measures should be prohibited;

(k) the competent authority should have the power to inspect stores and services provided on board ship to ensure that fair and reasonable prices are applied for the benefit of the seafarers concerned; and

(l) to the extent that seafarers' claims for wages and other sums due in respect of their employment are not secured in accordance with the provisions of the International Convention on Maritime Liens and Mortgages,

1993, such claims should be protected in accordance with the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173).

5. Each Member should, after consulting with representative shipowners' and seafarers' organizations, have procedures to investigate complaints relating to any matter contained in this Guideline.

Guideline B2.2.3 – Minimum wages

1. Without prejudice to the principle of free collective bargaining, each Member should, after consulting representative shipowners' and seafarers' organizations, establish procedures for determining minimum wages for seafarers. Representative shipowners' and seafarers' organizations should participate in the operation of such procedures.

2. When establishing such procedures and in fixing minimum wages, due regard should be given to international labour standards concerning minimum wage fixing, as well as the following principles:

(a) the level of minimum wages should take into account the nature of maritime employment, crewing levels of ships, and seafarers' normal hours of work; and

(b) the level of minimum wages should be adjusted to take into account changes in the cost of living and in the needs of seafarers.

3. The competent authority should ensure:

(a) by means of a system of supervision and sanctions, that wages are paid at not less than the rate or rates fixed; and

(b) that any seafarers who have been paid at a rate lower than the minimum wage are enabled to recover, by an inexpensive and expeditious judicial or other procedure, the amount by which they have been underpaid.

Guideline B2.2.4 – Minimum monthly basic pay or wage figure for able seafarers

1. The basic pay or wages for a calendar month of service for an able seafarer should be no less than the amount periodically set by the Joint Maritime Commission or another body authorized by the Governing Body of the International Labour Office. Upon a decision of the Governing Body, the Director-General shall notify any revised amount to the Members of the Organization.

2. Nothing in this Guideline should be deemed to prejudice arrangements agreed between shipowners or their organizations and seafarers' organizations with regard to the regulation of standard minimum terms and conditions of employment, provided such terms and conditions are recognized by the competent authority.

Regulation 2.3 – Hours of work and hours of rest

Purpose: To ensure that seafarers have regulated hours of work or hours of rest

1. Each Member shall ensure that the hours of work or hours of rest for seafarers are regulated.

2. Each Member shall establish maximum hours of work or minimum hours of rest over given periods that are consistent with the provisions in the Code.

Standard A2.3 – Hours of work and hours of rest

1. For the purpose of this Standard, the term:

(a) *hours of work* means time during which seafarers are required to do work on account of the ship;

(b) *hours of rest* means time outside hours of work; this term does not include short breaks.

2. Each Member shall within the limits set out in paragraphs 5 to 8 of this Standard fix either a maximum number of hours of work which shall not be exceeded in a given period of time, or a minimum number of hours of rest which shall be provided in a given period of time.

3. Each Member acknowledges that the normal working hours' standard for seafarers, like that for other workers, shall be based on an eight-hour day with one day of rest per week and rest on public holidays. However, this shall not prevent the Member from having procedures to authorize or register a collective agreement which determines seafarers' normal working hours on a basis no less favourable than this standard.

4. In determining the national standards, each Member shall take account of the danger posed by the fatigue of seafarers, especially those whose duties involve navigational safety and the safe and secure operation of the ship.

5. The limits on hours of work or rest shall be as follows:

(a) maximum hours of work shall not exceed:

(i) 14 hours in any 24-hour period; and

(ii) 72 hours in any seven-day period;

or

(b) minimum hours of rest shall not be less than:

(i) ten hours in any 24-hour period; and

(ii) 77 hours in any seven-day period.

6. Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.

7. Musters, fire-fighting and lifeboat drills, and drills prescribed by national laws and regulations and by international instruments, shall be conducted in a manner that minimizes the disturbance of rest periods and does not induce fatigue.

8. When a seafarer is on call, such as when a machinery space is unattended, the seafarer shall have an adequate compensatory rest period if the normal period of rest is disturbed by call-outs to work.

9. If no collective agreement or arbitration award exists or if the competent authority determines that the provisions in the agreement or award in respect of paragraph 7 or 8 of this Standard are inadequate, the competent authority shall determine such provisions to ensure the seafarers concerned have sufficient rest.

10. Each Member shall require the posting, in an easily accessible place, of a table with the shipboard working arrangements, which shall contain for every position at least:

(a) the schedule of service at sea and service in port; and

(b) the maximum hours of work or the minimum hours of rest required by national laws or regulations or applicable collective agreements.

11. The table referred to in paragraph 10 of this Standard shall be established in a standardized format in the working language or languages of the ship and in English.

12. Each Member shall require that records of seafarers' daily hours of work or of their daily hours of rest be maintained to allow monitoring of compliance with paragraphs 5 to 11 inclusive of this Standard. The records shall be in a standardized format established by the competent authority taking into account any available guidelines of the International Labour Organization or shall be in any standard format prepared by the Organization. They shall be in the languages required by paragraph 11 of this Standard. The seafarers shall receive a copy of the records pertaining to them which shall be endorsed by the master, or a person authorized by the master, and by the seafarers.

13. Nothing in paragraphs 5 and 6 of this Standard shall prevent a Member from having national laws or regulations or a procedure for the competent authority to authorize or register collective agreements permitting exceptions to the limits set out. Such exceptions shall, as far as possible, follow the provisions of this Standard but may take account of more frequent or longer leave periods or the granting of compensatory leave for watchkeeping seafarers or seafarers working on board ships on short voyages.

14. Nothing in this Standard shall be deemed to impair the right of the master of a ship to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea. Accordingly, the master may suspend the schedule of hours of work or hours of rest and require a seafarer to perform any hours of work necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the master shall ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.

Guideline B2.3 – Hours of work and hours of rest

Guideline B2.3.1 – Young seafarers

1. At sea and in port the following provisions should apply to all young seafarers under the age of 18:

- (a) working hours should not exceed eight hours per day and 40 hours per week and overtime should be worked only where unavoidable for safety reasons;
- (b) sufficient time should be allowed for all meals, and a break of at least one hour for the main meal of the day should be assured; and
- (c) a 15-minute rest period as soon as possible following each two hours of continuous work should be allowed.

2. Exceptionally, the provisions of paragraph 1 of this Guideline need not be applied if:

- (a) they are impracticable for young seafarers in the deck, engine room and catering departments assigned to watchkeeping duties or working on a rostered shift-work system; or
- (b) the effective training of young seafarers in accordance with established programmes and schedules would be impaired.

3. Such exceptional situations should be recorded, with reasons, and signed by the master.

4. Paragraph 1 of this Guideline does not exempt young seafarers from the general obligation on all seafarers to work during any emergency as provided for in Standard A2.3, paragraph 14.

Regulation 2.4 – Entitlement to leave

Purpose: To ensure that seafarers have adequate leave

1. Each Member shall require that seafarers employed on ships that fly its flag are given paid annual leave under appropriate conditions, in accordance with the provisions in the Code.
2. Seafarers shall be granted shore leave to benefit their health and well-being and with the operational requirements of their positions.

Standard A2.4 – Entitlement to leave

1. Each Member shall adopt laws and regulations determining the minimum standards for annual leave for seafarers serving on ships that fly its flag, taking proper account of the special needs of seafarers with respect to such leave.
2. Subject to any collective agreement or laws or regulations providing for an appropriate method of calculation that takes account of the special needs of seafarers in this respect, the annual leave with pay entitlement shall be calculated on the basis of a minimum of 2.5 calendar days per month of employment. The manner in which the length of service is calculated shall be determined by the competent authority or through the appropriate machinery in each country. Justified absences from work shall not be considered as annual leave.
3. Any agreement to forgo the minimum annual leave with pay prescribed in this Standard, except in cases provided for by the competent authority, shall be prohibited.

Guideline B2.4 – Entitlement to leave

Guideline B2.4.1 – Calculation of entitlement

1. Under conditions as determined by the competent authority or through the appropriate machinery in each country, service off-articles should be counted as part of the period of service.
2. Under conditions as determined by the competent authority or in an applicable collective agreement, absence from work to attend an approved maritime vocational training course or for such reasons as illness or injury or for maternity should be counted as part of the period of service.
3. The level of pay during annual leave should be at the seafarer's normal level of remuneration provided for by national laws or regulations or in the applicable seafarers' employment agreement. For seafarers employed for periods shorter than one year or in the event of termination of the employment relationship, entitlement to leave should be calculated on a pro-rata basis.
4. The following should not be counted as part of annual leave with pay:
 - (a) public and customary holidays recognized as such in the flag State, whether or not they fall during the annual leave with pay;
 - (b) periods of incapacity for work resulting from illness or injury or from maternity, under conditions as determined by the competent authority or through the appropriate machinery in each country;
 - (c) temporary shore leave granted to a seafarer while under an employment agreement; and
 - (d) compensatory leave of any kind, under conditions as determined by the competent authority or through the appropriate machinery in each country.

Guideline B2.4.2 – Taking of annual leave

1. The time at which annual leave is to be taken should, unless it is fixed by regulation, collective agreement, arbitration award or other means consistent with national practice, be determined by the shipowner after consultation and, as far as possible, in agreement with the seafarers concerned or their representatives.
2. Seafarers should in principle have the right to take annual leave in the place with which they have a substantial connection, which would normally be the same as the place to which they are entitled to be repatriated. Seafarers should not be required without their consent to take annual leave due to them in another place except under the provisions of a seafarers' employment agreement or of national laws or regulations.
3. If seafarers are required to take their annual leave from a place other than that permitted by paragraph 2 of this Guideline, they should be entitled to free transportation to the place where they were engaged or recruited, whichever is nearer their home; subsistence and other costs directly involved should be for the account of the shipowner; the travel time involved should not be deducted from the annual leave with pay due to the seafarer.
4. A seafarer taking annual leave should be recalled only in cases of extreme emergency and with the seafarer's consent.

Guideline B2.4.3 – Division and accumulation

1. The division of the annual leave with pay into parts, or the accumulation of such annual leave due in respect of one year together with a subsequent period of leave, may be authorized by the competent authority or through the appropriate machinery in each country.
2. Subject to paragraph 1 of this Guideline and unless otherwise provided in an agreement applicable to the shipowner and the seafarer concerned, the annual leave with pay recommended in this Guideline should consist of an uninterrupted period.

Guideline B2.4.4 – Young seafarers

1. Special measures should be considered with respect to young seafarers under the age of 18 who have served six months or any other shorter period of time under a collective agreement or seafarers' employment agreement without leave on a foreign-going ship which has not returned to their country of residence in that time, and will not return in the subsequent three months of the voyage. Such measures could consist of their repatriation at no expense to themselves to the place of original engagement in their country of residence for the purpose of taking any leave earned during the voyage.

Regulation 2.5 – Repatriation

Purpose: To ensure that seafarers are able to return home

1. Seafarers have a right to be repatriated at no cost to themselves in the circumstances and under the conditions specified in the Code.
2. Each Member shall require ships that fly its flag to provide financial security to ensure that seafarers are duly repatriated in accordance with the Code.

Standard A2.5 – Repatriation

1. Each Member shall ensure that seafarers on ships that fly its flag are entitled to repatriation in the following circumstances:
 - (a) if the seafarers' employment agreement expires while they are abroad;
 - (b) when the seafarers' employment agreement is terminated:

- (i) by the shipowner; or
 - (ii) by the seafarer for justified reasons; and also
 - (c) when the seafarers are no longer able to carry out their duties under their employment agreement or cannot be expected to carry them out in the specific circumstances.
- 2. Each Member shall ensure that there are appropriate provisions in its laws and regulations or other measures or in collective bargaining agreements, prescribing:
 - (a) the circumstances in which seafarers are entitled to repatriation in accordance with paragraph 1(b) and (c) of this Standard;
 - (b) the maximum duration of service periods on board following which a seafarer is entitled to repatriation – such periods to be less than 12 months; and
 - (c) the precise entitlements to be accorded by shipowners for repatriation, including those relating to the destinations of repatriation, the mode of transport, the items of expense to be covered and other arrangements to be made by shipowners.
- 3. Each Member shall prohibit shipowners from requiring that seafarers make an advance payment towards the cost of repatriation at the beginning of their employment, and also from recovering the cost of repatriation from the seafarers' wages or other entitlements except where the seafarer has been found, in accordance with national laws or regulations or other measures or applicable collective bargaining agreements, to be in serious default of the seafarer's employment obligations.
- 4. National laws and regulations shall not prejudice any right of the shipowner to recover the cost of repatriation under third-party contractual arrangements.
- 5. If a shipowner fails to make arrangements for or to meet the cost of repatriation of seafarers who are entitled to be repatriated:
 - (a) the competent authority of the Member whose flag the ship flies shall arrange for repatriation of the seafarers concerned; if it fails to do so, the State from which the seafarers are to be repatriated or the State of which they are a national may arrange for their repatriation and recover the cost from the Member whose flag the ship flies;
 - (b) costs incurred in repatriating seafarers shall be recoverable from the shipowner by the Member whose flag the ship flies;
 - (c) the expenses of repatriation shall in no case be a charge upon the seafarers, except as provided for in paragraph 3 of this Standard.
- 6. Taking into account applicable international instruments, including the International Convention on Arrest of Ships, 1999, a Member which has paid the cost of repatriation pursuant to this Code may detain, or request the detention of, the ships of the shipowner concerned until the reimbursement has been made in accordance with paragraph 5 of this Standard.
- 7. Each Member shall facilitate the repatriation of seafarers serving on ships which call at its ports or pass through its territorial or internal waters, as well as their replacement on board.
- 8. In particular, a Member shall not refuse the right of repatriation to any seafarer because of the financial circumstances of a shipowner or because of the shipowner's inability or unwillingness to replace a seafarer.

9. Each Member shall require that ships that fly its flag carry and make available to seafarers a copy of the applicable national provisions regarding repatriation written in an appropriate language.

Guideline B2.5 – Repatriation
Guideline B2.5.1 – Entitlement

1. Seafarers should be entitled to repatriation:

(a) in the case covered by Standard A2.5, paragraph 1(a), upon the expiry of the period of notice given in accordance with the provisions of the seafarers' employment agreement;

(b) in the cases covered by Standard A2.5, paragraph 1(b) and (c):

(i) in the event of illness or injury or other medical condition which requires their repatriation when found medically fit to travel;

(ii) in the event of shipwreck;

(iii) in the event of the shipowner not being able to continue to fulfil their legal or contractual obligations as an employer of the seafarers by reason of insolvency, sale of ship, change of ship's registration or any other similar reason;

(iv) in the event of a ship being bound for a war zone, as defined by national laws or regulations or seafarers' employment agreements, to which the seafarer does not consent to go; and

(v) in the event of termination or interruption of employment in accordance with an industrial award or collective agreement, or termination of employment for any other similar reason.

2. In determining the maximum duration of service periods on board following which a seafarer is entitled to repatriation, in accordance with this Code, account should be taken of factors affecting the seafarers' working environment. Each Member should seek, wherever possible, to reduce these periods in the light of technological changes and developments and might be guided by any recommendations made on the matter by the Joint Maritime Commission.

3. The costs to be borne by the shipowner for repatriation under Standard A2.5 should include at least the following:

(a) passage to the destination selected for repatriation in accordance with paragraph 6 of this Guideline;

(b) accommodation and food from the moment the seafarers leave the ship until they reach the repatriation destination;

(c) pay and allowances from the moment the seafarers leave the ship until they reach the repatriation destination, if provided for by national laws or regulations or collective agreements;

(d) transportation of 30 kg of the seafarers' personal luggage to the repatriation destination; and

(e) medical treatment when necessary until the seafarers are medically fit to travel to the repatriation destination.

4. Time spent awaiting repatriation and repatriation travel time should not be deducted from paid leave accrued to the seafarers.

5. Shipowners should be required to continue to cover the costs of repatriation until the seafarers concerned are landed at a destination prescribed pursuant to this Code

or are provided with suitable employment on board a ship proceeding to one of those destinations.

6. Each Member should require that shipowners take responsibility for repatriation arrangements by appropriate and expeditious means. The normal mode of transport should be by air. The Member should prescribe the destinations to which seafarers may be repatriated. The destinations should include the countries with which seafarers may be deemed to have a substantial connection including:

- (a) the place at which the seafarer agreed to enter into the engagement;
- (b) the place stipulated by collective agreement;
- (c) the seafarer's country of residence; or
- (d) such other place as may be mutually agreed at the time of engagement.

7. Seafarers should have the right to choose from among the prescribed destinations the place to which they are to be repatriated.

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.

Guideline B2.5.2 – Implementation by Members

1. Every possible practical assistance should be given to a seafarer stranded in a foreign port pending repatriation and in the event of delay in the repatriation of the seafarer, the competent authority in the foreign port should ensure that the consular or local representative of the flag State and the seafarer's State of nationality or State of residence, as appropriate, is informed immediately.

2. Each Member should have regard to whether proper provision is made:

(a) for the return of seafarers employed on a ship that flies the flag of a foreign country who are put ashore in a foreign port for reasons for which they are not responsible:

- (i) to the port at which the seafarer concerned was engaged; or
- (ii) to a port in the seafarer's State of nationality or State of residence, as appropriate; or
- (iii) to another port agreed upon between the seafarer and the master or shipowner, with the approval of the competent authority or under other appropriate safeguards;

(b) for medical care and maintenance of seafarers employed on a ship that flies the flag of a foreign country who are put ashore in a foreign port in consequence of sickness or injury incurred in the service of the ship and not due to their own wilful misconduct.

3. If, after young seafarers under the age of 18 have served on a ship for at least four months during their first foreign-going voyage, it becomes apparent that they are unsuited to life at sea, they should be given the opportunity of being repatriated at no expense to themselves from the first suitable port of call in which there are consular services of the flag State, or the State of nationality or residence of the young seafarer. Notification of any such repatriation, with the reasons therefor, should be given to the authority which issued the papers enabling the young seafarers concerned to take up seagoing employment.

Regulation 2.6 – Seafarer compensation for the ship's loss or foundering

Purpose: To ensure that seafarers are compensated when a ship is lost or has foundered

1. Seafarers are entitled to adequate compensation in the case of injury, loss or unemployment arising from the ship's loss or foundering.

Standard A2.6 – Seafarer compensation for the ship's loss or foundering

1. Each Member shall make rules ensuring that, in every case of loss or foundering of any ship, the shipowner shall pay to each seafarer on board an indemnity against unemployment resulting from such loss or foundering.

2. The rules referred to in paragraph 1 of this Standard shall be without prejudice to any other rights a seafarer may have under the national law of the Member concerned for losses or injuries arising from a ship's loss or foundering.

Guideline B2.6 – Seafarer compensation for the ship's loss or foundering

Guideline B2.6.1 – Calculation of indemnity against unemployment

1. The indemnity against unemployment resulting from a ship's foundering or loss should be paid for the days during which the seafarer remains in fact unemployed at the same rate as the wages payable under the employment agreement, but the total indemnity payable to any one seafarer may be limited to two months' wages.

2. Each Member should ensure that seafarers have the same legal remedies for recovering such indemnities as they have for recovering arrears of wages earned during the service.

Regulation 2.7 – Manning levels

Purpose: To ensure that seafarers work on board ships with sufficient personnel for the safe, efficient and secure operation of the ship

1. Each Member shall require that all ships that fly its flag have a sufficient number 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.

Standard A2.7 – Manning levels

1. Each Member shall require that all ships that fly its flag have a sufficient number of seafarers on board to ensure that ships are operated safely, efficiently and with due regard to security. Every ship shall be manned by a crew that is adequate, in terms of size and qualifications, to ensure the safety and security of the ship and its personnel, under all operating conditions, in accordance with the minimum safe manning document or an equivalent issued by the competent authority, and to comply with the standards of this Convention.

2. When determining, approving or revising manning levels, the competent authority shall take into account the need to avoid or minimize excessive hours of work to ensure sufficient rest and to limit fatigue, as well as the principles in applicable international instruments, especially those of the International Maritime Organization, on manning levels.

3. When determining manning levels, the competent authority shall take into account all the requirements within Regulation 3.2 and Standard A3.2 concerning food and catering.

Guideline B2.7 – Manning levels
Guideline B2.7.1 – Dispute settlement

1. Each Member should maintain, or satisfy itself that there is maintained, efficient machinery for the investigation and settlement of complaints or disputes concerning the manning levels on a ship.
2. Representatives of shipowners' and seafarers' organizations should participate, with or without other persons or authorities, in the operation of such machinery.

Regulation 2.8 – Career and skill development and opportunities for seafarers' employment

Purpose: To promote career and skill development and employment opportunities for seafarers

1. Each Member shall have national policies to promote employment in the maritime sector and to encourage career and skill development and greater employment opportunities for seafarers domiciled in its territory.

Standard A2.8 – Career and skill development and employment opportunities for seafarers

1. Each Member shall have national policies that encourage career and skill development and employment opportunities for seafarers, in order to provide the maritime sector with a stable and competent workforce.
2. The aim of the policies referred to in paragraph 1 of this Standard shall be to help seafarers strengthen their competencies, qualifications and employment opportunities.
3. Each Member shall, after consulting the shipowners' and seafarers' organizations concerned, establish clear objectives for the vocational guidance, education and training of seafarers whose duties on board ship primarily relate to the safe operation and navigation of the ship, including ongoing training.

Guideline B2.8 – Career and skill development and employment opportunities for seafarers

Guideline B2.8.1 – Measures to promote career and skill development and employment opportunities for seafarers

1. Measures to achieve the objectives set out in Standard A2.8 might include:
 - (a) agreements providing for career development and skills training with a shipowner or an organization of shipowners; or
 - (b) arrangements for promoting employment through the establishment and maintenance of registers or lists, by categories, of qualified seafarers; or
 - (c) promotion of opportunities, both on board and ashore, for further training and education of seafarers to provide for skill development and portable competencies in order to secure and retain decent work, to improve individual employment prospects and to meet the changing technology and labour market conditions of the maritime industry.

Guideline B2.8.2 – Register of seafarers

1. Where registers or lists govern the employment of seafarers, these registers or lists should include all occupational categories of seafarers in a manner determined by national law or practice or by collective agreement.
2. Seafarers on such a register or list should have priority of engagement for seafaring.

3. Seafarers on such a register or list should be required to be available for work in a manner to be determined by national law or practice or by collective agreement.
4. To the extent that national laws or regulations permit, the number of seafarers on such registers or lists should be periodically reviewed so as to achieve levels adapted to the needs of the maritime industry.
5. When a reduction in the number of seafarers on such a register or list becomes necessary, all appropriate measures should be taken to prevent or minimize detrimental effects on seafarers, account being taken of the economic and social situation of the country concerned.

TITLE 3. ACCOMMODATION, RECREATIONAL FACILITIES, FOOD AND CATERING

Regulation 3.1 – Accommodation and recreational facilities

Purpose: To ensure that seafarers have decent accommodation and recreational facilities on board

1. Each Member shall ensure that ships that fly its flag provide and maintain decent accommodations and recreational facilities for seafarers working or living on board, or both, consistent with promoting the seafarers' health and well-being.
2. The requirements in the Code implementing this Regulation which relate to ship construction and equipment apply only to ships constructed on or after the date when this Convention comes into force for the Member concerned. For ships constructed before that date, the requirements relating to ship construction and equipment that are set out in the Accommodation of Crews Convention (Revised), 1949 (No. 92), and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), shall continue to apply to the extent that they were applicable, prior to that date, under the law or practice of the Member concerned. A ship shall be deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction.
3. Unless expressly provided otherwise, any requirement under an amendment to the Code relating to the provision of seafarer accommodation and recreational facilities shall apply only to ships constructed on or after the amendment takes effect for the Member concerned.

Standard A3.1 – Accommodation and recreational facilities

1. Each Member shall adopt laws and regulations requiring that ships that fly its flag:
 - (a) meet minimum standards to ensure that any accommodation for seafarers, working or living on board, or both, is safe, decent and in accordance with the relevant provisions of this Standard; and
 - (b) are inspected to ensure initial and ongoing compliance with those standards.
2. In developing and applying the laws and regulations to implement this Standard, the competent authority, after consulting the shipowners' and seafarers' organizations concerned, shall:
 - (a) take into account Regulation 4.3 and the associated Code provisions on health and safety protection and accident prevention, in light of the specific needs of seafarers that both live and work on board ship, and
 - (b) give due consideration to the guidance contained in Part B of this Code.
3. The inspections required under Regulation 5.1.4 shall be carried out when:
 - (a) a ship is registered or re-registered; or

- (b) the seafarer accommodation on a ship has been substantially altered.
4. The competent authority shall pay particular attention to ensuring implementation of the requirements of this Convention relating to:
- (a) the size of rooms and other accommodation spaces;
 - (b) heating and ventilation;
 - (c) noise and vibration and other ambient factors;
 - (d) sanitary facilities;
 - (e) lighting; and
 - (f) hospital accommodation.
5. The competent authority of each Member shall require that ships that fly its flag meet the minimum standards for on-board accommodation and recreational facilities that are set out in paragraphs 6 to 17 of this Standard.
6. With respect to general requirements for accommodation:
- (a) there shall be adequate headroom in all seafarer accommodation; the minimum permitted headroom in all seafarer accommodation where full and free movement is necessary shall be not less than 203 centimetres; the competent authority may permit some limited reduction in headroom in any space, or part of any space, in such accommodation where it is satisfied that such reduction:
 - (i) is reasonable; and
 - (ii) will not result in discomfort to the seafarers;
 - (b) the accommodation shall be adequately insulated;
 - (c) in ships other than passenger ships, as defined in Regulation 2(e) and (f) of the International Convention for the Safety of Life at Sea, 1974, as amended (the "SOLAS Convention"), sleeping rooms shall be situated above the load line amidships or aft, except that in exceptional cases, where the size, type or intended service of the ship renders any other location impracticable, sleeping rooms may be located in the fore part of the ship, but in no case forward of the collision bulkhead;
 - (d) in passenger ships, and in special ships constructed in compliance with the IMO *Code of Safety for Special Purpose Ships*, 1983, and subsequent versions (hereinafter called "special purpose ships"), the competent authority may, on condition that satisfactory arrangements are made for lighting and ventilation, permit the location of sleeping rooms below the load line, but in no case shall they be located immediately beneath working alleyways;
 - (e) there shall be no direct openings into sleeping rooms from cargo and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of a bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or other approved substance and be watertight and gas-tight;
 - (f) the materials used to construct internal bulkheads, panelling and sheeting, floors and joinings shall be suitable for the purpose and conducive to ensuring a healthy environment;
 - (g) proper lighting and sufficient drainage shall be provided; and
 - (h) accommodation and recreational and catering facilities shall meet the requirements in Regulation 4.3, and the related provisions in the Code, on

health and safety protection and accident prevention, with respect to preventing the risk of exposure to hazardous levels of noise and vibration and other ambient factors and chemicals on board ships, and to provide an acceptable occupational and onboard living environment for seafarers.

7. With respect to requirements for ventilation and heating:

- (a) sleeping rooms and mess rooms shall be adequately ventilated;
- (b) ships, except those regularly engaged in trade where temperate climatic conditions do not require this, shall be equipped with air conditioning for seafarer accommodation, for any separate radio room and for any centralized machinery control room;
- (c) all sanitary spaces shall have ventilation to the open air, independently of any other part of the accommodation; and
- (d) adequate heat through an appropriate heating system shall be provided, except in ships exclusively on voyages in tropical climates.

8. With respect to requirements for lighting, subject to such special arrangements as may be permitted in passenger ships, sleeping rooms and mess rooms shall be lit by natural light and provided with adequate artificial light.

9. When sleeping accommodation on board ships is required, the following requirements for sleeping rooms apply:

- (a) in ships other than passenger ships, an individual sleeping room shall be provided for each seafarer; in the case of ships of less than 3,000 gross tonnage or special purpose ships, exemptions from this requirement may be granted by the competent authority after consultation with the shipowners' and seafarers' organizations concerned;
- (b) separate sleeping rooms shall be provided for men and for women;
- (c) sleeping rooms shall be of adequate size and properly equipped so as to ensure reasonable comfort and to facilitate tidiness;
- (d) a separate berth for each seafarer shall in all circumstances be provided;
- (e) the minimum inside dimensions of a berth shall be at least 198 centimetres by 80 centimetres;
- (f) in single berth seafarers' sleeping rooms the floor area shall not be less than:
 - (i) 4.5 square metres in ships of less than 3,000 gross tonnage;
 - (ii) square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;
 - (iii) 7 square metres in ships of 10,000 gross tonnage or over;
- (g) however, in order to provide single berth sleeping rooms on ships of less than 3,000 gross tonnage, passenger ships and special purpose ships, the competent authority may allow a reduced floor area;
- (h) in ships of less than 3,000 gross tonnage other than passenger ships and special purpose ships, sleeping rooms may be occupied by a maximum of two seafarers; the floor area of such sleeping rooms shall not be less than 7 square metres;
- (i) on passenger ships and special purpose ships the floor area of sleeping rooms for seafarers not performing the duties of ships' officers shall not be less than:

- (i) 7.5 square metres in rooms accommodating two persons;
- (ii) 11.5 square metres in rooms accommodating three persons;
- (iii) 14.5 square metres in rooms accommodating four persons;

(j) on special purpose ships sleeping rooms may accommodate more than four persons; the floor area of such sleeping rooms shall not be less than 3.6 square metres per person;

(k) on ships other than passenger ships and special purpose ships, sleeping rooms for seafarers who perform the duties of ships' officers, where no private sitting room or day room is provided, the floor area per person shall not be less than:

- (i) 7.5 square metres in ships of less than 3,000 gross tonnage;
- (ii) 8.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;
- (iii) 10 square metres in ships of 10,000 gross tonnage or over;

(l) on passenger ships and special purpose ships the floor area for seafarers performing the duties of ships' officers where no private sitting room or day room is provided, the floor area per person for junior officers shall not be less than 7.5 square metres and for senior officers not less than 8.5 square metres; junior officers are understood to be at the operational level, and senior officers at the management level;

(m) the master, the chief engineer and the chief navigating officer shall have, in addition to their sleeping rooms, an adjoining sitting room, day room or equivalent additional space; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations concerned;

(n) for each occupant, the furniture shall include a clothes locker of ample space (minimum 475 litres) and a drawer or equivalent space of not less than 56 litres; if the drawer is incorporated in the clothes locker then the combined minimum volume of the clothes locker shall be 500 litres; it shall be fitted with a shelf and be able to be locked by the occupant so as to ensure privacy;

(o) each sleeping room shall be provided with a table or desk, which may be of the fixed, drop-leaf or slide-out type, and with comfortable seating accommodation as necessary.

10. With respect to requirements for mess rooms:

(a) mess rooms shall be located apart from the sleeping rooms and as close as practicable to the galley; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations concerned; and

(b) mess rooms shall be of adequate size and comfort and properly furnished and equipped (including ongoing facilities for refreshment), taking account of the number of seafarers likely to use them at any one time; provision shall be made for separate or common mess room facilities as appropriate.

11. With respect to requirements for sanitary facilities:

(a) all seafarers shall have convenient access on the ship to sanitary facilities meeting minimum standards of health and hygiene and reasonable standards of comfort, with separate sanitary facilities being provided for men and for women;

(b) there shall be sanitary facilities within easy access of the navigating bridge and the machinery space or near the engine room control centre; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations concerned;

(c) in all ships a minimum of one toilet, one wash basin and one tub or shower or both for every six persons or less who do not have personal facilities shall be provided at a convenient location;

(d) with the exception of passenger ships, each sleeping room shall be provided with a washbasin having hot and cold running fresh water, except where such a washbasin is situated in the private bathroom provided;

(e) in passenger ships normally engaged on voyages of not more than four hours' duration, consideration may be given by the competent authority to special arrangements or to a reduction in the number of facilities required; and

(f) hot and cold running fresh water shall be available in all wash places.

12. With respect to requirements for hospital accommodation, ships carrying 15 or more seafarers and engaged in a voyage of more than three days' duration shall provide separate hospital accommodation to be used exclusively for medical purposes; the competent authority may relax this requirement for ships engaged in coastal trade; in approving on-board hospital accommodation, the competent authority shall ensure that the accommodation will, in all weathers, be easy of access, provide comfortable housing for the occupants and be conducive to their receiving prompt and proper attention.

13. Appropriately situated and furnished laundry facilities shall be available.

14. All ships shall have a space or spaces on open deck to which the seafarers can have access when off duty, which are of adequate area having regard to the size of the ship and the number of seafarers on board.

15. All ships shall be provided with separate offices or a common ship's office for use by deck and engine departments; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations concerned.

16. Ships regularly trading to mosquito-infested ports shall be fitted with appropriate devices as required by the competent authority.

17. Appropriate seafarers' recreational facilities, amenities and services, as adapted to meet the special needs of seafarers who must live and work on ships, shall be provided on board for the benefit of all seafarers, taking into account Regulation 4.3 and the associated Code provisions on health and safety protection and accident prevention.

18. The competent authority shall require frequent inspections to be carried out on board ships, by or under the authority of the master, to ensure that seafarer accommodation is clean, decently habitable and maintained in a good state of repair. The results of each such inspection shall be recorded and be available for review.

19. In the case of ships where there is need to take account, without discrimination, of the interests of seafarers having differing and distinctive religious and social practices, the competent authority may, after consultation with the shipowners' and seafarers' organizations concerned, permit fairly applied variations in respect of this Standard on condition that such variations do not result in overall facilities less favourable than those which would result from the application of this Standard.

20. Each Member may, after consultation with the shipowners' and seafarers' organizations concerned, exempt ships of less than 200 gross tonnage where it is reasonable to do so, taking account of the size of the ship and the number of persons on board in relation to the requirements of the following provisions of this Standard:

(a) paragraphs 7(b), 11(d) and 13; and

(b) paragraph 9(f) and (h) to (l) inclusive, with respect to floor area only.

21. Any exemptions with respect to the requirements of this Standard may be made only where they are expressly permitted in this Standard and only for particular circumstances in which such exemptions can be clearly justified on strong grounds and subject to protecting the seafarers' health and safety.

Guideline B3.1 – Accommodation and recreational facilities

Guideline B3.1.1 – Design and construction

1. External bulkheads of sleeping rooms and mess rooms should be adequately insulated. All machinery casings and all boundary bulkheads of galleys and other spaces in which heat is produced should be adequately insulated where there is a possibility of resulting heat effects in adjoining accommodation or passageways. Measures should also be taken to provide protection from heat effects of steam or hot-water service pipes or both.

2. Sleeping rooms, mess rooms, recreation rooms and alleyways in the accommodation space should be adequately insulated to prevent condensation or overheating.

3. The bulkhead surfaces and deckheads should be of material with a surface easily kept clean. No form of construction likely to harbour vermin should be used.

4. The bulkhead surfaces and deckheads in sleeping rooms and mess rooms should be capable of being easily kept clean and light in colour with a durable, nontoxic finish.

5. The decks in all seafarer accommodation should be of approved material and construction and should provide a non-slip surface impervious to damp and easily kept clean.

6. Where the floorings are made of composite materials, the joints with the sides should be profiled to avoid crevices.

Guideline B3.1.2 – Ventilation

1. The system of ventilation for sleeping rooms and mess rooms should be controlled so as to maintain the air in a satisfactory condition and to ensure a sufficiency of air movement in all conditions of weather and climate.

2. Air-conditioning systems, whether of a centralized or individual unit type, should be designed to:

(a) maintain the air at a satisfactory temperature and relative humidity as compared to outside air conditions, ensure a sufficiency of air changes in all air-conditioned spaces, take account of the particular characteristics of operations at sea and not produce excessive noises or vibrations; and

(b) facilitate easy cleaning and disinfection to prevent or control the spread of disease.

3. Power for the operation of the air conditioning and other aids to ventilation required by the preceding paragraphs of this Guideline should be available at all times when seafarers are living or working on board and conditions so require. However, this power need not be provided from an emergency source.

Guideline B3.1.3 – Heating

1. The system of heating the seafarer accommodation should be in operation at all times when seafarers are living or working on board and conditions require its use.
2. In all ships in which a heating system is required, the heating should be by means of hot water, warm air, electricity, steam or equivalent. However, within the accommodation area, steam should not be used as a medium for heat transmission. The heating system should be capable of maintaining the temperature in seafarer accommodation at a satisfactory level under normal conditions of weather and climate likely to be met within the trade in which the ship is engaged. The competent authority should prescribe the standard to be provided.
3. Radiators and other heating apparatus should be placed and, where necessary, shielded so as to avoid risk of fire or danger or discomfort to the occupants.

Guideline B3.1.4 – Lighting

1. In all ships, electric light should be provided in the seafarer accommodation. If there are not two independent sources of electricity for lighting, additional lighting should be provided by properly constructed lamps or lighting apparatus for emergency use.
2. In sleeping rooms an electric reading lamp should be installed at the head of each berth.
3. Suitable standards of natural and artificial lighting should be fixed by the competent authority.

Guideline B3.1.5 – Sleeping rooms

1. There should be adequate berth arrangements on board, making it as comfortable as possible for the seafarer and any partner who may accompany the seafarer.
2. Where the size of the ship, the activity in which it is to be engaged and its layout make it reasonable and practicable, sleeping rooms should be planned and equipped with a private bathroom, including a toilet, so as to provide reasonable comfort for the occupants and to facilitate tidiness.
3. As far as practicable, sleeping rooms of seafarers should be so arranged that watches are separated and that no seafarers working during the day share a room with watchkeepers.
4. In the case of seafarers performing the duty of petty officers there should be no more than two persons per sleeping room.
5. Consideration should be given to extending the facility referred to in Standard A3.1, paragraph 9(m), to the second engineer officer when practicable.
6. Space occupied by berths and lockers, chests of drawers and seats should be included in the measurement of the floor area. Small or irregularly shaped spaces which do not add effectively to the space available for free movement and cannot be used for installing furniture should be excluded.
7. Berths should not be arranged in tiers of more than two; in the case of berths placed along the ship's side, there should be only a single tier where a sidelight is situated above a berth.
8. The lower berth in a double tier should be not less than 30 centimetres above the floor; the upper berth should be placed approximately midway between the bottom of the lower berth and the lower side of the deckhead beams.
9. The framework and the lee-board, if any, of a berth should be of approved material, hard, smooth, and not likely to corrode or to harbour vermin.

10. If tubular frames are used for the construction of berths, they should be completely sealed and without perforations which would give access to vermin.
11. Each berth should be fitted with a comfortable mattress with cushioning bottom or a combined cushioning mattress, including a spring bottom or a spring mattress. The mattress and cushioning material used should be made of approved material. Stuffing of material likely to harbour vermin should not be used.
12. When one berth is placed over another, a dust-proof bottom should be fitted beneath the bottom mattress or spring bottom of the upper berth.
13. The furniture should be of smooth, hard material not liable to warp or corrode.
14. Sleeping rooms should be fitted with curtains or equivalent for the sidelights.
15. Sleeping rooms should be fitted with a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.

Guideline B3.1.6 – Mess rooms

1. Mess room facilities may be either common or separate. The decision in this respect should be taken after consultation with seafarers' and shipowners' representatives and subject to the approval of the competent authority. Account should be taken of factors such as the size of the ship and the distinctive cultural, religious and social needs of the seafarers.
2. Where separate mess room facilities are to be provided to seafarers, then separate mess rooms should be provided for:
 - (a) master and officers; and
 - (b) petty officers and other seafarers.
3. On ships other than passenger ships, the floor area of mess rooms for seafarers should be not less than 1.5 square metres per person of the planned seating capacity.
4. In all ships, mess rooms should be equipped with tables and appropriate seats, fixed or movable, sufficient to accommodate the greatest number of seafarers likely to use them at any one time.
5. There should be available at all times when seafarers are on board:
 - (a) a refrigerator, which should be conveniently situated and of sufficient capacity for the number of persons using the mess room or mess rooms;
 - (b) facilities for hot beverages; and
 - (c) cool water facilities.
6. Where available pantries are not accessible to mess rooms, adequate lockers for mess utensils and proper facilities for washing utensils should be provided.
7. The tops of tables and seats should be of damp-resistant material.

Guideline B3.1.7 – Sanitary accommodation

1. Washbasins and tub baths should be of adequate size and constructed of approved material with a smooth surface not liable to crack, flake or corrode.
2. All toilets should be of an approved pattern and provided with an ample flush of water or with some other suitable flushing means, such as air, which are available at all times and independently controllable.
3. Sanitary accommodation intended for the use of more than one person should comply with the following:

- (a) floors should be of approved durable material, impervious to damp, and should be properly drained;
- (b) bulkheads should be of steel or other approved material and should be watertight up to at least 23 centimetres above the level of the deck;
- (c) the accommodation should be sufficiently lit, heated and ventilated;
- (d) toilets should be situated convenient to, but separate from, sleeping rooms and wash rooms, without direct access from the sleeping rooms or from a passage between sleeping rooms and toilets to which there is no other access; this requirement does not apply where a toilet is located in a compartment between two sleeping rooms having a total of not more than four seafarers; and
- (e) where there is more than one toilet in a compartment, they should be sufficiently screened to ensure privacy.

4. The laundry facilities provided for seafarers' use should include:

- (a) washing machines;
- (b) drying machines or adequately heated and ventilated drying rooms; and
- (c) irons and ironing boards or their equivalent.

Guideline B3.1.8 – Hospital accommodation

1. The hospital accommodation should be designed so as to facilitate consultation and the giving of medical first aid and to help prevent the spread of infectious diseases.
2. The arrangement of the entrance, berths, lighting, ventilation, heating and water supply should be designed to ensure the comfort and facilitate the treatment of the occupants.
3. The number of hospital berths required should be prescribed by the competent authority.
4. Sanitary accommodation should be provided for the exclusive use of the occupants of the hospital accommodation, either as part of the accommodation or in close proximity thereto. Such sanitary accommodation should comprise a minimum of one toilet, one washbasin and one tub or shower.

Guideline B3.1.9 – Other facilities

1. Where separate facilities for engine department personnel to change their clothes are provided, they should be:
 - (a) located outside the machinery space but with easy access to it; and
 - (b) fitted with individual clothes lockers as well as with tubs or showers or both and washbasins having hot and cold running fresh water.

Guideline B3.1.10 – Bedding, mess utensils and miscellaneous provisions

1. Each Member should consider applying the following principles:
 - (a) clean bedding and mess utensils should be supplied by the shipowner to all seafarers for use on board during service on the ship, and such seafarers should be responsible for their return at times specified by the master and on completion of service in the ship;
 - (b) bedding should be of good quality, and plates, cups and other mess utensils should be of approved material which can be easily cleaned; and

(c) towels, soap and toilet paper for all seafarers should be provided by the shipowner.

Guideline B3.1.11 – Recreational facilities, mail and ship visit arrangements

1. Recreational facilities and services should be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, operational and other developments in the shipping industry.

2. Furnishings for recreational facilities should as a minimum include a bookcase and facilities for reading, writing and, where practicable, games.

3. In connection with the planning of recreation facilities, the competent authority should give consideration to the provision of a canteen.

4. Consideration should also be given to including the following facilities at no cost to the seafarer, where practicable:

(a) a smoking room;

(b) television viewing and the reception of radio broadcasts;

(c) showing of films, the stock of which should be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;

(d) sports equipment including exercise equipment, table games and deck games;

(e) where possible, facilities for swimming;

(f) a library containing vocational and other books, the stock of which should be adequate for the duration of the voyage and changed at reasonable intervals;

(g) facilities for recreational handicrafts;

(h) electronic equipment such as a radio, television, video recorders, DVD/CD player, personal computer and software and cassette recorder/player;

(i) where appropriate, the provision of bars on board for seafarers unless these are contrary to national, religious or social customs; and

(j) reasonable access to ship-to-shore telephone communications, and email and Internet facilities, where available, with any charges for the use of these services being reasonable in amount.

5. Every effort should be given to ensuring that the forwarding of seafarers' mail is as reliable and expeditious as possible. Efforts should also be considered for avoiding seafarers being required to pay additional postage when mail has to be readdressed owing to circumstances beyond their control.

6. Measures should be considered to ensure, subject to any applicable national or international laws or regulations, that whenever possible and reasonable seafarers are expeditiously granted permission to have their partners, relatives and friends as visitors on board their ship when in port. Such measures should meet any concerns for security clearances.

7. Consideration should be given to the possibility of allowing seafarers to be accompanied by their partners on occasional voyages where this is practicable and reasonable. Such partners should carry adequate insurance cover against accident and illness; the shipowners should give every assistance to the seafarer to effect such insurance.

Guideline B3.1.12 – Prevention of noise and vibration

1. Accommodation and recreational and catering facilities should be located as far as practicable from the engines, steering gear rooms, deck winches, ventilation, heating and air-conditioning equipment and other noisy machinery and apparatus.
2. Acoustic insulation or other appropriate sound-absorbing materials should be used in the construction and finishing of bulkheads, deckheads and decks within the sound-producing spaces as well as self-closing noise-isolating doors for machinery spaces.
3. Engine rooms and other machinery spaces should be provided, wherever practicable, with soundproof centralized control rooms for engine-room personnel. Working spaces, such as the machine shop, should be insulated, as far as practicable, from the general engine-room noise and measures should be taken to reduce noise in the operation of machinery.
4. The limits for noise levels for working and living spaces should be in conformity with the ILO international guidelines on exposure levels, including those in the ILO code of practice entitled *Ambient factors in the workplace*, 2001, and, where applicable, the specific protection recommended by the International Maritime Organization, and with any subsequent amending and supplementary instruments for acceptable noise levels on board ships. A copy of the applicable instruments in English or the working language of the ship should be carried on board and should be accessible to seafarers.
5. No accommodation or recreational or catering facilities should be exposed to excessive vibration.

Regulation 3.2 – Food and catering

Purpose: To ensure that seafarers have access to good quality food and drinking water provided under regulated hygienic conditions

1. Each Member shall ensure that ships that fly its flag carry on board and serve food and drinking water of appropriate quality, nutritional value and quantity that adequately covers the requirements of the ship and takes into account the differing cultural and religious backgrounds.
2. Seafarers on board a ship shall be provided with food free of charge during the period of engagement.
3. Seafarers employed as ships' cooks with responsibility for food preparation must be trained and qualified for their position on board ship.

Standard A3.2 – Food and catering

1. Each Member shall adopt laws and regulations or other measures to provide minimum standards for the quantity and quality of food and drinking water and for the catering standards that apply to meals provided to seafarers on ships that fly its flag, and shall undertake educational activities to promote awareness and implementation of the standards referred to in this paragraph.
2. Each Member shall ensure that ships that fly its flag meet the following minimum standards:
 - (a) food and drinking water supplies, having regard to the number of seafarers on board, their religious requirements and cultural practices as they pertain to food, and the duration and nature of the voyage, shall be suitable in respect of quantity, nutritional value, quality and variety;

- (b) the organization and equipment of the catering department shall be such as to permit the provision to the seafarers of adequate, varied and nutritious meals prepared and served in hygienic conditions; and
 - (c) catering staff shall be properly trained or instructed for their positions.
3. Shipowners shall ensure that seafarers who are engaged as ships' cooks are trained, qualified and found competent for the position in accordance with requirements set out in the laws and regulations of the Member concerned.
4. The requirements under paragraph 3 of this Standard shall include a completion of a training course approved or recognized by the competent authority, which covers practical cookery, food and personal hygiene, food storage, stock control, and environmental protection and catering health and safety.
5. On ships operating with a prescribed manning of less than ten which, by virtue of the size of the crew or the trading pattern, may not be required by the competent authority to carry a fully qualified cook, anyone processing food in the galley shall be trained or instructed in areas including food and personal hygiene as well as handling and storage of food on board ship.
6. In circumstances of exceptional necessity, the competent authority may issue a dispensation permitting a non-fully qualified cook to serve in a specified ship for a specified limited period, until the next convenient port of call or for a period not exceeding one month, provided that the person to whom the dispensation is issued is trained or instructed in areas including food and personal hygiene as well as handling and storage of food on board ship.
7. In accordance with the ongoing compliance procedures under Title 5, the competent authority shall require that frequent documented inspections be carried out on board ships, by or under the authority of the master, with respect to:
- (a) supplies of food and drinking water;
 - (b) all spaces and equipment used for the storage and handling of food and drinking water; and
 - (c) galley and other equipment for the preparation and service of meals.
8. No seafarer under the age of 18 shall be employed or engaged or work as a ship's cook.

Guideline B3.2 – Food and catering

Guideline B3.2.1 – Inspection, education, research and publication

1. The competent authority should, in cooperation with other relevant agencies and organizations, collect up-to-date information on nutrition and on methods of purchasing, storing, preserving, cooking and serving food, with special reference to the requirements of catering on board a ship. This information should be made available, free of charge or at reasonable cost, to manufacturers of and traders in ships' food supplies and equipment, masters, stewards and cooks, and to shipowners' and seafarers' organizations concerned. Appropriate forms of publicity, such as manuals, brochures, posters, charts or advertisements in trade journals, should be used for this purpose.
2. The competent authority should issue recommendations to avoid wastage of food, facilitate the maintenance of a proper standard of hygiene, and ensure the maximum practicable convenience in working arrangements.
3. The competent authority should work with relevant agencies and organizations to develop educational materials and onboard information concerning methods of ensuring proper food supply and catering services.

4. The competent authority should work in close cooperation with the shipowners' and seafarers' organizations concerned and with national or local authorities dealing with questions of food and health, and may where necessary utilize the services of such authorities.

Guideline B3.2.2 – Ships' cooks

1. Seafarers should only be qualified as ships' cooks if they have:

(a) served at sea for a minimum period to be prescribed by the competent authority, which could be varied to take into account existing relevant qualifications or experience;

(b) passed an examination prescribed by the competent authority or passed an equivalent examination at an approved training course for cooks.

2. The prescribed examination may be conducted and certificates granted either directly by the competent authority or, subject to its control, by an approved school for the training of cooks.

3. The competent authority should provide for the recognition, where appropriate, of certificates of qualification as ships' cooks issued by other Members, which have ratified this Convention or the Certification of Ships' Cooks Convention, 1946 (No. 69), or other approved body.

TITLE 4. HEALTH PROTECTION, MEDICAL CARE, WELFARE AND SOCIAL SECURITY PROTECTION

Regulation 4.1 – Medical care on board ship and ashore

Purpose: To protect the health of seafarers and ensure their prompt access to medical care on board ship and ashore

1. Each Member shall ensure that all seafarers on ships that fly its flag are covered by adequate measures for the protection of their health and that they have access to prompt and adequate medical care whilst working on board.

2. The protection and care under paragraph 1 of this Regulation shall, in principle, be provided at no cost to the seafarers.

3. Each Member shall ensure that seafarers on board ships in its territory who are in need of immediate medical care are given access to the Member's medical facilities on shore.

4. The requirements for onboard health protection and medical care set out in the Code include standards for measures aimed at providing seafarers with health protection and medical care as comparable as possible to that which is generally available to workers ashore.

Standard A4.1 – Medical care on board ship and ashore

1. Each Member shall ensure that measures providing for health protection and medical care, including essential dental care, for seafarers working on board a ship that flies its flag are adopted which:

(a) ensure the application to seafarers of any general provisions on occupational health protection and medical care relevant to their duties, as well as of special provisions specific to work on board ship;

(b) 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 and to medical information and expertise;

(c) give seafarers the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable;

(d) ensure that, to the extent consistent with the Member's national law and practice, medical care and health protection services while a seafarer is on board ship or landed in a foreign port are provided free of charge to seafarers; and

(e) are not limited to treatment of sick or injured seafarers but include measures of a preventive character such as health promotion and health education programmes.

2. The competent authority shall adopt a standard medical report form for use by the ships' masters and relevant onshore and on-board medical personnel. The form, when completed, and its contents shall be kept confidential and shall only be used to facilitate the treatment of seafarers.

3. Each Member shall adopt laws and regulations establishing requirements for onboard hospital and medical care facilities and equipment and training on ships that fly its flag.

4. National laws and regulations shall as a minimum provide for the following requirements:

(a) all ships shall carry a medicine chest, medical equipment and a medical guide, the specifics of which shall be prescribed and subject to regular inspection by the competent authority; the national requirements shall take into account the type of ship, the number of persons on board and the nature, destination and duration of voyages and relevant national and international recommended medical standards;

(b) ships carrying 100 or more persons and ordinarily engaged on international voyages of more than three days' duration shall carry a qualified medical doctor who is responsible for providing medical care; national laws or regulations shall also specify which other ships shall be required to carry a medical doctor, taking into account, inter alia, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board;

(c) ships which do not carry a medical doctor shall be required to have either at least one seafarer on board who is in charge of medical care and administering medicine as part of their regular duties or at least one seafarer on board competent to provide medical first aid; persons in charge of medical care on board who are not medical doctors shall have satisfactorily completed training in medical care that meets the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended ("STCW"); seafarers designated to provide medical first aid shall have satisfactorily completed training in medical first aid that meets the requirements of STCW; national laws or regulations shall specify the level of approved training required taking into account, inter alia, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board; and

(d) the competent authority shall ensure by a prearranged system that medical advice by radio or satellite communication to ships at sea, including specialist advice, is available 24 hours a day; medical advice, including the onward transmission of medical messages by radio or satellite communication between a ship and those ashore giving the advice, shall be available free of charge to all ships irrespective of the flag that they fly.

Guideline B4.1 – Medical care on board ship and ashore
Guideline B4.1.1 – Provision of medical care

1. When determining the level of medical training to be provided on board ships that are not required to carry a medical doctor, the competent authority should require that:

(a) ships which ordinarily are capable of reaching qualified medical care and medical facilities within eight hours should have at least one designated seafarer with the approved medical first-aid training required by STCW which will enable such persons to take immediate, effective action in case of accidents or illnesses likely to occur on board a ship and to make use of medical advice by radio or satellite communication; and

(b) all other ships should have at least one designated seafarer with approved training in medical care required by STCW, including practical training and training in lifesaving techniques such as intravenous therapy, which will enable the persons concerned to participate effectively in coordinated schemes for medical assistance to ships at sea, and to provide the sick or injured with a satisfactory standard of medical care during the period they are likely to remain on board.

2. The training referred to in paragraph 1 of this Guideline should be based on the contents of the most recent editions of the *International Medical Guide for Ships*, the *Medical First Aid Guide for Use in Accidents Involving Dangerous Goods*, the *Document for Guidance – An International Maritime Training Guide*, and the medical section of the *International Code of Signals* as well as similar national guides.

3. Persons referred to in paragraph 1 of this Guideline and such other seafarers as may be required by the competent authority should undergo, at approximately five-year intervals, refresher courses to enable them to maintain and increase their knowledge and skills and to keep up-to-date with new developments.

4. The medicine chest and its contents, as well as the medical equipment and medical guide carried on board, should be properly maintained and inspected at regular intervals, not exceeding 12 months, by responsible persons designated by the competent authority, who should ensure that the labelling, expiry dates and conditions of storage of all medicines and directions for their use are checked and all equipment functioning as required. In adopting or reviewing the ship's medical guide used nationally, and in determining the contents of the medicine chest and medical equipment, the competent authority should take into account international recommendations in this field, including the latest edition of the *International Medical Guide for Ships*, and other guides mentioned in paragraph 2 of this Guideline.

5. Where a cargo which is classified dangerous has not been included in the most recent edition of the *Medical First Aid Guide for Use in Accidents Involving Dangerous Goods*, the necessary information on the nature of the substances, the risks involved, the necessary personal protective devices, the relevant medical procedures and specific antidotes should be made available to the seafarers. Such specific antidotes and personal protective devices should be on board whenever dangerous goods are carried. This information should be integrated with the ship's policies and programmes on occupational safety and health described in Regulation 4.3 and related Code provisions.

6. All ships should carry a complete and up-to-date list of radio stations through which medical advice can be obtained; and, if equipped with a system of satellite communication, carry an up-to-date and complete list of coast earth stations through which medical advice can be obtained. Seafarers with responsibility for medical care or medical first aid on board should be instructed in the use of the ship's medical

guide and the medical section of the most recent edition of the *International Code of Signals* so as to enable them to understand the type of information needed by the advising doctor as well as the advice received.

Guideline B4.1.2 – Medical report form

1. The standard medical report form for seafarers required under Part A of this Code should be designed to facilitate the exchange of medical and related information concerning individual seafarers between ship and shore in cases of illness or injury.

Guideline B4.1.3 – Medical care ashore

1. Shore-based medical facilities for treating seafarers should be adequate for the purposes. The doctors, dentists and other medical personnel should be properly qualified.

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

- (a) outpatient treatment for sickness and injury;
- (b) hospitalization when necessary; and
- (c) facilities for dental treatment, especially in cases of emergency.

3. Suitable measures should be taken to facilitate the treatment of seafarers suffering from disease. In particular, seafarers should be promptly admitted to clinics and hospitals ashore, without difficulty and irrespective of nationality or religious belief, and, whenever possible, arrangements should be made to ensure, when necessary, continuation of treatment to supplement the medical facilities available to them.

Guideline B4.1.4 – Medical assistance to other ships and international cooperation

1. Each Member should give due consideration to participating in international cooperation in the area of assistance, programmes and research in health protection and medical care. Such cooperation might cover:

- (a) developing and coordinating search and rescue efforts and arranging prompt medical help and evacuation at sea for the seriously ill or injured on board a ship through such means as periodic ship position reporting systems, rescue coordination centres and emergency helicopter services, in conformity with the International Convention on Maritime Search and Rescue, 1979, as amended, and the *International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual*;
- (b) making optimum use of all ships carrying a doctor and stationing ships at sea which can provide hospital and rescue facilities;
- (c) compiling and maintaining an international list of doctors and medical care facilities available worldwide to provide emergency medical care to seafarers;
- (d) landing seafarers ashore for emergency treatment;
- (e) repatriating seafarers hospitalized abroad as soon as practicable, in accordance with the medical advice of the doctors responsible for the case, which takes into account the seafarer's wishes and needs;
- (f) arranging personal assistance for seafarers during repatriation, in accordance with the medical advice of the doctors responsible for the case, which takes into account the seafarer's wishes and needs;
- (g) endeavouring to set up health centres for seafarers to:
 - (i) conduct research on the health status, medical treatment and preventive health care of seafarers; and

- (ii) train medical and health service staff in maritime medicine;
 - (h) collecting and evaluating statistics concerning occupational accidents, diseases and fatalities of seafarers and integrating and harmonizing the statistics with any existing national system of statistics on occupational accidents and diseases covering other categories of workers;
 - (i) organizing international exchanges of technical information, training material and personnel, as well as international training courses, seminars and working groups;
 - (j) providing all seafarers with special curative and preventive health and medical services in port, or making available to them general health, medical and rehabilitation services; and
 - (k) arranging for the repatriation of the bodies or ashes of deceased seafarers, in accordance with the wishes of the next of kin and as soon as practicable.
2. International cooperation in the field of health protection and medical care for seafarers should be based on bilateral or multilateral agreements or consultations among Members.

Guideline B4.1.5 – Dependants of seafarers

1. Each Member should adopt measures to secure proper and sufficient medical care for the dependants of seafarers domiciled in its territory pending the development of a medical care service which would include within its scope workers generally and their dependants where such services do not exist and should inform the International Labour Office concerning the measures taken for this purpose.

Regulation 4.2 – Shipowners' liability

Purpose: To ensure that seafarers are protected from the financial consequences of sickness, injury or death occurring in connection with their employment

1. Each Member shall ensure that measures, in accordance with the Code, are in place on ships that fly its flag to provide seafarers employed on the ships with a right to material assistance and support from the shipowner with respect to the financial consequences of sickness, injury or death occurring while they are serving under a seafarers' employment agreement or arising from their employment under such agreement.
2. This Regulation does not affect any other legal remedies that a seafarer may seek.

Standard A4.2 – Shipowners' liability

1. Each Member shall adopt laws and regulations requiring that shipowners of ships that fly its flag are responsible for health protection and medical care of all seafarers working on board the ships in accordance with the following minimum standards:

- (a) shipowners shall be liable to bear the costs for seafarers working on their ships in respect of sickness and injury of the seafarers occurring between the date of commencing duty and the date upon which they are deemed duly repatriated, or arising from their employment between those dates;
- (b) shipowners shall provide financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard, as set out in national law, the seafarers' employment agreement or collective agreement;
- (c) shipowners shall be liable to defray the expense of medical care, including medical treatment and the supply of the necessary medicines and therapeutic

appliances, and board and lodging away from home until the sick or injured seafarer has recovered, or until the sickness or incapacity has been declared of a permanent character; and

(d) shipowners shall be liable to pay the cost of burial expenses in the case of death occurring on board or ashore during the period of engagement.

2. National laws or regulations may limit the liability of the shipowner to defray the expense of medical care and board and lodging to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.

3. 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 seafarers remain on board or until the seafarers have been repatriated in accordance with this Convention; and

(b) to pay wages in whole or in part as prescribed by national laws or regulations or as provided for in collective agreements from the time when the seafarers are repatriated or landed until their recovery or, if earlier, until they are entitled to cash benefits under the legislation of the Member concerned.

4. National laws or regulations may limit the liability of the shipowner to pay wages in whole or in part in respect of a seafarer no longer on board to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.

5. National laws or regulations may exclude the shipowner from liability in respect of:

(a) injury incurred otherwise than in the service of the ship;

(b) injury or sickness due to the wilful misconduct of the sick, injured or deceased seafarer; and

(c) sickness or infirmity intentionally concealed when the engagement is entered into.

6. National laws or regulations may exempt the shipowner from liability to defray the expense of medical care and board and lodging and burial expenses in so far as such liability is assumed by the public authorities.

7. Shipowners or their representatives shall take measures for safeguarding property left on board by sick, injured or deceased seafarers and for returning it to them or to their next of kin.

Guideline B4.2 – Shipowners' liability

1. The payment of full wages required by Standard A4.2, paragraph 3(a), may be exclusive of bonuses.

2. National laws or regulations may provide that a shipowner shall cease to be liable to bear the costs of a sick or injured seafarer from the time at which that seafarer can claim medical benefits under a scheme of compulsory sickness insurance, compulsory accident insurance or workers' compensation for accidents.

3. National laws or regulations may provide that burial expenses paid by the shipowner shall be reimbursed by an insurance institution in cases in which funeral benefit is payable in respect of the deceased seafarer under laws or regulations relating to social insurance or workers' compensation.

Regulation 4.3 – Health and safety protection and accident prevention

Purpose: To ensure that seafarers' work environment on board ships promotes occupational safety and health

1. Each Member shall ensure that seafarers on ships that fly its flag are provided with occupational health protection and live, work and train on board ship in a safe and hygienic environment.
2. Each Member shall develop and promulgate national guidelines for the management of occupational safety and health on board ships that fly its flag, after consultation with representative shipowners' and seafarers' organizations and taking into account applicable codes, guidelines and standards recommended by international organizations, national administrations and maritime industry organizations.
3. Each Member shall adopt laws and regulations and other measures addressing the matters specified in the Code, taking into account relevant international instruments, and set standards for occupational safety and health protection and accident prevention on ships that fly its flag.

Standard A4.3 – Health and safety protection and accident prevention

1. The laws and regulations and other measures to be adopted in accordance with Regulation 4.3, paragraph 3, shall include the following subjects:

- (a) the adoption and effective implementation and promotion of occupational safety and health policies and programmes on ships that fly the Member's flag, including risk evaluation as well as training and instruction of seafarers;
- (b) 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;
- (c) onboard programmes for the prevention of occupational accidents, injuries and diseases and for continuous improvement in occupational safety and health protection, involving seafarers' representatives and all other persons concerned in their implementation, taking account of preventive measures, including engineering and design control, substitution of processes and procedures for collective and individual tasks, and the use of personal protective equipment; and
- (d) requirements for inspecting, reporting and correcting unsafe conditions and for investigating and reporting onboard occupational accidents.

2. The provisions referred to in paragraph 1 of this Standard shall:

- (a) take account of relevant international instruments dealing with occupational safety and health protection in general and with specific risks, and address all matters relevant to the prevention of occupational accidents, injuries and diseases that may be applicable to the work of seafarers and particularly those which are specific to maritime employment;
- (b) clearly specify the obligation of shipowners, seafarers and others concerned to comply with the applicable standards and with the ship's occupational safety and health policy and programme with special attention being paid to the safety and health of seafarers under the age of 18;

(c) specify the duties of the master or a person designated by the master, or both, to take specific responsibility for the implementation of and compliance with the ship's occupational safety and health policy and programme; and

(d) specify the authority of the ship's seafarers appointed or elected as safety representatives to participate in meetings of the ship's safety committee. Such a committee shall be established on board a ship on which there are five or more seafarers.

3. The laws and regulations and other measures referred to in Regulation 4.3, paragraph 3, shall be regularly reviewed in consultation with the representatives of the shipowners' and seafarers' organizations and, if necessary, revised to take account of changes in technology and research in order to facilitate continuous improvement in occupational safety and health policies and programmes and to provide a safe occupational environment for seafarers on ships that fly the Member's flag.

4. Compliance with the requirements of applicable international instruments on the acceptable levels of exposure to workplace hazards on board ships and on the development and implementation of ships' occupational safety and health policies and programmes shall be considered as meeting the requirements of this Convention.

5. The competent authority shall ensure that:

(a) occupational accidents, injuries and diseases are adequately reported, taking into account the guidance provided by the International Labour Organization with respect to the reporting and recording of occupational accidents and diseases;

(b) comprehensive statistics of such accidents and diseases are kept, analysed and published and, where appropriate, followed up by research into general trends and into the hazards identified; and

(c) occupational accidents are investigated.

6. Reporting and investigation of occupational safety and health matters shall be designed to ensure the protection of seafarers' personal data, and shall take account of the guidance provided by the International Labour Organization on this matter.

7. The competent authority shall cooperate with shipowners' and seafarers' organizations to take measures to bring to the attention of all seafarers information concerning particular hazards on board ships, for instance, by posting official notices containing relevant instructions.

8. The competent authority shall require that shipowners conducting risk evaluation in relation to management of occupational safety and health refer to appropriate statistical information from their ships and from general statistics provided by the competent authority.

Guideline B4.3 – Health and safety protection and accident prevention

Guideline B4.3.1 – Provisions on occupational accidents, injuries and diseases

1. The provisions required under Standard A4.3 should take into account the ILO code of practice entitled *Accident prevention on board ship at sea and in port*, 1996, and subsequent versions and other related ILO and other international standards and guidelines and codes of practice regarding occupational safety and health protection, including any exposure levels that they may identify.

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

- (a) general and basic provisions;
- (b) structural features of the ship, including means of access and asbestos-related risks;
- (c) machinery;
- (d) the effects of the extremely low or high temperature of any surfaces with which seafarers may be in contact;
- (e) the effects of noise in the workplace and in shipboard accommodation;
- (f) the effects of vibration in the workplace and in shipboard accommodation;
- (g) the effects of ambient factors, other than those referred to in subparagraphs (e) and (f), in the workplace and in shipboard accommodation, including tobacco smoke;
- (h) special safety measures on and below deck;
- (i) loading and unloading equipment;
- (j) fire prevention and firefighting;
- (k) anchors, chains and lines;
- (l) dangerous cargo and ballast;
- (m) personal protective equipment for seafarers;
- (n) work in enclosed spaces;
- (o) physical and mental effects of fatigue;
- (p) the effects of drug and alcohol dependency;
- (q) HIV/AIDS protection and prevention; and
- (r) emergency and accident response.

3. The assessment of risks and reduction of exposure on the matters referred to in paragraph 2 of this Guideline should take account of the physical occupational health effects, including manual handling of loads, noise and vibration, the chemical and biological occupational health effects, the mental occupational health effects, the physical and mental health effects of fatigue, and occupational accidents. The necessary measures should take due account of the preventive principle according to which, among other things, combating risk at the source, adapting work to the individual, especially as regards the design of workplaces, and replacing the dangerous by the non-dangerous or the less dangerous, have precedence over personal protective equipment for seafarers.

4. In addition, the competent authority should ensure that the implications for health and safety are taken into account, particularly in the following areas:

- (a) emergency and accident response;
- (b) the effects of drug and alcohol dependency; and
- (c) HIV/AIDS protection and prevention.

Guideline B4.3.2 – Exposure to noise

1. The competent authority, in conjunction with the competent international bodies and with representatives of shipowners' and seafarers' organizations concerned,

should review on an ongoing basis the problem of noise on board ships with the objective of improving the protection of seafarers, in so far as practicable, from the adverse effects of exposure to noise.

2. The review referred to in paragraph 1 of this Guideline should take account of the adverse effects of exposure to excessive noise on the hearing, health and comfort of seafarers and the measures to be prescribed or recommended to reduce shipboard noise to protect seafarers. The measures to be considered should include the following:

- (a) instruction of seafarers in the dangers to hearing and health of prolonged exposure to high noise levels and in the proper use of noise protection devices and equipment;
- (b) provision of approved hearing protection equipment to seafarers where necessary; and
- (c) assessment of risk and reduction of exposure levels to noise in all accommodation and recreational and catering facilities, as well as engine rooms and other machinery spaces.

Guideline B4.3.3 – Exposure to vibration

1. The competent authority, in conjunction with the competent international bodies and with representatives of shipowners' and seafarers' organizations concerned, and taking into account, as appropriate, relevant international standards, should review on an ongoing basis the problem of vibration on board ships with the objective of improving the protection of seafarers, in so far as practicable, from the adverse effects of vibration.

2. The review referred to in paragraph 1 of this Guideline should cover the effect of exposure to excessive vibration on the health and comfort of seafarers and the measures to be prescribed or recommended to reduce shipboard vibration to protect seafarers. The measures to be considered should include the following:

- (a) instruction of seafarers in the dangers to their health of prolonged exposure to vibration;
- (b) provision of approved personal protective equipment to seafarers where necessary; and
- (c) assessment of risks and reduction of exposure to vibration in all accommodation and recreational and catering facilities by adopting measures in accordance with the guidance provided by the ILO code of practice entitled *Ambient factors in the workplace*, 2001, and any subsequent revisions, taking account of the difference between exposure in those areas and in the workplace.

Guideline B4.3.4 – Obligations of shipowners

1. Any obligation on the shipowner to provide protective equipment or other accident prevention safeguards should, in general, be accompanied by provisions requiring their use by seafarers and by a requirement for seafarers to comply with the relevant accident prevention and health protection measures.

2. Account should also be taken of Articles 7 and 11 of the Guarding of Machinery Convention, 1963 (No. 119), and the corresponding provisions of the Guarding of Machinery Recommendation, 1963 (No. 118), under which the obligation to ensure compliance with the requirement that machinery in use is properly guarded, and its use without appropriate guards prevented, rests on the employer, while there is an obligation on the worker not to use machinery without the guards being in position nor to make inoperative the guards provided.

Guideline B4.3.5 – Reporting and collection of statistics

1. All occupational accidents and occupational injuries and diseases should be reported so that they can be investigated and comprehensive statistics can be kept, analysed and published, taking account of protection of the personal data of the seafarers concerned. Reports should not be limited to fatalities or to accidents involving the ship.
2. The statistics referred to in paragraph 1 of this Guideline should record the numbers, nature, causes and effects of occupational accidents and occupational injuries and diseases, with a clear indication, as applicable, of the department on board a ship, the type of accident and whether at sea or in port.
3. Each Member should have due regard to any international system or model for recording accidents to seafarers which may have been established by the International Labour Organization.

Guideline B4.3.6 – Investigations

1. The competent authority should undertake investigations into the causes and circumstances of all occupational accidents and occupational injuries and diseases resulting in loss of life or serious personal injury, and such other cases as may be specified in national laws or regulations.
2. Consideration should be given to including the following as subjects of investigation:
 - (a) working environment, such as working surfaces, layout of machinery, means of access, lighting and methods of work;
 - (b) incidence in different age groups of occupational accidents and occupational injuries and diseases;
 - (c) special physiological or psychological problems created by the shipboard environment;
 - (d) problems arising from physical stress on board a ship, in particular as a consequence of increased workload;
 - (e) problems arising from and effects of technical developments and their influence on the composition of crews; and
 - (f) problems arising from any human failures.

Guideline B4.3.7 – National protection and prevention programmes

1. In order to provide a sound basis for measures to promote occupational safety and health protection and prevention of accidents, injuries and diseases which are due to particular hazards of maritime employment, research should be undertaken into general trends and into such hazards as are revealed by statistics.
2. The implementation of protection and prevention programmes for the promotion of occupational safety and health should be so organized that the competent authority, shipowners and seafarers or their representatives and other appropriate bodies may play an active role, including through such means as information sessions, onboard guidelines on maximum exposure levels to potentially harmful ambient workplace factors and other hazards or outcomes of a systematic risk evaluation process. In particular, national or local joint occupational safety and health protection and accident prevention committees or ad hoc working parties and onboard committees, on which shipowners' and seafarers' organizations concerned are represented, should be established.

3. Where such activity takes place at company level, the representation of seafarers on any safety committee on board that shipowner's ships should be considered.

Guideline B4.3.8 – Content of protection and prevention programmes

1. Consideration should be given to including the following in the functions of the committees and other bodies referred to in Guideline B4.3.7, paragraph 2:

- (a) the preparation of national guidelines and policies for occupational safety and health management systems and for accident prevention provisions, rules and manuals;
- (b) the organization of occupational safety and health protection and accident prevention training and programmes;
- (c) the organization of publicity on occupational safety and health protection and accident prevention, including films, posters, notices and brochures; and
- (d) the distribution of literature and information on occupational safety and health protection and accident prevention so that it reaches seafarers on board ships.

2. Relevant provisions or recommendations adopted by the appropriate national authorities or organizations or international organizations should be taken into account by those preparing texts of occupational safety and health protection and accident prevention measures or recommended practices.

3. In formulating occupational safety and health protection and accident prevention programmes, each Member should have due regard to any code of practice concerning the safety and health of seafarers which may have been published by the International Labour Organization.

Guideline B4.3.9 – Instruction in occupational safety and health protection and the prevention of occupational accidents

1. The curriculum for the training referred to in Standard A4.3, paragraph 1(a), should be reviewed periodically and brought up to date in the light of development in types and sizes of ships and in their equipment, as well as changes in manning practices, nationality, language and the organization of work on board ships.

2. There should be continuous occupational safety and health protection and accident prevention publicity. Such publicity might take the following forms:

- (a) educational audiovisual material, such as films, for use in vocational training centres for seafarers and where possible shown on board ships;
- (b) display of posters on board ships;
- (c) inclusion in periodicals read by seafarers of articles on the hazards of maritime employment and on occupational safety and health protection and accident prevention measures; and
- (d) special campaigns using various publicity media to instruct seafarers, including campaigns on safe working practices.

3. The publicity referred to in paragraph 2 of this Guideline should take account of the different nationalities, languages and cultures of seafarers on board ships.

Guideline B4.3.10 – Safety and health education of young seafarers

1. Safety and health regulations should refer to any general provisions on medical examinations before and during employment and on the prevention of accidents and the protection of health in employment, which may be applicable to the work of

seafarers. Such regulations should specify measures which will minimize occupational dangers to young seafarers in the course of their duties.

2. Except where a young seafarer is recognized as fully qualified in a pertinent skill by the competent authority, the regulations should specify restrictions on young seafarers undertaking, without appropriate supervision and instruction, certain types of work presenting special risk of accident or of detrimental effect on their health or physical development, or requiring a particular degree of maturity, experience or skill.

In determining the types of work to be restricted by the regulations, the competent authority might consider in particular work involving:

- (a) the lifting, moving or carrying of heavy loads or objects;
- (b) entry into boilers, tanks and cofferdams;
- (c) exposure to harmful noise and vibration levels;
- (d) operating hoisting and other power machinery and tools, or acting as signallers to operators of such equipment;
- (e) handling mooring or tow lines or anchoring equipment;
- (f) rigging;
- (g) work aloft or on deck in heavy weather;
- (h) nightwatch duties;
- (i) servicing of electrical equipment;
- (j) exposure to potentially harmful materials, or harmful physical agents such as dangerous or toxic substances and ionizing radiations;
- (k) the cleaning of catering machinery; and
- (l) the handling or taking charge of ships' boats.

3. Practical measures should be taken by the competent authority or through the appropriate machinery to bring to the attention of young seafarers information concerning the prevention of accidents and the protection of their health on board ships. Such measures could include adequate instruction in courses, official accident prevention publicity intended for young persons and professional instruction and supervision of young seafarers.

4. Education and training of young seafarers both ashore and on board ships should include guidance on the detrimental effects on their health and wellbeing of the abuse of alcohol and drugs and other potentially harmful substances, and the risk and concerns relating to HIV/AIDS and of other health risk related activities.

Guideline B4.3.11 – International cooperation

1. Members, with the assistance as appropriate of intergovernmental and other international organizations, should endeavour, in cooperation with each other, to achieve the greatest possible uniformity of action for the promotion of occupational safety and health protection and prevention of accidents.

2. In developing programmes for promoting occupational safety and health protection and prevention of accidents under Standard A4.3, each Member should have due regard to relevant codes of practice published by the International Labour Organization and the appropriate standards of international organizations.

3. Members should have regard to the need for international cooperation in the continuous promotion of activity related to occupational safety and health protection and prevention of occupational accidents. Such cooperation might take the form of:

- (a) bilateral or multilateral arrangements for uniformity in occupational safety and health protection and accident prevention standards and safeguards;
- (b) exchange of information on particular hazards affecting seafarers and on means of promoting occupational safety and health protection and preventing accidents;
- (c) assistance in testing of equipment and inspection according to the national regulations of the flag State;
- (d) collaboration in the preparation and dissemination of occupational safety and health protection and accident prevention provisions, rules or manuals;
- (e) collaboration in the production and use of training aids; and
- (f) joint facilities for, or mutual assistance in, the training of seafarers in occupational safety and health protection, accident prevention and safe working practices.

Regulation 4.4 – Access to shore-based welfare facilities

Purpose: To ensure that seafarers working on board a ship have access to shore-based facilities and services to secure their health and wellbeing

1. Each Member shall ensure that shore-based welfare facilities, where they exist, are easily accessible. The Member shall also promote the development of welfare facilities, such as those listed in the Code, in designated ports to provide seafarers on ships that are in its ports with access to adequate welfare facilities and services.
2. The responsibilities of each Member with respect to shore-based facilities, such as welfare, cultural, recreational and information facilities and services, are set out in the Code.

Standard A4.4 – Access to shore-based welfare facilities

1. Each Member shall require, where welfare facilities exist on its territory, that they are available for the use of all seafarers, irrespective of nationality, race, colour, sex, religion, political opinion or social origin and irrespective of the flag State of the ship on which they are employed or engaged or work.
2. Each Member shall promote the development of welfare facilities in appropriate ports of the country and determine, after consultation with the shipowners' and seafarers' organizations concerned, which ports are to be regarded as appropriate.
3. Each Member shall encourage the establishment of welfare boards which shall regularly review welfare facilities and services to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, operational and other developments in the shipping industry.

Guideline B4.4 – Access to shore-based welfare facilities

Guideline B4.4.1 – Responsibilities of Members

1. Each Member should:
 - (a) take measures to ensure that adequate welfare facilities and services are provided for seafarers in designated ports of call and that adequate protection is provided to seafarers in the exercise of their profession; and
 - (b) take into account, in the implementation of these measures, the special needs of seafarers, especially when in foreign countries and when entering war zones, in respect of their safety, health and spare-time activities.
2. Arrangements for the supervision of welfare facilities and services should include participation by representative shipowners' and seafarers' organizations concerned.

3. Each Member should take measures designed to expedite the free circulation among ships, central supply agencies and welfare establishments of welfare materials such as films, books, newspapers and sports equipment for use by seafarers on board their ships and in welfare centres ashore.

4. Members should cooperate with one another in promoting the welfare of seafarers at sea and in port. Such cooperation should include the following:

- (a) consultations among competent authorities aimed at the provision and improvement of seafarers' welfare facilities and services, both in port and on board ships;
- (b) agreements on the pooling of resources and the joint provision of welfare facilities in major ports so as to avoid unnecessary duplication;
- (c) organization of international sports competitions and encouragement of the participation of seafarers in sports activities; and
- (d) organization of international seminars on the subject of welfare of seafarers at sea and in port.

Guideline B4.4.2 – Welfare facilities and services in ports

1. Each Member should provide or ensure the provision of such welfare facilities and services as may be required, in appropriate ports of the country.

2. Welfare facilities and services should be provided, in accordance with national conditions and practice, by one or more of the following:

- (a) public authorities;
- (b) shipowners' and seafarers' organizations concerned under collective agreements or other agreed arrangements; and
- (c) voluntary organizations.

3. Necessary welfare and recreational facilities should be established or developed in ports. These should include:

- (a) meeting and recreation rooms as required;
- (b) facilities for sports and outdoor facilities, including competitions;
- (c) educational facilities; and
- (d) where appropriate, facilities for religious observances and for personal counselling.

4. These facilities may be provided by making available to seafarers in accordance with their needs facilities designed for more general use.

5. Where large numbers of seafarers of different nationalities require facilities such as hotels, clubs and sports facilities in a particular port, the competent authorities or bodies of the countries of origin of the seafarers and of the flag States, as well as the international associations concerned, should consult and cooperate with the competent authorities and bodies of the country in which the port is situated and with one another, with a view to the pooling of resources and to avoiding unnecessary duplication.

6. Hotels or hostels suitable for seafarers should be available where there is need for them. They should provide facilities equal to those found in a good-class hotel, and should wherever possible be located in good surroundings away from the immediate vicinity of the docks. Such hotels or hostels should be properly supervised, the prices charged should be reasonable in amount and, where necessary and possible, provision should be made for accommodating seafarers' families.

7. These accommodation facilities should be open to all seafarers, irrespective of nationality, race, colour, sex, religion, political opinion or social origin and irrespective of the flag State of the ship on which they are employed or engaged or work. Without in any way infringing this principle, it may be necessary in certain ports to provide several types of facilities, comparable in standard but adapted to the customs and needs of different groups of seafarers.

8. Measures should be taken to ensure that, as necessary, technically competent persons are employed full time in the operation of seafarers' welfare facilities and services, in addition to any voluntary workers.

Guideline B4.4.3 – Welfare boards

1. Welfare boards should be established, at the port, regional and national levels, as appropriate. Their functions should include:

- (a) keeping under review the adequacy of existing welfare facilities and monitoring the need for the provision of additional facilities or the withdrawal of underutilized facilities; and
- (b) assisting and advising those responsible for providing welfare facilities and ensuring coordination between them.

2. Welfare boards should include among their members representatives of shipowners' and seafarers' organizations, the competent authorities and, where appropriate, voluntary organizations and social bodies.

3. As appropriate, consuls of maritime States and local representatives of foreign welfare organizations should, in accordance with national laws and regulations, be associated with the work of port, regional and national welfare boards.

Guideline B4.4.4 – Financing of welfare facilities

1. In accordance with national conditions and practice, financial support for port welfare facilities should be made available through one or more of the following:

- (a) grants from public funds;
- (b) levies or other special dues from shipping sources;
- (c) voluntary contributions from shipowners, seafarers, or their organizations; and
- (d) voluntary contributions from other sources.

2. Where welfare taxes, levies and special dues are imposed, they should be used only for the purposes for which they are raised.

Guideline B4.4.5 – Dissemination of information and facilitation measures

1. Information should be disseminated among seafarers concerning facilities open to the general public in ports of call, particularly transport, welfare, entertainment and educational facilities and places of worship, as well as facilities provided specifically for seafarers.

2. Adequate means of transport at moderate prices should be available at any reasonable time in order to enable seafarers to reach urban areas from convenient locations in the port.

3. All suitable measures should be taken by the competent authorities to make known to shipowners and to seafarers entering port any special laws and customs, the contravention of which may jeopardize their freedom.

4. Port areas and access roads should be provided by the competent authorities with adequate lighting and signposting and regular patrols for the protection of seafarers.

Guideline B4.4.6 – Seafarers in a foreign port

1. For the protection of seafarers in foreign ports, measures should be taken to facilitate:
 - (a) access to consuls of their State of nationality or State of residence; and
 - (b) effective cooperation between consuls and the local or national authorities.
2. Seafarers who are detained in a foreign port should be dealt with promptly under due process of law and with appropriate consular protection.
3. Whenever a seafarer is detained for any reason in the territory of a Member, the competent authority should, if the seafarer so requests, immediately inform the flag State and the State of nationality of the seafarer. The competent authority should promptly inform the seafarer of the right to make such a request. The State of nationality of the seafarer should promptly notify the seafarer's next of kin. The competent authority should allow consular officers of these States immediate access to the seafarer and regular visits thereafter so long as the seafarer is detained.
4. Each Member should take measures, whenever necessary, to ensure the safety of seafarers from aggression and other unlawful acts while ships are in their territorial waters and especially in approaches to ports.
5. Every effort should be made by those responsible in port and on board a ship to facilitate shore leave for seafarers as soon as possible after a ship's arrival in port.

Regulation 4.5 – Social security

Purpose: To ensure that measures are taken with a view to providing seafarers with access to social security protection

1. Each Member shall ensure that all seafarers and, to the extent provided for in its national law, their dependants have access to social security protection in accordance with the Code without prejudice however to any more favourable conditions referred to in paragraph 8 of article 19 of the Constitution.
2. Each Member undertakes to take steps, according to its national circumstances, individually and through international cooperation, to achieve progressively comprehensive social security protection for seafarers.
3. Each Member shall ensure that seafarers who are subject to its social security legislation, and, to the extent provided for in its national law, their dependants, are entitled to benefit from social security protection no less favourable than that enjoyed by shoreworkers.

Standard A4.5 – Social security

1. The branches to be considered with a view to achieving progressively comprehensive social security protection under Regulation 4.5 are: medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit, complementing the protection provided for under Regulations 4.1, on medical care, and 4.2, on shipowners' liability, and under other titles of this Convention.
2. At the time of ratification, the protection to be provided by each Member in accordance with Regulation 4.5, paragraph 1, shall include at least three of the nine branches listed in paragraph 1 of this Standard.
3. Each Member shall take steps according to its national circumstances to provide the complementary social security protection referred to in paragraph 1 of this Standard to all seafarers ordinarily resident in its territory. This responsibility could be

satisfied, for example, through appropriate bilateral or multilateral agreements or contribution-based systems. The resulting protection shall be no less favourable than that enjoyed by shoreworkers resident in their territory.

4. Notwithstanding the attribution of responsibilities in paragraph 3 of this Standard, Members may determine, through bilateral and multilateral agreements and through provisions adopted in the framework of regional economic integration organizations, other rules concerning the social security legislation to which seafarers are subject.

5. Each Member's responsibilities with respect to seafarers on ships that fly its flag shall include those provided for by Regulations 4.1 and 4.2 and the related provisions of the Code, as well as those that are inherent in its general obligations under international law.

6. Each Member shall give consideration to the various ways in which comparable benefits will, in accordance with national law and practice, be provided to seafarers in the absence of adequate coverage in the branches referred to in paragraph 1 of this Standard.

7. The protection under Regulation 4.5, paragraph 1, may, as appropriate, be contained in laws or regulations, in private schemes or in collective bargaining agreements or in a combination of these.

8. To the extent consistent with their national law and practice, Members shall cooperate, through bilateral or multilateral agreements or other arrangements, to ensure the maintenance of social security rights, provided through contributory or non-contributory schemes, which have been acquired, or are in the course of acquisition, by all seafarers regardless of residence.

9. Each Member shall establish fair and effective procedures for the settlement of disputes.

10. Each Member shall at the time of ratification specify the branches for which protection is provided in accordance with paragraph 2 of this Standard. It shall subsequently notify the Director-General of the International Labour Office when it provides social security protection in respect of one or more other branches stated in paragraph 1 of this Standard. The Director-General shall maintain a register of this information and shall make it available to all interested parties.

11. The reports to the International Labour Office pursuant to article 22 of the Constitution, shall also include information regarding steps taken in accordance with Regulation 4.5, paragraph 2, to extend protection to other branches.

Guideline B4.5 – Social security

1. The protection to be provided at the time of ratification in accordance with Standard A4.5, paragraph 2, should at least include the branches of medical care, sickness benefit and employment injury benefit.

2. In the circumstances referred to in Standard A4.5, paragraph 6, comparable benefits may be provided through insurance, bilateral and multilateral agreements or other effective means, taking into consideration the provisions of relevant collective bargaining agreements. Where such measures are adopted, seafarers covered by such measures should be advised of the means by which the various branches of social security protection will be provided.

3. Where seafarers are subject to more than one national legislation covering social security, the Members concerned should cooperate in order to determine by mutual agreement which legislation is to apply, taking into account such factors as the type and level of protection under the respective legislations which is more favourable to the seafarer concerned as well as the seafarer's preference.

4. The procedures to be established under Standard A4.5, paragraph 9, should be designed to cover all disputes relevant to the claims of the seafarers concerned, irrespective of the manner in which the coverage is provided.
5. Each Member which has national seafarers, non-national seafarers or both serving on ships that fly its flag should provide the social security protection in the Convention as applicable, and should periodically review the branches of social security protection in Standard A4.5, paragraph 1, with a view to identifying any additional branches appropriate for the seafarers concerned.
6. 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 as well as any other relevant information at the disposal of the shipowner, such as statutory deductions from the seafarers' wages and shipowners' contributions which may be made in accordance with the requirements of identified authorized bodies pursuant to relevant national social security schemes.
7. The Member whose flag the ship flies should, in effectively exercising its jurisdiction over social matters, satisfy itself that the shipowners' responsibilities concerning social security protection are met, including making the required contributions to social security schemes.

TITLE 5. COMPLIANCE AND ENFORCEMENT

1. The Regulations in this Title specify each Member's responsibility to fully implement and enforce the principles and rights set out in the Articles of this Convention as well as the particular obligations provided for under its Titles 1, 2, 3 and 4.
2. Paragraphs 3 and 4 of Article VI, which permit the implementation of Part of the Code through substantially equivalent provisions, do not apply to Part A of the Code in this Title.
3. In accordance with paragraph 2 of Article VI, each Member shall implement its responsibilities under the Regulations in the manner set out in the corresponding Standards of Part A of the Code, giving due consideration to the corresponding Guidelines in Part B of the Code.
4. The provisions of this Title shall be implemented bearing in mind that seafarers and shipowners, like all other persons, are equal before the law and are entitled to the equal protection of the law and shall not be subject to discrimination in their access to courts, tribunals or other dispute resolution mechanisms. The provisions of this Title do not determine legal jurisdiction or a legal venue.

Regulation 5.1 – Flag State responsibilities

Purpose: To ensure that each Member implements its responsibilities under this Convention with respect to ships that fly its flag

Regulation 5.1.1 – General principles

1. Each Member is responsible for ensuring implementation of its obligations under this Convention on ships that fly its flag.
2. Each Member shall establish an effective system for the inspection and certification of maritime labour conditions, in accordance with Regulations 5.1.3 and 5.1.4 ensuring that the working and living conditions for seafarers on ships that fly its flag meet, and continue to meet, the standards in this Convention.
3. In establishing an effective system for the inspection and certification of maritime labour conditions, a Member may, where appropriate, authorize public institutions or other organizations (including those of another Member, if the latter agrees) which it

recognizes as competent and independent to carry out inspections or to issue certificates or to do both. In all cases, the Member shall remain fully responsible for the inspection and certification of the working and living conditions of the seafarers concerned on ships that fly its flag.

4. A maritime labour certificate, complemented by a declaration of maritime labour compliance, shall constitute prima facie evidence that the ship has been duly inspected by the Member whose flag it flies and that the requirements of this Convention relating to working and living conditions of the seafarers have been met to the extent so certified.

5. Information about the system referred to in paragraph 2 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member's reports to the International Labour Office pursuant to article 22 of the Constitution.

Standard A5.1.1 – General principles

1. Each Member shall establish clear objectives and standards covering the administration of its inspection and certification systems, as well as adequate overall procedures for its assessment of the extent to which those objectives and standards are being attained.

2. Each Member shall require all ships that fly its flag to have a copy of this Convention available on board.

Guideline B5.1.1 – General principles

1. The competent authority should make appropriate arrangements to promote effective cooperation between public institutions and other organizations, referred to in Regulations 5.1.1 and 5.1.2, concerned with seafarers' shipboard working and living conditions.

2. In order to better ensure cooperation between inspectors and shipowners, seafarers and their respective organizations, and to maintain or improve seafarers' working and living conditions, the competent authority should consult the representatives of such organizations at regular intervals as to the best means of attaining these ends. The manner of such consultation should be determined by the competent authority after consulting with shipowners' and seafarers' organizations.

Regulation 5.1.2 – Authorization of recognized organizations

1. The public institutions or other organizations referred to in paragraph 3 of Regulation 5.1.1 («recognized organizations») shall have been recognized by the competent authority as meeting the requirements in the Code regarding competency and independence. The inspection or certification functions which the recognized organizations may be authorized to carry out shall come within the scope of the activities that are expressly mentioned in the Code as being carried out by the competent authority or a recognized organization.

2. The reports referred to in paragraph 5 of Regulation 5.1.1 shall contain information regarding any recognized organization, the extent of authorizations given and the arrangements made by the Member to ensure that the authorized activities are carried out completely and effectively.

Standard A5.1.2 – Authorization of recognized organizations

1. For the purpose of recognition in accordance with paragraph 1 of Regulation 5.1.2, the competent authority shall review the competency and independence of the organization concerned and determine whether the organization has demonstrated, to the extent necessary for carrying out the activities covered by the authorization conferred on it, that the organization:

- (a) has the necessary expertise in the relevant aspects of this Convention and an appropriate knowledge of ship operations, including the minimum requirements for seafarers to work on a ship, conditions of employment, accommodation, recreational facilities, food and catering, accident prevention, health protection, medical care, welfare and social security protection;
 - (b) has the ability to maintain and update the expertise of its personnel;
 - (c) has the necessary knowledge of the requirements of this Convention as well as of applicable national laws and regulations and relevant international instruments; and
 - (d) is of the appropriate size, structure, experience and capability commensurate with the type and degree of authorization.
2. Any authorizations granted with respect to inspections shall, as a minimum, empower the recognized organization to require the rectification of deficiencies that it identifies in seafarers' working and living conditions and to carry out inspections in this regard at the request of a port State.
3. Each Member shall establish:
- (a) a system to ensure the adequacy of work performed by recognized organizations, which includes information on all applicable national laws and regulations and relevant international instruments; and
 - (b) procedures for communication with and oversight of such organizations.
4. Each Member shall provide the International Labour Office with a current list of any recognized organizations authorized to act on its behalf and it shall keep this list up to date. The list shall specify the functions that the recognized organizations have been authorized to carry out. The Office shall make the list publicly available.

Guideline B5.1.2 – Authorization of recognized organizations

1. The organization seeking recognition should demonstrate the technical, administrative and managerial competence and capacity to ensure the provision of timely service of satisfactory quality.
2. In evaluating the capability of an organization, the competent authority should determine whether the organization:
- (a) has adequate technical, managerial and support staff;
 - (b) has sufficient qualified professional staff to provide the required service, representing an adequate geographical coverage;
 - (c) has proven ability to provide a timely service of satisfactory quality; and
 - (d) is independent and accountable in its operations.
3. The competent authority should conclude a written agreement with any organization that it recognizes for purposes of an authorization. The agreement should include the following elements:
- (a) scope of application;
 - (b) purpose;
 - (c) general conditions;
 - (d) the execution of functions under authorization;
 - (e) legal basis of the functions under authorization;
 - (f) reporting to the competent authority;

(g) specification of the authorization from the competent authority to the recognized organization; and

(h) the competent authority's supervision of activities delegated to the recognized organization.

4. Each Member should require the recognized organizations to develop a system for qualification of staff employed by them as inspectors to ensure the timely updating of their knowledge and expertise.

5. Each Member should require the recognized organizations to maintain records of the services performed by them such that they are able to demonstrate achievement of the required standards in the items covered by the services.

6. In establishing the oversight procedures referred to in Standard A5.1.2, paragraph 3(b), each Member should take into account the *Guidelines for the Authorization of Organizations Acting on Behalf of the Administration*, adopted in the framework of the International Maritime Organization.

Regulation 5.1.3 – Maritime labour certificate and declaration of maritime labour compliance

1. This Regulation applies to ships of:

(a) 500 gross tonnage or over, engaged in international voyages; and

(b) 500 gross tonnage or over, flying the flag of a Member and operating from a port, or between ports, in another country.

For the purpose of this Regulation, "international voyage" means a voyage from a country to a port outside such a country.

2. This Regulation also applies to any ship that flies the flag of a Member and is not covered by paragraph 1 of this Regulation, at the request of the shipowner to the Member concerned.

3. Each Member shall require ships that fly its flag to carry and maintain a maritime labour certificate certifying that the working and living conditions of seafarers on the ship, including measures for ongoing compliance to be included in the declaration of maritime labour compliance referred to in paragraph 4 of this Regulation, have been inspected and meet the requirements of national laws or regulations or other measures implementing this Convention.

4. Each Member shall require ships that fly its flag to carry and maintain a declaration of maritime labour compliance stating the national requirements implementing this Convention for the working and living conditions for seafarers and setting out the measures adopted by the shipowner to ensure compliance with the requirements on the ship or ships concerned.

5. The maritime labour certificate and the declaration of maritime labour compliance shall conform to the model prescribed by the Code.

6. Where the competent authority of the Member or a recognized organization duly authorized for this purpose has ascertained through inspection that a ship that flies the Member's flag meets or continues to meet the standards of this Convention, it shall issue or renew a maritime labour certificate to that effect and maintain a publicly available record of that certificate.

7. Detailed requirements for the maritime labour certificate and the declaration of maritime labour compliance, including a list of the matters that must be inspected and approved, are set out in Part A of the Code.

Standard A5.1.3 – Maritime labour certificate and declaration of maritime labour compliance

1. The maritime labour certificate shall be issued to a ship by the competent authority, or by a recognized organization duly authorized for this purpose, for a period which shall not exceed five years. A list of matters that must be inspected and found to meet national laws and regulations or other measures implementing the requirements of this Convention regarding the working and living conditions of seafarers on ships before a maritime labour certificate can be issued is found in Appendix A5-I.
2. The validity of the maritime labour certificate shall be subject to an intermediate inspection by the competent authority, or by a recognized organization duly authorized for this purpose, to ensure continuing compliance with the national requirements implementing this Convention. If only one intermediate inspection is carried out and the period of validity of the certificate is five years, it shall take place between the second and third anniversary dates of the certificate. Anniversary date means the day and month of each year which will correspond to the date of expiry of the maritime labour certificate. The scope and depth of the intermediate inspection shall be equal to an inspection for renewal of the certificate. The certificate shall be endorsed following satisfactory intermediate inspection.
3. Notwithstanding paragraph 1 of this Standard, when the renewal inspection has been completed within three months before the expiry of the existing maritime labour certificate, the new maritime labour certificate shall be valid from the date of completion of the renewal inspection for a period not exceeding five years from the date of expiry of the existing certificate.
4. When the renewal inspection is completed more than three months before the expiry date of the existing maritime labour certificate, the new maritime labour certificate shall be valid for a period not exceeding five years starting from the date of completion of the renewal inspection.
5. A maritime labour certificate may be issued on an interim basis:
 - (a) to new ships on delivery;
 - (b) when a ship changes flag; or
 - (c) when a shipowner assumes responsibility for the operation of a ship which is new to that shipowner.
6. An interim maritime labour certificate may be issued for a period not exceeding six months by the competent authority or a recognized organization duly authorized for this purpose.
7. An interim maritime labour certificate may only be issued following verification that:
 - (a) the ship has been inspected, as far as reasonable and practicable, for the matters listed in Appendix A5-I, taking into account verification of items under subparagraphs (b), (c) and (d) of this paragraph;
 - (b) the shipowner has demonstrated to the competent authority or recognized organization that the ship has adequate procedures to comply with this Convention;
 - (c) the master is familiar with the requirements of this Convention and the responsibilities for implementation; and

(d) relevant information has been submitted to the competent authority or recognized organization to produce a declaration of maritime labour compliance.

8. A full inspection in accordance with paragraph 1 of this Standard shall be carried out prior to expiry of the interim certificate to enable issue of the full-term maritime labour certificate. No further interim certificate may be issued following the initial six months referred to in paragraph 6 of this Standard. A declaration of maritime labour compliance need not be issued for the period of validity of the interim certificate.

9. The maritime labour certificate, the interim maritime labour certificate and the declaration of maritime labour compliance shall be drawn up in the form corresponding to the models given in Appendix A5-II.

10. The declaration of maritime labour compliance shall be attached to the maritime labour certificate. It shall have two parts:

(a) Part I shall be drawn up by the competent authority which shall: (i) identify the list of matters to be inspected in accordance with paragraph 1 of this Standard; (ii) identify the national requirements embodying the relevant provisions of this Convention by providing a reference to the relevant national legal provisions as well as, to the extent necessary, concise information on the main content of the national requirements; (iii) refer to ship-type specific requirements under national legislation; (iv) record any substantially equivalent provisions adopted pursuant to paragraph 3 of Article VI; and (v) clearly indicate any exemption granted by the competent authority as provided in Title 3; and

(b) Part II shall be drawn up by the shipowner and shall identify the measures adopted to ensure ongoing compliance with the national requirements between inspections and the measures proposed to ensure that there is continuous improvement.

The competent authority or recognized organization duly authorized for this purpose shall certify Part II and shall issue the declaration of maritime labour compliance.

11. The results of all subsequent inspections or other verifications carried out with respect to the ship concerned and any significant deficiencies found during any such verification shall be recorded, together with the date when the deficiencies were found to have been remedied. This record, accompanied by an English-language translation where it is not in English, shall, in accordance with national laws or regulations, be inscribed upon or appended to the declaration of maritime labour compliance or made available in some other way to seafarers, flag State inspectors, authorized officers in port States and shipowners' and seafarers' representatives.

12. A current valid maritime labour certificate and declaration of maritime labour compliance, accompanied by an English-language translation where it is not in English, shall be carried on the ship and a copy shall be posted in a conspicuous place on board where it is available to the seafarers. A copy shall be made available in accordance with national laws and regulations, upon request, to seafarers, flag State inspectors, authorized officers in port States, and shipowners' and seafarers' representatives.

13. The requirement for an English-language translation in paragraphs 11 and 12 of this Standard does not apply in the case of a ship not engaged in an international voyage.

14. A certificate issued under paragraph 1 or 5 of this Standard shall cease to be valid in any of the following cases:

- (a) if the relevant inspections are not completed within the periods specified under paragraph 2 of this Standard;
- (b) if the certificate is not endorsed in accordance with paragraph 2 of this Standard;
- (c) when a ship changes flag;
- (d) when a shipowner ceases to assume the responsibility for the operation of a ship; and
- (e) when substantial changes have been made to the structure or equipment covered in Title 3.

15. In the case referred to in paragraph 14(c), (d) or (e) of this Standard, a new certificate shall only be issued when the competent authority or recognized organization issuing the new certificate is fully satisfied that the ship is in compliance with the requirements of this Standard.

16. A maritime labour certificate shall be withdrawn by the competent authority or the recognized organization duly authorized for this purpose by the flag State, if there is evidence that the ship concerned does not comply with the requirements of this Convention and any required corrective action has not been taken.

17. When considering whether a maritime labour certificate should be withdrawn in accordance with paragraph 16 of this Standard, the competent authority or the recognized organization shall take into account the seriousness or the frequency of the deficiencies.

Guideline B5.1.3 – Maritime labour certificate and declaration of maritime labour compliance

1. The statement of national requirements in Part I of the declaration of maritime labour compliance should include or be accompanied by references to the legislative provisions relating to seafarers' working and living conditions in each of the matters listed in Appendix A5-I. Where national legislation precisely follows the requirements stated in this Convention, a reference may be all that is necessary. Where provision of the Convention is implemented through substantial equivalence as provided under Article VI, paragraph 3, this provision should be identified and a concise explanation should be provided. Where an exemption is granted by the competent authority as provided in Title 3, the particular provision or provisions concerned should be clearly indicated.

2. The measures referred to in Part II of the declaration of maritime labour compliance, drawn up by the shipowner, should, in particular, indicate the occasions on which ongoing compliance with particular national requirements will be verified, the persons responsible for verification, the records to be taken, as well as the procedures to be followed where noncompliance is noted. Part II may take a number of forms. It could make reference to other more comprehensive documentation covering policies and procedures relating to other aspects of the maritime sector, for example documents required by the *International Safety Management (ISM) Code* or the information required by Regulation 5 of the SOLAS Convention, Chapter XI-1 relating to the ship's Continuous Synopsis Record.

3. The measures to ensure ongoing compliance should include general international requirements for the shipowner and master to keep themselves informed of the latest advances in technology and scientific findings concerning workplace design, taking into account the inherent dangers of seafarers' work, and to inform the seafarers' representatives accordingly, thereby guaranteeing a better level of protection of the seafarers' working and living conditions on board.

4. The declaration of maritime labour compliance should, above all, be drafted in clear terms designed to help all persons concerned, such as flag State inspectors, authorized officers in port States and seafarers, to check that the requirements are being properly implemented.

5. An example of the kind of information that might be contained in a declaration of maritime labour compliance is given in Appendix B5-I.

6. When a ship changes flag as referred to in Standard A5.1.3, paragraph 14(c), and where both States concerned have ratified this Convention, the Member whose flag the ship was formerly entitled to fly should, as soon as possible, transmit to the competent authority of the other Member copies of the maritime labour certificate and the declaration of maritime labour compliance carried by the ship before the change of flag and, if applicable, copies of the relevant inspection reports if the competent authority so requests within three months after the change of flag has taken place.

Regulation 5.1.4 – Inspection and enforcement

1. Each Member shall verify, through an effective and coordinated system of regular inspections, monitoring and other control measures, that ships that fly its flag comply with the requirements of this Convention as implemented in national laws and regulations.

2. Detailed requirements regarding the inspection and enforcement system referred to in paragraph 1 of this Regulation are set out in Part A of the Code.

Standard A5.1.4 – Inspection and enforcement

1. Each Member shall maintain a system of inspection of the conditions for seafarers on ships that fly its flag which shall include verification that the measures relating to working and living conditions as set out in the declaration of maritime labour compliance, where applicable, are being followed, and that the requirements of this Convention are met.

2. The competent authority shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under paragraph 1 of this Standard. Where recognized organizations have been authorized to carry out inspections, the Member shall require that personnel carrying out the inspection are qualified to undertake these duties and shall provide them with the necessary legal authority to perform their duties.

3. Adequate provision shall be made to ensure that the inspectors have the training, competence, terms of reference, powers, status and independence necessary or desirable so as to enable them to carry out the verification and ensure the compliance referred to in paragraph 1 of this Standard.

4. Inspections shall take place at the intervals required by Standard A5.1.3, where applicable. The interval shall in no case exceed three years.

5. If a Member receives a complaint which it does not consider manifestly unfounded or obtains evidence that a ship that flies its flag does not conform to the requirements of this Convention or that there are serious deficiencies in the implementation of the measures set out in the declaration of maritime labour compliance, the Member shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found.

6. Adequate rules shall be provided and effectively enforced by each Member in order to guarantee that inspectors have the status and conditions of service to ensure that they are independent of changes of government and of improper external influences.

7. Inspectors, issued with clear guidelines as to the tasks to be performed and provided with proper credentials, shall be empowered:

- (a) to board a ship that flies the Member's flag;
- (b) to carry out any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the standards are being strictly observed; and
- (c) to require that any deficiency is remedied and, where they have grounds to believe that deficiencies constitute a serious breach of the requirements of this Convention (including seafarers' rights), or represent a significant danger to seafarers' safety, health or security, to prohibit a ship from leaving port until necessary actions are taken.

8. Any action taken pursuant to paragraph 7(c) of this Standard shall be subject to any right of appeal to a judicial or administrative authority.

9. Inspectors shall have the discretion to give advice instead of instituting or recommending proceedings when there is no clear breach of the requirements of this Convention that endangers the safety, health or security of the seafarers concerned and where there is no prior history of similar breaches.

10. Inspectors shall treat as confidential the source of any grievance or complaint alleging a danger or deficiency in relation to seafarers' working and living conditions or a violation of laws and regulations and give no intimation to the shipowner, the shipowner's representative or the operator of the ship that an inspection was made as a consequence of such a grievance or complaint.

11. Inspectors shall not be entrusted with duties which might, because of their number or nature, interfere with effective inspection or prejudice in any way their authority or impartiality in their relations with shipowners, seafarers or other interested parties. In particular, inspectors shall:

- (a) be prohibited from having any direct or indirect interest in any operation which they are called upon to inspect; and
- (b) subject to appropriate sanctions or disciplinary measures, not reveal, even after leaving service, any commercial secrets or confidential working processes or information of a personal nature which may come to their knowledge in the course of their duties.

12. Inspectors shall submit a report of each inspection to the competent authority. One copy of the report in English or in the working language of the ship shall be furnished to the master of the ship and another copy shall be posted on the ship's notice board for the information of the seafarers and, upon request, sent to their representatives.

13. The competent authority of each Member shall maintain records of inspections of the conditions for seafarers on ships that fly its flag. It shall publish an annual report on inspection activities within a reasonable time, not exceeding six months, after the end of the year.

14. In the case of an investigation pursuant to a major incident, the report shall be submitted to the competent authority as soon as practicable, but not later than one month following the conclusion of the investigation.

15. When an inspection is conducted or when measures are taken under this Standard, all reasonable efforts shall be made to avoid a ship being unreasonably detained or delayed.

16. Compensation shall be payable in accordance with national laws and regulations for any loss or damage suffered as a result of the wrongful exercise of the inspectors' powers. The burden of proof in each case shall be on the complainant.

17. Adequate penalties and other corrective measures for breaches of the requirements of this Convention (including seafarers' rights) and for obstructing inspectors in the performance of their duties shall be provided for and effectively enforced by each Member.

Guideline B5.1.4 – Inspection and enforcement

1. The competent authority and any other service or authority wholly or partly concerned with the inspection of seafarers' working and living conditions should have the resources necessary to fulfil their functions. In particular:

(a) each Member should take the necessary measures so that duly qualified technical experts and specialists may be called upon, as needed, to assist in the work of inspectors; and

(b) inspectors should be provided with conveniently situated premises, equipment and means of transport adequate for the efficient performance of their duties.

2. The competent authority should develop a compliance and enforcement policy to ensure consistency and otherwise guide inspection and enforcement activities related to this Convention. Copies of this policy should be provided to all inspectors and relevant law-enforcement officials and should be made available to the public and shipowners and seafarers.

3. The competent authority should establish simple procedures to enable it to receive information in confidence concerning possible breaches of the requirements of this Convention (including seafarers' rights) presented by seafarers directly or by representatives of the seafarers, and permit inspectors to investigate such matters promptly, including:

(a) enabling masters, seafarers or representatives of the seafarers to request an inspection when they consider it necessary; and

(b) supplying technical information and advice to shipowners and seafarers and organizations concerned as to the most effective means of complying with the requirements of this Convention and of bringing about a continual improvement in seafarers' onboard conditions.

4. Inspectors should be fully trained and sufficient in numbers to secure the efficient discharge of their duties with due regard to:

(a) the importance of the duties which the inspectors have to perform, in particular the number, nature and size of ships subject to inspection and the number and complexity of the legal provisions to be enforced;

(b) the resources placed at the disposal of the inspectors; and

(c) the practical conditions under which inspections must be carried out in order to be effective.

5. Subject to any conditions for recruitment to the public service which may be prescribed by national laws and regulations, inspectors should have qualifications and adequate training to perform their duties and where possible should have a maritime education or experience as a seafarer. They should have adequate knowledge of seafarers' working and living conditions and of the English language.

6. Measures should be taken to provide inspectors with appropriate further training during their employment.

7. All inspectors should have a clear understanding of the circumstances in which an inspection should be carried out, the scope of the inspection to be carried out in the various circumstances referred to and the general method of inspection.

8. Inspectors provided with proper credentials under the national law should at a minimum be empowered:

- (a) to board ships freely and without previous notice; however, when commencing the ship inspection, inspectors should provide notification of their presence to the master or person in charge and, where appropriate, to the seafarers or their representatives;
- (b) to question the master, seafarer or any other person, including the shipowner or the shipowner's representative, on any matter concerning the application of the requirements under laws and regulations, in the presence of any witness that the person may have requested;
- (c) to require the production of any books, log books, registers, certificates or other documents or information directly related to matters subject to inspection, in order to verify compliance with the national laws and regulations implementing this Convention;
- (d) to enforce the posting of notices required under the national laws and regulations implementing this Convention;
- (e) to take or remove, for the purpose of analysis, samples of products, cargo, drinking water, provisions, materials and substances used or handled;
- (f) following an inspection, to bring immediately to the attention of the shipowner, the operator of the ship or the master, deficiencies which may affect the health and safety of those on board ship;
- (g) to alert the competent authority and, if applicable, the recognized organization to any deficiency or abuse not specifically covered by existing laws or regulations and submit proposals to them for the improvement of the laws or regulations; and
- (h) to notify the competent authority of any occupational injuries or diseases affecting seafarers in such cases and in such manner as may be prescribed by laws and regulations.

9. When a sample referred to in paragraph 8(e) of this Guideline is being taken or removed, the shipowner or the shipowner's representative, and where appropriate a seafarer, should be notified or should be present at the time the sample is taken or removed. The quantity of such a sample should be properly recorded by the inspector.

10. The annual report published by the competent authority of each Member, in respect of ships that fly its flag, should contain:

- (a) a list of laws and regulations in force relevant to seafarers' working and living conditions and any amendments which have come into effect during the year;
- (b) details of the organization of the system of inspection;
- (c) statistics of ships or other premises subject to inspection and of ships and other premises actually inspected;
- (d) statistics on all seafarers subject to its national laws and regulations;
- (e) statistics and information on violations of legislation, penalties imposed and cases of detention of ships; and

(f) statistics on reported occupational injuries and diseases affecting seafarers.

Regulation 5.1.5 – On-board complaint procedures

1. Each Member shall require that ships that fly its flag have onboard procedures for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of this Convention (including seafarers' rights).
2. Each Member shall prohibit and penalize any kind of victimization of a seafarer for filing a complaint.
3. The provisions in this Regulation and related sections of the Code are without prejudice to a seafarer's right to seek redress through whatever legal means the seafarer considers appropriate.

Standard A5.1.5 – On-board complaint procedures

1. Without prejudice to any wider scope that may be given in national laws or regulations or collective agreements, the onboard procedures may be used by seafarers to lodge complaints relating to any matter that is alleged to constitute a breach of the requirements of this Convention (including seafarers' rights).
2. Each Member shall ensure that, in its laws or regulations, appropriate on board complaint procedures are in place to meet the requirements of Regulation 5.1.5.
3. Such procedures shall seek to resolve complaints at the lowest level possible. However, in all cases, seafarers shall have a right to complain directly to the master and, where they consider it necessary, to appropriate external authorities.
4. The on-board complaint procedures shall include the right of the seafarer to be accompanied or represented during the complaints procedure, as well as safeguards against the possibility of victimization of seafarers for filing complaints. The term «victimization» covers any adverse action taken by any person with respect to a seafarer for lodging a complaint which is not manifestly vexatious or maliciously made.
5. In addition to a copy of their seafarers' employment agreement, all seafarers shall be provided with a copy of the onboard complaint procedures applicable on the ship. This shall include contact information for the competent authority in the flag State and, where different, in the seafarers' country of residence, and the name of a person or persons on board the ship who can, on a confidential basis, provide seafarers with impartial advice on their complaint and otherwise assist them in following the complaint procedures available to them on board the ship.

Guideline B5.1.5 – On-board complaint procedures

1. Subject to any relevant provisions of an applicable collective agreement, the competent authority should, in close consultation with shipowners' and seafarers' organizations, develop a model for fair, expeditious and well-documented onboard complaint-handling procedures for all ships that fly the Member's flag. In developing these procedures the following matters should be considered:

- (a) many complaints may relate specifically to those individuals to whom the complaint is to be made or even to the master of the ship. In all cases seafarers should also be able to complain directly to the master and to make a complaint externally; and
- (b) in order to help avoid problems of victimization of seafarers making complaints about matters under this Convention, the procedures should encourage the nomination of a person on board who can advise seafarers on the procedures available to them and, if requested by the complainant

seafarer, also attend any meetings or hearings into the subject matter of the complaint.

2. At a minimum the procedures discussed during the consultative process referred to in paragraph 1 of this Guideline should include the following:

- (a) complaints should be addressed to the head of the department of the seafarer lodging the complaint or to the seafarer's superior officer;
- (b) the head of department or superior officer should then attempt to resolve the matter within prescribed time limits appropriate to the seriousness of the issues involved;
- (c) if the head of department or superior officer cannot resolve the complaint to the satisfaction of the seafarer, the latter may refer it to the master, who should handle the matter personally;
- (d) seafarers should at all times have the right to be accompanied and to be represented by another seafarer of their choice on board the ship concerned;
- (e) all complaints and the decisions on them should be recorded and a copy provided to the seafarer concerned;
- (f) if a complaint cannot be resolved on board, the matter should be referred ashore to the shipowner, who should be given an appropriate time limit for resolving the matter, where appropriate, in consultation with the seafarers concerned or any person they may appoint as their representative; and
- (g) in all cases seafarers should have a right to file their complaints directly with the master and the shipowner and competent authorities.

Regulation 5.1.6 – Marine casualties

1. Each Member shall hold an official inquiry into any serious marine casualty, leading to injury or loss of life, that involves a ship that flies its flag. The final report of an inquiry shall normally be made public.
2. Members shall cooperate with each other to facilitate the investigation of serious marine casualties referred to in paragraph 1 of this Regulation.

Standard A5.1.6 – Marine casualties

(No provisions)

Guideline B5.1.6 – Marine casualties

(No provisions)

Regulation 5.2 – Port State responsibilities

Purpose: To enable each Member to implement its responsibilities under this Convention regarding international cooperation in the implementation and enforcement of the Convention standards on foreign ships

Regulation 5.2.1 – Inspections in port

1. Every foreign ship calling, in the normal course of its business or for operational reasons, in the port of a Member may be the subject of inspection in accordance with paragraph 4 of Article V for the purpose of reviewing compliance with the requirements of this Convention (including seafarers' rights) relating to the working and living conditions of seafarers on the ship.
2. Each Member shall accept the maritime labour certificate and the declaration of maritime labour compliance required under Regulation 5.1.3 as prima facie evidence of compliance with the requirements of this Convention (including seafarers' rights).

Accordingly, the inspection in its ports shall, except in the circumstances specified in the Code, be limited to a review of the certificate and declaration.

3. Inspections in a port shall be carried out by authorized officers in accordance with the provisions of the Code and other applicable international arrangements governing port State control inspections in the Member. Any such inspection shall be limited to verifying that the matter inspected is in conformity with the relevant requirements set out in the Articles and Regulations of this Convention and in Part A only of the Code.

4. Inspections that may be carried out in accordance with this Regulation shall be based on an effective port State inspection and monitoring system to help ensure that the working and living conditions for seafarers on ships entering a port of the Member concerned meet the requirements of this Convention (including seafarers' rights).

5. Information about the system referred to in paragraph 4 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member's reports pursuant to article 22 of the Constitution.

Standard A5.2.1 – Inspections in port

1. Where an authorized officer, having come on board to carry out an inspection and requested, where applicable, the maritime labour certificate and the declaration of maritime labour compliance, finds that:

- (a) the required documents are not produced or maintained or are falsely maintained or that the documents produced do not contain the information required by this Convention or are otherwise invalid; or
- (b) there are clear grounds for believing that the working and living conditions on the ship do not conform to the requirements of this Convention; or
- (c) there are reasonable grounds to believe that the ship has changed flag for the purpose of avoiding compliance with this Convention; or
- (d) there is a complaint alleging that specific working and living conditions on the ship do not conform to the requirements of this Convention;

a more detailed inspection may be carried out to ascertain the working and living conditions on board the ship. Such inspection shall in any case be carried out where the working and living conditions believed or alleged to be defective could constitute a clear hazard to the safety, health or security of seafarers or where the authorized officer has grounds to believe that any deficiencies constitute a serious breach of the requirements of this Convention (including seafarers' rights).

2. Where a more detailed inspection is carried out on a foreign ship in the port of a Member by authorized officers in the circumstances set out in subparagraph (a), (b) or (c) of paragraph 1 of this Standard, it shall in principle cover the matters listed in Appendix A5-III.

3. In the case of a complaint under paragraph 1(d) of this Standard, the inspection shall generally be limited to matters within the scope of the complaint, although a complaint, or its investigation, may provide clear grounds for a detailed inspection in accordance with paragraph 1(b) of this Standard. For the purpose of paragraph 1(d) of this Standard, «complaint» means information submitted by a seafarer, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest in safety or health hazards to seafarers on board.

4. Where, following a more detailed inspection, the working and living conditions on the ship are found not to conform to the requirements of this Convention, the authorized officer shall forthwith bring the deficiencies to the attention of the master

of the ship, with required deadlines for their rectification. In the event that such deficiencies are considered by the authorized officer to be significant, or if they relate to a complaint made in accordance with paragraph 3 of this Standard, the authorized officer shall bring the deficiencies to the attention of the appropriate seafarers' and shipowners' organizations in the Member in which the inspection is carried out, and may:

- (a) notify a representative of the flag State;
- (b) provide the competent authorities of the next port of call with the relevant information.

5. The Member in which the inspection is carried out shall have the right to transmit a copy of the officer's report, which must be accompanied by any reply received from the competent authorities of the flag State within the prescribed deadline, to the Director-General of the International Labour Office with a view to such action as may be considered appropriate and expedient in order to ensure that a record is kept of such information and that it is brought to the attention of parties which might be interested in availing themselves of relevant recourse procedures.

6. Where, following a more detailed inspection by an authorized officer, the ship is found not to conform to the requirements of this Convention and:

- (a) the conditions on board are clearly hazardous to the safety, health or security of seafarers; or
- (b) the non-conformity constitutes a serious or repeated breach of the requirements of this Convention (including seafarers' rights);

the authorized officer shall take steps to ensure that the ship shall not proceed to sea until any nonconformities that fall within the scope of subparagraph (a) or (b) of this paragraph have been rectified, or until the authorized officer has accepted a plan of action to rectify such nonconformities and is satisfied that the plan will be implemented in an expeditious manner. If the ship is prevented from sailing, the authorized officer shall forthwith notify the flag State accordingly and invite a representative of the flag State to be present, if possible, requesting the flag State to reply within a prescribed deadline. The authorized officer shall also inform forthwith the appropriate shipowners' and seafarers' organizations in the port State in which the inspection was carried out.

7. Each Member shall ensure that its authorized officers are given guidance, of the kind indicated in Part B of the Code, as to the kinds of circumstances justifying detention of a ship under paragraph 6 of this Standard.

8. When implementing their responsibilities under this Standard, each Member shall make all possible efforts to avoid a ship being unduly detained or delayed. If a ship is found to be unduly detained or delayed, compensation shall be paid for any loss or damage suffered. The burden of proof in each case shall be on the complainant.

Guideline B5.2.1 – Inspections in port

1. The competent authority should develop an inspection policy for authorized officers carrying out inspections under Regulation 5.2.1. The objective of the policy should be to ensure consistency and to otherwise guide inspection and enforcement activities related to the requirements of this Convention (including seafarers' rights). Copies of this policy should be provided to all authorized officers and should be available to the public and shipowners and seafarers.

2. When developing a policy relating to the circumstances warranting a detention of the ship under Standard A5.2.1, paragraph 6, of the competent authority should consider that, with respect to the breaches referred to in Standard A5.2.1, paragraph

6 (b), the seriousness could be due to the nature of the deficiency concerned. This would be particularly relevant in the case of the violation of fundamental rights and principles or seafarers' employment and social rights under Articles III and IV. For example, the employment of a person who is under age should be considered as a serious breach even if there is only one such person on board. In other cases, the number of different defects found during a particular inspection should be taken into account: for example, several instances of defects relating to accommodation or food and catering which do not threaten safety or health might be needed before they should be considered as constituting a serious breach.

3. Members should cooperate with each other to the maximum extent possible in the adoption of internationally agreed guidelines on inspection policies, especially those relating to the circumstances warranting the detention of a ship.

Regulation 5.2.2 – Onshore seafarer
complaint-handling procedures

1. Each Member shall ensure that seafarers on ships calling at a port in the Member's territory who allege a breach of the requirements of this Convention (including seafarers' rights) have the right to report such a complaint in order to facilitate a prompt and practical means of redress.

Standard A5.2.2 – Onshore seafarer complaint-handling procedures

1. A complaint by a seafarer alleging a breach of the requirements of this Convention (including seafarers' rights) may be reported to an authorized officer in the port at which the seafarer's ship has called. In such cases, the authorized officer shall undertake an initial investigation.

2. Where appropriate, given the nature of the complaint, the initial investigation shall include consideration of whether the onboard complaint procedures provided under Regulation 5.1.5 have been explored. The authorized officer may also conduct a more detailed inspection in accordance with Standard A5.2.1.

3. The authorized officer shall, where appropriate, seek to promote a resolution of the complaint at the ship-board level.

4. In the event that the investigation or the inspection provided under this Standard reveals a nonconformity that falls within the scope of paragraph 6 of Standard A5.2.1, the provisions of that paragraph shall be applied.

5. Where the provisions of paragraph 4 of this Standard do not apply, and the complaint has not been resolved at the shipboard level, the authorized officer shall forthwith notify the flag State, seeking, within a prescribed deadline, advice and a corrective plan of action.

6. Where the complaint has not been resolved following action taken in accordance with paragraph 5 of this Standard, the port State shall transmit a copy of the authorized officer's report to the Director-General. The report must be accompanied by any reply received within the prescribed deadline from the competent authority of the flag State. The appropriate shipowners' and seafarers' organizations in the port State shall be similarly informed. In addition, statistics and information regarding complaints that have been resolved shall be regularly submitted by the port State to the Director-General. Both such submissions are provided in order that, on the basis of such action as may be considered appropriate and expedient, a record is kept of such information and is brought to the attention of parties, including shipowners' and seafarers' organizations, which might be interested in availing themselves of relevant recourse procedures.

7. Appropriate steps shall be taken to safeguard the confidentiality of complaints made by seafarers.

Guideline B5.2.2 – Onshore seafarer complaint-handling procedures

1. Where a complaint referred to in Standard A5.2.2 is dealt with by an authorized officer, the officer should first check whether the complaint is of a general nature which concerns all seafarers on the ship, or a category of them, or whether it relates only to the individual case of the seafarer concerned.
2. If the complaint is of a general nature, consideration should be given to undertaking a more detailed inspection in accordance with Standard A5.2.1.
3. If the complaint relates to an individual case, an examination of the results of any on-board complaint procedures for the resolution of the complaint concerned should be undertaken. If such procedures have not been explored, the authorized officer should suggest that the complainant take advantage of any such procedures available. There should be good reasons for considering a complaint before any on-board complaint procedures have been explored. These would include the inadequacy of, or undue delay in, the internal procedures or the complainant's fear of reprisal for lodging a complaint.
4. In any investigation of a complaint, the authorized officer should give the master, the shipowner and any other person involved in the complaint a proper opportunity to make known their views.
5. In the event that the flag State demonstrates, in response to the notification by the port State in accordance with paragraph 5 of Standard A5.2.2, that it will handle the matter, and that it has in place effective procedures for this purpose and has submitted an acceptable plan of action, the authorized officer may refrain from any further involvement with the complaint.

Regulation 5.3 – Labour-supplying responsibilities

Purpose: To ensure that each Member implements its responsibilities under this Convention as pertaining to seafarer recruitment and placement and the social protection of its seafarers

1. Without prejudice to the principle of each Member's responsibility for the working and living conditions of seafarers on ships that fly its flag, the Member also has a responsibility to ensure the implementation of the requirements of this Convention regarding the recruitment and placement of seafarers as well as the social security protection of seafarers that are its nationals or are resident or are otherwise domiciled in its territory, to the extent that such responsibility is provided for in this Convention.
2. Detailed requirements for the implementation of paragraph 1 of this Regulation are found in the Code.
3. Each Member shall establish an effective inspection and monitoring system for enforcing its labour-supplying responsibilities under this Convention.
4. Information about the system referred to in paragraph 3 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member's reports pursuant to article 22 of the Constitution.

Standard A5.3 – Labour-supplying responsibilities

1. Each Member shall enforce the requirements of this Convention applicable to the operation and practice of seafarer recruitment and placement services established on its territory through a system of inspection and monitoring and legal proceedings for

breaches of licensing and other operational requirements provided for in Standard A1.4.

Guideline B5.3 – Labour-supplying responsibilities

1. Private seafarer recruitment and placement services established in the Member's territory and securing the services of a seafarer for a shipowner, wherever located, should be required to assume obligations to ensure the proper fulfilment by shipowners of the terms of their employment agreements concluded with seafarers.

APPENDIX A5-I

The working and living conditions of seafarers that must be inspected and approved by the flag State before certifying a ship in accordance with Standard A5.1.3, paragraph 1:

Minimum age

Medical certification

Qualifications of seafarers

Seafarers' employment agreements

Use of any licensed or certified or regulated private recruitment and placement service

Hours of work or rest

Manning levels for the ship

Accommodation

On-board recreational facilities

Food and catering

Health and safety and accident prevention

On-board medical care

On-board complaint procedures

Payment of wages

APPENDIX A5-II

MARITIME LABOUR CERTIFICATE

(Note: This Certificate shall have a Declaration of Maritime Labour Compliance attached)

Issued under the provisions of Article V and Title 5 of the

Maritime Labour Convention, 2006

(referred to below as «the Convention»)

under the authority of the Government of:

(full designation of the State whose flag the ship is entitled to fly)

by

(full designation and address of the competent authority or recognized organization duly authorized under the provisions of the Convention)

Particulars of the ship

Name of ship

Distinctive number or letters

Port of registry

Date of registry

Gross tonnage^[1]

IMO number

Type of ship

Name and address of the shipowner^[2]

This is to certify:

1. That this ship has been inspected and verified to be in compliance with the requirements of the Convention, and the provisions of the attached Declaration of Maritime Labour Compliance.

2. That the seafarers' working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country's national requirements implementing the Convention. These national requirements are summarized in the Declaration of Maritime Labour Compliance, Part I.

This Certificate is valid until subject to inspections in accordance with Standards A5.1.3 and A5.1.4 of the Convention.

This Certificate is valid only when the Declaration of Maritime Labour Compliance issued at on is attached.

Completion date of the inspection on which this Certificate is based was

Issued at on

Signature of the duly authorized official issuing the Certificate

(Seal or stamp of issuing authority, as appropriate)

Endorsements for mandatory intermediate inspection and, if required, any additional inspection

This is to certify that the ship was inspected in accordance with Standards A5.1.3 and A5.1.4 of the Convention and that the seafarers' working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country's national requirements implementing the Convention.

<i>Intermediate inspection:</i> (to be completed between the second and third anniversary dates)	Signed (Signature of authorized official) Place Date (Seal or stamp of the authority, as appropriate)
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Additional endorsements (if required)

This is to certify that the ship was the subject of an additional inspection for the purpose of verifying that the ship continued to be in compliance with the national requirements implementing the Convention, as required by Standard A3.1, paragraph 3, of the Convention (re-registration or substantial alteration of accommodation) or for other reasons.

<i>Additional inspection:</i> (if required)	Signed (Signature of authorized official) Place Date (Seal or stamp of the authority, as appropriate)
<i>Additional inspection:</i> (if required)	Signed (Signature of authorized official) Place Date (Seal or stamp of the authority, as appropriate)
<i>Additional inspection:</i> (if required)	Signed (Signature of authorized official) Place Date (Seal or stamp of the authority, as appropriate)

MARITIME LABOUR CONVENTION, 2006

Declaration of Maritime Labour Compliance – Part I

(Note: This Declaration must be attached to the ship's Maritime Labour Certificate)

Issued under the authority of: *(insert name of competent authority as defined in Article II, paragraph 1(a), of the Convention)*

With respect to the provisions of the Maritime Labour Convention, 2006, the following referenced ship:

Name of ship	IMO number	Gross tonnage

is maintained in accordance with Standard A5.1.3 of the Convention.

The undersigned declares, on behalf of the abovementioned competent authority, that:

(a) the provisions of the Maritime Labour Convention are fully embodied in the national requirements referred to below;

(b) these national requirements are contained in the national provisions referenced below; explanations concerning the content of those provisions are provided where necessary;

(c) the details of any substantial equivalencies under Article VI, paragraphs 3 and 4, are provided <under the corresponding national requirement listed below> <in the section provided for this purpose below> *(strike out the statement which is not applicable)*;

(d) any exemptions granted by the competent authority in accordance with Title 3 are clearly indicated in the section provided for this purpose below; and

(e) any ship-type specific requirements under national legislation are also referenced under the requirements concerned.

1. Minimum age (Regulation 1.1)

2. Medical certification (Regulation 1.2)

3. Qualifications of seafarers (Regulation 1.3)

4. Seafarers' employment agreements (Regulation 2.1)

5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4)

6. Hours of work or rest (Regulation 2.3)

7. Manning levels for the ship (Regulation 2.7)

8. Accommodation (Regulation 3.1)

9. On-board recreational facilities (Regulation 3.1)

10. Food and catering (Regulation 3.2)

11. Health and safety and accident prevention (Regulation 4.3)

12. On-board medical care (Regulation 4.1)

13. On-board complaint procedures (Regulation 5.1.5)

14. Payment of wages (Regulation 2.2)

Name:

Title:

Signature:

Place:

Date:

(Seal or stamp of the authority, as appropriate)

Substantial equivalencies

(Note: Strike out the statement which is not applicable)

The following substantial equivalencies, as provided under Article VI, paragraphs 3 and 4, of the Convention, except where stated above, are noted *(insert description if applicable)*:

No equivalency has been granted.

Name:

Title:

Signature:

Place:

Date:

(Seal or stamp of the authority, as appropriate)

Exemptions

(Note: Strike out the statement which is not applicable)

The following exemptions granted by the competent authority as provided in Title 3 of the Convention are noted:

No exemption has been granted.

Name:

Title:

Signature:

Place:

Date:

(Seal or stamp of the authority, as appropriate)

DECLARATION OF MARITIME LABOUR COMPLIANCE – PART II

Measures adopted to ensure ongoing compliance between inspections

The following measures have been drawn up by the shipowner, named in the Maritime Labour Certificate to which this Declaration is attached, to ensure ongoing compliance between inspections:

(State below the measures drawn up to ensure compliance with each of the items in Part I)

1. Minimum age (Regulation 1.1) []
2. Medical certification (Regulation 1.2) []
3. Qualifications of seafarers (Regulation 1.3) []
4. Seafarers' employment agreements (Regulation 2.1) []
5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4) []
6. Hours of work or rest (Regulation 2.3) []
7. Manning levels for the ship (Regulation 2.7) []
8. Accommodation (Regulation 3.1) []
9. On-board recreational facilities (Regulation 3.1) []
10. Food and catering (Regulation 3.2) []
11. Health and safety and accident prevention (Regulation 4.3) []
12. On-board medical care (Regulation 4.1) []
13. On-board complaint procedures (Regulation 5.1.5) []
14. Payment of wages (Regulation 2.2) []

I hereby certify that the above measures have been drawn up to ensure ongoing compliance, between inspections, with the requirements listed in Part I.

Name of shipowner:[3]

Company address:

Name of the authorized signatory:

Title:

Signature of the authorized signatory:

Date:

(Stamp or seal of the shipowner³)

The above measures have been reviewed by *(insert name of competent authority or duly recognized organization)* and, following inspection of the ship, have been determined as meeting the purposes set out under Standard A5.1.3, paragraph 10(b), regarding measures to ensure initial and ongoing compliance with the requirements set out in Part I of this Declaration.

Name:

Title:

Address:

Signature:

Place:

Date:

(Seal or stamp of the authority, as appropriate)

INTERIM MARITIME LABOUR CERTIFICATE

Issued under the provisions of Article V and Title 5 of the
Maritime Labour Convention, 2006
(referred to below as «the Convention»)
under the authority of the Government of:

.....

(full designation of the State whose flag the ship is entitled to fly)

by

(full designation and address of the competent authority or recognized organization
duly authorized under the provisions of the Convention)

Particulars of the ship

Name of ship

Distinctive number or letters

Port of registry

Date of registry

Gross tonnage[4]

IMO number

Type of ship

Name and address of the shipowner[5]

This is to certify, for the purposes of Standard A5.1.3, paragraph 7, of the
Convention, that:

(a) this ship has been inspected, as far as reasonable and practicable, for the
matters listed in Appendix A5I to the Convention, taking into account verification of
items under (b), (c) and (d) below;

(b) the shipowner has demonstrated to the competent authority or recognized
organization that the ship has adequate procedures to comply with the Convention;

(c) the master is familiar with the requirements of the Convention and the
responsibilities for implementation; and

(d) relevant information has been submitted to the competent authority or recognized
organization to produce a Declaration of Maritime Labour Compliance.

This Certificate is valid until subject to inspections in
accordance

with Standards A5.1.3 and A5.1.4.

Completion date of the inspection referred to under (a) above was
.....

Issued at on

Signature of the duly authorized official issuing the interim certificate

.....

(Seal or stamp of issuing authority, as appropriate)

APPENDIX A5-III

General areas that are subject to a detailed inspection by an authorized officer in a port of a Member carrying out a port State inspection pursuant to Standard A5.2.1:

Minimum age

Medical certification

Qualifications of seafarers

Seafarers' employment agreements

Use of any licensed or certified or regulated private recruitment and placement service

Hours of work or rest

Manning levels for the ship

Accommodation

On-board recreational facilities

Food and catering

Health and safety and accident prevention

On-board medical care

On-board complaint procedures

Payment of wages

APPENDIX B5-I

EXAMPLE OF A NATIONAL DECLARATION

See Guideline B5.1.3, paragraph 5
Maritime Labour Convention, 2006
Declaration of Maritime Labour Compliance – Part I

(Note: This Declaration must be attached to the ship's Maritime Labour Certificate)

Issued under the authority of: The Ministry of Maritime Transport of Xxxxxx

With respect to the provisions of the Maritime Labour Convention, 2006, the following referenced ship:

Name of ship	IMO number	Gross tonnage
M.S. EXAMPLE	12345	1,000

is maintained in accordance with Standard A5.1.3 of the Convention.

The undersigned declares, on behalf of the abovementioned competent authority that:

- (a) the provisions of the Maritime Labour Convention are fully embodied in the national requirements referred to below;
- (b) these national requirements are contained in the national provisions referenced below; explanations concerning the content of those provisions are provided where necessary;
- (c) the details of any substantial equivalencies under Article VI, paragraphs 3 and 4, are provided <under the corresponding national requirement listed below> <in the section provided for this purpose below> *(strike out the statement which is not applicable)*;
- (d) any exemptions granted by the competent authority in accordance with Title 3 are clearly indicated in the section provided for this purpose below; and
- (e) any ship-type specific requirements under national legislation are also referenced under the requirements concerned.

1. Minimum age (Regulation 1.1)

Shipping Law, No. 123 of 1905, as amended («Law»), Chapter X; Shipping Regulations («Regulations»), 2006, Rules 1111-1222.

Minimum ages are those referred to in the Convention.

»Night« means 9 p.m. to 6 a.m. unless the Ministry of Maritime Transport («Ministry») approves a different period.

Examples of hazardous work restricted to 18-year-olds or over are listed in Schedule A hereto. In the case of cargo ships, no one under 18 may work in the areas marked on the ship's plan (to be attached to this Declaration) as «hazardous area».

2. Medical certification (Regulation 1.2)

Law, Chapter XI; Regulations, Rules 1223-1233.

Medical certificates shall conform to the STCW requirements, where applicable; in other cases, the STCW requirements are applied with any necessary adjustments.

Qualified opticians on list approved by Ministry may issue certificates concerning eyesight.

Medical examinations follow the ILO/WHO Guidelines referred to in Guideline B1.2.1

Declaration of Maritime Labour Compliance – Part II

Measures adopted to ensure ongoing compliance between inspections

The following measures have been drawn up by the shipowner, named in the Maritime Labour Certificate to which this Declaration is attached, to ensure ongoing compliance between inspections:

(State below the measures drawn up to ensure compliance with each of the items in Part I)

1. Minimum age (Regulation 1.1) [X]

Date of birth of each seafarer is noted against his/her name on the crew list.

The list is checked at the beginning of each voyage by the master or officer acting on his or her behalf («competent officer»), who records the date of such verification.

Each seafarer under 18 receives, at the time of engagement, a note prohibiting him/her from performing night work or the work specifically listed as hazardous (see Part I, section 1, above) and any other hazardous work, and requiring him/her to consult the competent officer in case of doubt. A copy of the note, with the sea farer's signature under «received and read», and the date of signature, is kept by the competent officer.

2. Medical certification (Regulation 1.2) [X]

The medical certificates are kept in strict confidence by the competent officer, together with a list, prepared under the competent officer's responsibility and stating for each seafarer on board: the functions of the seafarer, the date of the current medical certificate(s) and the health status noted on the certificate concerned. In any case of possible doubt as to whether the seafarer is medically fit for a particular function or functions, the competent officer consults the seafarer's doctor or another qualified practitioner and records a summary of the practitioner's conclusions, as well as the practitioner's name and telephone number and the date of the consultation.

[1]For ships covered by the tonnage measurement interim scheme adopted by the IMO, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969). See Article II(1)(c) of the Convention.

[2]*Shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.

[3]*Shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.

[4]For ships covered by the tonnage measurement interim scheme adopted by the IMO, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969). See Article II(1)(c) of the Convention.

[5]*Shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.

KONVENCIJA O RADU POMORACA, 2006

PREAMBULA

Opšta konferencija Međunarodne organizacije rada,

Sazvana u Ženevi od strane Upravnog odbora Međunarodne kancelarije rada, koja se sastala na svom devedeset četvrtom zasjedanju 7. februara 2006. godine,

U želji da sačini jedan, jedinstveni instrument koji bi u najvećoj mogućoj meri obuhvatio sve najnovije standarde postojećih konvencija i preporuka o međunarodnom radu pomoraca, kao i osnovna načela koja se mogu naći u drugim međunarodnim konvencijama o radu, naročito u:

- Konvenciji o prisilnom radu, usvojene 1930. godine (br. 29),
- Konvenciji o slobodi udruživanja i zaštiti prava na organizovanje, usvojene 1948. godine (br. 87),
- Konvenciji o organizovanju i kolektivnom pregovaranju, usvojene 1949. godine (br. 98),
- Konvenciji o jednakim platama, usvojene 1951. godine (br. 100),
- Konvenciji o oslobađanju od prisilnog rada, usvojene 1957. godine (br. 105),
- Konvenciji o diskriminaciji (zaposlenje i zanimanje), usvojene 1958. godine (br. 111),
- Konvenciji o najnižim godinama života, usvojene 1973. godine (br. 138),
- Konvenciji o najgorim oblicima rada dece, usvojene 1999. godine (br. 182),

imajući u vidu osnovni zadatak Organizacije da promoviše dostojne uslove rada, i podsećajući na Deklaraciju MOR-a o temeljnim načelima i pravima na radu iz 1998. godine, i

imajući u vidu, takođe, da se na pomorce primenjuju odredbe drugih instrumenata MOR-a, kao i da pomorci imaju prava koja su utvrđena kao osnovna prava i slobode primenjiva na sva lica, i

uzimajući u obzir da, s obzirom na globalnu prirodu broderske industrije, pomorci zahtevaju posebnu zaštitu, i

imajući na umu takođe međunarodne standarde o bezbednosti broda, zaštiti ljudi i kvalitetu upravljanja brodovima utvrđene u Međunarodnoj konvenciji o zaštiti ljudskog života na moru, usvojene 1974. godine, kako je izmenjena i dopunjena, Konvenciju o međunarodnim pravilima o izbegavanju sudara na moru, usvojenu 1972. godine, kako je izmenjena i dopunjena, kao i zahteve za obuku i osposobljenost pomoraca koji su utvrđeni u Međunarodnoj konvenciji o standardima za obuku, izdavanje uverenja i vršenje brodske straže pomoraca, usvojene 1978. godine, kako je izmenjena i dopunjena, i

podsećajući da Konvencija Ujedinjenih nacija o pravu mora, usvojena 1982. godine, uspostavlja opšti pravni okvir unutar kojeg se moraju odvijati sve aktivnosti na okeanima i morima i da je ona od strateškog interesa kao osnova za nacionalna, regionalna i globalna delovanja i saradnju u oblasti pomorskih poslova, kao i da je njen integritet potrebno održati, i

podsećajući da član 94. Konvencije Ujedinjenih nacija o pravu mora, usvojena 1982. godine, utvrđuje dužnosti i obaveze države zastave, pored ostalog i s obzirom na radne uslove, posadu i socijalna pitanja na brodovima koji plove pod njihovom zastavom, i

podsećajući na stav 8. člana 19. Ustava Međunarodne organizacije rada koji predviđa da usvajanje bilo koje konvencije ili preporuke od strane Konferencije ili ratifikacija bilo koje konvencije od strane bilo koje članice, ni u kojem slučaju ne utiče na zakon, presudu, običaj ili ugovor koji obezbeđuje povoljnije uslove za odnosne radnike od onih koji su predviđeni u konvenciji ili preporuci, i

rešene da ovom novom instrumentu treba obezbediti najveću moguću prihvatljivost između vlada, brodovlasnika i pomoraca obavezanih načelima dostojnog rada, da treba omogućiti njegovo lako osavremenjivanje, kao i uspešnu primenu, i

odlučivši da usvoji određene predloge za ostvarenje takvog instrumenta, koji je jedina tačka dnevnog reda zasedanja, i

utvrdivši da ovi predlozi treba da dobiju oblik međunarodne konvencije,

usvaja 23. februara 2006. godine, sledeću Konvenciju koja se može navoditi kao Konvencija o radu pomoraca iz 2006. godine.

OPŠTE OBAVEZE

Član I

1. Svaka članica koja potvrdi ovu Konvenciju dužna je da obezbediti puno dejstvo njenim odredbama na način utvrđen u članu VI kako bi obezbedila pravo svim pomorcima na dostojno zaposlenje.

2. Članice će sarađivati jedna sa drugom u cilju obezbeđenja efikasne primene ove Konvencije.

DEFINICIJE I DOMEN PRIMENE

Član II

1. U svrhu ove Konvencije, i ako nije drugačije predviđeno u pojedinim odredbama, izraz:

(a) *nadležni organ* znači ministar, vladino telo ili druga vlast koja je ovlašćena da donosi i sprovodi pravila, naredbe ili druga uputstva koja imaju snagu zakona u pogledu predmeta na koji se odredba odnosi;

(b) *deklaracija o ispunjavanju uslova rada pomoraca* znači deklaracija navedena u Pravilu 5.1.3;

(c) *bruto tonaža* znači bruto tonaža izračunata u skladu sa pravilima o merenju tonaže sadržanim u Prilogu I Međunarodne konvencije o baždarenju brodova iz 1969. godine ili neke sledeće konvencije; za brodove na koje se odnosi privremeni način merenja tonaže koju je usvojila Međunarodna pomorska organizacija, bruto tonaža je ona koja je uključena u deo PRIMEDBE Međunarodnog svedočanstva o baždarenju (1969);

(d) *svedočanstvo o radu pomoraca* znači svedočanstvo navedeno u Pravilu 5.1.3;

(e) *zahtevi ove Konvencije* odnose se na zahteve u ovim članovima i u Pravilima, kao i Delu A Kodeksa ove Konvencije;

(f) *pomorac* znači bilo koje lice koje je zaposleno ili uzeto u službu ili koje radi u bilo kom svojstvu na brodu na koji se primenjuje ova Konvencija;

(g) *sporazum o zaposlenju pomoraca* obuhvata i ugovor o zaposlenju i članove ugovora;

(h) *služba za pribavljanje i zapošljavanje pomoraca* znači bilo koje lice, privredno društvo, ustanovu, agenciju ili drugu organizaciju javnog ili privatnog sektora koja se bavi angažovanjem pomoraca u ime brodovlasnika ili povezivanjem pomoraca sa brodovlasnicima;

(i) *brod* znači brod, osim onog koji plovi isključivo u unutrašnjim vodama ili u vodama unutar ili veoma blizu zatvorenih voda ili područja gde se primenjuju lučka pravila;

(j) *brodovlasnik* znači vlasnik broda ili druga organizacija ili lice, kao što su menadžer, agent ili zakupac broda bez posade, koji su preuzeli odgovornost za upravljanje brodom od vlasnika i koji su, preuzimajući takvu odgovornost, prihvatili da preuzmu dužnosti i odgovornosti nametnute brodovlasniku u skladu sa ovom Konvencijom, bez obzira da li neka druga organizacija ili lice ispunjava određene dužnosti ili obaveze u ime brodovlasnika.

2. Ako nije izričito drugačije predviđeno, ova Konvencija primenjuje se na sve pomorce.

3. U slučaju sumnje da li neku grupu lica treba smatrati pomorcima u svrhu ove Konvencije, odluku o tome doneće nadležna vlast svake članice nakon konsultacija sa organizacijama brodovlasnika i pomoraca zainteresovanih za ovo pitanje.

4. Ako nije izričito drugačije predviđeno, ova Konvencija se primenjuje na sve brodove, javnog ili privatnog vlasništva, koji se redovno bave trgovačkim poslovima, osim brodova koji se bave ribolovom ili sličnim poslovima i brodova tradicionalne gradnje kao što su dusi i džunke. Ova Konvencija ne primenjuje se na ratne brodove i pomoćne brodove ratne mornarice.

5. U slučaju sumnje da li se ova Konvencija primenjuje na brod ili na posebnu grupu brodova, odluku o tome doneće nadležna vlast svake članice nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca.

6. Ako nadležna vlast utvrdi da ne bi bilo razumno ili odgovarajuće u ovom trenutku primeniti određene pojedinosti Kodeksa, navedenog u stavu 1. člana VI, na brod ili posebne grupe brodova koji plove pod zastavom članice, navedene odredbe Kodeksa neće se primeniti u meri u kojoj je to područje različito uređeno u nacionalnim zakonima ili pravilima ili kolektivnim ugovorima o pregovaranju ili drugim merama. Takva odluka može se doneti samo nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca i može se odnositi samo na brodove manje od 200 bruto tonaže koji ne obavljaju međunarodna putovanja.

7. Svaka odluka članice prema st. 3, 5. ili 6. ovog člana saopštava se generalnom direktoru Međunarodne kancelarije rada koji će o tome obavestiti članice Organizacije.

8. Osim ukoliko nije izričito drugačije predviđeno, pozivanje na ovu Konvenciju znači istovremeno i pozivanje na Pravila i Kodeks.

OSNOVNA PRAVA I NAČELA

Član III

Svaka članica obezbediće da odredbe njenog zakona i pravila, s obzirom na ovu Konvenciju, poštuju osnovna prava na:

(a) slobodu udruživanja i efikasno priznavanje prava na kolektivno pregovaranje;

(b) ukidanje svih oblika prisilnog ili obaveznog rada;

(c) efikasnu zabranu dečijeg rada; i

(d) ukidanje diskriminacije u pogledu zaposlenja i zanimanja.

ZAPOSLENJE POMORACA I SOCIJALNA PRAVA

Član IV

1. Svaki pomorac ima pravo na bezbedno i sigurno radno mesto koje ispunjava standarde bezbednosti.
2. Svaki pomorac ima pravo na poštene uslove zaposlenja.
3. Svaki pomorac ima pravo na dostojne radne i životne uslove na brodu.
4. Svaki pomorac ima pravo na zdravstvenu zaštitu, medicinsku negu, mere socijalne pomoći i druge oblike socijalne zaštite.
5. Svaka članica će obezbediti, u granicama svoje nadležnosti, da zaposlenje pomoraca i socijalna prava utvrđena u prethodnim stavovima ovog člana budu potpuno sprovedena u skladu sa zahtevima ove Konvencije. Osim ako je drugačije navedeno u Konvenciji, takva primena može se postići nacionalnim zakonima ili pravilima, kroz odgovarajuće kolektivne ugovore o pregovaranju, te drugim merama ili praksom.

ODGOVORNOST ZA SPROVOĐENJE I PRIMENU

Član V

1. Svaka članica će doneti i primenjivati zakone ili pravila ili druge mere koje je usvojila kako bi ispunila svoje obaveze iz ove Konvencije u odnosu na brodove i pomorce pod njenom jurisdikcijom.
2. Svaka članica efikasno će ostvarivati svoju jurisdikciju i nadzor nad brodovima koji plove pod njenom zastavom uspostavljanjem sistema obezbeđenja ispunjavanja zahteva ove Konvencije, uključujući redovne inspekcije, izveštavanjem, praćenjem i vođenjem pravnih postupaka prema zakonima koji se primenjuju.
3. Svaka članica će obezbiti da brodovi koji plove pod njenom zastavom imaju svedočanstvo pomorskog rada i deklaraciju o ispunjavanju uslova rada pomoraca, kako to propisuje ova Konvencija.
4. Brod na koji se primenjuje ova Konvencija, u skladu sa međunarodnim pravom, može da bude podvrgnut inspekciji od strane članice koja nije država zastave kada je brod u nekoj od njenih luka, kako bi utvrdila da li brod ispunjava zahteve ove Konvencije.
5. Svaka članica efikasno će ostvarivati svoju jurisdikciju i nadzor nad službama za angažovanje i zapošljavanje pomoraca, ako su one osnovane na njenoj teritoriji.
6. Svaka članica će zabraniti kršenje zahteva ove Konvencije i, u skladu sa međunarodnim pravom, propisati sankcije ili će zahtevati usvajanje mera za otklanjanje nedostataka prema njenim zakonima koje će na odgovarajući način obeshrabrili takva kršenja.
7. Svaka članica će ispunjavati svoje obaveze prema ovoj Konvenciji na način da obezbedi da brodovi koji plove pod zastavom neke države koja nije potvrdila ovu Konvenciju ne uživaju povoljniji postupak od brodova koji plove pod zastavom bilo koje države koja je potvrdila Konvenciju.

PRAVILA I DELOVI A I B KODEKSA

Član VI

1. Pravila i odredbe Dela A Kodeksa su obavezne. Odredbe Dela B Kodeksa nisu obavezne.

2. Svaka članica dužna je da uvažava prava i načela utvrđena u Pravilima i da primeni svako Pravilo na način utvrđen u odgovarajućim odredbama Dela A Kodeksa. Pored toga, članica će razmotriti primenu svojih obaveza na način koji je predviđen u Delu B Kodeksa.

3. Članica koja nije u mogućnosti da primeni prava i načela na način koji je propisan u Delu A Kodeksa može da, ako nije izričito drugačije predviđeno ovom Konvencijom, primeni Deo A odredbama njenih zakona i pravila ili drugim merama koje su u suštini jednake odredbama Dela A.

4. Isključivo u svrhu stava 3. ovog člana, bilo koji zakon, pravilo, kolektivni ugovor ili druga izvršna mera, smatraju se u suštini jednakim u okviru ove Konvencije, ako se članica uveri da:

(a) ona vodi potpunom ostvarivanju opšteg cilja i svrhe odredbe ili odredbi Dela A Kodeksa; i

(b) da se njom ostvaruje dejstvo pojedine odredbe ili odredbi Dela A Kodeksa.

KONSULTACIJE SA ORGANIZACIJAMA BRODOVLASNIKA I POMORACA

Član VII

O svakom ukidanju, izuzeću ili drugoj slobodnoj primeni ove Konvencije za koje Konvencija zahteva konsultacije sa organizacijama brodovlasnika i pomoraca, članica može, u slučajevima kada unutar te članice ne postoje predstavničke organizacije brodovlasnika i pomoraca, sama o tome odlučiti nakon konsultacije sa Odborom navedenim u članu XIII.

STUPANJE NA SNAGU

Član VIII

1. Formalna potvrđivanja ove Konvencije saopštiće se generalnom direktoru Međunarodne kancelarije rada, radi registrovanja.

2. Ova Konvencija obavezuje samo one članice Međunarodne organizacije rada čija je potvrđivanja registrovao generalni direktor.

3. Ova Konvencija stupa na snagu 12 meseci od datuma registrovanja potvrđivanja najmanje 30 članica čije je ukupno učešće u svetskoj bruto tonaži brodova najmanje 33%.

4. Nadalje, ova Konvencija stupa na snagu za bilo koju članicu 12 meseci od datuma registrovanja njenog potvrđivanja.

OTKAZIVANJE

Član IX

1. Članica koja je potvrdila ovu Konvenciju može je otkazati nakon isteka roka od deset godina od dana kada je Konvencija prvi put stupila na snagu, aktom upućenim

generalnom direktoru Međunarodne kancelarije rada, radi registrovanja. Takav otkaz neće proizvoditi dejstvo do isteka roka od godinu dana od datuma registrovanja.

2. Svaka članica koja nije, u roku od godinu dana od proteka perioda od deset godina navedenog u stavu 1. ovog člana, iskoristila pravo na otkaz predviđen u ovom članu, biće obavezana za sledeći period od deset godina, a zatim može otkazati ovu Konvenciju po isteku svakog novog perioda od deset godina pod uslovima koji su predviđeni u ovom članu.

DEJSTVO STUPANJA NA SNAGU

Član X

Ovom Konvencijom revidiraju se sledeće Konvencije:

Konvencija o najmanjim godinama života (more), usvojena 1920. godine (br. 7)

Konvencija o naknadi za nezaposlenost (brodolom), usvojena 1920. godine (br. 8)

Konvencija o zapošljavanju pomoraca, usvojena 1920. godine (br. 9)

Konvencija o lekarskom pregledu mlađih lica (more), usvojena 1921. godine (br. 16)

Konvencija o ugovorima o radu pomoraca, usvojena 1926. godine (br. 22)

Konvencija o repatrijaciji pomoraca, usvojena 1926. godine (br. 23)

Konvencija o svedočanstvima o osposobljenosti oficira, usvojena 1936. godine (br. 53)

Konvencija o plaćenim odmorima (more), usvojena 1936. godine (br. 54)

Konvencija o odgovornosti brodovlasnika (bolest i povrede pomoraca), usvojena 1936. godine (br. 55)

Konvencija o osiguranju pomoraca u slučaju bolesti (more), usvojena 1936. godine (br. 56)

Konvencija o radnom vremenu i brojnom stanju posade (more), usvojena 1936. godine (br. 57)

Konvencija (izmenjena) o najmanjim godinama života (more), usvojena 1936. godine (br. 58)

Konvencija o prehrani i posluživanju hrane na brodovima, usvojena 1946. godine (br. 68)

Konvencija o diplomi o osposobljenosti brodskih kuvara, usvojena 1946. godine (br. 69)

Konvencija o socijalnom osiguranju pomoraca, usvojena 1946. godine (br. 70)

Konvencija o plaćenim odmorima pomoraca, usvojena 1946. godine (br. 72)

Konvencija o lekarskom pregledu pomoraca, usvojena 1946. godine (br. 73)

Konvencija o svedočanstvima kvalifikovanih mornara, usvojena 1946. godine (br. 74)

Konvencija o smeštaju posade na brodu, usvojena 1946. godine (br. 75)

Konvencija o platama, radnom vremenu na brodu i brojnom stanju posade (more), usvojena 1946. godine (br. 76)

Konvencija o plaćenim odmorima (pomorci), usvojena 1949. godine (br. 91)

Konvencija (izmenjena) o smeštaju posade na brodu, usvojena 1949. godine (br. 92)

Konvencija (izmenjena) o platama, radnom vremenu na brodu i brojnom stanju posade, usvojena 1949. godine (br. 93)

Konvencija (izmenjena) o platama, radnom vremenu na brodu i brojnom stanju posade, usvojena 1958. godine (br. 109)

Konvencija o smeštaju posade na brodu (dopunske odredbe), usvojena 1970. godine (br. 133)

Konvencija o sprečavanju nezgoda (pomorci), usvojena 1970. godine (br. 134)

Konvencija o stalnosti zaposlenja, usvojena 1976. godine (br. 145)

Konvencija o plaćenim godišnjim odmorima pomoraca, usvojena 1976. godine (br. 146)

Konvencija o najnižim standardima u morskom brodarstvu, usvojena 1976. godine (br. 147)

Protokol 1996. Konvencije o najnižim standardima u morskom brodarstvu, usvojena 1976. godine

Konvencija o socijalnoj pomoći pomoraca, usvojena 1987. godine (br. 163)

Konvencija o zaštiti zdravlja i medicinskoj negi (pomorci), usvojena 1987. godine (br. 164)

Konvencija (izmenjena) o socijalnom osiguranju pomoraca, usvojena 1987. godine (br. 165)

Konvencija (izmenjena) o repatrijaciji pomoraca, usvojena 1987. godine (br. 166)

Konvencija o inspekciji rada pomoraca, usvojena 1996. godine (br. 178)

Konvencija o angažovanju i zapošljavanju pomoraca, usvojena 1996. godine (br. 179)

Konvencija o radnom vremenu i brojnom stanju posade na brodovima, usvojena 1996. godine (br.180) .

FUNKCIJE DEPOZITARA

Član XI

1. Generalni direktor Međunarodne kancelarije rada obavestiće sve članice Međunarodne organizacije rada o registrovanju svih potvrđivanja, prihvatanja i otkaza prema ovoj Konvenciji.

2. Kada se ispune uslovi predviđeni stavom 3. člana VIII, generalni direktor će ukazati članicama Organizacije na datum na koji će Konvencija stupiti na snagu.

Član XII

Generalni direktor Međunarodne kancelarije rada saopštiće generalnom sekretaru Ujedinjenih nacija radi registracije, u skladu sa članom 102. Povelje Ujedinjenih nacija, potpune podatke o svim potvrđivanjima, prihvatanjima i otkazima koji su registrovani prema ovoj Konvenciji.

POSEBAN TRIPARTITNI ODBOR

Član XIII

1. Upravni odbor Međunarodne kancelarije rada stalno će preispitivati predmet ove Konvencije kroz odbor koji je osnovao sa posebnim nadležnostima u oblasti standarda rada u pomorstvu.
2. Za pitanja kojima će se baviti u skladu sa ovom Konvencijom, Odbor će se sastojati od dva predstavnika koje imenuje vlada svake članice koja je potvrdila ovu Konvenciju i predstavnika brodovlasnika i pomoraca koje određuje Upravni odbor nakon konsultacija sa Zajedničkom pomorskom komisijom.
3. Predstavnici vlada članica koje još nisu potvrdile ovu Konvenciju mogu da učestvuju u radu Odbora, ali nemaju pravo glasa ni o jednom predmetu rasprave u skladu sa ovom Konvencijom. Upravni odbor može da pozove druge organizacije ili entitete da budu predstavljeni u Odboru kao posmatrači.
4. Glasovi svakog predstavnika brodovlasnika i pomoraca u Odboru važe se tako da se obezbedi da grupa brodovlasnika i grupa pomoraca ima po polovinu od ukupnog broja glasova vlada predstavljenih na odnosnom sastanku i sa pravom glasa.

IZMENA I DOPUNA KONVENCIJE

Član XIV

1. Izmene i dopune bilo koje odredbe ove Konvencije može usvojiti Opšta konferencija Međunarodne organizacije rada u skladu sa članom 19. Ustava Međunarodne organizacije rada i pravila i postupaka Organizacije za usvajanje konvencija. Izmene i dopune Kodeksa mogu se takođe usvojiti na osnovu postupaka iz člana XV.
2. U slučaju članica čija su potvrđivanja ove Konvencije registrovana pre usvajanja izmene i dopune, tekst izmene i dopune biće im saopšten radi potvrđivanja.
3. U slučaju drugih članica Organizacije, tekst Konvencije, kako je izmenjen i dopunjen, biće im saopšten radi potvrđivanja u skladu sa članom 19. Ustava.
4. Izmjena i dopuna smatraće se prihvaćenom na datum kada su registrovana potvrđivanja izmena i dopuna ili Konvencije, kako je izmenjena i dopunjena, u zavisnosti od slučaja, najmanje 30 članica čije ukupno učešće brodova u svetskoj bruto tonaži iznosi najmanje 33%.
5. Izmjena i dopuna usvojena u skladu sa članom 19. Ustava biće obavezna samo za one članice Organizacije čija potvrđivanja je registrovao generalni direktor Međunarodne kancelarije rada.
6. Za svaku članicu navedenu u stavu 2. ovog člana, izmena i dopuna stupa na snagu 12 meseci od datuma prihvatanja, navedenog u stavu 4. ovog člana ili 12 meseci od datuma kada je njeno potvrđivanje izmene i dopune registrovano, u zavisnosti od toga šta nastupi kasnije.
7. Pridržavajući se stava 9. ovog člana, za članice navedene u stavu 3. ovog člana, Konvencija, kako je izmenjena i dopunjena stupa na snagu 12 meseci od datuma prihvatanja navedenog u stavu 4. ovog člana ili 12 meseci od datuma kad su njihova potvrđivanja Konvencije bila registrovana, u zavisnosti od toga šta nastupi kasnije.
8. Za one članice čija su potvrđivanja ove Konvencije registrovana pre usvajanja izmene i dopune, ali koje nisu potvrdile izmenu i dopunu, ova Konvencija ostaje na snazi bez predmetne izmene i dopune.

9. Svaka članica čije je potvrđivanje ove Konvencije registrovano nakon usvajanja izmene i dopune, ali pre datuma navedenog u stavu 4. ovog člana, može u izjavi priloženoj uz ispravu o potvrđivanju navesti da se njeno potvrđivanje odnosi na Konvenciju bez te izmene i dopune. U slučaju potvrđivanja sa takvom izjavom, Konvencija stupa na snagu za tu članicu 12 meseci od datuma kada je potvrđivanje registrovano. Ako uz ispravu o potvrđivanju nije priložena takva izjava ili je potvrđivanje registrovano na datum ili nakon datuma navedenog u stavu 4, Konvencija stupa na snagu za tu članicu 12 meseci od datuma registrovanja potvrđivanja, a nakon njenog stupanja na snagu u skladu sa stavom 7. ovog člana, izmena i dopuna obavezuje tu članicu, osim ako izmena i dopuna ne predviđa drugačije.

IZMENA I DOPUNA KODEKSA

Član XV

1. Kodeks se može izmeniti i dopuniti postupkom predviđenim u članu XIV ili, ako nije izričito predviđeno drugačije, u skladu sa postupkom predviđenim u ovom članu.

2. Izmenu i dopunu Kodeksa generalnom direktoru Međunarodne kancelarije rada može predložiti vlada svake članice Organizacije ili grupa predstavnika brodovlasnika ili grupa predstavnika pomoraca koji su postavljeni u Odbor, naveden u članu XIII. Izmenu i dopunu koju je predložila vlada mora predložiti ili podržati najmanje pet vlada članica koje su potvrdile Konvenciju ili grupa predstavnika brodovlasnika ili pomoraca navedenih u ovom stavu.

3. Nakon provere da li predlog za izmenu i dopunu odgovara zahtevima iz stava 2. ovog člana, generalni direktor će bez odlaganja predlog koji je praćen bilo kojim primedbama ili savetima koje smatra primerenim saopštiti svim članicama Organizacije, uz poziv da svoja zapažanja ili sugestije u vezi predloga dostave u roku od šest meseci ili nekom drugom roku (koji ne sme biti kraći od tri meseca niti duži od devet meseci) kojeg propiše Upravni odbor.

4. Po isteku roka navedenog u stavu 3. ovog člana, predlog koji je praćen sažetkom svih zapažanja ili sugestija učinjenih u skladu sa tim stavom, dostavlja se Odboru na razmatranje na sastanku. Smatraće se da je Odbor usvojio izmenu i dopunu ako:

(a) je najmanje polovina vlada članica koje su potvrdile Konvenciju prisutna na sastanku na kojem se razmatra predlog; i

(b) većina od najmanje dve trećine članova Odbora glasa za izmenu i dopunu; i

(c) ova većina uključuje glasove u korist predloga od najmanje polovine vladinih glasova, polovine glasova brodovlasnika i polovine glasova pomoraca članova Odbora prijavljenih na sastanku kad je predlog stavljen na glasanje.

5. Izmene i dopune, koje su usvojene u skladu sa stavom 4. ovog člana, podnose se na narednoj sednici Konferencije na odobrenje. Za takvo odobrenje zahteva se većina od dve trećine glasova prisutnih predstavnika. Ako ta većina nije postignuta, predložena izmena i dopuna se vraća Odboru na ponovno razmatranje, ukoliko Odbor tako odluči.

6. Izmene i dopune koje je odobrila Konferencija generalni direktor saopštava svakoj od članica čija su potvrđivanja ove Konvencije bila registrovana pre datuma odobrenja od strane Konferencije. Ove članice u daljem tekstu se nazivaju „potvrđujuće članice“. Saopštenje mora da sadrži pozivanje na ovaj član i propisan rok za saopštenje bilo kakvog formalnog protivljenja. Taj rok je dve godine od datuma

saopštenja, osim ako u vreme odobrenja Konferencija nije odredila drugi rok koji mora da traje najmanje godinu dana. Kopija obaveštenja dostavlja se drugim članicama Organizacije u cilju informiranja.

7. Izmena i dopuna koju je odobrila Konferencija smatraće se prihvaćenom, osim ako do kraja propisanog perioda generalni direktor nije primio formalnu izjavu o protivljenju više od 40% članica koje su potvrdile Konvenciju i koje predstavljaju najmanje 40% bruto tonaže brodova članica koje su potvrdile Konvenciju.

8. Izmena i dopuna koja se smatra prihvaćenom stupa na snagu šest meseci od isteka propisanog perioda za sve potvrđujuće članice osim za one koje su formalno izrazile svoje protivljenje u skladu sa stavom 7. ovog člana, a takvo protivljenje nisu opozvale u skladu sa stavom 11. Međutim:

(a) pre isteka propisanog perioda, bilo koja potvrđujuća članica može obavestiti generalnog direktora da će ona biti obavezana izmenom i dopunom samo nakon narednog izričitog obaveštenja o njenom prihvatanju; i

(b) pre datuma stupanja na snagu izmene i dopune, bilo koja potvrđujuća članica može obavestiti generalnog direktora da ona određeno vreme neće primenjivati izmenu i dopunu.

9. Izmena i dopuna koja je predmet obaveštenja, navedenog u stavu 8(a) ovog člana, stupa na snagu za članicu koja je uputila takvo obaveštenje šest meseci nakon što je članica obavestila generalnog direktora o njenom prihvatanju izmene i dopune, ili na datum kada će izmena i dopuna prvi put da stupi na snagu, u zavisnosti od toga šta je kasnije.

10. Period naveden u stavu 8(b) ovog člana ne sme da bude duži od godinu dana od datuma stupanja na snagu izmene i dopune ili duži od nekog dužeg perioda kojeg je odredila Konferencija u vreme odobravanja izmene i dopune.

11. Članica koja je formalno izrazila svoje protivljenje nekoj izmeni i dopuni može svoje protivljenje povući u svako doba. Ako je generalni direktor primio obaveštenje o povlačenju nakon što je izmena i dopuna stupila na snagu za članicu, izmena i dopuna za tu članicu stupa na snagu šest meseci od datuma registrovanja obaveštenja.

12. Nakon stupanja na snagu neke izmene i dopune, Konvencija može biti potvrđena samo u njenom izmenjenom i dopunjenom obliku.

13. U obimu u kojem se svedočanstvo o radu pomoraca odnosi na područje na koje se primenjuje izmena i dopuna Konvencije koja je stupila na snagu:

(a) članica koja je prihvatila neku izmenu i dopunu nije dužna da proširi pogodnosti Konvencije u pogledu svedočanstva pomorskog rada koja su izdata brodovima koji plove pod zastavom druge članice koja je:

(i) prema stavu 7. ovog člana, formalno izrazila svoje protivljenje izmeni i dopuni i takvo protivljenje nije povukla; ili

(ii) prema stavu 8(a) ovog člana, izjavila da je njeno prihvatanje uslovljeno njenom naknadnom izričitom izjavom, a nije prihvatila izmenu i dopunu; i

(b) članica koja je prihvatila izmenu i dopunu, proširuje pogodnosti Konvencije iz svedočanstva pomorskog rada izdatih brodovima koji plove pod zastavom druge članice koja je dala obaveštenje, prema stavu 8(b) ovog člana, da ona neće primeniti tu izmenu i dopunu u periodu koji je naveden u stavu 10. ovog člana.

SLUŽBENI JEZICI

Član XVI

Engleski i francuski tekst ove Konvencije jednako su verodostojni.

OBJAŠNJENJE O TUMAČENJU PRAVILA I KODEKSA KONVENCIJE O RADU POMORACA

1. Objašnjenje o tumačenju nije deo Konvencije o radu pomoraca, nego je njegova namena da da opšta uputstva o Konvenciji.

2. Konvencija obuhvata tri različita, ali povezana dela: Članove, Pravila i Kodeks.

3. Članovi i Pravila izražavaju suštinu prava i načela i temeljne obaveze potvrđujućih članica Konvencije. Članove i Pravila može izmeniti i dopuniti samo Konferencija prema članu 19. Ustava Međunarodne organizacije rada (vidi član XIV Konvencije).

4. Kodeks sadrži pojedinosti za primenu Pravila. On obuhvata Deo A (obavezni Standardi) i Deo B (neobavezne Smernice). Kodeks se može izmeniti pojednostavljenim postupkom propisanim u članu XV Konvencije. Budući da se Kodeks odnosi na detaljniju primenu, njegove izmene i dopune moraju ostati unutar opšteg okvira članova i pravila.

5. Pravila i Kodeks su definisani u glavnim područjima u pet Poglavlja:

Poglavlje 1: Najmanji zahtevi za rad pomoraca na brodu

Poglavlje 2: Uslovi za zaposlenje

Poglavlje 3: Smeštaj, sredstva za odmor, prehrana i posluživanje hrane

Poglavlje 4: Zaštita zdravlja, zdravstvena nega, socijalna pomoć i bezbednost

Poglavlje 5: Usklađenost i primena

6. Svako poglavlje sadrži grupu odredbi koje se odnose na posebno pravo ili načelo (ili izvršna mera u Poglavlju 5) koje su povezane brojevima. Prva grupa u Poglavlju 1, na primer, sastoji se od Pravila 1. 1, Standarda A 1. 1. i Smernice B 1. 1. koji se odnose na najmanje životno doba.

7. Konvencija ima tri istaknuta cilja:

(a) da utvrdi, svojim članovima i pravilima, čvrstu grupu prava i načela;

(b) da omogući, kroz Kodeks, poželjan stepen slobodnog postupanja članica u pogledu primene ovih prava i načela; i

(c) da obezbedi, kroz Poglavlje 5, odgovarajuću primenu pravila i načela.

8. Postoje dva glavna područja slobode u primeni: jedno je mogućnost da članica, kad je to potrebno (vidi stav 3. člana VI), primeni detaljnije zahteve Dela A Kodeksa kroz suštinski jednako postupanje (kako je utvrđeno u stavu 4. člana VI).

9. Drugo područje slobode u primeni je predviđeno izražavanjem obaveznih zahteva mnogih odredbi Dela A na opštiji način, čime je ostavljen širi okvir za slobodniju odluku u pogledu određene radnje koja će se utvrditi na državnom nivou. U takvim slučajevima, vodič za primenu nalazi se u neobaveznom Delu B Kodeksa. Na taj način članice koje su potvrdile ovu Konvenciju mogu odrediti vrstu radnje koja se od njih može očekivati prema odgovarajućoj opštoj obavezi iz Dela A, kao i radnju koju ne bi trebalo nužno zahtevati. Na primer, Standard A 4.1. zahteva da brodovi imaju brz pristup do potrebnih lekova za medicinsku pomoć na brodu (stav 1. (b)) i da imaju zdravstveni ormarić (stav 4. (a)). Ispunjenje *u dobroj veri* ove poslednje obaveze znači nešto više od posedovanja zdravstvenog ormarića na svakom brodu. Detaljnije

objašnjenje o navedenom dato je u odgovarajućoj Smernici B 4. 1. 1. (stav 4) kojom se obezbeđuje da su sadržaji ormarića ispravno popunjeni, korišćeni i održavani.

10. Članice koje su potvrdile ovu Konvenciju nisu obavezane tom Smernicom i, kako je navedeno u odredbama Poglavlja 5. o nadzoru države luke, inspekcije treba da postupaju samo prema odgovarajućim zahtevima ove Konvencije (Članovi, Pravila i Standardi u Delu A). Međutim, članice su dužne prema stavu 2. člana VI da obrate dužnu pažnju u pogledu ispunjenja svojih obaveza iz Dela A Kodeksa na način predviđen u Delu B. Ako je, proučivši odgovarajuće Smernice na ispravan način, članica odlučila da uvede različite mere koje će obezbediti odgovarajuće popunjavanje, upotrebu i održavanje sadržaja zdravstvenog ormarića, uzimajući prethodno naveden primer, kako to zahteva Standard u Delu A, tada je on prihvatljiv. S druge strane, postupajući po Smernici predviđenoj u Delu B pojedina članica kao i tela MOR-a odgovorna za preispitivanje primene međunarodnih konvencija o radu mogu biti sigurne, bez daljnjih razmatranja, da su mere članice, predviđene za odgovarajuću primenu obaveza prema Delu A na koje se Smernica odnosi, primerene.

PRAVILA I KODEKS

POGLAVLJE 1. NAJMANJI ZAHTEVI ZA RAD POMORACA NA BRODU

Pravilo 1. 1. – Najmanje godine života

Cilj: Obezbediti da na brodu ne rade lica ispod određenih godina života

1. Nijedno lice mlađe od najnižeg životnog doba ne sme da bude zaposleno, uzeto na rad ili da radi na brodu.
2. Najniže godine života u vreme prvog stupanja na snagu ove Konvencije je 16 godina.
3. Veće godine života zahtevaće se u okolnostima utvrđenim u Kodeksu.

Standard A 1. 1.- Najmanje godine života

1. Zabranjeno je zapošljavanje, uzimanje na rad ili rad na brodu licima mlađim od 16 godina.
2. Zabranjen je noćni rad pomoraca mlađih od 18 godina. Za potrebe ovog Standarda „noć“ će se utvrditi u skladu sa nacionalnim zakonima i praksom. Ona mora da obuhvati period od najmanje devet sati koje počinje najkasnije od ponoći, a završava ne ranije od 5 sati ujutro.
3. Izuzetak od strogog ograničenja noćnog rada može da dopusti nadležna vlast ako bi:

(a) efikasna obuka pomoraca u skladu sa utvrđenim programima i planovima bila onemogućena, ili

(b) posebna priroda dužnosti ili priznati program uvežbavanja zahtevali da pomorci na koje se odnosi izuzetak obavljaju dužnosti noću, a vlast utvrdi, nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca, da rad neće biti štetan za njihovo zdravlje ili dobrobit.

4. Zaposlenje, uzimanje na rad ili rad pomoraca mlađih od 18 godina mora biti zabranjen ako postoji verovatnoća da će rad ugroziti njihovo zdravlje ili bezbednost. Vrste takvog rada moraju biti određene nacionalnim zakonima, pravilima ili odlukama nadležne vlasti, nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca, u skladu s odgovarajućim međunarodnim standardima.

Smernica B 1. 1. – Najmanje godine života

1. Kad uređuju radne i životne uslove, članice treba da obrate posebnu pažnju na potrebe lica mlađih od 18 godina.

Pravilo 1. 2. – Uverenje o zdravstvenom stanju

Cilj: Obezbediti da su svi pomorci zdravstveno sposobni za obavljanje svojih dužnosti na moru.

1. Pomorci ne smeju da rade na brodu ako nije utvrđeno da su zdravstveno sposobni da obavljaju svoje dužnosti.
2. Izuzeci mogu biti dopušteni samo na način propisan u Kodeksu.

Standard A 1. 2. – Uverenje o zdravstvenom stanju

1. Nadležna vlast mora zahtevati da, pre početka rada na brodu, pomorci imaju odgovarajuće uverenje o zdravstvenom stanju kojim se potvrđuje da su zdravstveno sposobni da obavljaju dužnosti koje će im biti poverene na moru.

2. Da bi se obezbedilo da uverenja o zdravstvenom stanju istinito odražavaju zdravstveno stanje pomorca, u pogledu dužnosti koje oni obavljaju, nadležna vlast mora da, nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca i obraćajući punu pažnju na primenjive međunarodne smernice navedene u Delu B ovog Kodeksa, propiše prirodu zdravstvenog pregleda i uverenja o zdravstvenom stanju.

3. Ovaj Standard ne zadire u Međunarodnu konvenciju o standardima za obuku, izdavanje uverenja i vršenje brodske straže pomoraca, usvojene 1978. godine, kako je izmenjena i dopunjena (u daljem tekstu: STCW). Uverenje o zdravstvenom stanju izdato u skladu sa zahtevima STCW nadležna vlast će prihvatiti u svrhu Pravila 1. 2. Uverenja o zdravstvenom stanju koje odgovara tim bitnim zahtevima, u slučaju pomoraca na koje se ne odnosi STCW, takođe će biti prihvaćena.

4. Uverenje o zdravstvenom stanju treba da izda na odgovarajući način osposobljen lekar ili, u slučaju uverenja koje se odnosi samo na vid, lice koje je nadležna vlast priznala sposobnom za izdavanje takvog uverenja. Lekari moraju da uživaju punu stručnu nezavisnost pri obavljanju pregleda u postupku zdravstvenih pregleda.

5. Pomorci kojima je odbijeno izdavanje uverenja o zdravstvenom stanju ili im je ograničena sposobnost za rad, naročito s obzirom na vreme, domen rada ili područje poslovanja, moraju imati pravo na daljnji pregled drugog nezavisnog lekara ili nezavisnog zdravstvenog arbitra.

6. Svako uverenje o zdravstvenom stanju mora da utvrdi pre svega:

(a) da su sluh i vid pomorca, kao i razlikovanje boja u slučaju pomorca koji će biti zaposlen na poslovima gde sposobnost za rad koji će obavljati može biti ograničena zbog nerazlikovanja boja, zadovoljeni; i

(b) da pomorac nije takvog zdravstvenog stanja koje bi moglo biti pogoršano radom na moru, učiniti ga nesposobnim za takvu službu ili štetiti zdravlju drugih lica na brodu.

7. Osim u kraćem periodu zbog posebnih dužnosti koje će zainteresovani pomorac obavljati ili ako to zahteva STCW:

(a) trajanje uverenja o zdravstvenom stanju mora biti najviše dve godine, osim ako je pomorac mlađi od 18 godina, u tom slučaju uverenje važi godinu dana;

(b) uverenje o razlikovanju boja važiće najduže šest godina.

8. U hitnim slučajevima, nadležna vlast može dopustiti pomorcu rad bez odgovarajućeg uverenja o zdravstvenom stanju do naredne luke pristajanja u kojoj pomorac može dobiti uverenje o zdravstvenom stanju od lekara pod uslovom da:

(a) period takvog dopuštanja ne prelazi tri meseca; i

(b) da pomorac poseduje nedavno izdato isteklo uverenje o zdravstvenom stanju.

9. Ako ispravnost uverenja istekne tokom putovanja, uverenje će ostati na snazi do naredne luke pristajanja gde pomorac može da dobije uverenje o zdravstvenom stanju od ovlašćenog lekara pod uslovom da taj period ne traje duže od tri meseca.

10. Uverenja o zdravstvenom stanju pomoraca koji rade na brodovima, a koji su redovno zaposleni na međunarodnim putovanjima, moraju biti najmanje na engleskom jeziku.

Smernica B 1. 2. – Uverenja o zdravstvenom stanju
Smernica B 1. 2. 1. – Međunarodne smernice

Nadležna vlast, lekari, ispitivači, brodovlasnici, predstavnici pomoraca i sva druga lica koja se bave zdravstvenim pregledima radi utvrđivanja zdravstvene sposobnosti kandidata za pomorce ili zaposlenih pomoraca, moraju da se pridržavaju *ILO/WHO Smernica o sprovođenju redovnih i povremenih pregleda zdravstvene sposobnosti pomoraca*, uključujući naknadne izmene tih Smernica i svih drugih primenjivih međunarodnih smernica koje je objavila Međunarodna organizacija rada, Međunarodna pomorska organizacija i Svetska zdravstvena organizacija.

Pravilo 1. 3. – Obuka i osposobljavanje

Cilj: Obezbediti da su pomorci obučeni ili osposobljeni za obavljanje svojih dužnosti na brodu

1. Pomorci smeju da rade na brodu samo ako su obučeni ili proglašeni sposobnim ili na drugi način osposobljeni za obavljanje svojih dužnosti.
2. Pomorcima se ne sme dopustiti rad na brodu ako nisu uspešno završili obuku lične bezbednosti na brodu.
3. Kao obuka i provera u skladu sa obaveznim dokumentima koje je usvojila Međunarodna pomorska organizacija smatraće se ispunjavanje zahteva iz st. 1. i 2. ovog Pravila.
4. Svaka članica koja je u vreme potvrđivanja ove Konvencije bila obavezana Konvencijom o kvalifikovanom mornaru, usvojene 1946. godine (br. 74), mora da nastavi da ispunjava obaveze iz te Konvencije dok obavezne odredbe koje se odnose na taj predmet ne usvoji Međunarodna pomorska organizacija i dok one ne stupe na snagu, ili dok ne protekne rok od pet godina od stupanja na snagu ove Konvencije u skladu sa stavom 3. člana VIII, u zavisnosti od toga šta je ranije.

Pravilo 1. 4. – Angažovanje i zapošljavanje

Cilj: Obezbediti pristup pouzdanom i dobro uređenom sistemu pribavljanja i zapošljavanja pomoraca

1. Svi pomorci moraju da imaju pristup efikasnom i odgovarajućem sistemu za pronalaženje zaposlenja na brodu koji je za njih besplatan.
2. Službe za angažovanje i zapošljavanje pomoraca koje rade na teritoriji države članice moraju da odgovaraju standardima utvrđenim u Kodeksu.
3. Svaka članica mora da zahteva za pomorce koji rade na brodovima koji plove pod njenom zastavom, da brodovlasnici koji koriste službe za angažovanje i zapošljavanje pomoraca u zemljama ili na teritorijama država na koje se ne primenjuje ova Konvencija, obezbede da ove službe ispunjavaju zahteve utvrđene u Kodeksu.

Standard A 1. 4. – Angažovanje i zapošljavanje

1. Svaka članica koja ima javnu službu za angažovanje i zapošljavanje pomoraca mora da obezbedi da služba radi uredno, na način kojim se štite i unapređuju prava o zaposlenju pomoraca kako su predviđena ovom Konvencijom.
2. Ako članica ima privatne službe za angažovanje i zapošljavanje pomoraca koje rade na njenoj teritoriji, čiji je prevashodni cilj angažovanje i zapošljavanje pomoraca ili koje angažuju i zapošljavaju značajan broj pomoraca, one moraju da rade samo u skladu sa standardizovanim sistemom koncesija ili overa ili drugim oblikom uređivanja. Ovaj sistem će biti ustanovljen, prilagođen ili menjan samo nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca. U slučaju sumnje da li se primenjuje ova Konvencija na privatne službe za angažovanje i zapošljavanje pomoraca, odluku o tome doneće nadležna vlast u svakoj članici nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca.

Prekomerno povećanje broja privatnih službi za angažovanje i zapošljavanje pomoraca neće se podsticati.

3. Odredbe stava 2. ovog Standarda takođe se primenjuju – u obimu u kojem je određen od strane nadležne vlasti, u konsultacijama sa zainteresovanim organizacijama brodovlasnika i pomoraca, kao odgovarajuće – u odnosu na službe angažovanja i zapošljavanja pomoraca kojima upravljaju organizacije pomoraca na teritoriji države članice za angažovanje pomoraca koji su državljani te članice na brodove koji plove pod njenom zastavom. Službe na koje se odnosi ovaj stav su one koje ispunjavaju sledeće uslove:

- (a) da služba za angažovanje i zapošljavanje pomoraca deluje prema ugovoru o kolektivnom pregovaranju između organizacije i brodovlasnika;
- (b) da se organizacija pomoraca i organizacija brodovlasnika nalaze na teritoriji članice;
- (c) da članica ima nacionalne zakone ili pravila ili postupak za odobravanje ili upisnik ugovora o kolektivnom pregovaranju koji dopušta rad službe za angažovanje i zapošljavanje;
- (d) da služba za angažovanje i zapošljavanje radi na odgovarajući način, a da su mere koje preduzima u pogledu zaštite i promovisanja prava zapošljavanja pomoraca uporedive sa onima koje su predviđene u stavu 5. ovog Standarda.

4. Ništa u ovom Standardu ili Pravilu 1. 4. neće se smatrati da:

- (a) sprečava članicu u održavanju nezavisne javne službe za angažovanje i zapošljavanje pomoraca u okviru politike koja odgovara potrebama pomoraca i brodovlasnika, bez obzira da li su te službe deo javne službe zapošljavanja za sve radnike i poslodavce ili sa njima usklađene; ili
- (b) nameće članici obavezu da ustanovi sistem za rad privatnih službi za angažovanje i zapošljavanje pomoraca na svojoj teritoriji.

5. Članica koja usvaja sistem naveden u stavu 2. ovog Standarda mora svojim zakonima i pravilima ili drugim merama barem da:

- (a) zabrani službama za angažovanje i zapošljavanje pomoraca korišćenje sredstava, mehanizama ili popisa namenjenih sprečavanju ili odvraćanju pomoraca od dobijanja zaposlenja za koje su oni osposobljeni;
- (b) zahteva da pomorac ne snosi, direktno ili indirektno, u potpunosti ili delimično, nikakve takse ili druge naknade za angažovanje ili zapošljavanje pomoraca ili za davanje zaposlenja pomorcima, osim troška za pribavljanje obaveznog uverenja o zdravstvenom stanju, pomorske knjižice i pasoša ili druge slične lične putne isprave, ali ne uključuje trošak za vize koje mora da snosi brodovlasnik; i
- (c) obezbedi da službe za angažovanje i zapošljavanje pomoraca koje rade na njenoj teritoriji:
 - (i) vode i ažuriraju upisnik svih pomoraca koji su preko njih angažovani ili zaposleni kako bi bio dostupan za inspekciju nadležne vlasti;
 - (ii) obezbede da su pomorci obavešteni o svojim pravima i dužnostima prema njihovim ugovorima o zaposlenju pre ili u postupku zaposlenja, kao i da su preduzete odgovarajuće mere da pomorci prouče svoje ugovore o zaposlenju pre i nakon što su ga potpisali i za njih preuzmu kopiju ugovora;

(iii) provere da li su pomorci koje su angažovali ili zaposlili osposobljeni, da li imaju isprave potrebne za određeni posao, kao i da li su ugovori o zaposlenju pomoraca u skladu sa zakonima i pravilima i bilo kojim ugovorom o kolektivnom pregovaranju koji čini deo ugovora o zaposlenju;

(iv) obezbede, koliko je to moguće, da brodovlasnik ima sredstva za zaštitu pomoraca koji su iskrcani u stranoj luci;

(v) prouče i odgovore na svaki prigovor na svoje delovanje i obaveste nadležnu vlast o svakom nerešenom prigovoru;

(vi) ustanove sistem zaštite putem osiguranja ili druge jednakovredne odgovarajuće mere radi naknade novčanog gubitka pomorcima koji može nastati kao posledica propusta službe za angažovanje i zapošljavanje pomoraca ili pojedinog brodovlasnika po ugovoru o zaposlenju pomorca, kako bi ispunili svoje obaveze prema njima.

6. Nadležna vlast mora pažljivo nadgledati i nadzirati sve službe za angažovanje i zapošljavanje pomoraca koje rade na njenoj teritoriji. Sve dozvole, svedočanstva ili slična ovlašćenja za rad privatnih službi na teritoriji te članice moraju da budu izdati ili obnovljeni samo nakon provere da li pojedina služba za angažovanje i zapošljavanje pomoraca ispunjava zahteve nacionalnih zakona i pravila.

7. Nadležna vlast mora obezbediti postojanje odgovarajućih mehanizama i postupaka za istraživanje, ako je potrebno, prigovora o delatnostima službi za angažovanje i zapošljavanje pomoraca, uključujući u taj postupak i, kad je to odgovarajuće, predstavnike brodovlasnika i pomoraca.

8. Svaka članica koja je potvrdila ovu Konvenciju mora, ukoliko je to moguće, obavestiti svoje državljane o mogućim problemima u pogledu stupanja u službu na brodu koji plovi pod zastavom države koja nije potvrdila Konvenciju, dok se ne uvere da su primenjeni standardi suštinski jednaki onima utvrđenim ovom Konvencijom. Mere koje je u tom cilju preduzela članica koja je potvrdila Konvenciju ne smeju da budu u suprotnosti sa načelom slobode kretanja radnika utvrđenim u ugovorima čije strane mogu biti te dve države.

9. Svaka članica koja je potvrdila ovu Konvenciju mora da zahteva da brodovlasnici brodova koji plove pod njenom zastavom, a koji koriste službe za angažovanje i zapošljavanje pomoraca u zemljama ili na teritorijama država na kojima se ova Konvencija ne primenjuje, obezbede, u meri u kojoj je to moguće, da ove službe ispunjavaju zahteve ovog Standarda.

10. Ništa u ovom Standardu neće se tumačiti u smislu da smanjuje obaveze i odgovornosti brodovlasnika ili članice u odnosu na brodove koji plove pod njenom zastavom.

Smernica B 1. 4. – Angažovanje i zapošljavanje

Smernica B 1. 4. 1. – Organizacione i operativne smernice

1. Kad ispunjava svoje obaveze iz stava 1. Standarda A 1. 4, nadležna vlast treba da razmotri:

(a) preduzimanje potrebnih mera za podsticanje uspešne saradnje između službi za angažovanje i zapošljavanje pomoraca, bez obzira da li su one javne ili privatne;

(b) potrebe pomorstva na državnom ili međunarodnom nivou kada sačinjavaju programe obuke za pomorce koji čine deo brodske posade odgovorne za bezbednu plovidbu broda i delatnosti sprečavanja zagađivanja, uz učešće brodovlasnika, pomoraca i odgovarajućih ustanova za obuku;

(c) preduzimanje odgovarajućih mera za saradnju predstavničkih organizacija brodovlasnika i pomoraca u organizaciji i radu javnih službi za angažovanje i zapošljavanje pomoraca, gde one postoje;

(d) utvrđivanje prava na privatnost i potrebu zaštite tajnosti, uslova pod kojima službe za angažovanje i zapošljavanje mogu postupati sa ličnim podacima pomoraca, uključujući sakupljanje, arhiviranje, sastavljanje i saopštavanje takvih podataka trećim stranama;

(e) održavanje mehanizma za prikupljanje i analizu svih odgovarajućih informacija o tržištu rada pomoraca, uključujući sadašnje i buduće angažovanje pomoraca za rad kao članova posade razvrstane po godinama života, polu, položaju, stručnoj osposobljenosti i zahtevima pomorske privrede, sakupljanje podataka o godinama života ili polu upotrebljivih samo u statističke svrhe ili za korišćenje u okviru programa sprečavanja diskriminacije zasnovane na godinama života ili polu;

(f) obezbeđenje da je osoblje odgovorno za nadzor javnih i privatnih službi za angažovanje i zapošljavanje pomoraca za brodsku posadu odgovornu za bezbednu plovību broda i sprečavanje zagađivanja, odgovarajuće osposobljeno, uključujući priznato iskustvo na moru i odgovarajuće znanje o pomorskom brodarstvu, kao i odgovarajuće međunarodne pomorske instrumente o standardima za obuku, izdavanje uverenja i radu;

(g) propisivanje radnih standarda i usvajanje kodeksa o postupanju i etičkoj praksi u službama za angažovanje i zapošljavanje pomoraca; i

(h) obavljanje nadzora sistema dozvola ili potvrda na osnovu sistema standarda kvaliteta.

2. Pri utvrđivanju sistema navedenog u stavu 2. Standarda A 1. 4, svaka članica treba da razmotri zahteve službi za angažovanje i zapošljavanje pomoraca osnovanih na njenoj teritoriji, kao i da razvija i održava proverenu radnu praksu. Ova radna praksa privatnih službi za angažovanje i zapošljavanje pomoraca u obimu koji je primenjiv za javne službe za angažovanje i zapošljavanje pomoraca treba da se odnosi na sledeće:

(a) zdravstvene preglede, isprave o identitetu pomoraca, i druga takva pitanja koja se mogu zahtevati za zapošljavanje pomoraca;

(b) održavanje, uzimajući u obzir pravo na privatnost i potrebu zaštite tajnosti, potpune i obimne evidencije pomoraca koje se odnose na sistem angažovanja i zapošljavanja pomoraca koji treba uključiti, ali se ne ograničavati na:

(i) osposobljavanje pomoraca;

(ii) evidenciju zapošljavanja;

(iii) lične podatke o zapošljavanju; i

(iv) zdravstvene podatke o odgovarajućem zapošljavanju.

(c) ažurirati popis brodova za koje službe za angažovanje i zapošljavanje pomoraca angažuju pomorce, kao i obezbediti postojanje sredstava na osnovu kojih će u svakom trenutku biti moguće ostvariti vezu sa službama;

(d) postupke koji će obezbediti da pomorci nisu podvrgnuti iskorišćavanju službi za angažovanje i zapošljavanje pomoraca i njihovog osoblja s obzirom na ponudu zaposlenja na pojedinim brodovima ili kod pojedinih društava;

(e) postupke za sprečavanje mogućnosti iskorišćavanja pomoraca koje nastaju davanjem povezanih zajmova ili nekim drugim finansijskim poslom

između brodovlasnika i pomoraca o kojima brinu službe za angažovanje i zapošljavanje pomoraca;

(f) jasno objavljivanje troškova, ako postoje, za koje se može očekivati da će ih snositi pomorac u postupku zapošljavanja;

(g) obzbeđivanje da će pomorci biti obavješteni o svim posebnim uslovima koji se odnose na posao na kojem će biti zaposleni i posebnim politikama brodovlasnika koje se odnose na njihovo zaposlenje;

(h) postupke koji su u skladu sa načelima prirodnog prava u postupanju u slučajevima nesposobnosti ili neposlušnosti u skladu sa nacionalnim zakonima i praksom i, kad je to primjenjivo, kolektivnim ugovorima;

(i) postupke koji će obezbediti, koliko je to moguće, da su sva obavezna svedočanstva i isprave podnete radi zaposlenja važeće i da nisu lažno pribavljene, kao i da su preporuke za zapošljavanje proverene;

(j) postupke koji će obezbediti da se sa zahtevima za informacijama ili obavještenjima porodici pomoraca dok su ovi na moru postupa brzo, blagonaklono i bez troškova; i

(k) potvrdu da su radni uslovi na brodovima gde su pomorci smešteni u skladu sa ugovorima o kolektivnom pregovaranju koji se primenjuju, koji su zaključeni između brodovlasnika i predstavničkih organizacija pomoraca i, kao pitanje politike, da se pomorci pribavljaju samo onim brodovlasnicima koji nude uslove zapošljavanja pomoraca koji su u skladu sa zakonima, pravilima ili kolektivnim ugovorima koji se primenjuju.

3. Treba razmotriti podsticanje međunarodne saradnje između članica i odgovarajućih organizacija, kao što je:

(a) organizovana razmena informacija o pomorskom brodarstvu i tržištu rada na bilateralnim, regionalnim ili multilateralnim osnovama;

(b) razmena informacija o pomorskom radnom zakonodavstvu;

(c) usklađivanje politika, radnih postupaka i zakonodavstva kojima se uređuju službe za angažovanje i zapošljavanje pomoraca;

(d) unapređenje postupaka i uslova za međunarodno angažovanje i zapošljavanje pomoraca;

(e) planiranje radne snage, uzimajući u obzir ponudu i potražnju za pomorcima i zahteve pomorskog brodarstva.

POGLAVLJE 2. USLOVI ZAPOSLENJA

Pravilo 2. 1. – Ugovori o zaposlenju pomoraca

Cilj: Obezbediti da pomorci imaju odgovarajući ugovor o zaposlenju

1. Zahtevi i uslovi zapošljavanja pomorca moraju biti utvrđeni ili navedeni u jasno napisanom pravno primenjivom ugovoru, i biti u skladu sa standardima utvrđenim u Kodeksu.

2. Ugovore o zaposlenju pomoraca mora ugovoriti pomorac pod uslovima koji obezbeđuju da on ima mogućnost da ispita i potraži savet o zahtevima i uslovima ugovora i slobodno da ga prihvati pre potpisivanja.

3. U obimu koji je u skladu sa nacionalnim zakonom ili praksom smatraće se da su u ugovore o zaposlenju pomoraca uneti primenjivi ugovori o kolektivnom pregovaranju.

Standard A 2. 1. – Ugovori o zaposlenju pomoraca

1. Svaka članica mora da usvoji zakone ili pravila kojima se zahteva da brodovi koji plove pod njenom zastavom ispunjavaju sledeće zahteve:

(a) pomorci koji rade na brodovima koji plove pod njenom zastavom moraju da imaju ugovor o zaposlenju pomorca koji potpisuju pomorac i brodovlasnik ili predstavnik brodovlasnika (ili, gde oni nisu poslodavci, dokaz o ugovornom ili sličnom odnosu) koji im obezbeđuje dostojne radne i životne uslove na brodu kako to zahteva ova Konvencija;

(b) pomorci koji potpisuju ugovor o zaposlenju moraju da imaju mogućnost da prouče i potraže savet o ugovoru pre njegovog potpisivanja, kao i druge mogućnosti koje su potrebne kako bi se obezbedilo da oni slobodno stupe u ugovor sa dovoljnim razumevanjem svojih prava i obaveza;

(c) svaki brodovlasnik i pomorac moraju da imaju potpisani original ugovora o zaposlenju pomorca;

(d) moraju se preduzeti mere kako bi se obezbedilo da pomorci mogu brzo da dobiju jasnu informaciju o uslovima svog zaposlenja na brodu, uključujući zapovednika broda, kao i da je takva informacija, uključujući kopiju ugovora o zaposlenju pomorca, dostupna radi provere službenicima nadležne vlasti, uključujući i one u lukama pristajanja;

(e) pomorci moraju da dobiju ispravu koja sadrži zabeležku o njihovom zaposlenju na brodu.

2. Ako ugovor o kolektivnom pregovaranju čini ceo ili deo ugovora o zaposlenju pomorca, kopija takvog ugovora mora da se nalazi na brodu. Ako ugovor o zaposlenju pomorca i primenjivi ugovor o kolektivnom pregovaranju nisu na engleskom jeziku, na engleskom jeziku mora biti raspoloživo sledeće (osim na brodovima koji plove samo na domaćim putovanjima):

(a) kopija standardnog oblika ugovora; i

(b) delovi ugovora o kolektivnom pregovaranju koji su podložni inspekciji države luka prema Pravilu 5. 2.

3. Isprava navedena u stavu 1(e) ovog Standarda ne sme da sadrži navode o kvalitetu rada pomorca ili njegovoj plati. Oblik isprave, podaci koji se u nju unose i način unošenja tih podataka mora se utvrditi nacionalnim zakonom.

4. Svaka članica mora da usvoji zakone i pravila u kojima se navodi predmet koji će biti unet u sve ugovore o zaposlenju pomoraca na koje se primenjuje nacionalni zakon. Ugovori o zaposlenju pomoraca moraju u svim slučajevima da sadrže sledeće podatke:

(a) ime i prezime pomorca, datum rođenja ili starost i mesto rođenja;

(b) naziv i adresu brodovlasnika;

(c) mesto i datum kad je ugovor o zaposlenju pomorca zaključen;

(d) svojstvo u kojem je pomorac zaposlen;

(e) iznos plate pomorca ili, kad je to primenjivo, pravilo koje se koristi za njen obračun;

(f) dužina plaćenog godišnjeg odmora ili, kad je to primenjivo, pravilo koje se koristi za njegov obračun;

(g) trajanje ugovora i njegovi uslovi, uključujući:

(i) ako je ugovor zaključen na neodređeno vreme, uslove pod kojima svaka od stranaka ima pravo raskinuti ugovor kao i zahtevani otkazni rok koji ne sme biti kraći za brodovlasnika od onog za pomorca;

(ii) ako je ugovor zaključen na određeno vreme, datum utvrđen za njegov prestanak; i

(iii) ako je ugovor zaključen za putovanje, luka odredišta i vreme koje će proteći nakon dolaska broda pre nego što se pomorac iskrca;

(h) pogodnosti zaštite zdravstvene i socijalne sigurnosti koje brodovlasnik predviđa za pomorca;

(i) pravo pomorca na repatrijaciju;

(j) poziv na ugovor o kolektivnom pregovaranju, ako se primenjuje; i

(k) svaki drugi podatak koji zahteva nacionalno zakonodavstvo.

5. Svaka članica mora da usvoji zakone i pravila kojima se utvrđuje najkraći otkazni rok pomoraca i brodovlasnika za raniji prestanak ugovora o zaposlenju pomoraca. Ovaj najkraći rok mora se utvrditi nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca, a ne sme biti kraći od 7 dana.

6. Kraći otkazni rok od najmanjeg roka može se utvrditi u okolnostima koje priznaje nacionalni zakon ili pravila, ili ugovor o kolektivnom pregovaranju kojima se utvrđuje prestanak ugovora o zaposlenju uz kraći rok otkaza ili bez njega. Pri utvrđivanju ovih okolnosti, svaka članica mora obezbediti uzimanje u obzir potrebe pomorca za prekidom, bez kazne, ugovora o zaposlenju uz kraći rok za davanje otkaza ili bez njega iz razumljivih ili iz drugih hitnih razloga.

Smernica B 2. 1. – Ugovori o zaposlenju pomoraca

Smernica B 2. 1. 1. – Isprava o zaposlenju

1. Prilikom određivanja podataka koji će biti uneti u ispravu o zaposlenju navedenoj u stavu 1(e) Standarda A 2. 1, svaka članica treba da obezbedi da ova isprava sadrži dovoljno podataka, sa prevodom na engleski jezik, koji će olakšati pribavljanje novog zaposlenja ili ispuniti zahteve u pogledu plovidbene službe radi napredovanja ili unapređenja. Pomorska knjižica može da ispuni zahteve iz stava 1(e) tog Standarda.

Pravilo 2. 2. – Plate

Cilj: Obezbediti da su pomorci plaćeni za svoj rad

1. Svi pomorci moraju da budu plaćeni za svoj rad redovno i u potpunosti u skladu sa svojim ugovorima o zaposlenju.

Standard A 2. 2. – Plate

1. Svaka članica mora da zahteva da se isplate za rad pomoraca na brodovima koji plove pod njihovom zastavom ne isplaćuju u rokovima dužim od mesec dana i da su u skladu sa kolektivnim ugovorom koji se primenjuje.

2. Pomorci moraju da dobiju mesečni obračun dospelih isplata i plaćenih iznosa, uključujući plate, dodatne isplate i korišćeni kurs za zamenu ako je isplata izvršena u stranoj valuti ili primenom stopa različitih od onih koje su ugovorene.

3. Svaka članica mora da zahteva da brodovlasnici preduzmu mere kao što su one utvrđene u stavu 4. ovog Standarda kako bi omogućili pomorcima prenos cele ili dela zarade svojim porodicama, licima koja od njih zavise ili korisnicima.

4. Mere na osnovu kojih će se pomorcima obezbediti prenos njihovih zarada njihovim porodicama uključuju:

- (a) sistem koji omogućava pomorcima da doznače, u vreme njihovog zapošljavanja ili tokom njega, ako oni to žele, deo njihovih plata u redovnim rokovima njihovim porodicama prenosom putem banke ili sličnim sredstvima; i
- (b) zahtev da doznake moraju da budu poslate pravovremeno i direktno licu ili licima koje su odredili pomorci.

5. Svaka naknada za uslugu prema st. 3. i 4. ovog Standarda mora biti razumnog iznosa, a kurs za zamenu valuta, osim ako je drugačije predviđeno, u skladu sa nacionalnim zakonima ili pravilima, mora biti prevladavajući tržišni kurs ili službeno objavljen kurs povoljan za pomorce.

6. Svaka članica koja usvaja nacionalne zakone ili pravila kojima se uređuju plate pomoraca nužno mora da razmotri Smernice predviđene u Delu B Kodeksa.

Smernica B 2. 2. – Plate

Smernica B 2. 2. 1. – Posebne definicije

1. U svrhu ove Smernice, izraz:

- (a) *osposobljeni pomorac* znači svaki pomorac koji se smatra sposobnim da obavlja svaku dužnost koja se može zahtevati od osoblja službe palube, osim dužnosti nadzora ili posebnih poslova, ili koja je utvrđena kao takva nacionalnim zakonima, pravilima, praksom ili kolektivnim ugovorom;
- (b) *osnovna plata ili nadnica* znači platu za redovno radno vreme, a ne uključuje isplate za odrađeni prekovremeni rad, bonuse, dodatke, plaćeni odmor ili svaku drugu dodatnu naknadu;
- (c) *ukupna plata* znači plata ili nadnica koja uključuje osnovnu platu i druga primanja u novcu; ukupna plata može uključivati naknadu za sve odrađene prekovremene sate i sva druga primanja u novcu, ili može uključivati samo određena primanja koja su delimično objedinjena.
- (d) *sati rada* znače sati u toku kojih se od pomoraca zahteva da rade za korist broda;
- (e) *prekovremeni rad* znači vreme odrađeno preko redovnih radnih sati.

Smernica B 2. 2. 2. – Obračun i isplata

1. Za pomorce čije naknade uključuju posebnu naknadu za odrađeni prekovremeni rad:

- (a) u svrhu obračuna plata, redovni sati rada na moru i u luci ne bi trebali da prelaze osam sati dnevno;
- (b) u svrhu obračuna prekovremenog rada, broj redovnih sati nedeljno za osnovnu platu ili nadnicu treba da budu propisani nacionalnim zakonom ili pravilima, ako nisu utvrđeni kolektivnim ugovorima, ali ne smeju da prelaze 48 sati nedeljno; kolektivnim ugovorima može se predvideti drugačiji, ali ne manje povoljni postupak;
- (c) stopu ili stope naknade za prekovremeni rad, koje ne smeju da budu manje od 1,25 puta od osnovne plate ili nadnice po satu, treba da budu propisani nacionalnim zakonom ili pravilima ili kolektivnim ugovorom, ako se primenjuje; i
- (d) evidenciju odrađenog prekovremenog rada treba da vodi zapovednik ili od njega ovlašćeno lice, a nju treba da potvrdi pomorac, u rokovima ne dužim od jednog meseca.

2. Za pomorce čije su plate u celini ili delimično objedinjene:

(a) u ugovoru o zaposlenju pomorca treba jasno da bude navedeno, kad je to odgovarajuće, broj sati rada koji se očekuje od pomorca kao uzvrat za ovu naknadu i sve dodatne naknade koje se mogu dugovati pored objedinjene plate i u kojim okolnostima;

(b) ako se prekovremeni rad po satu plaća za odrađene sate preko onih koji su pokriveni ukupnom platom, stopa po satu ne treba da bude manja od 1,25 puta od osnovne stope za redovne sate rada kako je utvrđena u stavu 1. ove Smernice; isto načelo treba primeniti na prekovremene sate uključene u ukupnu platu;

(c) naknada za onaj deo cele ili delimične ukupne plate koja predstavlja redovne sate rada kako su utvrđeni u stavu 1. (a) ove Smernice ne treba da bude manja od postojeće najmanje plate; i

(d) za pomorce čije su plate delimično objedinjene, evidencija svih odrađenih prekovremenih sati treba da se vodi i overi kako je predviđeno u stavu 1. (d) ove Smernice.

3. Nacionalni zakoni ili pravila ili kolektivni ugovori mogu predvideti, kao naknadu za prekovremeni rad ili rad obavljen na dane nedeljnog odmora ili dane javnih praznika, barem jednako vreme izvan dužnosti ili izvan broda ili dodatni odmor umesto naknade ili neku drugu za to predviđenu nadoknadu.

4. Nacionalni zakoni ili pravila usvojeni nakon konsultacija sa predstavničkim organizacijama brodovlasnika i pomoraca ili, ukoliko je to odgovarajuće, kolektivni ugovori, trebaju da uzmu u obzir sledeća načela:

(a) jednaku naknadu za rad jednake vrednosti treba primeniti na sve pomorce zaposlene na istom brodu bez diskriminacije zasnovane na rasi, boji, polu, veri, političkom mišljenju, nacionalnoj opredeljenosti ili socijalnom poreklu;

(b) ugovor o zaposlenju pomorca kojim se određuje plata ili stopa plate koja će se primeniti treba da se nalazi na brodu; obaveštenje o iznosu plata ili stopi plata treba da bude dostupno svakom pomorcu bilo davanjem najmanje jedne potpisane kopije odgovarajućeg obaveštenja pomorcu na jeziku koji pomorac razume, bilo isticanjem kopije ugovora na pomorcu pristupačnom mestu ili nekim drugim odgovarajućim sredstvima;

(c) plate trebaju da budu isplaćene zakonitim sredstvima plaćanja; ako je to odgovarajuće, one mogu da budu isplaćene prenosom putem banke, bankovnim čekom, poštanskim čekom ili novčanom uplatnicom;

(d) po završetku zaposlenja sve dugovane naknade treba da budu isplaćene bez nepotrebnog odlaganja;

(e) nadležna vlast treba da propiše odgovarajuće kazne ili druge odgovarajuće pravne lekove ako brodovlasnik neopravdano odloži ili propusti da isplati svu dugovanu naknadu;

(f) plate treba da budu isplaćene direktno na račune banaka koje su odredili pomorci, osim ako su oni pisanim putem drugačije zatražili;

(g) pridržavajući se tačke (h) ovog stava, brodovlasnik ne treba da preduzima nikakvo ograničenje u odnosu na slobodu pomoraca da raspolažu svojim naknadama;

(h) odbitke od naknada treba dopustiti samo ako:

(i) postoji izričita odredba nacionalnih zakona ili pravila ili primenjivog kolektivnog ugovora, a pomorac je bio o tome obavešten, na način koji nadležna vlast smatra najpogodnijim, o uslovima takvih odbitaka; i

(ii) ukupni odbici ne prelaze granicu koju mogu odrediti nacionalni zakoni ili pravila, kolektivni ugovori ili sudske odluke kojima se određuju takvi odbici;

(i) od naknade pomorca ne treba dopustiti nikakve odbitke radi dobijanja ili zadržavanja zaposlenja;

(j) treba zabraniti novčane kazne pomorcima osim onih koje su dopuštene nacionalnim zakonima, pravilima, kolektivnim ugovorima ili drugim merama;

(k) nadležna vlast treba da sprovodi mere nadzora nad zalihama i uslugama predviđenih na brodu kako bi se obezbedila primena povoljnih i razumnih cena u korist zainteresovanih pomoraca; i

(l) u obimu u kojem potraživanja pomoraca za plate i druge dugovane iznose, s obzirom na njihovo zaposlenje, nisu osigurane u skladu sa odredbama Međunarodne konvencije o pomorskim privilegijama i hipotekama, usvojene 1993. godine, takva potraživanja trebaju da budu zaštićena u skladu sa Konvencijom o zaštiti radničkih potraživanja (poslodavčeva nesposobnost plaćanja), usvojene 1992. godine (br. 173).

5. Svaka članica treba da, na osnovu konsultacija sa predstavničkim organizacijama brodovlasnika i pomoraca, predvidi postupke za istraživanje prigovora koji se odnose na bilo koje pitanje sadržano u ovoj Smernici.

Smernica B 2. 2. 3. – Najniže plate

1. Ne dirajući u načelo slobode kolektivnog pregovaranja, svaka članica treba da, nakon konsultacija sa predstavničkim organizacijama brodovlasnika i pomoraca, utvrdi postupak za određivanje najnižih plata pomoraca. Predstavničke organizacije brodovlasnika i pomoraca trebaju da učestvuju u takvim postupcima.

2. Kad utvrđuje takve postupke i određuje najniže plate, svaka članica treba da obrati dužnu pažnju na međunarodne radne standarde o utvrđivanju najniže plate, kao i o sledećim načelima:

(a) nivo najnižih plata treba da uzme u obzir prirodu pomorskog zaposlenja, nivo ljudstva na brodu i redovne sate rada pomorca; i

(b) nivo najnižih plata treba da bude prilagođen uzimajući u obzir promene životnih troškova i potrebe pomoraca.

3. Nadležna vlast treba da obezbedi:

(a) kroz sistem nadzora i kazni, da isplaćene plate nisu niže od utvrđene stope ili stopa; i

(b) da svaki pomorac koji je bio isplaćen po stopi nižoj od najniže plate ima pravo na povraćaj, u jeftinom i brzom sudskom ili nekom drugom postupku, iznosa za koji je bio manje plaćen.

Smernica B 2. 2. 4. – Najmanja mesečna osnovna plata ili plata obračunata za stručno osposobljene pomorce

1. Osnovna plata ili nadnica za kalendarski mesec službe za stručno osposobljenog pomorca ne bi smela da bude manja od periodičnog iznosa određenog od Zajedničke pomorske komisije ili drugog tela koje je ovlastilo Upravni odbor Međunarodne kancelarije rada. Nakon odluke Upravnog odbora generalni direktor će saopštiti izmenjeni iznos članicama Organizacije.

2. Ništa se u ovoj Smernici neće smatrati štetnim u odnosu na dogovor koji je postignut između brodovlasnika i njihovih organizacija i organizacija pomoraca u

pogledu uređenja najmanjih standardnih zahteva i uslova zaposlenja, ako je takve zahteve i uslove priznala nadležna vlast.

Pravilo 2. 3. – Sati rada i sati odmora

Cilj: Obezbediti da pomorci imaju propisane sate rada i sate odmora

1. Svaka članica mora da obezbedi da sati rada i sati odmora pomoraca budu uređeni.
2. Svaka članica mora da utvrdi najveći broj sati rada ili najmanji broj sati odmora u određenim periodima koji su u skladu sa odredbama u Kodeksu.

Standard A 2. 3. – Sati rada i sati odmora

1. U svrhu ovog Standarda, izraz:

(a) *sati rada* znači sate tokom kojih se od pomoraca zahteva da rade za korist broda;

(b) *sati odmora* znači sate izvan sati rada; ovaj izraz ne uključuje kraće prekide.

2. Svaka članica mora da, u granicama utvrđenim u st. 5. do 8. ovog Standarda, utvrdi ili najveći broj sati rada koji ne sme da bude prekoračen u određenom periodu, ili najmanji broj sati odmora koji se mora obezbediti u određenom vremenskom periodu.

3. Svaka članica potvrđuje da se standard redovnih radnih sati za pomorce, jednak onom za ostale radnike, mora zasnivati na osam sati dnevno sa jednim danom odmora nedeljno i odmorom na dan javnih praznika. Međutim, ovo ne sprečava članicu da svojim postupcima dopusti ili pruži zakonsku zaštitu kolektivnom ugovoru koji utvrđuje radne sate pomoraca na osnovama koje nisu nepovoljnije od ovog standarda.

4. Pri određivanju nacionalnih standarda, svaka članica mora da uzme u obzir opasnost od premora pomoraca, posebno onih čije se dužnosti odnose na bezbednost plovidbe i uredan i bezbedan rad broda.

5. Broj sati rada ili sati odmora moraju biti uređeni na sladeći način:

(a) najveći broj sati rada ne sme biti veći od:

(i) 14 sati tokom bilo koja 24 sata; i

(ii) 72 sata tokom bilo kojih sedam dana;

ili

(b) najmanji broj sati odmora ne sme biti manji od:

(i) 10 sati tokom bilo koja 24 sata; i

(ii) 77 sati tokom bilo kojih sedam dana.

6. Sati odmora mogu se podeliti u najviše dva dela od kojih jedan mora da traje najmanje 6 sati, a razmak između uzastopnih perioda odmora ne sme da prelazi 14 sati.

7. Smotre, vežbe protivpožarne zaštite, vežbe sa čamcima za spašavanje i vežbe propisane nacionalnim zakonima i pravilima i međunarodnim dokumentima moraju da se vode na način koji će što manje ometati vreme odmora i neće dovesti do premora.

8. Kada je pomorac na dužnosti, kao što je to slučaj u mašinskom prostoru bez stalne posade, pomorac mora da ima odgovarajuće dodatno vreme odmora ako je redovno vreme odmora poremećeno pozivima na rad.

9. Ako ne postoji kolektivni ugovor ili arbitražna odluka ili ako nadležna vlast smatra da su odredbe ugovora ili odluke s obzirom na st. 7. i 8. ovog Standarda neodgovarajuće, nadležna vlast doneće takve odredbe koje će obezbediti pomorcima dovoljan odmor.

10. Svaka članica mora da zahteva postavljanje, na lako dostupnom mestu, ploče sa rasporedom rada na brodu koja za svako radno mesto mora da sadrži najmanje:

(a) raspored službe na moru i službe u luci; i

(b) najveći broj sati rada ili najmanji broj sati odmora koje zahtevaju nacionalni zakoni ili pravila ili važeći kolektivni ugovori.

11. Ploča navedena u stavu 10. ovog Standarda mora da ima standardni oblik na radnom jeziku ili jezicima broda i na engleskom jeziku.

12. Svaka članica mora da zahteva vođenje evidencije dnevnih sati rada ili dnevnih sati odmora kako bi se omogućilo praćenje ispunjavanja zahteva iz stava 5. – 11. ovog Standarda. Evidencija mora biti u standardnom obliku koji je utvrdila nadležna vlast uzimajući u obzir sve raspoložive smernice Međunarodne organizacije rada, ili u nekom standardnom obliku koji je pripremila Organizacija. Ona mora biti na jezicima koje zahteva stav 11. ovog Standarda. Pomorci moraju da dobiju kopiju svoje evidencije koju mora da potvrdi zapovednik ili od njega ovlašćeno lice i pomorac.

13. Ništa u st. 5. i 6. ovog Standarda ne sprečava članicu da svojim zakonima ili pravilima ili postupkom nadležne vlasti, kolektivnim ugovorima dopusti ili pruži zakonsku zaštitu za izuzetke od utvrđenih raspona. Takvi izuzeci moraju da, koliko je to moguće, slede odredbe ovog Standarda, ali mogu da uzmu u obzir i češće i duže periode odmora ili da odobri dodatni odmor za održavanje straže pomoraca ili rad pomoraca na brodovima na kraćim putovanjima.

14. Ništa se u ovom Standardu neće smatrati da ugrožava pravo zapovednika broda da zahteva od pomorca obavljanje rada potrebnog radi trenutne bezbednosti broda, lica na brodu ili tereta, ili u cilju pružanja pomoći drugim brodovima ili licima u opasnosti na moru. Prema tome, zapovednik može da obustavi raspored rada i odmora, kao i da zatraži od pomorca da odradi potrebne sate dok se ne uspostavi redovno stanje. Čim je to moguće, nakon što je uspostavljeno redovno stanje zapovednik mora da obezbedi da svi pomorci koji su obavljali rad u planiranom periodu odmora dobiju odgovarajući period odmora.

Smernica B 2. 3. – Sati rada i sati odmora

Smernica B 2. 3. 1. – Mladi pomorci

1. Na pomorce mlađe od 18 godina treba na moru i u luci primeniti sledeće odredbe:

(a) sati rada ne bi smeli da prelaze osam sati dnevno ili 40 sati nedeljno, a prekovremeni rad treba da bude odrađen samo ako je to neizbežno radi bezbednosti;

(b) za sve obroke treba omogućiti dovoljno vremena, a za dnevni glavni obrok treba obezbediti najmanje jedan sat; i

(c) kad god je to moguće treba obezbediti 15-minutni odmor posle svaka dva sata neprekidnog rada.

2. Izuzetno, odredbe stava 1. ove Smernice neće se primeniti ako:

(a) za mlade pomorce palube, mašine i opšte službe nije moguće da se odredi obavljanje dužnosti u smenama ili rad prema promenljivom rasporedu; ili

(b) bi mogla biti onemogućena efikasna obuka mladih pomoraca u skladu sa utvrđenim programima i planovima.

3. Takve izuzetne okolnosti treba zabeležiti, uz navođenje razloga, a nakon toga treba da ih potpiše zapovednik.

4. Stav 1. ove Smernice ne oslobađa mlade pomorce od opšte obaveze svih pomoraca da rade u nuždi, kako je predviđeno stavom 14. Standarda A 2. 3.

Pravilo 2. 4. – Pravo na odmor

Cilj: Obezbediti da pomorci imaju odgovarajući odmor

1. Svaka članica mora zahtevati da pomorci zaposleni na brodovima koji plove pod njenom zastavom dobiju plaćeni godišnji odmor pod odgovarajućim uslovima, u skladu sa odredbama Kodeksa.

2. Pomorci moraju imati pravo na izlazak na kopno radi njihovog zdravlja i dobrobiti u skladu sa radnim zahtevima njihovog radnog mesta.

Standard A 2. 4. – Pravo na odmor

1. Svaka članica mora da usvoji zakone i pravila kojima se utvrđuju najniži standardi za godišnji odmor pomoraca koji služe na brodovima koji plove pod njenom zastavom, vodeći računa o posebnim potrebama pomoraca s obzirom na takav odmor.

2. U skladu sa kolektivnim ugovorom, zakonom ili pravilom koji predviđaju odgovarajući način obračuna, kao i uzimajući u obzir posebne potrebe pomoraca s tim u vezi, pravo na plaćeni godišnji odmor mora da se obračuna na osnovu najmanje 2,5 kalendarskih dana za jedan mesec zaposlenja. Način na koji će se obračunati dužina službe mora da odredi nadležna vlast ili se on mora utvrditi odgovarajućim mehanizmom u svakoj zemlji. Opravdana odsutnost sa posla neće se smatrati godišnjim odmorom.

3. Svaki sporazum o odricanju od najmanjeg plaćenog godišnjeg odmora propisanog ovim Standardom, osim u slučajevima koje predviđa nadležna vlast, mora se zabraniti.

Smernica B 2. 4. – Pravo na odmor

Smernica B 2. 4. 1. – Obračun prava

1. Pod uslovima koje će odrediti nadležna vlast ili odgovarajućim mehanizmom u svakoj zemlji, služba prema ugovoru o ukrcavanju člana posade treba da bude obračunata kao deo perioda službe.

2. Pod uslovima koje će odrediti nadležna vlast ili primenom kolektivnog ugovora, odsutnost sa rada zbog pohađanja odobrenog programa obuke za pomorsko zanimanje ili zbog razloga kao što su bolest, povreda ili materinstvo, treba da se obračuna kao deo perioda službe.

3. Visina naknade tokom godišnjeg odmora treba da bude na redovnom nivou naknade pomorcu koja je predviđena nacionalnim zakonima ili pravilima ili primenjivim ugovorom o zaposlenju pomorca. Za pomorce zaposlene kraće od jedne godine ili u slučaju prekida zaposlenja, pravo na odmor treba da se obračuna srazmerno.

4. Kao deo plaćenog godišnjeg odmora ne treba da se obračunava sledeće:

- (a) javne ili uobičajene praznike priznate kao takve u državi zastave, bez obzira da li padaju ili ne u vreme plaćenog godišnjeg odmora;
- (b) vreme nesposobnosti za rad nastalo usled bolesti, povrede ili materinstva pod uslovima koje je utvrdila nadležna vlast ili su utvrđeni odgovarajućim mehanizmom u svakoj zemlji;
- (c) povremeni kraći izlazak na kopno dozvoljen pomorcu dok je pod ugovorom o zaposlenju; i
- (d) naknadni odmor bilo koje vrste, pod uslovima koje je utvrdila nadležna vlast ili su utvrđeni odgovarajućim mehanizmom u svakoj zemlji.

Smernica B 2. 4. 2. – Korišćenje godišnjeg odmora

1. Vreme korišćenja godišnjeg odmora treba da, osim ako je ono utvrđeno pravilom, kolektivnim ugovorom, arbitražnom odlukom ili na drugi način u skladu sa nacionalnom praksom, utvrdi brodovlasnik nakon konsultacija i, kad god je to moguće, u sporazumu sa zainteresovanim pomorcem ili njegovim predstavnicima.
2. Pomorci u načelu imaju pravo da koriste godišnji odmor u mestu sa kojim su u bitnoj vezi, koje treba redovno da bude isto mesto kao ono u koje oni imaju pravo da budu repatriirani. Od pomoraca se ne treba zahtevati da, bez njihove saglasnosti, koriste godišnji odmor na koji imaju pravo u drugom mestu, osim prema odredbama ugovora o zaposlenju pomoraca ili nacionalnih zakona ili pravila.
3. Ako se od pomoraca zahteva da uzmu godišnji odmor u mestu koje se razlikuje od mesta koje dopušta stav 2. ove Smernice, oni imaju pravo na besplatan prevoz do mesta gde su uzeti u službu ili angažovani, prema tome što je bliže njihovoj kući; troškove uzdržavanja i druge direktno sa tim povezane troškove treba da snosi brodovlasnik; vreme putovanja ne sme da bude odbijeno od plaćenog godišnjeg odmora koji je pomorac stekao.
4. Pomorac koji je uzeo godišnji odmor treba da bude opozvan samo u slučajevima izuzetne nužde i uz njegovu saglasnost.

Smernica B 2. 4. 3. – Podela i spajanje

1. Podelu plaćenog godišnjeg odmora na delove i spajanje godišnjeg odmora koji se duguje u jednoj godini sa godišnjim odmorom za naredni period može da odobri nadležna vlast ili mogu biti odobreni odgovarajućim mehanizmom u svakoj zemlji.
2. Pridržavajući se stava 1. ove Smernice i osim ako je drugačije predviđeno ugovorom koji se primenjuje na brodovlasnika i zainteresovanog pomorca, plaćeni godišnji odmor preporučen ovom Smernicom treba da bude neprekinut.

Smernica B 2. 4. 4. – Mlađi pomorci

1. Posebne mere treba razmotriti i pogledu pomoraca mlađih od 18 godina koji su služili šest meseci ili kraće prema kolektivnom ugovoru ili ugovoru o zaposlenju pomoraca, bez odmora, na brodovima koji plove u inostranstvu i koji se nisu vraćali u zemlju prebivališta u to vreme i neće se vratiti u naredna tri meseca putovanja. Takve mere mogu se sastojati od njihove besplatne repatrijacije u mesto prvobitnog zaposlenja u zemlji prebivališta radi korišćenja odmora na koji su stekli pravo tokom putovanja.

Pravilo 2. 5. – Repatrijacija

Cilj: Obezbediti pomorcima da se mogu vratiti kući

1. Pomorci imaju pravo da budu besplatno repatriirani u okolnostima i pod uslovima navedenim u Kodeksu.

2. Svaka članica mora zahtevati da brodovi koji plove pod njenom zastavom pruže finansijsko jamstvo kojim će se obezbediti odgovarajuća repatrijacija pomoraca u skladu sa ovim Kodeksom.

Standard A 2. 5. – Repatrijacija

1. Svaka članica mora da obezbedi da pomorci na brodovima koji plove pod njenom zastavom imaju pravo na repatrijaciju u sledećim okolnostima:

- (a) ako je ugovor o zaposlenju pomorca istekao dok je on bio na brodu;
- (b) ako je ugovor o zaposlenju pomorca prestao:
 - (i) voljom brodovlasnika; ili
 - (ii) voljom pomorca iz opravdanog razloga; a isto tako i
- (c) ako pomorci nisu u stanju dalje da obavljaju svoje dužnosti prema ugovoru o zaposlenju ili nije moguće da se očekuje da će ih obavljati u posebnim okolnostima.

2. Svaka članica mora obezbediti postojanje odgovarajućih odredbi u svojim zakonima i pravilima, i to drugim merama ili ugovorima o kolektivnom pregovaranju kojima će propisati:

- (a) okolnosti u kojima pomorci imaju pravo na repatrijaciju u skladu sa tač. 1(b) i (c) ovog Standarda;
- (b) najduže trajanje službe na brodu posle koje će pomorac imati pravo na repatrijaciju – to vreme biće kraće od 12 meseci; i
- (c) precizno određena prava koja će obezbediti brodovlasnik za repatrijaciju, uključujući odredište repatrijacije, način prevoza, pokrivene troškove i druge radnje koje će obaviti brodovlasnik.

3. Svaka članica mora da zabrani brodovlasnicima da zahtevaju od pomoraca avans za trošak repatrijacije na početku njihovog zaposlenja, kao i povraćaj troškova repatrijacije iz plata pomoraca ili drugih prava osim ako je, u skladu sa nacionalnim zakonima, pravilima, drugim merama ili ugovorom o kolektivnom pregovaranju koji se primenjuje, utvrđeno da je pomorac ozbiljno prekršio obaveze iz ugovora o zaposlenju.

4. Nacionalni zakoni ili pravila neće sprečiti pravo brodovlasnika da povрати troškove repatrijacije od treće stranke ugovornog odnosa.

5. Ako brodovlasnik propusti da preduzme mere ili da snosi troškove repatrijacije pomoraca koji imaju pravo biti repatrirani:

- (a) nadležna vlast članice pod čijom zastavom brod plovi mora da organizuje repatrijaciju pomoraca; ako ona to propusti da učini, država u koju će pomorac biti repatriran ili država čiji je on državljanin mogu organizovati njegovu repatrijaciju i zatražiti povraćaj troškova od članice pod čijom zastavom brod plovi;
- (b) troškove nastale repatricijom pomoraca mora da nadoknadi brodovlasnik članice pod čijom zastavom brod plovi;
- (c) troškovi repatrijacije ne smeju ni u kom slučaju da padnu na teret pomoraca, osim kako je predviđeno u stavu 3. ovog Standarda.

6. Uzimajući u obzir međunarodne dokumente koji su na snazi, uključujući Međunarodnu konvenciju o zadržavanju brodova iz 1999. godine, članica koja je isplatila trošak repatrijacije prema ovom Kodeksu može zadržati ili zahtevati

zadržavanje brodova pojedinog brodovlasnika do povraćaja novca u skladu sa stavom 5. ovog Standarda.

7. Svaka članica mora olakšati repatrijaciju pomoraca koji služe na brodovima koji pristaju u njene luke ili prolaze njenim teritorijalnim morem, kao i njihovu zamenu na brodu.

8. Konačno, članica ne sme da uskrati pravo na repatrijaciju nekom pomorcu zbog finansijskog stanja brodovlasnika ili zbog brodovlasnikove nesposobnosti ili nesklonosti da zameni pomorca.

9. Svaka članica mora da zahteva da brodovi koji plove pod njenom zastavom pomorcima učine dostupnom kopiju nacionalnih propisa koji su na snazi o repatrijaciji, napisanu na odgovarajućem jeziku.

Smernica B 2. 5. – Repatrijacija

Smernica B 2. 5. 1. – Pravo na repatrijaciju

1. Pomorci moraju da uživaju pravo na repatrijaciju:

(a) u okolnostima na koje se odnosi stav 1. (a) Standarda A 2. 5. po isteku otkaznog roka u skladu sa odredbama ugovora o zaposlenju pomorca;

(b) u okolnostima na koje se odnose st. 1(b) i 1(c) Standarda A 2. 5:

(i) u slučaju bolesti, povrede ili drugog zdravstvenog stanja koji zahtevaju njihovu repatrijaciju i kada se utvrdi da su zdravstveno sposobni za put;

(ii) u slučaju brodoloma;

(iii) u slučaju da brodovlasnik nije u mogućnosti da nastavi da ispunjava svoje zakonske ili ugovorne obaveze kao poslodavac pomoraca zbog svoje nesposobnosti za plaćanje, zbog prodaje broda, izmene upisa broda ili nekog drugog sličnog razloga;

(iv) u slučaju da je brod upućen u ratnu zonu, kako je utvrđeno nacionalnim zakonima, pravilima ili ugovorom o zaposlenju pomorca, u koju pomorac nije saglasan da ide; i

(v) u slučaju prestanka ili prekida zaposlenja u skladu sa ugovorom za celokupnu privrednu granu ili kolektivnim ugovorom ili prestankom zaposlenja iz nekog drugog sličnog razloga.

2. Pri utvrđivanju najdužeg trajanja službe na brodu koja pomorcu daje pravo na repatrijaciju, u skladu sa ovim Kodeksom, treba obratiti pažnju na faktore koji štetno deluju na radnu okolinu pomorca. Svaka članica treba da nastoji da, kad god je to moguće, smanji ovo trajanje u svrhu tehnoloških promena i razvoja, i može se rukovoditi preporukama koje je o tom pitanju dala Zajednička pomorska komisija.

3. Troškovi koje će snositi brodovlasnik za repatrijaciju prema Standardu A 2. 5. trebaju da obuhvate najmanje sledeće:

(a) putovanje do odredišta koje je izabrano za repatrijaciju, u skladu sa stavom 6. ove Smernice;

(b) smeštaj i prehranu od trenutka kada je pomorac napustio brod do dolaska u odredište za repatrijaciju;

(c) platu i dodatke od trenutka kada je pomorac napustio brod do dolaska u odredište za repatrijaciju, ako je to predviđeno nacionalnim zakonima, pravilima ili kolektivnim ugovorima;

(d) prevoz 30 kg ličnog prtljaga pomorca do odredišta za repatrijaciju; i

(e) potrebno lečenje dok pomorac nije zdravstveno sposoban za putovanje do odredišta za repatrijaciju.

4. Vreme čekanja na repatrijaciju i vreme putovanja ne bi smeli da budu odbijeni od plaćenog odmora koje su stekli pomorci.

5. Od brodovlasnika treba zahtevati da nastave da pokrivaju troškove repatrijacije sve dok pomorci ne stignu na odredište propisano ovim Kodeksom ili ne dobiju odgovarajuće zaposlenje na brodu koji plovi do jednog od ovih odredišta.

6. Svaka članica treba da zahteva da brodovlasnici preuzmu obavezu da će organizovati repatrijaciju odgovarajućim i brzim sredstvima. Redovan način prevoza treba da bude vazduhom. Članica treba da propiše odredišta u koja pomorci mogu da budu repatrirani. Odredišta treba da uključe zemlje za koje se smatra da su pomorci sa njima u bitnoj vezi uključujući:

- (a) mesto u kojem se pomorac saglasio da stupi u zaposlenje;
- (b) mesto utvrđeno kolektivnim ugovorom;
- (c) zemlju prebivališta pomorca; ili
- (d) svako drugo mesto koje je obostrano dogovoreno u vreme stupanja u zaposlenje.

7. Pomorci treba da imaju pravo izbora između propisanih mesta odredišta u koje će oni biti repatrirani.

8. Pravo na repatrijaciju može prestati ako je pomorci ne zatraže u razumnom roku koji će se utvrditi nacionalnim zakonima, pravilima ili kolektivnim ugovorima.

Smernica B 2. 5. 2. – Primena od strane članica

1. Treba pružiti svaku moguću praktičnu pomoć pomorcu koji je iskrcan u stranoj luci dok očekuje repatrijaciju i u slučaju odlaganja repatrijacije pomorca, a nadležna vlast u stranoj luci treba da osigura da konzularni ili lokalni predstavnik države zastave i države čiji je pomorac državljanin ili države prebivališta, kako je odgovarajuće, budu odmah obavesteni.

2. Svaka članica treba da razmotri da li postoji odgovarajuća odredba o:

(a) povratku pomoraca zaposlenih na brodu koji plovi pod zastavom strane zemlje, a koji su iskrcani u stranoj luci zbog razloga za koje oni nisu odgovorni:

- (i) do luke u kojoj je pomorac zaposlen; ili
- (ii) do luke u sopstvenoj zemlji pomorca ili zemlje kojoj pomorac pripada; ili
- (iii) do druge luke ugovorene između pomorca i zapovednika broda ili brodovlasnika uz odobrenje nadležne vlasti ili pod drugom odgovarajućom zaštitom;

(b) zdravstvenoj pomoći i uzdržavanju pomorca zaposlenog na brodu koji plovi pod zastavom strane zemlje, a koji je iskrcan u stranoj luci zbog bolesti ili povrede u službi broda, ali ne zbog njegovog ličnog namernog ponašanja.

3. Ako, nakon što su pomorci mlađi od 18 godina služili na brodu najmanje četiri meseca tokom njihovog prvog putovanja u inostranstvu, postane očigledno da nisu spremni za život na moru, treba im pružiti mogućnost da budu besplatno repatrirani iz prve pogodne luke pristajanja u kojoj postoje konzularne službe države zastave ili države državljanstva ili prebivališta mladog pomorca. Obaveštenje o takvoj

repatrijaciji, sa razlozima za nju, treba dostaviti vlastima koje su izdale isprave na osnovu kojih je omogućeno mladim pomorcima da se zaposle na moru.

Pravilo 2. 6. – Naknada pomorcu u slučaju gubitka ili potonuća broda

Cilj: Obezbediti naknadu pomorcima kada je brod izgubljen ili je potonuo

1. Pomorci imaju pravo na odgovarajuću naknadu u slučaju povrede, gubitka ili nezaposlenosti koja je nastala gubitkom ili potonućem broda.

Standard A 2. 6. – Naknada pomorcu u slučaju gubitka ili potonuća broda

1. Svaka članica mora da donese pravila koja će obezbediti da u svakom slučaju gubitka ili potonuća broda brodovlasnik mora da isplati svakom pomorcu na brodu naknadu za nezaposlenost koja je nastala usled takvog gubitka ili potonuća.

2. Pravila navedena u stavu 1. ovog Standarda neće uticati na neka druga prava koja pomorac može imati prema nacionalnom zakonu članice a koja se odnose na gubitke ili povrede koje nastaju usled gubitka ili potonuća broda.

Smernica B 2. 6 – Naknada pomorcu u slučaju gubitka ili potonuća broda

Smernica B 2. 6. 1 – Obračun naknade za nezaposlenost

1. Naknadu za nezaposlenost koja je nastala gubitkom ili potonućem broda treba isplatiti za dane tokom kojih je pomorac ostao stvarno nezaposlen u istom iznosu kao plate plative prema ugovoru o zaposlenju, ali ukupna naknada plativa nekom pomorcu može se ograničiti na dvomesečnu platu.

2. Svaka članica treba da obezbedi da pomorci imaju iste pravne lekove za naplatu takvih naknada, kao oni koji se koriste za naplatu neisplaćenih plata ostvarenih za vreme službe.

Pravilo 2. 7. – Brojno stanje posade

Cilj: Obezbediti da pomorci rade na brodovima sa osobljem dovoljnim za bezbedan i uspešan rad, kao i za potrebe sigurnosne zaštite broda

1. Svaka članica mora da zahteva da svi brodovi koji plove pod njenom zastavom imaju dovoljan broj zaposlenih pomoraca na brodu kako bi se obezbedilo da brodovi rade bezbedno, uspešno i sa dužnom pažnjom prema sigurnosnoj zaštiti, u svim uslovima, uzimajući u obzir premor pomorca i posebnu prirodu i uslove putovanja.

Standard A 2. 7. – Brojno stanje posade

1. Svaka članica mora da zahteva da svi brodovi koji plove pod njenom zastavom imaju dovoljan broj pomoraca na brodu kako bi se obezbedilo da svi brodovi rade bezbedno, uspešno i sa dužnom pažnjom prema sigurnosnoj zaštiti. Svaki brod mora da ima posadu koja odgovara prema broju i stručnosti, kako bi se obezbedila zaštita i sigurnost broda i njegovog osoblja u svim radnim uslovima, u skladu sa ispravom o najmanjem broju članova posade za bezbednu plovidbu ili njoj jednakoj ispravi koju je izdala nadležna vlast, kao i da ispunjava standarde predviđene ovom Konvencijom.

2. Kod određivanja, odobravanja i preispitivanja brojnog stanja, nadležna vlast mora da uzme u obzir potrebu da se spreče ili smanje preterani sati rada kako bi se obezbedio dovoljan odmor i ograničio premor, kao i načela u primenjivim međunarodnim dokumentima, naročito onim usvojenim od strane Međunarodne pomorske organizacije o brojnom stanju posade.

3. Kad utvrđuje brojno stanje posade, nadležna vlast mora da uzme u obzir sve zahteve Pravila 3. 2. i Standarda A 3. 2. o ishrani i služenju hrane na brodovima.

Smernica B 2. 7. – Brojno stanje posade

Smernica B 2. 7. – Rešavanje sporova

1. Svaka članica dužna je da održava ili se uveri da se održava uspešan mehanizam za istraživanje i rešavanje prigovora ili sporova o brojnom stanju posade na brodu.
2. Predstavnici organizacija brodovlasnika i pomoraca treba da učestvuju u radu takvog mehanizma sa ili bez drugih lica ili vlasti.

Pravilo 2. 8. – Razvoj u zvanju i stručno usavršavanje i prilika za zaposlenje pomoraca

Cilj: Unaprediti razvoj u zvanju, stručnosti i prilikama za zaposlenje pomoraca

1. Svaka članica mora da ima državnu politiku koja promoviše zapošljavanje u pomorskom sektoru i podstiče napredovanje u zvanju i razvoj stručnosti, kao i ostvarivanje boljih mogućnosti zaposlenja pomoraca koji su nastanjeni na njenoj teritoriji.

Standard A 2. 8. – Razvoj u zvanju i stručno usavršavanje i prilika za zaposlenje pomoraca

1. Svaka članica mora da ima državnu politiku koja podstiče razvoj u zvanju i stručno usavršavanje, kao i mogućnosti zaposlenja pomoraca kako bi pomorskom brodarstvu pružili stalnu i stručnu radnu snagu.
2. Cilj politike navedene u stavu 1. ovog Standarda mora biti pomoć pomorcima da povećaju svoje sposobnosti, osposobljenost i mogućnosti zaposlenja.
3. Svaka članica mora da, nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca, utvrdi jasne ciljeve stručnog vođenja, obrazovanja i obuke pomoraca čije se dužnosti na brodu prvenstveno odnose na bezbedan rad i plovidbu broda, uključujući postupke u obuci.

Smernica B 2. 8. – Razvoj u zvanju i stručno usavršavanje i prilika za zaposlenje pomoraca

Smernica B 2. 8. 1. – Mere za promociju i prilike za zaposlenje pomoraca

1. Mere kojima bi se postigli ciljevi utvrđeni u Standardu A 2. 8. mogu da uključuju:
 - (a) ugovore koji predviđaju razvoj u zvanju i stručne obuke sa brodovlasnikom ili organizacijama brodovlasnika;
 - (b) mere za podsticaj zapošljavanja uspostavljanjem i vođenjem upisnika ili popisa, po kategorijama, stručno osposobljenih pomoraca; ili
 - (c) podsticanje prilika, na brodu i obali, za dalju obuku i obrazovanje pomoraca koji će zadovoljiti razvoj stručnosti i pripadajuća ovlašćenja kako bi se obezbedio i zadržao dostojan rad, unapredila pojedinačna očekivanja zaposlenja i ispunile izmene u tehnologiji i uslovima tržišta rada u pomorskoj delatnosti.

Smernica B 2. 8. 2. – Upisnik pomoraca

1. Gde se prilikom zapošljavanja pomoraca koriste upisnici ili popisi, u njih treba da budu uključene sve kategorije stručno osposobljenih pomoraca na način koji je određen nacionalnim zakonom, praksom ili kolektivnim ugovorom.
2. Pomorci upisani u takvom upisniku ili na popisu treba da imaju prednost prilikom zaposlenja u pomorstvu.
3. Od pomoraca u takvom upisniku ili na takvom popisu treba zahtevati da budu raspoloživi za rad na način utvrđen nacionalnim zakonom, praksom ili kolektivnim ugovorom.

4. U obimu koji dopuštaju nacionalni zakoni ili pravila, broj pomoraca u takvim upisnicima ili na takvim popisima treba redovno preispitivati kako bi se postigao nivo prilagođen potrebama brodarstva.

5. Kad u takvim upisnicima ili na takvim popisima smanjenje broja pomoraca postane potrebno, treba preduzeti sve odgovarajuće mere da se spreče ili smanje štetni uticaji na pomorce, uzimajući u obzir ekonomsku i socijalnu situaciju u zemlji na koju se to odnosi.

POGLAVLJE 3. PROSTORIJE ZA SMEŠTAJ, PROSTORIJE ZA ODMOR, ISHRANA I POSLUŽIVANJE HRANE

Pravilo 3. 1. – Prostorije za smeštaj i prostorije za odmor

Cilj: Obezbediti da pomorci imaju odgovarajuće prostorije za smeštaj i prostorije za odmor

1. Svaka članica mora da obezbedi da brodovi koji plove pod njenom zastavom imaju i održavaju odgovarajuće prostorije za smeštaj i prostorije za odmor za pomorce koji rade ili žive na brodu, odnosno rade i žive na njemu, i koje doprinose zdravlju i dobrobiti pomoraca.

2. Zahtevi u Kodeksu kojima se primenjuje ovo pravilo, i koji se odnose na izgradnju i opremu, primenjuju se samo na brodove izgrađene na datum kada je ova Konvencija stupila na snagu za tu članicu ili datum nakon njega. Na brodove izgrađene pre tog datuma zahtevi o gradnji i opremi utvrđeni u Konvenciji (izmenjenoj) o smeštaju brodske posade, usvojene 1949. godine (br. 92) i Konvenciji o smeštaju posade (dopunske odredbe), usvojene 1970. godine (br. 133), moraju se i dalje primenjivati u obimu u kojem su primenjivane pre tog datuma, po zakonu ili praksi članice na koju se to odnosi. Brod će se smatrati izgrađenim na datum polaganja kobilice ili kada je bio na sličnom stupnju izgradnje.

3. Ako nije izričito drugačije predviđeno, svaki zahtev iz neke izmene i dopune Kodeksa koji se odnosi na odredbu o prostorijama za smeštaj i prostorijama za odmor pomoraca mora se primeniti samo na brodove izgrađene na dan kada se izmena i dopuna počela primenjivati na članicu ili nakon tog dana.

Standard A 3. 1. – Prostorije za smeštaj i prostorije za odmor

1. Svaka članica mora da usvoji zakone i pravila kojima će zahtevati da brodovi koji plove pod njenom zastavom:

(a) ispunjavaju najniže standarde koji će obezbediti da su sve prostorije za smeštaj pomoraca koji rade ili žive na brodu, odnosno rade i žive na brodu, sigurne, odgovarajuće i u skladu sa odgovarajućim odredbama ovog Standarda; i

(b) budu podvrgnuti inspekciji koja će obezbedi početno i kasnije ispunjavanje ovih standarda.

2. Prilikom izrade i primene zakona i pravila koji se odnose na ovaj Standard, nadležna vlast, nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca, mora:

(a) uzeti u obzir Pravilo 4. 3. i pripadajuće odredbe Kodeksa o zdravlju, zaštiti bezbednosti i sprečavanju nezgoda, s obzirom na posebne potrebe pomoraca koji žive i rade na brodu, i

(b) obratiti dužnu pažnju na Smernicu iz Dela B ovog Kodeksa.

3. Inspekcije koje zahteva Pravilo 5. 1. 4. moraju da se obave:

- (a) kada se brod upisuje ili ponovo upisuje; ili
- (b) kada su prostorije za smeštaj pomoraca na brodu bitno izmenjene.

4. Nadležna vlast mora da obrati posebnu pažnju na obezbeđenje primene zahteva ovog Kodeksa koji se odnose na:

- (a) veličinu prostorija i drugih prostora za odmor;
- (b) grejanje i ventilaciju;
- (c) buku, vibracije i druge faktore okoline;
- (d) sanitarne prostorije;
- (e) osvetljenje; i
- (f) prostorije bolnice.

5. Nadležna vlast svake članice mora da zahteva da brodovi koji plove pod njenom zastavom ispunjavaju najniže standarde za brodske stambene prostorije i prostorije za odmor utvrđenim u st. 6. – 17. ovog Standarda.

6. U pogledu opštih zahteva za prostorije za smeštaj:

(a) visina svih prostorija za smeštaj pomoraca mora biti odgovarajuća; najmanja dopuštena visina u svim takvim prostorijama, gde je potrebno potpuno i slobodno kretanje, ne sme biti manja od 203 cm; nadležna vlast može dopustiti ograničeno smanjenje visine u nekom prostoru ili delu prostora u takvim prostorijama ako se uverila da je takvo smanjenje:

- (i) prihvatljivo; i
- (ii) da ono neće dovesti do neudobnosti za pomorce;

(b) prostorije moraju biti odgovarajuće izolovane;

(c) na svim brodovima, osim na putničkim, kako je utvrđeno u Pravilu 2. (e) i (f) Međunarodne konvencije o zaštiti ljudskog života na moru iz 1974. godine, sa izmenama (SOLAS Konvencija), spavaonice moraju da budu smeštene iznad teretne linije na sredini ili na krmi, osim u izuzetnim slučajevima gde veličina, vrsta ili nameravana služba broda čine takav smeštaj nemogućim. Tada spavaonice mogu da budu smeštene u prednjem delu broda, ali ni u kom slučaju ispred sudarne pregrade;

(d) na putničkim brodovima i na posebnim brodovima izgrađenima da bi se ispunili zahtevi IMO Kodeksa o zaštiti brodova za posebne svrhe, usvojenog 1983. godine, i narednim izmenama (u daljem tekstu: „brodovi za posebne svrhe”), nadležna vlast može da, pod uslovom da je postignuto zadovoljavajuće uređenje rasvete i ventilacije, odobri smeštaj spavaonica ispod teretne linije, ali one ni u kom slučaju ne smeju da budu smeštene ispod radnih prolaza;

(e) iz prostora sa teretom i mašinama ili iz kuhinja, skladišta, sušionica ili zajedničkih sanitarnih prostorija, ne smeju da postoje direktni prolazi u spavaonice; deo pregrade koji odvaja takve prostore od spavaonica i spoljne pregrade moraju da budu izgrađeni od čelika ili drugog odobrenog materijala i da budu vodonepropusne i plinonepropusne;

(f) materijali koji se koriste za izradu unutrašnjih pregrada, obloga i oplata, podova i spojeva moraju da budu pogodni za tu svrhu i prihvatljivi kako bi obezbedili zdravu okolinu;

(g) mora se predvideti odgovarajuća rasveta i zadovoljavajuća odvodnja;

(h) prostorije za smeštaj, odmor i prehranu moraju da ispunjavaju zahteve predviđene Pravilom 4. 3. i odgovarajućim odredbama Kodeksa o zdravlju, zaštiti bezbednosti i sprečavanju nezgoda, sprečavanju opasnosti od izlaganja štetnom nivou buke i vibracija, drugim faktorima okoline i hemikalijama na brodovima i pružiti prihvatljivu radnu i životnu okolinu pomorcima.

7. U pogledu zahteva za ventilaciju i grejanje:

(a) spavaonice i prostorije za ishranu moraju da budu odgovarajuće proventrene;

(b) brodovi, osim onih koji su redovno zaposleni na putovanjima gde klimatski uslovi to ne zahtevaju, moraju da budu opremljeni klima uređajem za prostorije za smeštaj pomoraca, za svaku odvojenu radio-prostoriju i za centralnu upravljačku mašinsku prostoriju;

(c) svi sanitarni prostori moraju da imaju ventilaciju prema otvorenom, nezavisno od dela smeštaja; i

(d) mora se predvideti odgovarajuće grejanje putem odgovarajućeg uređaja za grejanje, osim na brodovima koji isključivo plove na putovanjima u tropskim klimatskim uslovima.

8. U pogledu zahteva za rasvetu, u zavisnosti od posebnih uređenja koja mogu da budu dopuštena na putničkim brodovima, spavaonice i prostorije za ishranu treba da budu osvetljene prirodnim svetlom i da imaju odgovarajuće veštačko svetlo.

9. Kada se na brodu moraju nalaziti spavaonice, na njih će se primeniti sledeći zahtevi:

(a) na svim brodovima, osim na putničkim, mora se predvideti posebna spavaonica za svakog pomorca; na brodovima manjim od 3000 bruto tonaže ili brodovima za posebne svrhe nadležna vlast može, nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca, dopustiti izuzetke od ovog zahteva;

(b) moraju da se predvide posebne spavaonice za muškarce i žene;

(c) spavaonice moraju da budu odgovarajuće veličine i odgovarajuće opremljene kako bi se obezbedila prihvatljiva udobnost i olakšalo čišćenje;

(d) mora da se predvidi poseban krevet za svakog pomorca u svim okolnostima;

(e) unutrašnje dimenzije kreveta moraju da budu najmanje 198 cm x 80 cm;

(f) u spavaonicama za pomorce sa jednim krevetom površina poda ne sme da bude manja od:

(i) 4,5 kvadratnih metara na brodovima manjim od 3000 bruto tonaže;

(ii) 5,5 kvadratnih metara na brodovima od 3000 bruto tonaže i većim, ali manjim od 10000 bruto tonaže;

(iii) 7 kvadratnih metara na brodovima od 10000 bruto tonaže ili većim.

(g) međutim, da bi se predvidele spavaonice sa jednim krevetom i na brodovima manjim od 3000 bruto tonaže, putničkim brodovima i brodovima za posebne svrhe, nadležna vlast može dopustiti smanjivanje površine poda;

(h) na brodovima manjim od 3000 bruto tonaže, osim na putničkim brodovima i brodovima za posebne svrhe, u jednoj spavaonici mogu da budu smeštena

najviše dva pomorca; površina poda takvih spavaonica ne sme da bude manja od 7 kvadratnih metara.

(i) na putničkim brodovima i brodovima za posebne svrhe, površina poda spavaonica za pomorce koji ne obavljaju poslove brodskih oficira ne sme da bude manja od:

(i) 7,5 kvadratnih metara u prostorijama u kojima su smeštena dva lica;

(ii) 11,5 kvadratnih metara u prostorijama u kojima su smeštena tri lica;

(iii) 14,5 kvadratnih metara u prostorijama u kojima su smeštena četiri lica;

(j) na brodovima za posebne svrhe u spavaonicama može biti smešteno više od četiri lica; površina poda takvih spavaonica ne sme da bude manja od 3,6 kvadratnih metara po licu;

(k) na brodovima, osim na putničkim i onima za posebne svrhe, u spavaonicama za pomorce koji obavljaju dužnosti brodskih oficira, gde nije predviđena soba za odmor ili soba za dnevni boravak, površina poda po licu ne sme da bude manja od:

(i) 7,5 kvadratnih metara na brodovima manjim od 3000 bruto tonaže;

(ii) 8,5 kvadratnih metara na brodovima od 3000 bruto tonaže i većim, ali manjim od 10000 bruto tonaže;

(iii) 10 kvadratnih metara na brodovima od 10000 bruto tonaže i većim;

(l) na putničkim brodovima i brodovima za posebne svrhe, površina poda za pomorce koji obavljaju dužnosti brodskih oficira gde nije predviđena soba za odmor ili dnevni boravak, po licu ne sme biti manja od 7,5 kvadratnih metara za mlađe oficire, a za starije oficire ne sme biti manja od 8,5 kvadratnih metara. Mladim oficirima smatraju se oni koji obavljaju poslove na radnom nivou, a starijima oni koji obavljaju poslove na upravljačkom nivou.

(m) zapovednik, upravitelj mašine i prvi oficir palube moraju da, pored svojih spavaonica i uz njih, imaju sobu za odmor, dnevnu sobu ili odgovarajući dodatni prostor; brodove manje od 3000 bruto tonaže nadležna vlast može, nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca, osloboditi od ovog zahteva;

(n) za svakog korisnika nameštaj se mora sastojati od dovoljno velikog ormana za odeću (najmanje 475 litara) i fioke ili odgovarajućeg prostora od najmanje 56 litara; ako je fioka uključena u orman za odela, tada ukupna najmanja zapremina ormana za odeću mora biti 500 litara; orman mora biti opremljen i policom, a mora biti omogućeno da ga korisnik zaključava kako bi se obezbedila privatnost;

(o) svaka spavaonica mora da ima sto ili ploču koja može da bude učvršćena, na izvlačenje ili klizna sa udobnom stolicom kakva je potrebna.

10. U pogledu zahteva za prostorije za ishranu:

(a) prostorije za ishranu moraju da budu smeštene odvojeno od spavaonica i toliko blizu kuhinji koliko je to moguće; brodove manje od 3000 bruto tonaže nadležna vlast može, nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca, osloboditi ovog zahteva; i

(b) prostorije za ishranu moraju da budu odgovarajuće veličine, udobne, kao i odgovarajuće nameštene i opremljene (uključujući savremena sredstva za osveženje), uzimajući u obzir broj pomoraca koji će ih verovatno koristiti u svakom trenutku; potrebno je predvideti odvojenu ili posebnu prostoriju za ishranu, kako je odgovarajuće.

11. U pogledu zahteva za sanitarne prostorije:

(a) svi pomorci moraju da imaju odgovarajući pristup do brodskih sanitarnih prostorija koje odgovaraju najmanjim standardima zdravlja i higijene i prihvatljivim standardima udobnosti, sa odvojenim sanitarnim prostorijama za muškarce i žene;

(b) moraju da postoje sanitarne prostorije sa lakim pristupom sa zapovedničkog mosta, iz mašinskih prostorija i najbliže centrale za upravljanje mašinama; brodove manje od 3000 bruto tonaže nadležna vlast može, nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca, osloboditi ovog zahteva;

(c) na svim brodovima mora se, na odgovarajućem mestu, predvideti najmanje jedan toalet, jedan umivaonik i jedan tuš ili kada, ili i jedno i drugo za svakih šest lica ili manje koji nemaju takve lične pogodnosti;

(d) izuzimajući putničke brodove, svaka spavaonica mora da ima umivaonik sa tekućom toplom i hladnom slatkom vodom, osim ako je takav umivaonik predviđen u ličnom kupatilu;

(e) na putničkim brodovima koji su redovno zaposleni na putovanjima od najviše četiri sata, nadležna vlast može razmotriti posebno uređenje ili smanjenje broja zahtevanih sredstava; i

(f) na svim mestima za pranje mora biti na raspolaganju topla i hladna tekuća slatka voda.

12. U pogledu zahteva za bolnice, brodovi koji prevoze 15 ili više pomoraca, a plove na putovanjima dužim od tri dana, moraju da imaju odvojenu bolnicu koja će se koristiti isključivo u medicinske svrhe; nadležna vlast može ovaj zahtev ublažiti za brodove zaposlene u obalnoj plovidbi; pri odobravanju prostorija brodske bolnice, nadležna vlast mora obezbediti brz pristup do prostorije u svim vremenskim uslovima, kao i pružanje udobnog smeštaja korisnicima i doprinos njihovom brzom prihvatanju i odgovarajućoj pažnji.

13. Na brodu mora da postoji odgovarajuće smeštena i opremljena praonica.

14. Svi brodovi moraju da imaju prostor ili prostore na otvorenoj palubi kojima mogu pristupiti pomorci kada nisu na dužnosti, odgovarajuće površine s obzirom na veličinu broda i broj pomoraca na brodu.

15. Svi brodovi moraju da imaju odvojena odeljenja ili zajedničko brodsko odeljenje koje će koristiti služba palube i mašine; brodove manje od 3000 bruto tonaže nadležna vlast može, nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca, osloboditi ovog zahteva.

16. Brodovi koji redovno plove do luka zagađenih komarcima moraju da budu opremljeni odgovarajućim napravama kako to zahtevaju nadležne vlasti.

17. Na brodu se moraju predvideti odgovarajuća sredstva za odmor pomoraca, pogodnosti i službe u korist svih pomoraca i tako prilagođene da ispunjavaju posebne potrebe pomoraca koji moraju da žive i rade na brodovima, uzimajući u obzir Pravilo 4. 3. i pripadajuće odredbe Kodeksa o zaštiti zdravlja i bezbednosti i sprečavanju nezgoda.

18. Nadležna vlast mora da zahteva sprovođenje češćih inspekcija na brodovima, od zapovednika ili po njegovom ovlašćenju, koje će obezbediti da su prostorije za smeštaj pomoraca čiste, odgovarajuće za smeštaj i održavane u dobrom stanju. Rezultati takvih inspekcija moraju da se zabeleže i da budu dostupne za pregled.

19. Na brodovima gde postoji potreba uzimanja u obzir, bez diskriminacije, interesa pomoraca različitih i izrazitih verskih i društvenih običaja, nadležna vlast može, nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca, dopustiti odgovarajuću primenu izmene ovog Standarda, pod uslovom da takve izmene ne dovedu do toga da ukupne pogodnosti budu manje povoljne od onih do kojih bi došlo primenom ovog Standarda.

20. Svaka članica može da, nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca, oslobodi brodove manje od 200 bruto tonaže gde je to razumno da se učini, uzimajući u obzir veličinu broda i broj lica na brodu, u odnosu na sledeće odredbe ovog Standarda:

(a) st. 7(b), 11(d) i 13; i

(b) st. 9(f) i (h) do (l), samo u pogledu površine poda.

21. Svako izuzeće u pogledu primene zahteva ovog Standarda može biti učinjeno samo kada je to izričito predviđeno ovim Standardom, samo za posebne okolnosti u kojima su takva izuzeća jasno opravdana čvrstim stanovištima, kao i radi zaštite zdravlja i bezbednosti pomoraca.

Smernica B 3. 1. – Prostorije za smeštaj i prostorije za odmor

Smernica B 3. 1. 1. – Projektovanje i izgradnja

1. Spoljne pregrade spavaonica i prostorija za ishranu treba da budu odgovarajuće izolovane. Sva kućišta mašina i sve pregrade koje odvajaju kuhinje i druge prostorije u kojima se stvara toplina treba da budu odgovarajuće izolovane ako postoji mogućnost uticaja toplote na susedne prostorije za smeštaj ili prolaze. Isto tako, treba preduzeti mere za zaštitu od toplotnih uticaja vodene pare ili cevi za dobavljanje tople vode ili jednog i drugog.

2. Spavaonice, prostorije za ishranu, prostorije za odmor i prolazi u prostorije za smeštaj treba da budu odgovarajuće izolovane kako bi se sprečila kondenzacija ili pregrevanje.

3. Površine pregrada i stropova u spavaonicama i prostorijama za ishranu treba da budu od materijala čija se površina lako održava čistom vodom. Ne bi smeo da se koristi ni jedan oblik konstrukcije koji bi mogao omogućiti sakupljanje gamadi.

4. Površine pregrada i stropova u spavaonicama i prostorijama za ishranu treba da budu takve da se mogu lako održavati u čistom stanju, svetle boje i sa postojećim neotrovnim premazom.

5. Palube u svim stambenim prostorijama pomoraca treba da budu od odobrenog materijala i konstrukcije i da imaju neklizajuću površinu nepropusnu za vlagu koja se lako održava u čistom stanju.

6. Na mestima gde je popločavanje poda obavljeno od spojenih materijala, spojevi sa stranama treba da budu profilisani tako da spreče pukotine.

Smernica B 3. 1. 2. – Ventilacija

1. Sistem ventilacije spavaonica i prostorija za ishranu treba da se nadzire kako bi se vazduh održao u zadovoljavajućem stanju i kako bi se osiguralo dovoljno strujanje vazduha u svim vremenskim i klimatskim uslovima.

2. Sistem klimatizacije, bilo sa centralnom ili pojedinačnom jedinicom, treba da bude projektovan tako da:

(a) održava vazduh na zadovoljavajućoj temperaturi i relativnoj vlazi, tako da u poređenju sa stanjem spoljnog vazduha obezbedi dovoljnu promenu vazduha u svim klimatizovanim prostorijama, uzimajući u obzir posebna obeležja rada na moru, i tako ne stvara preteranu buku ili vibracije; i

(b) obezbedi lako čišćenje i dezinfekciju kako bi se sprečilo ili nadziralo širenje bolesti.

3. Energija za rad sistema klimatizacije i drugih sredstava za ventilaciju koje zahtevaju prethodni stavovi ove Smernice treba da budu raspoloživa sve dok pomorci žive ili rade na brodu, a uslovi to zahtevaju. Međutim, ova energiju ne treba da bude obezbeđena iz izvora za slučaj nužde.

Smernica B 3. 1. 3. – Grejanje

1. Sistem grejanja prostorija za smeštaj treba stalno da radi dok pomorci žive ili rade na brodu, a uslovi zahtevaju njegovu upotrebu.

2. Na svim brodovima na kojima je potrebno, grejanje treba da bude na toplu vodu, topli vazduh, električnu energiju, paru ili tome slično. Uprkos tome, unutar područja prostorija za smeštaj ne treba koristiti paru kao sredstvo za prenos toplote. Sistem grejanja treba da bude u stanju da održava temperaturu u prostorijama za smeštaj pomoraca na zadovoljavajućem nivou u normalnim vremenskim i klimatskim uslovima sa kojima će se brod verovatno susresti obavljajući poslove za koje je namenjen. Nadležna vlast treba da propiše standard koji će to omogućiti.

3. Radijatori i drugi aparati za grejanje treba da budu smešteni i, kad je to potrebno, zaštićeni kako bi se sprečila opasnost od vatre, opasnost ili neudobnost za korisnika.

Smernica B 3. 1. 4. – Rasveta

1. Na svim brodovima u prostorijama za smeštaj pomoraca treba predvideti električnu rasvetu. Ako ne postoje dva nezavisna izvora električne energije za rasvetu, treba predvideti dodatnu rasvetu pomoću odgovarajuće izrađenih sijalica ili rasvetnih uređaja za upotrebu u nuždi.

2. U spavaonicama treba da bude postavljena sijalica za čitanje uz naslon svakog kreveta.

3. Nadležna vlast treba da utvrdi odgovarajuće standarde za prirodnu i veštačku rasvetu.

Smernica B 3. 1. 5. – Spavaonice

1. Kreveti na brodu treba da budu što je moguće udobniji za pomorca i lice koje se može pridružiti pomorcu.

2. Gde veličina broda, njegova upotreba i delatnosti kojom će se baviti to dozvoljavaju, spavaonice treba da budu planirane i opremljene ličnim kupatilom, uključujući toalet, kako bi pružili odgovarajuću udobnost korisnicima i olakšali urednost.

3. Kad god je moguće, spavaonice pomoraca treba da budu smeštene tako da su straže odvojene i da nijedan pomorac koji radi danju ne deli sobu sa licima na straži.

4. U jednoj spavaonici ne bi smelo da bude smešteno više od dvojice pomoraca koji obavljaju dužnost podoficira.

5. Treba razmotriti mogućnost da se, kad god je to moguće, pogodnost navedena u stavu 9(m) Standarda A 3. 1. primeni i na drugog oficira mašine.

6. Prilikom merenja površine poda treba da se uključi prostor zauzet krevetima, ormanima, fiokama i stolicama. Treba izuzeti male ili nepravilno oblikovane prostore

koji značajno ne povećavaju prostor raspoloživ za slobodno kretanje i ne mogu se koristiti za smeštaj nameštaja.

7. Ne bi trebalo postavljati više od dva kreveta jedan iznad drugoga; u slučaju da su smešteni uzduž boka broda, tamo gde se iznad kreveta nalazi bočno okno treba postaviti samo jedan red kreveta.

8. Tamo gde je postavljen krevet iznad kreveta, niži krevet ne treba da bude manje od 30 cm iznad poda; gornji krevet treba da bude smešten približno na sredini između dna nižeg kreveta i donje strane spone stropa.

9. Okviri i bočna ograda kreveta, ako postoje, treba da budu od odobrenog materijala, čvrsti, glatki i nepogodni za koroziju i sklanjanje gamadi.

10. Ako se za izradu kreveta koriste cevasti okviri, oni treba da budu potpuno zatvoreni i bez rupa koje bi omogućile pristup gamadi.

11. Svaki krevet treba da ima udoban dušek sa donjom stranom u obliku jastuka ili sastavljeni dušek u obliku jastuka, uključujući elastično dno ili dušek sa oprugama. Dušek i materijal za punjenje koji se koristi treba da bude izrađen od odobrenog materijala. Za punjenje ne treba koristiti materijal pogodan kao utočište za gamad.

12. Kada je jedan krevet smešten iznad drugog, ispod donje strane duška ili elastičnog dna gornjeg kreveta treba postaviti dno koje ne propušta prašinu.

13. Nameštaj treba da bude gladak, od tvrdog materijala koji nije podložan savijanju ili koroziji.

14. Spavaonice treba da imaju zavese ili nešto slično zavesama protiv bočnog svetla.

15. Spavaonice treba da imaju ogledalo, mali ormarić za higijenski pribor, policu za knjige i dovoljan broj vešalica za kapute.

Smernica B 3. 1. 6. – Prostorije za ishranu

1. Prostorije za ishranu mogu da budu zajedničke ili posebne. Odluku o tome treba da, nakon konsultacija sa predstavnicima pomoraca i brodovlasnika, donese i odobri nadležna vlast. Treba voditi računa o faktorima kao što su veličina broda i izrazite kulturne, verske i socijalne potrebe pomoraca.

2. Ako su predviđene posebne prostorije za ishranu za pomorce, posebne prostorije za ishranu treba predvideti za:

- (a) zapovednika i oficire; i
- (b) podoficire i druge pomorce.

3. Na svim brodovima, osim na putničkim, površina poda prostorija za ishranu za pomorce treba da bude najmanje 1,5 kvadratnih metara po licu prema planiranom kapacitetu sedišta.

4. Na svim brodovima prostorije za ishranu treba da budu opremljene stolovima i odgovarajućim stolicama, učvršćenim ili pokretnim, dovoljnim za smeštaj najvećeg broja pomoraca koji će se verovatno njima istovremeno koristiti.

5. Dok su pomorci na brodu, na raspolaganju stalno treba da im bude:

- (a) hladnjak, koji treba da bude na odgovarajući način smešten i dovoljnog kapaciteta za broj lica koja će koristiti prostoriju za ishranu ili prostorije za ishranu;
- (b) pribor za tople napitke; i
- (c) uređaj sa hladnom vodom.

6. Kada do prostorije za ishranu ne postoje ostave, treba predvideti odgovarajuće ormane za posuđe i odgovarajuća sredstva za pranje posuđa.

7. Površine stolova i stolica treba da budu od materijala otpornog na vlagu.

Smernica B 3. 1. 7. – Sanitarne prostorije

1. Umivaonici i tuševi treba da budu odgovarajuće veličine i izrađeni od odobrenog materijala glatke površine koji ne podleže pucanju, ljušćenju ili koroziji.

2. Svi toaleti treba da budu odobrenog oblika, sa obilnim mlazom vode ili nekim drugim prikladnim sredstvom za ispiranje kao što je vazduh, koji su stalno raspoloživi i samostalno nadzirani.

3. Sanitarni uređaji namenjeni za upotrebu od strane više od jednog lica treba da ispunjavaju sledeće zahteve:

(a) podovi treba da budu od odobrenog postojanog materijala, otpornog na vlagu, kao i da imaju odgovarajući odvod;

(b) pregrade treba da budu od čelika ili drugog odobrenog materijala i vodonepropusne do najmanje 23 cm iznad nivoa palube;

(c) prostorije treba da budu dovoljno osvetljene, zagrejane i proventrene;

(d) toaleti treba da budu smešteni odmah do spavaonica i kupatila, ali odvojeni od njih, bez direktnog pristupa iz spavaonica ili iz prolaza između spavaonica i toaleta do kojih ne postoji drugi pristup; ovaj zahtev ne primenjuje se ako je toalet smešten u odeljku između dve spavaonice u kojima su smeštena najviše četiri pomorca; i

(e) tamo gde u nekom odeljku postoji više od jednog toaleta, treba ih odvojiti pregradom da bi se obezbedila privatnost.

4. Sredstva za pranje predviđena za upotrebu pomoraca treba da obuhvataju:

(a) mašine za pranje;

(b) mašine za sušenje ili odgovarajuće zagrejane i proventrene sušionice; i

(c) pegle i daske za peglanje ili tome slično.

Smernica B 3. 1. 8. – Prostorija bolnice

1. Prostorija bolnice treba da bude tako izvedena da olakša preglede, pružanje medicinske prve pomoći i spreči širenje zaraznih bolesti.

2. Uređenje ulaza, kreveta, osvetljenja, grejanja i dostavljanje vode treba izvesti tako da se obezbedi udobnost i olakša lečenje korisnika.

3. Broj bolničkih kreveta treba da propiše nadležna vlast.

4. Treba predvideti sanitarne prostorije za isključivu upotrebu korisnika bolnice, bilo kao deo prostorije za smeštaj ili u njenoj neposrednoj blizini. Takve sanitarne prostorije treba da imaju najmanje jedan toalet, jedan umivaonik i jednu kadu ili tuš.

Smernica B 3. 1. 9. – Ostala sredstva

1. Ako su predviđeni posebni prostori za zamenu odeće osoblja službe mašine, oni treba da budu:

(a) smešteni izvan prostora mašina, ali sa lakim pristupom iz njega;

(b) opremljeni posebnim ormanima za odeću, kadama ili tuševima, ili jednim i drugim, i umivaonicima sa toplom i hladnom tekućom slatkom vodom.

Smernica B 3. 1. 10. – Posteljina, kuhinjsko posuđe i drugo

1. Svaka članica treba da razmotri primenu sledećih načela:

- (a) za sve pomorce tokom službe na brodu, čistu posteljinu i kuhinjsko posuđe treba da nabavi brodovlasnik, a pomorci treba da budu odgovorni za njihov povraćaj u vreme koje odredi zapovednik broda po završetku službe na brodu;
- (b) posteljina treba da bude dobrog kvaliteta, a tanjiri, čaše i drugo kuhinjsko posuđe od odobrenog materijala koji se može lako čistiti; i
- (c) peškire, sapun i toalet papir za sve pomorce treba da nabavi brodovlasnik.

Smernica B 3. 1. 11. – Sredstva za odmor, pošta i poseta brodu

1. Sredstva i službe za odmor treba da se češće preispituju kako bi se obezbedilo da su one odgovarajuće s obzirom na promene potreba pomoraca koje su nastale zbog tehničkog, radnog i drugog razvoja brodarstva.

2. Nameštaj prostorije za odmor treba da sadrži barem orman za knjige i potrepštine za čitanje, pisanje i, kada je to odgovarajuće, za igre.

3. Prilikom planiranja prostorija za odmor, nadležna vlast treba da razmotri postojanje kantine.

4. Treba razmotriti i uključivanje sledećih pogodnosti, besplatnih za pomorce, kada je to moguće:

- (a) prostorije za pušenje;
- (b) gledanje televizije i slušanje radija;
- (c) prikazivanje filmova, čiji broj treba da odgovara trajanju putovanja, i, kad je potrebno, zamenu u razumnim rokovima;
- (d) sportsku opremu, uključujući opremu za vežbanje, stone igre i igre na palubi;
- (e) kad je to moguće, bazen za plivanje;
- (f) biblioteku stručnih i drugih knjiga, čija količina treba da odgovara trajanju putovanja i koju treba menjati u razumnim rokovima;
- (g) sredstva za rekreacioni ručni rad;
- (h) električnu opremu kao što su radio, televizija, videorekorderi, DVD/CD uređaji, lični kompjuter i programe i kasetofon.
- (i) gde je to odgovarajuće, otvaranje barova na brodu za pomorce, osim ako se to protivi nacionalnim, verskim ili društvenim običajima; i
- (j) odgovarajući pristup do telefonskih veza brod-obala, električne pošte i interneta, tamo gde su isti raspoloživi, uz razumnu cenu za korišćenje ovih usluga.

5. Treba uložiti napore da se obezbedi da je slanje pošte pomoraca toliko pouzdano i brzo koliko je to moguće. Takođe, treba uložiti napor da se izbegne da se od pomoraca traži dodatna poštarina ako je adresa promenjena zbog okolnosti izvan njihovog nadzora.

6. Treba razmotriti mere kojima će se obezbediti, pridržavajući se nacionalnih ili međunarodnih zakona ili pravila, da, kad god je to moguće i razumno, pomorci dobiju brzo dozvolu za posetu supružnika, rođaka i prijatelja kao posetioca njihovom brodu dok je on u luci. Takve mere treba da ispunjavaju zahteve sigurnosne zaštite.

7. Treba razmotriti mogućnost da se pomorcima dopusti da im se povremeno na putovanjima priključi supružnik, gde je to moguće i razumno. Takva lica treba da

imaju odgovarajuće osiguranje za slučaj nezgode ili bolesti. Brodovlasnici treba da pruže pomorcu svu moguću pomoć da dobije takvo osiguranje.

Smernica B 3. 1. 12. – Sprečavanje buke i vibracije

1. Prostorije za smeštaj, prostorije za odmor i prostorije za posluživanje hrane treba da budu smeštene što je moguće dalje od mašina, prostorija za kormilarenje, palubnih vitala, opreme za ventilaciju, grejanje i klimatizaciju i drugih bučnih mašina i uređaja.
2. Zvučna izolacija ili drugi odgovarajući materijali koji upijaju zvukove treba da se koriste u izgradnji i dovršenju pregrada, stropova i paluba unutar prostora u kojima se stvara buka, kao i samozatvarajućim zvučno izolovanim vratima za prostorije mašina.
3. Mašinske prostorije i druge prostorije mašina treba da imaju, kad god je to moguće, zvučno otpornu centralnu upravljačku stanicu za osoblje mašine. Radni prostori kao što je radionica treba da budu izolovani, koliko je god to moguće, od opšte buke mašinskih prostorija, kao i da se preduzmu mere da se buka od rada mašina smanji.
4. Granice ograničenja buke za radne i životne prostore treba da budu u skladu sa međunarodnim smernicama MOR-a o nivou izlaganja, uključujući one u *Kodeksu prakse o faktorima koji okružuju radno mesto iz 2001. godine*, i, kada je to primenljivo, posebne zaštite koju je preporučila Međunarodna pomorska organizacija, uključujući i sve druge naknadno izmenjene i dopunjene dokumente o prihvatljivom nivou buke na brodovima. Kopija važećih dokumenata na engleskom ili radnom jeziku broda, treba da se nalaze na brodu i da budu dostupna pomorcima.
5. Nijedna prostorija za smeštaj, za odmor ili za posluživanje hrane ne bi smela da bude izložena preteranoj vibraciji.

Pravilo 3. 2. – Ishrana i posluživanje hrane

Cilj: Obezbediti da pomorci imaju na brodu hranu i pitku vodu odgovarajućeg kvaliteta posluženu u urednim higijenskim uslovima

1. Svaka članica obezbediće da brodovi koji plove pod njenom zastavom na brodu imaju i poslužuju hranu i pitku vodu odgovarajućeg kvaliteta, prehrambene vrednosti i u količini koja odgovara zahtevima broda, a uzima u obzir različito kulturno i versko vaspitanje.
2. Pomorci na brodu treba da imaju besplatnu hranu tokom svog zaposlenja.
3. Pomorci zaposleni kao brodski kuvari, kao i oni koji su odgovorni za pripremanje hrane, moraju da budu obučeni i osposobljeni za svoje mesto na brodu.

Standard A 3. 2. – Ishrana i posluživanje hrane

1. Svaka članica mora da usvoji zakone i pravila ili druge mere kojima će predvideti najniže standarde za količinu i kvalitet hrane i pitke vode i standarde služenja hrane koji se primenjuju na obroke predviđene za pomorce na brodovima koji plove pod njenom zastavom, kao i da preduzme obrazovne mere kako bi unapredila znanje i primenu standarda navedenog u ovom stavu.
2. Svaka članica mora da obezbedi da brodovi koji plove pod njenom zastavom ispunjavaju sledeće najniže standarde:

(a) nabavka hrane i pitke vode, uzimajući u obzir broj pomoraca na brodu, njihove verske zahteve i kulturne običaje kojih se pridržavaju kada je reč o hrani, trajanju i prirodi putovanja, mora biti odgovarajuća s obzirom na količinu, prehrambenu vrednost, kvalitet i raznovrsnost.

(b) organizacija i oprema službe za posluživanje hrane mora biti takva da omogući davanje pomorcima odgovarajućih, raznovrsnih i hranjivih obroka, pripremljenih i posluženih u higijenskim uslovima; i

(c) osoblje službe za ishranu i posluživanje hrane mora biti prikladno obučeno ili upućeno za njihova radna mesta.

3. Brodovlasnici moraju da obezbede da su pomorci koji su zaposleni kao brodski kuvari obučeni, osposobljeni i proglašeni sposobnim za radno mesto u skladu sa zahtevima utvrđenim u zakonima i pravilima pojedine članice.

4. Zahtevi stava 3. ovog Standarda moraju da obuhvate završetak programa obuke koji je odobrila ili priznala nadležna vlast, koji obrađuje praktično kuvanje, hranu i ličnu higijenu, skladištenje hrane, nadzor zaliha i odnosi se na zaštitu okoline i zdravlja, kao i bezbednost posluživanja hrane.

5. Na brodovima koji plove sa propisanim brojem članova posade manjim od deset, gde zbog broja posade ili načina poslovanja nadležna vlast ne može da zahteva da imaju potpuno osposobljenog kuvara, svako ko priprema hranu u kuhinji mora biti obučen ili poučen o oblastima kao što su hrana i lična higijena, kao i rukovanje i skladištenje hrane na brodu.

6. U okolnostima izuzetne potrebe, nadležna vlast može dati ovlašćenje kojim će dopustiti nepotpuno osposobljenom kuvaru da služi na određenom brodu u određenom ograničenom vremenu, do naredne odgovarajuće luke pristajanja ili u periodu koji ne prelazi jedan mesec, pod uslovom da je lice kome je ovlašćenje dato obučeno ili poučeno o oblastima koja uključuju hranu i ličnu higijenu, kao i rukovanje i skladištenje hrane na brodu.

7. U skladu sa navedenim postupcima koji ispunjavaju zahteve prema Poglavlju 5, nadležna vlast mora da zahteva da zapovednik broda ili od njega ovlašćeno lice češće sprovodi inspekcije na brodovima, kao i da o tome vodi beleške, naročito o:

(a) zalihama hrane i pitke vode;

(b) svim prostorijama i opremi koja služi za skladištenje i rukovanje hranom i pitkom vodom; i

(c) kuhinji i drugoj opremi za pripremanje i posluživanje obroka.

8. Pomorac mlađi od 18 godina ne može biti zaposlen, uzet u službu ili da radi kao brodski kuvar.

Smernica B 3. 2. – Hrana i posluživanje hrane

Smernica B 3. 2. 1. – Inspekcija, obrazovanje, istraživanje i objavljivanje

1. Nadležna vlast treba da, u saradnji sa drugim odgovarajućim agencijama i organizacijama, prikuplja ažurirane informacije o ishrani, načinima kupovine, skladištenja, očuvanja, kuvanja i posluživanja hrane s posebnim osvrtom na zahteve posluživanja hrane na brodu. Ove informacije treba da budu dostupne, besplatne ili uz razuman trošak, proizvođačima i trgovcima koji dobavljaju hranu i opremu brodovima, zatim zapovednicima, konobarima, kuvarima i zainteresovanim organizacijama brodovlasnika i pomoraca. U tu svrhu treba da se koriste odgovarajući oblici objavljivanja kao što su priručnici, brošure, poster, grafički prikazi ili oglasi u trgovačkim časopisima.

2. Nadležna vlast treba da donese preporuke o sprečavanju rasipanja hrane, kako bi se olakšalo održavanje odgovarajućeg standarda higijene i obezbedila najpraktičnija moguća prikladnost radnog postupka.

3. Nadležna vlast treba da radi sa odgovarajućim agencijama i organizacijama na izradi obrazovnih materijala i brodskih informacija o načinima obezbeđenja odgovarajućeg snabdevanja hranom i posluživanja.

4. Nadležna vlast treba da radi u uskoj saradnji sa zainteresovanim organizacijama brodovlasnika i pomoraca, kao i sa državnim ili lokalnim vlastima koje se bave prehranom i zdravljem i može, kada je to potrebno, da koristi usluge takvih vlasti.

Smernica B 3. 2. 2. – Brodski kuvari

1. Pomorce treba smatrati osposobljenim za brodske kuvare samo ako su:

(a) služili na moru u najmanjem trajanju koji propisuje nadležna vlast, a ono može biti različito, u zavisnosti od dotadašnje odgovarajuće osposobljenosti ili iskustvu

(b) položili ispit koji je propisala nadležna vlast ili jednakovredni ispit po odobrenom programu obuke za kuvara.

2. Propisani ispit može sprovesti i svedočanstvo izdati direktno nadležna vlast ili, pod njenim nadzorom, odobrena škola za obuku kuvara.

3. Nadležna vlast treba da prizna, kada je to odgovarajuće, svedočanstvo o osposobljenosti brodskih kuvara koje su izdale druge članice koje su potvrdile ovu Konvenciju ili Konvenciju o svedočanstvima brodskih kuvara, usvojenu 1946. godine (br. 69), ili drugo odgovarajuće telo.

POGLAVLJE 4. ZAŠTITA ZDRAVLJA, ZDRAVSTVENA NEGA, SOCIJALNA POMOĆ I ZAŠTITA SOCIJALNE SIGURNOSTI

Pravilo 4. 1. – Zdravstvena nega na brodu i kopnu

Cilj: Zaštititi zdravlje pomoraca i obezbediti neodložnu dostupnost zdravstvenoj nezi na brodu i kopnu

1. Svaka članica mora da obezbedi da se na sve pomorce na brodovima koji plove pod njenom zastavom primenjuju odgovarajuće mere zaštite njihovog zdravlja i da im je dostupna neodložna i odgovarajuća zdravstvena nega dok rade na brodu.

2. Zaštita i nega prema stavu 1. ovog Pravila mora, u načelu, biti besplatna za pomorce.

3. Svaka članica mora da obezbedi da pomorcima na brodovima na njenoj teritoriji, kojima je potrebna hitna zdravstvena nega, budu dostupne zdravstvene ustanove članice na kopnu.

4. Zahtevi za zaštitu zdravlja i zdravstvenu negu na brodu utvrđeni u Kodeksu uključuju standarde mera usmerenih na pružanje zdravstvene zaštite i nege pomorcima u meri uporedivoj, koliko je to moguće, sa onima koje su u načelu dostupne radnicima na kopnu.

Standard A 4. 1. – Zdravstvena nega na brodu i kopnu

1. Svaka članica mora da obezbedi prihvatanje mera za zaštitu zdravlja i zdravstvenu negu, uključujući preko potrebnu zubnu zaštitu, za pomorce koji rade na brodu koji plove pod njenom zastavom, a kojima se:

(a) obezbeđuje primena na pomorce opštih odredbi o zaštiti zdravlja na radu i zdravstvenoj negi koja odgovara njihovim dužnostima, kao i posebnim odredbama specifičnim za rad na brodu;

(b) obezbeđuje pomorcima pružanje zaštite zdravlja i zdravstvene nege koja je, koliko je to moguće, uporediva sa onom koja je u načelu dostupna radnicima na kopnu, uključujući hitan pristup do potrebnih lekova, medicinske opreme i sredstava za dijagnozu i lečenje, kao i obaveštenja i lekarskih nalaza;

(c) priznaju pomorcima pravo na odlazak kod lekara ili zubara, bez odlaganja, u lukama pristajanja, gde je to moguće;

(d) obezbeđuje da su, u obimu koji je u skladu sa nacionalnim zakonom i praksom članice, zdravstvena nega i usluge zaštite zdravlja dok je pomorac na brodu ili kada je iskrcan u stranoj luci, besplatne za pomorce; i

(e) obuhvataju i mere preventivnog karaktera kao što su promovisanje zdravlja i programi zdravstvenog obrazovanja, a ne ograničavaju se samo na lečenje bolesnih ili povređenih pomoraca.

2. Nadležna vlast mora da usvoji standardni oblik zdravstvenog izveštaja za upotrebu zapovednika brodova i odgovarajućeg medicinskog osoblja na kopnu i brodu. Popunjeni obrazac i njegov sadržaj mora da se drži sakriven i da se koristi samo u svrhu olakšanja lečenja pomoraca.

3. Svaka članica mora da usvoji zakone i pravila kojima se utvrđuju zahtevi za brodsku bolnicu, kao i sredstva i opremu za zdravstvenu negu i obuku na brodovima koji plove pod njenom zastavom.

4. Nacionalni zakoni i pravila moraju da predvide najmanje sledeće zahteve:

(a) svi brodovi moraju da imaju medicinski ormarić, medicinsku opremu i zdravstveni vodič propisane vrste podvrgnute redovnim inspekcijama nadležne vlasti; zahtevi propisani od državnog nadležnog organa uzeće u obzir vrstu broda, broj lica na brodu, prirodu, odredište i trajanje putovanja i odgovarajuće državne i međunarodno preporučene zdravstvene standarde;

(b) brodovi koji prevoze 100 ili više lica i redovno obavljaju međunarodna putovanja duža od tri dana moraju da imaju lekara odgovornog za pružanje zdravstvene nege; nacionalni zakoni ili pravila propisaće i koji drugi brodovi moraju da imaju lekara, uzimajući u obzir inter alia faktore kao što su trajanje, priroda i uslovi putovanja, kao i broj pomoraca na brodu;

(c) od brodova koji nemaju lekara mora da se zahteva da imaju ili najmanje jednog pomorca (na brodu) kome je poverena zdravstvena nega i davanje lekova kao deo njegovih redovnih dužnosti, ili najmanje jednog pomorca (na brodu) koji je osposobljen za pružanje prve pomoći; lica kojima je poverena zdravstvena nega na brodu koji nisu lekari moraju da imaju uspešno završenu obuku zdravstvene nege koja ispunjava zahteve Međunarodne konvencije o standardima za obuku, izdavanju uverenja i držanje brodske straže pomoraca, usvojenu 1978. godine, sa izmenama i dopunama (STCW); pomorci određeni za pružanje prve pomoći moraju da imaju uspešno završenu obuku za pružanje lekarske prve pomoći koja ispunjava zahteve Konvencije STCW; Nacionalni zakoni ili pravila moraju da odrede traženi nivo odobrene obuke, uzimajući u obzir inter alia faktore kao što su trajanje, priroda i uslovi putovanja te broj pomoraca na brodu; i

(d) nadležna vlast i prethodno uređenim sistemom mora obezbediti da su medicinski saveti putem radijskih ili satelitskih veza brodovima na moru, uključujući i savete specijalista, raspoloživi 24 sata dnevno; medicinski savet, uključujući prenos medicinskih poruka radijskim ili satelitskim vezama, između broda i onih na kopnu koji daju savet, mora biti besplatan za sve brodove bez obzira na zastavu pod kojom plove.

Smernica B 4. 1. – Zdravstvena nega na brodu i kopnu

Smernica B 4. 1. 1. – Pružanje zdravstvene nege

1. Kada utvrđuje nivo obuke za obavljanje zdravstvene zaštite koja će se obezbediti na brodovima koji ne moraju da imaju lekara, nadležna vlast treba da zahteva da:

(a) brodovi koji redovno mogu da dobiju stručnu zdravstvenu negu i medicinska sredstva u roku od osam sati moraju da imaju najmanje jednog pomorca s odobrenim programom obuke lekarske prve pomoći koju zahteva STCW Konvencija, određenog za preduzimanje neodložnih i efikasnih radnji u slučaju nezgoda ili bolesti koje mogu da se dogode na brodu, odnosno traženje saveta putem radijske ili satelitske veze; i

(b) svi drugi brodovi treba da imaju najmanje jednog imenovanog pomorca s odobrenim programom obuke za zdravstvenu negu koju zahteva STCW Konvencija, uključujući praktičnu obuku i obuku u pogledu načina spašavanja života kao što su intravenozna terapija, koja će im omogućiti da uspešno učestvuju u primeni usklađenih planova medicinske pomoći brodovima na moru, kao i da pruže obolelim ili povređenim licima zadovoljavajući standard zdravstvene nege tokom vremena u kojem će oni verovatno ostati na brodu.

2. Obuka navedena u stavu 1. ove Smernice treba da se zasniva na sadržaju poslednjih izdanja vodiča *Međunarodnih zdravstvenih smernica za brodove*, *Smernica za medicinsku prvu pomoć u slučaju nesreća koje uključuju opasne stvari*, *Dokumenta s uputstvima - Međunarodne smernice za pomorsku obuku i medicinskog dela Međunarodnog signalnog kodeksa*, kao i sličnim vodičima koje odobre državni nadležni organi.

3. Lica navedena u stavu 1. ove Smernice i drugi pomorci od kojih to zatraži nadležna vlast, treba da prođu, u približno petogodišnjim rokovima, programe obnavljanja znanja koji će im omogućiti da zadrže i povećaju svoje znanje i veštine i dopunjavaju ga novim dostignućima.

4. Medicinski ormarić i njegov sadržaj, medicinsku opremu i medicinski vodič koji se nalaze na brodu treba uredno da održava i pregleda, u redovnim razmacima koji ne prelaze 12 meseci, odgovorno lice koje je odredila nadležna vlast, koje treba da obezbedi da su oznake, datumi isteka važenja i uslovi smeštaja svih lekova i uputstava za upotrebu ispitani i da sva oprema radi kako treba. Prilikom usvajanja ili revizije broskog zdravstvenog vodiča koji se koristi na državnom nivou, kao i prilikom utvrđivanja sadržaja medicinskog ormarića i medicinske opreme, nadležna vlast treba da uzme u obzir međunarodne preporuke na tom polju, uključujući poslednje izdanje vodiča *Međunarodne zdravstvene smernice za brodove* i druge vodiče navedene u stavu 2. ove Smernice.

5. Kada teret koji je razvrstan kao opasan teret nije uključen u najnovije izdanje vodiča *Smernice za medicinsku prvu pomoć u slučaju nesreća koje uključuju opasne stvari*, pomorcima treba da budu dostupne potrebne informacije o prirodi stvari, opasnostima od njih, potrebnim ličnim zaštitnim sredstvima, odgovarajućim medicinskim postupcima i namenskim protivotrovima. Takvi posebni protivotrovi i lična zaštitna sredstva treba da budu na brodu kad god se prevozi opasan teret. Ove informacije treba da budu sastavni deo brodske politike i planova o zaštiti na radu i zaštiti zdravlja, opisanih u Pravilu 4.3 i odgovarajućim odredbama Kodeksa.

6. Svi brodovi treba da imaju potpun i ažuriran popis radio-stanica preko kojih se može dobiti medicinski savet; ako su opremljeni sistemom satelitskih veza, onda i potpun i ažuriran popis obalnih zemaljskih stanica preko kojih se može dobiti medicinski savet. Pomorci kojima je poverena zdravstvena nega ili pružanje prve pomoći treba da budu upoznati s upotrebom broskog zdravstvenog vodiča i medicinskim delom poslednjeg izdanja priručnika *Međunarodnog signalnog kodeksa*

koji će im omogućiti da razumeju vrstu informacija potrebnih lekaru od kojeg se traži savet, kao i primljeni savet.

Smernica B 4. 1. 2. – Obrazac zdravstvenog izveštaja

1. Standardni oblik zdravstvenog izveštaja za pomorce koji zahteva Deo A ovog Kodeksa treba da bude određen tako da se olakša razmena medicinskih i s njima povezanih informacija između broda i kopna o pojedinim pomorcima u slučajevima bolesti ili povreda.

Smernica B 4. 1. 3. – Zdravstvena nega na kopnu

1. Medicinska sredstva na kopnu namenjena lečenju pomoraca moraju da odgovaraju toj svrsi. Lekari, zubari i drugo medicinsko osoblje mora da bude osposobljeno na odgovarajući način.

2. Treba preduzeti mere kojima će se obezbediti da pomorcima, kada su u luci, bude dostupno:

- (a) ambulantno lečenje bolesti ili povrede;
- (b) smeštaj u bolnicu, kada je potreban; i
- (c) mogućnost lečenja zuba, posebno u hitnim slučajevima.

3. Treba preduzeti odgovarajuće mere da se olakša lečenje obolelih pomoraca. Posebno, pomorci treba da budu odmah primljeni u klinike i bolnice na kopnu, bez problema i bez obzira na državljanstvo ili veru, i kad god je to moguće treba preduzeti mere koje će obezbediti nastavak lečenja raspoloživim dopunskim medicinskim sredstvima kada je to potrebno.

Smernica B 4. 1. 4. – Medicinska pomoć drugim brodovima i međunarodna saradnja

1. Svaka članica treba da posveti dužnu pažnju učešću u međunarodnoj saradnji na području pomoći, programa i istraživanja zaštite zdravlja i zdravstvene nege. Takva saradnja može da se odnosi na:

- (a) razvoj i usklađivanje napora prilikom traganja i spasavanja, kao i organizovanja hitne lekarske pomoći i evakuacije na moru kod ozbiljnije bolesti ili povrede na brodu takvim sredstvima kao što su sistemi redovnog izveštavanja o položaju broda, centri za usklađivanje traganja, kao i helikopterske službe u nuždi, u skladu sa Međunarodnom konvencijom o traganju i spasavanju, usvojenu 1979. godine, sa izmenama i dopunama, kao i *Međunarodnim priručnikom vazduhoplovnog i pomorskog traganja i spasavanja (IAMSAR)*;
- (b) optimalnu upotrebu svih brodova koji imaju lekara i brodova na određenim mestima na moru koji mogu da pruže bolnički smeštaj i sredstva za spasavanje;
- (c) sastavljanje i održavanje međunarodnog popisa lekara i sredstava za zdravstvenu negu u svetu koji su raspoloživi za pružanje hitne zdravstvene nege pomorcima;
- (d) iskrcaj pomoraca na kopno radi hitnog lečenja;
- (e) repatrijaciju pomoraca smeštenih u bolnicama na kopnu čim to bude moguće, u skladu sa savetom odgovornog lekara koji će uzeti u obzir želje i potrebe pomoraca;
- (f) organizovanje lične pomoći pomorcima tokom repatrijacije, u skladu sa savetom odgovornog lekara koji će uzeti u obzir želje i potrebe pomoraca;
- (g) podsticanje otvaranja zdravstvenih centara za pomorce koji će:

(i) sprovoditi istraživanja o zdravstvenom stanju, lečenju i preventivnoj zdravstvenoj nezi pomoraca; i

(ii) obučavati osoblje lekarske i zdravstvene službe o pomorskoj medicini;

(h) prikupljanje i procenjivanje statističkih podataka o nezgodama na radu, bolestima i smrti pomoraca, kao i objedinjavanje i usklađivanje podataka sa postojećim državnim statističkim sistemom o nezgodama na radu i bolestima drugih kategorija radnika;

(i) organizovanje međunarodne razmene tehničkih informacija, materijala za obuku i osoblja, kao i međunarodnih programa obuke, seminara i radnih grupa;

(j) obezbeđivanje svim pomorcima posebne kurativne i preventivne zdravstvene i lekarske službe u luci, ili im učiniti dostupnim opšte zdravstvene, lekarske i rehabilitacione službe; i

(k) organizovanje repatrijacije tela ili pepela preminulih pomoraca u skladu sa željama najbliže rodbine, čim je to moguće.

2. Međunarodna saradnja na polju zaštite zdravlja i zdravstvene nege za pomorce treba da se zasniva na bilateralnim ili multilateralnim ugovorima ili konsultacijama između članica.

Smernica B 4. 1. 5. – Lica koja zavise od pomoraca

1. Svaka članica treba da usvoji mere kojima će obezbediti odgovarajuću i zadovoljavajuću zdravstvenu negu za lica koja zavise od pomoraca a koja imaju prebivalište na njihovoj teritoriji istovremeno sa razvojem službe zdravstvene nege koja u svoj delokrug treba da uključi sve radnike i lica koja od njih zavise, gde takve službe ne postoje, i da obavesti Međunarodni kancelariju rada o merama koje je u tu svrhu preduzela.

Pravilo 4. 2. – Obaveze brodovlasnika

Cilj: Obezbediti oslobađanje pomoraca od finansijskih izdataka u slučaju bolesti, povrede ili smrti povezane s njihovim zaposlenjem

1. Svaka članica mora da obezbedi preduzimanje mera u skladu sa kodeksom na brodovima koji plove pod njenom zastavom, kako bi pomorci zaposleni na brodovima imali pravo na materijalnu pomoć i podršku brodovlasnika za izdatke u slučaju bolesti, povrede ili smrti koji su se dogodili dok su služili pod ugovorom o zaposlenju ili su prouzrokovani zaposlenjem prema takvom ugovoru.

2. Ovo Pravilo ne utiče ni na koje druge pravne lekove priznate pomorcu.

Standard A 4. 2. – Odgovornost brodovlasnika

1. Svaka članica mora da usvoji zakone i pravila kojima će zahtevati da brodovlasnici brodova koji plove pod njenom zastavom odgovaraju za zaštitu zdravlja i zdravstvenu negu svih pomoraca koji rade na tim brodovima u skladu sa sledećim najnižim standardima:

(a) brodovlasnici su dužni da snose troškove za pomorce koji rade na njihovim brodovima u slučaju bolesti ili povrede pomoraca koji su se dogodili od datuma početka službe do datuma kada se smatra da su uredno repatrirani ili su prouzrokovani njihovim zaposlenjem između tih datuma;

(b) brodovlasnici moraju da predvide finansijsko osiguranje kojim će osigurati naknadu u slučaju smrti ili dugotrajne nesposobnosti pomoraca zbog nezgode

na radu, bolesti ili opasnosti, kako je utvrđeno u nacionalnom zakonu, ugovoru o zaposlenju pomorca ili kolektivnom ugovoru;

(c) brodovlasnici moraju da snose trošak zdravstvene nege, uključujući lečenje i nabavku potrebnih lekova i terapijskih pomagala i hrane i smeštaja izvan kuće, do prestanka bolesti ili povrede ili do utvrđivanja da je bolest ili nesposobnost trajnog karaktera; i

(d) brodovlasnici moraju da snose pogrebne troškove u slučaju smrti koja se dogodila na brodu ili kopnu za vreme zaposlenja.

2. Nacionalni zakoni ili pravila mogu da ograniče odgovornost brodovlasnika za namirenje troškova zdravstvene nege na brodu i smeštaja za period koji ne sme biti kraći od 16 nedelja od dana povrede ili početka bolesti.

3. Kada je zbog bolesti ili povrede došlo do nesposobnosti za rad, brodovlasnik je dužan da:

(a) isplaćuje punu platu toliko dugo dok oboleli ili povređeni pomorac ostane na brodu ili dok nije repatiran u skladu sa ovom Konvencijom; i

(b) isplaćuje platu u celini ili delimično, kako je propisano nacionalnim zakonima ili pravilima ili kako je predviđeno kolektivnim ugovorom, od časa kada je pomorac repatiran ili iskrzan do njegovog oporavka ili, ako je to ranije, dok nije stekao pravo na novčano uzdržavanje prema zakonodavstvu odnosne članice.

4. Nacionalni zakoni ili pravila mogu da ograniče odgovornost brodovlasnika za isplatu plata u celini ili delimično pomorcu koji nije više na brodu za period koji neće biti kraći od 16 nedelja od dana povrede ili od dana početka bolesti.

5. Nacionalni zakoni ili pravila mogu da isključe odgovornost brodovlasnika za:

(a) povredu koja nije nastala u službi broda;

(b) povredu ili bolest zbog namernog izazivanja bolesti, povrede ili smrti pomorca;

(c) bolesti ili nesposobnosti koja je namerno prikrivena u trenutku stupanju u službu.

6. Nacionalni zakoni ili pravila mogu osloboditi brodovlasnika od odgovornosti za snošenje troškova zdravstvene nege na brodu, hrane i smeštaja ili pogrebnih troškova ukoliko su takvu odgovornost preuzele javne vlasti.

7. Brodovlasnici ili njihovi predstavnici moraju da preduzmu mere za zaštitu imovine koja je ostala na brodu u slučaju bolesti, povrede ili smrti pomoraca i za njihov povraćaj njima ili njihovim najbližim članovima porodice.

Smernica B 4. 2. – Odgovornost brodovlasnika

1. Iz pune plate isplaćene prema zahtevu stava 3(a) Standarda A 4. 2. mogu da budu isključeni bonusi.

2. Nacionalni zakoni ili pravila mogu da predvide da će brodovlasnik prestati da bude odgovoran za snošenje troškova bolesnom ili povređenom pomorcu od trenutka kada je pomorac mogao da zahteva pogodnosti prema programu obaveznog bolesničkog osiguranja, obaveznog osiguranja protiv nezgode ili radničke naknade za nezgode.

3. Nacionalni zakoni ili pravila mogu da predvide da pogrebne troškove koje je platio brodovlasnik mora da nadoknadi osiguravajuća ustanova u slučajevima kada su pogrebni troškovi plativi za umrlog pomorca prema zakonima ili pravilima o socijalnom osiguranju ili radničkim naknadama.

Pravilo 4. 3. – Zaštita zdravlja i bezbednosti i sprečavanje nezgoda

Cilj: Obezbediti da radna okolina pomoraca na brodovima unapređuje radnu bezbednost i zdravlje

1. Svaka članica mora da obezbedi da je pomorcima na brodovima koji plove pod njenom zastavom omogućena radna zdravstvena zaštita i život, rad i obrazovanje na brodu u bezbednoj i higijenski odgovarajućoj okolini.
2. Svaka članica mora da sačini i objavi nacionalne smernice za upravljanje bezbednošću na radu i zdravljem na brodovima koji plove pod njenom zastavom, a nakon konsultacija sa predstavničkim organizacijama brodovlasnika i pomoraca, kao i da uzme u obzir primenjive kodekse, smernice i standarde koje su preporučile međunarodne organizacije, državne uprave i organizacije pomorske privrede.
3. Svaka članica mora da usvoji zakone i pravila i druge mere koje se odnose na predmet naveden u Kodeksu, uzimajući u obzir odgovarajuće međunarodne dokumente i utvrđene standarde za bezbednost na radu i zaštitu zdravlja, kao i sprečavanje nezgoda na brodovima koji plove pod njenom zastavom.

Standard A 4. 3. Zaštita zdravlja i bezbednosti i sprečavanje nezgoda

1. Zakoni, pravila i druge mere koje će biti usvojene u skladu sa stavom 3. Pravila 4.
3. moraju da uključuje sledeće:

- (a) usvajanje i efikasnu primenu kao i podsticanje politike i programa bezbednosti na radu i zdravlja na brodovima koji plove pod zastavom članice, uključujući procenu rizika kao i obuku i uputstva za pomorce;
- (b) razumne mere opreza da bi se sprečile nezgode na radu, povrede i bolesti na brodovima, uključujući mere za smanjenje i sprečavanje opasnosti od izlaganja štetnim nivoima prostornih faktora i hemikalijama, kao i opasnostima od povrede ili bolesti koje mogu nastati usled upotrebe opreme i postrojenja na brodovima;
- (c) brodske programe sprečavanja nezgoda na radu, povreda i bolesti, stalno unapređivanje bezbednosti na radu i zaštite zdravlja, uključujući predstavnike pomoraca i sva druga lica zainteresovana za njihovu primenu, kao i da uzimajući u obzir mere sprečavanja, uključujući inžinjerski i dizajnerski nadzor, zamenu procesa i postupaka zajedničkih i pojedinačnih zadataka kao i korišćenje lične zaštitne opreme; i
- (d) zahteve za nadzor, izveštavanje i otklanjanje nebezbednih uslova i istraživanje i izveštavanje o nezgodama na radu na brodu.

2. Odredbe navedene u stavu 1. ovog Standarda će:

- (a) voditi računa o odgovarajućim međunarodnim dokumentima o bezbednosti na radu i zaštiti zdravlja uopšte i posebnim opasnostima, kao i ukazivati na sva pitanja koja se tiču sprečavanja nezgoda na radu, povreda ili bolesti koje mogu da budu primenjive na rad pomoraca a posebno onog koji je karakterističan za rad na moru;
- (b) jasno odrediti obavezu brodovlasnika, pomoraca i drugih zainteresovanih da ispunjavaju primenjive standarde, brodsku politiku bezbednosti na radu i zaštite zdravlja i programe, s posebnom pažnjom posvećenom zdravlju i bezbednosti pomoraca mlađih od 18 godina;
- (c) navesti dužnosti zapovednika broda ili lica kojeg je odredio zapovednik, ili oboje, o preuzimanju posebne odgovornosti za primenu i ispunjavanje brodske politike i programa bezbednosti na radu i zdravlja;

(d) navesti ovlašćenja pomoraca na brodu koji su imenovani ili izabrani kao predstavnici za bezbednost da učestvuju na sastancima brodskog odbora za bezbednost. Takav odbor mora da se osnuje na brodu na kojem ima pet i više pomoraca.

3. Zakoni, pravila i druge mere navedene u stavu 3. Pravila 4. 3. moraju da se redovno preispituju u konsultaciji sa predstavnicima organizacija brodovlasnika i pomoraca i, ako je potrebno, da se izmene, uzimajući u obzir napredak u tehnologiji i istraživanjima, kako bi se olakšalo trajno unapređivanje politike i programa bezbednosti na radu i zdravlja i pružila bezbedna okolina pomorcima na brodovima koji plove pod zastavom članice.

4. Smatraće se da ispunjavanje zahteva primenjivih međunarodnih dokumenata o prihvatljivim nivoima izlaganja opasnostima na radnom mestu na brodovima i razvoj i primena politike i programa brodske bezbednosti na radu i zdravlja znači i ispunjavanje uslova ove Konvencije.

5. Nadležna vlast mora da obezbedi da se:

(a) na odgovarajući način izveštava o nezgodama na radu, povredama ili bolestima, uzimajući u obzir smernicu koju predviđa Međunarodna organizacija rada o izveštavanju i evidentiranju nezgoda na radu i bolesti;

(b) sveobuhvatni statistički podaci o takvim nezgodama ili bolestima analiziraju i objavljuju i, kada je to odgovarajuće, nastavljaju da se istražuju radi uočavanja opštih trendova i utvrđenih opasnosti; i

(c) istražuju radne nezgode.

6. Izveštavanje i istraživanje predmeta bezbednosti na radu i zdravlja mora da bude izvršeno tako da se zaštite lični podaci pomorca i uzme u obzir smernica koju o tome predviđa Međunarodna organizacija rada.

7. Nadležna vlast sarađivaće i sa organizacijama brodovlasnika i pomoraca pri preduzimanju mera kojima će se pažnja pomoraca skrenuti na obaveštenje o posebnim opasnostima na brodovima, npr. postavljanjem službenih obaveštenja koja sadrže odgovarajuća uputstva.

8. Nadležna vlast mora da zahteva da se brodovlasnici koji sprovode procenu rizika koji se odnose na bezbednost na radu i zdravlje pozivaju na odgovarajuće statističke podatke sa svojih brodova i iz opšte statistike koju predviđa nadležna vlast.

Smernica B 4. 3. Zaštita zdravlja i bezbednosti i sprečavanje nezgoda

Smernica B 4. 3. 1. – Odredbe o nezgodama na radu, povredama i bolestima

1. Odredbe koje zahteva Standard A 4. 3. treba da uzmu u obzir priručnik *Kodeks prakse o sprečavanju nesreća brodova na moru i u lukama, usvojen 1996. godine*, kao i kasnije izmene i dopune i druge odgovarajuće standarde MOR-a, kao i druge međunarodne standarde i smernice i kodekse o postupanju koje se odnose na bezbednost na radu i zaštitu zdravlja, uključujući sve nivoe izlaganja koje se mogu utvrditi.

2. Nadležna vlast treba da obezbedi da se nacionalne smernice za upravljanje bezbednošću na radu i zdravljem odnose na sledeću materiju, posebno na:

(a) opšte i osnovne odredbe;

(b) strukturna obeležja broda, uključujući sredstva za pristupanje i opasnosti od azbesta;

(c) mašine;

- (d) dejstvo izuzetno niskih ili visokih temperatura svake površine sa kojom pomorci mogu da dođu u dodir;
- (e) dejstvo buke na radnom mestu i u stambenim prostorijama na brodu;
- (f) dejstvo vibracije na radnom mestu i u stambenim prostorijama na brodu;
- (g) dejstvo faktora okoline, koji nisu oni koji su navedeni u tački e) i f) na radnom mestu i u stambenim prostorijama na brodu, uključujući dim duvana;
- (h) posebne mere bezbednosti na palubi ili ispod nje;
- (i) opremu za ukrcavanje i iskrcavanje;
- (j) sprečavanje i gašenje požara;
- (k) sidra, lance i kanape;
- (l) opasni teret i balast;
- (m) lična zaštitna sredstva za pomorce;
- (n) rad u zatvorenim prostorima;
- (o) fizička i duševna dejstva premora;
- (p) dejstvo zavisnosti od droga i alkohola;
- (q) zaštitu od i sprečavanje HIV/AIDS; i
- (r) postupanje u slučaju nužde i nezgode.

3. Procena opasnosti i smanjenje izlaganja navedenih u stavu 2. ove Smernice treba da uzme u obzir fizičke efekte na radno zdravlje, uključujući ručno rukovanje sa teretima, buku i vibraciju, hemijsko i biološko dejstvo na zdravlje, duševne efekte na zdravlje, fizičke i duševne efekte premora na zdravlje i nezgode na radu. Potrebne mere treba da uzmu u obzir načelo sprečavanja u skladu sa kojim, između ostalog, suzbijanje opasnosti na izvoru, prilagođavanje rada pojedincu, posebno s obzirom na izgled radnih mesta i zamenu opasnih neopasnim ili manje opasnim, imaju prednost nad ličnom zaštitnom opremom za pomorce.

4. Uz to, nadležna vlast treba da obezbedi da je uzet u obzir uticaj na zdravlje i bezbednost, posebno u sledećim područjima:

- (a) postupanja u slučaju nužde i nezgode;
- (b) dejstvu zavisnosti od droge i alkohola; i
- (c) zaštiti od i sprečavanju HIV-a/AIDS-a.

Smernica B 4. 3. 2. – Izlaganje buci

1. Nadležna vlast, u saradnji sa nadležnim međunarodnim telima i sa predstavnicima odgovarajućih organizacija brodovlasnika i pomoraca, na trajnim osnovama treba da ispituju problem buke na brodovima u cilju unapređenja zaštite pomoraca, koliko je god moguće, od štetnog dejstva izlaganja buci.

2. Ispitivanje navedeno u stavu 1. ove Smernice treba da uzme u obzir štetno dejstvo preteranog izlaganja buci na sluh, zdravlje i udobnost pomoraca i treba da propiše ili preporuči mere koje će smanjiti buku na brodu radi zaštite pomoraca. Mere koje će biti razmotrene treba da obuhvate sledeće:

- (a) upoznavanje pomoraca o štetnosti produženog izlaganja visokim nivoima buke na sluh i zdravlje, kao i o ispravnoj upotrebi naprava i opreme za zaštitu od buke;

(b) davanje odobrene opreme za zaštitu sluha pomorcima, gde je to potrebno; i

(c) procenu opasnosti i smanjenje nivoa izlaganja buci u svim stambenim prostorijama, prostorijama za odmor i prostorijama za posluživanje hrane kao i u strojarnicama i drugim mašinskim prostorijama.

Smernica B 4. 3. 3. – Izlaganje vibracijama

1. Nadležna vlast, u saradnji sa nadležnim međunarodnim telima i predstavnicima pojedinih organizacija brodovlasnika i pomoraca, a uzimajući u obzir, u zavisnosti od okolnosti, odgovarajuće međunarodne standarde, treba da ispita na trajnim osnovama problem vibracije na brodovima, u cilju unapređenja zaštite pomoraca, koliko je god moguće, od štetnih dejstava vibracija.

2. Ispitivanje navedeno u stavu 1. ove Smernice treba da se odnosi na efekte izlaganja preteranoj vibraciji na zdravlje i udobnost pomoraca i na mere koje će biti propisane ili preporučene za smanjenje vibracije na brodu radi zaštite pomoraca. Mere koje će biti razmotrene treba da uključe sljedeće:

(a) upoznavanje pomoraca sa opasnosti po njihovo zdravlje od produženog izlaganja vibraciji;

(b) davanje odobrene lične zaštitne opreme pomorcima, gde je to potrebno; i

(c) procenu opasnosti i smanjenje izlaganja vibraciji u svim stambenim prostorijama, prostorijama za odmor, prostorijama za posluživanje hrane usvajanjem mera u skladu sa smernicom koju predviđa *Kodeks prakse o faktorima koji okružuju radno mesto, usvojen 2001. godine*, i sve naknadne izmene i dopune, uzimajući u obzir razliku između izlaganja u ovim prostorima i na radnom mestu.

Smernica B 4. 3. 4. – Obaveze brodovlasnika

1. Svaku obavezu brodovlasnika za obezbeđenjem zaštitne opreme ili drugih zaštitnih naprava za sprečavanje nezgoda po pravilu treba da prate odredbe kojima se od pomoraca zahteva njihova upotreba, odnosno zahteva ispunjavanje odgovarajućih mera za sprečavanje nezgoda i zaštitu zdravlja.

2. U obzir treba uzeti i čl. 7. i 11. Konvencije o zaštiti od mašina, usvojenu 1963. godine (br. 119) i odgovarajuće odredbe Preporuke o zaštiti od mašina, usvojene 1963. godine (br. 118), prema kojoj je poslodavac obavezan da obezbedi ispunjavanje zahteva da se mašina u upotrebi na odgovarajući način zaštititi, a njegova upotreba bez odgovarajuće zaštite spreči, dok je obaveza radnika da ne upotrebljava mašinu dok nisu postavljeni štitnici na svoje mesto i da ne oštećuje štitnike.

Smernica B 4. 3. 5. – Izveštavanje i prikupljanje statističkih podataka

1. Sve nezgode na radu, povrede na radu i bolesti treba da se prijave tako da se mogu istražiti, a opsežni statistički podaci mogu se voditi, ispitivati i objavljivati vodeći računa o zaštiti ličnih podataka pomoraca na koje se to odnosi. Izveštaji ne treba da budu ograničeni samo na smrt ili nezgode nastale na brodu.

2. Statistički podaci navedeni u stavu 1. ove Smernice treba da sadrže broj, prirodu, uzroke i efekte nezgoda na radu ili povreda na radu i bolesti, s jasnom naznakom, ako je moguće, službe na brodu, vrste nezgode, kao i da li se dogodila na moru ili u luci.

3. Svaka članica treba da obrati dužnu pažnju na međunarodni sistem ili model za evidentiranje nezgoda pomoraca koje može da bude donet od strane Međunarodne organizacije rada.

Smernica B 4. 3. 6. – Istraživanja

1. Nadležna vlast treba da sprovede istraživanje o uzrocima i okolnostima svih nezgoda na radu, kao i povreda na radu i bolesti koje su imale za posledicu gubitak života ili ozbiljnu ličnu povredu, i u drugim takvim slučajevima koji mogu da budu utvrđeni nacionalnim zakonima ili propisima.

2. Treba razmotriti uključivanje sledećeg kao predmeta istraživanja:

- (a) radne okoline, kao što su radne površine, raspored mašina, sredstava za pristup, rasveta i način rada;
- (b) rasprostranjenost nezgoda na radu i povreda na radu i bolesti u različitim generacijskim grupama;
- (c) posebne fiziološke ili psihološke probleme koje prouzrokuje brodsko okruženje;
- (d) probleme koji nastaju od telesnih napora na brodu, posebno kao posledica povećanog radnog opterećenja;
- (e) probleme koji nastaju kao rezultat tehničkog razvoja i efekte tog razvoja i njihov uticaj na sastav brodske posade; i
- (f) probleme prouzrokovane ljudskim greškama.

Smernica B 4. 3. 7. – Državni programi zaštite i prevencije

1. Da bi se pružile čvrste osnove za mere koje će unaprediti bezbednost na radu i zaštitu zdravlja i sprečiti nezgode, povrede i bolesti koje nastaju od posebnih opasnosti pomorskog zaposlenja, treba preduzeti istraživanje opštih trendova i istraživanje o opasnostima koje su potvrđene statistikama.

2. Primena programa zaštite i sprečavanja radi unapređenja bezbednosti na radu i zdravlja treba da bude tako organizovano da nadležna vlast, brodovlasnici i pomorci ili njihovi predstavnici i druga odgovarajuća tela mogu da odigraju aktivnu ulogu, uključujući takva sredstva kao što su sednice radi upoznavanja, brodska uputstva o najvišem nivou izlaganja, mogućim štetnim faktorima okoline radnog mesta i drugim opasnostima ili posledicama sistemske procene rizika. Konačno, treba osnovati državne ili lokalne zajedničke odbore za bezbednost na radu, zaštitu zdravlja i sprečavanje nezgoda ili ad hoc radne grupe i odbore na brodu u kojima su predstavljene organizacije brodovlasnika i pomoraca.

3. Ako se takva delatnost preduzme na nivou kompanije, treba da se razmotri predstavljanje pomoraca u svakom brodskom odboru za bezbednost na brodovima tog brodovlasnika.

Smernica B 4. 3. 8. – Sadržaj programa zaštite i sprečavanja

1. Treba razmotriti da se u rad odbora i drugih tela navedenih u stavu 2. Smernice B 4.3.7. uključi sledeće:

- (a) priprema nacionalnih smernica i politike za sisteme upravljanja bezbednošću na radu i zdravljem, kao i za odredbe, pravila i priručnike o sprečavanju nezgoda;
- (b) organizacija obuka i izrada programa bezbednosti na radu i zaštite zdravlja i sprečavanje nezgoda;
- (c) organizacija popularizacije bezbednosti na radu i zaštite zdravlja i sprečavanje nezgoda, uključujući filmove, postere, obaveštenja i novinska izdanja; i

(d) dostavljanje literature i informacija o zaštiti bezbednosti na radu i zdravlja i sprečavanju nezgoda kako bi iste stigle do pomoraca na brodovima.

2. Lica koja pripremaju tekstove o zaštiti bezbednosti na radu i zdravlja ili merama za sprečavanje nezgoda ili preporučenoj praksi trebaju da uzmu u obzir odgovarajuće odredbe ili preporuke koje su usvojile odgovarajuće državne vlasti, organizacije ili međunarodne organizacije.

3. Pri izradi programa zaštite bezbednosti na radu i zdravlja i sprečavanja nezgoda, svaka članica treba da uzme u obzir kodekse o postupanju koji se odnose na bezbednost i zdravlje pomoraca koje je mogla da objavi Međunarodna organizacija rada.

Smernica B. 4. 3. 9. – Uputstva o zaštiti bezbednosti na radu i zdravlja i sprečavanju nezgoda na radu

1. Nastavni plan obuke navedene u stavu 1 a) Standarda A 4. 3 treba redovno preispitivati i ažurirati s obzirom na razvoj vrsta i veličina brodova i njihove opreme, kao i izmena prakse brojnog stanja posade, državljanstva, jezika i organizacije rada na brodovima.

2. Treba stalno unapređivati zaštitu bezbednosti na radu i zdravlja i sprečavanje nezgoda. Takvo unapređivanje može da se javi u sledećim oblicima:

(a) obrazovni audio-vizuelni materijal, kao što su filmovi, za upotrebu u stručnim obrazovnim centrima za pomorce i, kada je moguće, za prikazivanje na brodu;

(b) isticanje postera na brodovima;

(c) objavljivanje članaka o opasnostima pomorskog zaposlenja, bezbednosti na radu, zaštiti zdravlja i merama za sprečavanje nezgoda u časopisima za pomorce; i

(d) posebnih kampanja koristeći različita sredstva informisanja u cilju poučavanja pomoraca, između ostalog, o bezbednosnoj radnoj praksi.

3. Unapređivanje navedeno u stavu 2. ove Smernice treba da vodi računa o različitim državljanstvima, jezicima i kulturama pomoraca na brodovima.

Smernica B 4. 3. 10. – Bezbednosno i zdravstveno obrazovanje mladih pomoraca

1. Pravila o bezbednosti i zdravlju treba da obuhvataju opšte odredbe o zdravstvenim pregledima pre i tokom zaposlenja, sprečavanju nezgoda i zaštiti zdravlja tokom zaposlenja, koji se mogu primeniti na rad pomoraca. Takva pravila treba da odrede mere koje će smanjiti radne opasnosti za mlade pomorce u toku njihovog rada.

2. Osim u slučajevima kad nadležna vlast utvrdi da je mladi pomorac u potpunosti stručno osposobljen za određenu veštinu, pravilima treba navesti ograničenja poslova za mlade pomorce bez odgovarajućeg nadzora ili uputstva, određene vrste poslova koji predstavljaju posebnu opasnost od nezgoda ili štetno utiču na njihovo zdravlje ili fizički razvoj ili zahtevaju poseban nivo zrelosti, iskustva ili veštine. Pri utvrđivanju vrsta poslova koji će se ograničiti pravilima, nadležna vlast može da razmotri naročito rad koji uključuje:

(a) podizanje, pokretanje ili prevoz teških tereta ili predmeta;

(b) ulaz u kotlove, tankove i pregrade;

(c) izlaganje štetnom nivou buke ili vibracije;

(d) rad s uređajem za podizanje ili drugim snažnim postrojenjima i alatima, ili rad u svojstvu lica koje daje signale licima koja upravljaju takvom opremom;

- (e) rukovanje kanapima za sidrenje ili tegljenje ili opremom za sidrenje;
- (f) rad na snastu broda;
- (g) rad na velikim visinama ili na palubi pri lošem vremenu;
- (h) obavljanje noćne straže;
- (i) održavanje električne opreme;
- (j) izlaganje potencijalno štetnim materijalima ili fizički štetnim sredstvima kao što su opasne ili otrovne stvari i jonizujuće zračenje;
- (k) čišćenje mašina za pripremu hrane; i
- (l) rukovanje ili vođenje brige o brodskim čamcima.

3. Nadležna vlast treba da preduzme praktične mere ili odgovarajućim mehanizmom da skrene pažnju mladim pomorcima na informacije o sprečavanju nezgoda i zaštiti njihovog zdravlja na brodovima. Takve mere mogu da uključe odgovarajuća uputstva o programima obuke, službenim objavljivanjem kako da se spreče nezgode, namenjenim mladim licima, kao i stručnim uputstvima i nadzorom mladih pomoraca.

4. Obrazovanje i obuka mladih pomoraca na kopnu i brodu treba da obuhvati uputstva o štetnim posledicama upotrebe alkohola, droga i drugih stvari potencijalno štetnih po njihovo zdravlje i dobrobit, kao i opasnosti i važnosti koji se odnose na HIV/AIDS i druge opasnosti po zdravlje koje se odnose na te delatnosti.

Smernica B 4. 3. 11. – Međunarodna saradnja

1. Članice, uz pomoć odgovarajućih međuvladinih i drugih međunarodnih organizacija, u zavisnosti od konkretnih okolnosti, treba da promovišu međusobnu saradnju kako bi se postiglo najveće moguće jedinstvo mera promovisanja bezbednosti na radu, zaštite zdravlja i sprečavanja nezgoda.

2. Pri izradi programa za podsticanje bezbednosti na radu, zaštite zdravlja i sprečavanje nezgoda prema Standardu A 4. 3, svaka članica treba da uzme u obzir odgovarajuće kodekse o postupanju koje je objavila Međunarodna organizacija rada i odgovarajuće standarde međunarodnih organizacija.

3. Članice treba da uzmu u obzir potrebu za međunarodnom saradnjom radi stalnog promovisanja delovanja koja se odnose na bezbednost na radu, zaštitu zdravlja i sprečavanje nezgoda na radu. Takva saradnja može da dobije oblik:

- (a) bilateralnih ili multilateralnih ugovora o jednoobraznosti standarda bezbednosti na radu, zaštite zdravlja i sprečavanja nezgoda i mera bezbednosti;
- (b) razmene informacija o posebnim opasnostima koje štetno deluju na pomorce i o sredstvima promovisanja bezbednosti na radu, zdravlja i sprečavanje nezgoda;
- (c) pomoći kod ispitivanja opreme i inspekciji prema nacionalnim pravilima države zastave;
- (d) saradnji u pripremanju i dostavljanju propisa, pravila i priručnika o bezbednosti na radu, zaštiti zdravlja i sprečavanju nezgoda;
- (e) saradnji u proizvodnji i upotrebi pomagala za obuku;
- (f) zajedničkih sredstava ili uzajamne pomoći u obuci pomoraca o bezbednosti na radu, zaštiti zdravlja i sprečavanju nezgoda, kao i bezbednoj praksi u radu.

Pravilo 4. 4. – Dostupnost kapaciteta za obezbeđenje socijalne dobrobiti na kopnu

Cilj: Obezbediti da su pomorcima koji rade na brodu dostupni kapaciteti i službe na kopnu koja će obezbediti zdravlje i dobrobit

1. Svaka članica mora da obezbedi laku dostupnost kapaciteta za obezbeđenje socijalne dobrobiti na kopnu, gde ona postoje. Članica, takođe, mora da promoviše razvoj kapaciteta za obezbeđenje socijalne dobrobiti u određenim lukama kao što su ona navedena u Kodeksu, kako bi omogućio pomorcima na brodovima koji su u njenoj luci pristup do odgovarajućih sredstava i službi koje obezbeđuju socijalnu dobrobit.

2. Obaveze svake članice koje se odnose na kapacitete na kopnu kao što su kapaciteti i službe za obezbeđenje socijalne dobrobiti, kulture, odmora i informisanja utvrđena su u Kodeksu.

Standard A 4. 4. – Pristup kapacitetima za obezbeđenje socijalne dobrobiti na kopnu

1. Svaka članica zahtevaće, ako na njenoj teritoriji postoje kapaciteti za obezbeđenje socijalne dobrobiti, da su ona raspoloživa za korišćenje svim pomorcima, bez obzira na državljanstvo, rasu, boju, pol, veru, političko mišljenje ili socijalno poreklo i bez obzira na državu zastave broda na kojem su oni zaposleni, uzeti na rad ili rade.

2. Svaka članica promovisaće razvoj sredstava za obezbeđenje socijalne dobrobiti u odgovarajućim lukama zemlje i odrediće, nakon konsultacija sa zainteresovanim organizacijama brodovlasnika i pomoraca, koje luke će se smatrati odgovarajućim.

3. Svaka članica mora da podstiče osnivanje odbora za socijalnu dobrobit koji će redovno preispitivati kapacitete i usluge za obezbeđenje socijalne dobrobiti kako bi se obezbedila primerenost s obzirom na promene potreba pomoraca koje nastaju zbog tehničkog, radnog ili drugog razvoja u brodarstvu.

Smernica B 4. 4. – Pristup kapacitetima za obezbeđenje socijalne dobrobiti na kopnu

Smernica B 4. 4. 1. – Odgovornost članica

1. Svaka članica treba da:

(a) preduzme mere kojima će se obezbediti odgovarajući kapaciteti i službe za obezbeđenje socijalne dobrobiti koja su namenjena pomorcima u određenim lukama pristajanja i predvideti odgovarajuću zaštitu pomoraca pri obavljanju poslova njihovog zvanja; i

(b) pri primeni ovih mera uzme u obzir vanredne potrebe pomoraca, naročito kada su u stranim zemljama i kada ulaze u ratna područja s obzirom na bezbednost, zdravlje i delatnosti tokom slobodnog vremena.

2. U nadzor kapaciteta i službi za obezbeđenje socijalne dobrobiti treba uključiti predstavnike zainteresovanih organizacija brodovlasnika i pomoraca.

3. Svaka članica treba da preduzme mere namenjene ubrzanju slobodnog prometa sredstava za obezbeđenje dobrobiti između brodova, centralnih agencija za snabdevanje i ustanova koje obezbeđuju socijalnu dobrobit za svoje korisnike kao što su filmovi, knjige, novine i sportska oprema za upotrebu pomoraca na brodu i u centrima u kojima se obezbeđuje socijalna dobrobit njegovih korisnika.

4. Članice treba da međusobno sarađuju na promovisanju socijalne dobrobiti pomoraca na moru i u luci. Takva saradnja treba da uključuje:

(a) konsultacije između nadležnih vlasti u cilju obezbeđivanja i poboljšanja kapaciteta i službi za obezbeđenje socijalne dobrobiti pomoraca, i u luci i na brodovima;

(b) ugovore o udruživanju sredstava i zajedničkom obezbeđivanju kapaciteta za obezbeđivanje socijalne dobrobiti u većim lukama kako bi se izbeglo nepotrebno udvostručenje;

(c) organizaciju međunarodnih sportskih takmičenja i podsticanje učešća pomoraca u sportskim delatnostima;

(d) organizaciju međunarodnih seminara o socijalnoj dobrobiti pomoraca na moru i u luci.

Smernica B 4. 4. 2. – Kapaciteti i službe za obezbeđenje socijalne dobrobiti u lukama

1. Svaka članica treba da obezbedi ili se postara da se obezbede potrebni kapaciteti i službe koje obezbeđuju socijalnu dobrobit pomoraca u odgovarajućim lukama zemlje.

2. Kapaciteti i službe koji obezbeđuju socijalnu dobrobit pomoraca treba da se obezbede u skladu s uslovima i praksom jednog ili više sledećih subjekata:

(a) javne vlasti;

(b) zainteresovane organizacije brodovlasnika i pomoraca prema kolektivnim ugovorima ili drugim ugovorenim dogovorima;

(c) dobrovoljne organizacije.

3. U lukama treba da otvori ili proširi potrebne kapacitete socijalne dobrobiti kao i za rekreaciju. Ona treba da obuhvataju:

(a) potrebne prostorije za sastanke i odmor;

(b) potrebne kapacitete za sport i kapacitete za aktivnosti u prirodi, uključujući takmičenja;

(c) obrazovne kapacitete;

(d) kada je to prikladno, kapacitete za održavanje verskih obreda i za lično savetovanje.

4. Ovi kapaciteti mogu se obezbediti i stavljanjem kapaciteta za opštiju upotrebu na raspolaganje pomorcima, u skladu s njihovim potrebama.

5. Kada su većem broju pomoraca sa različitim državljanstvima potrebni kapaciteti kao što su hoteli, klubovi i sportski objekti u pojedinoj luci, nadležne vlasti ili organi zemalja porekla pomoraca i država zastave kao i zainteresovana međunarodna udruženja treba da se konsultuju i sarađuju s nadležnim vlastima i organima zemlje u kojoj se nalazi luka, kao i da međusobno, imajući u vidu udruživanje sredstava i izbegavanje nepotrebnog udvostručavanja.

6. Hoteli ili hosteli pogodni za pomorce treba da budu raspoloživi tamo gde za njima postoji potreba. Isti treba da pružaju kapacitete jednake onima koji se mogu dobiti u hotelu više klase i treba da, kad god je to moguće, budu smešteni u kvalitetnoj sredini, udaljeno od luke. Takvi hoteli i hosteli treba da budu uredno nadzirani, njihove cene treba da budu razumne, a kad je to potrebno i moguće treba da obezbede i smeštaj za porodice pomoraca.

7. Smeštaj treba da bude omogućen svim pomorcima bez obzira na državljanstvo, rasu, boju, pol, veru, političko mišljenje ili socijalno poreklo i bez obzira na zastavu broda na kojem su zaposleni, uzeti na rad ili rade. Ne povređujući ni na koji način ovo načelo, u nekim lukama može biti potrebno da se obezbedi nekoliko vrsta sredstava, uporedivih po standardu, ali prilagođenih običajima i potrebama različitih grupa pomoraca.

8. Treba preduzeti mere da se obezbedi da u kapacitetima i službama za obezbeđivanje socijalne dobrobiti pomoraca, prema potrebi, pored dobrovoljnih radnika, rade tehnički osposobljena lica s punim radnim vremenom.

Smernica B 4. 4. 3. – Odbori za socijalnu dobrobit

1. Treba osnivati odbore za socijalnu dobrobit u luci, na regionalnom ili državnom nivou, kako je primereno. Njihove funkcije treba da obuhvate:

(a) proveravanje adekvatnosti postojećih kapaciteta za obezbeđenje socijalne dobrobiti i praćenje potreba za obezbeđenje dodanih kapaciteta ili zatvaranje onih koji nisu dovoljno iskorišćeni.

(b) pomaganje i obaveštavanje odgovornih za obezbeđenje kapaciteta za obezbeđenje socijalne dobrobiti kao i njihove međusobne saradnje.

2. U odbore treba uključiti, pored ostalih, i predstavnike organizacija brodovlasnika i pomoraca, nadležnih vlasti i, kada je to moguće, dobrovoljnih organizacija i društvenih tela.

3. Kada je to odgovarajuće, u rad lučkih, regionalnih ili državnih odbora za socijalnu dobrobit treba da se uključe konzuli pomorskih država i lokalni predstavnici stranih organizacija za socijalnu dobrobit, u skladu s nacionalnim zakonima i pravilima.

Smernica B 4. 4. 4. – Finansiranje kapaciteta za obezbeđenje socijalne dobrobiti

1. U skladu sa državnim uslovima i praksom, finansijska sredstva za kapacitete za obezbeđenje socijalne dobrobiti u lukama treba pribaviti na jedan ili više sledećih načina:

(a) dodelom iz javnih fondova;

(b) doprinosima ili drugim posebnim naknadama iz brodarskih izvora;

(c) dobrovoljnim doprinosima brodovlasnika, pomoraca ili njihovih organizacija; i

(d) dobrovoljnim doprinosima iz drugih izvora.

2. Ako su propisane takse, doprinosi i posebne dažbine, one treba da se koriste samo za svrhe za koje su bile propisane.

Smernica B 4. 4. 5. – Objavljivanje informacija i mera pogodnosti

1. Pomorcima treba pružati obaveštenja o kapacitetima otvorenim za javnost u lukama pristajanja, posebno o prevozu, socijalnoj dobrobiti, sredstvima za zabavu i obrazovanje i mestima za održavanje verskih obreda, kao i o mestima predviđenim posebno za pomorce.

2. U svako razumno vreme i uz umerenu cenu odgovarajuća sredstva prevoza treba da budu raspoloživa kako bi se pomorcima omogućio dolazak u gradsko područje s odgovarajućih mesta u luci.

3. Nadležna vlast treba da preduzme sve odgovarajuće mere da brodovlasnike i pomorce koji dolaze u luku upozna s posebnim zakonima i običajima, čije bi kršenje moglo ugroziti njihovu slobodu.

4. Nadležna vlast treba da obezbedi da lučka područja i pristupni putevi budu osvetljeni na odgovarajući način, opremljeni oznakama i redovno kontrolisani radi zaštite pomoraca.

Smernica B 4. 4. 6. – Pomorci u stranoj luci

1. Radi zaštite pomoraca u stranim lukama treba preduzeti mere da se olakša:

(a) pristup konzulatu države čiji su državljani ili države njihova prebivališta;

(b) uspešna saradnja između konzulata i lokalnih ili državnih vlasti.

2. Protiv pomoraca koji su zadržani u stranoj luci pravni postupak treba sprovesti bez odgađanja i uz odgovarajuću konzularnu zaštitu.

3. Kad god je pomorac iz bilo kojeg razloga zadržan na teritoriji članice, nadležna vlast treba da, ako pomorac to zatraži, odmah obavestiti državu zastave i državu čiji je pomorac državljanin. Nadležna vlast treba odmah da obavesti pomorca o njegovom pravu da podnese takav zahtev. Država čiji je pomorac državljanin treba bez odgađanja da obavesti najbližu rodbinu pomorca. Nadležna vlast treba da omogućiti konzularnim službenicima ovih država bez odgađanja pristup pomorcima i daljnje redovne posete onoliko dugo koliko je pomorac zadržan.

4. Kad god je to potrebno, svaka članica treba da preduzme mere kojima bi omogućila bezbednost pomoraca od napada i drugih nezakonitih dela dok su brodovi u njenim teritorijalnim vodama, posebno na prilazima lukama.

5. Odgovorna lica u luci i na brodu treba da ulože najveći mogući napor kako bi, što je pre moguće, olakšali pomorcima izlazak na obalu nakon dolaska broda u luku.

Pravilo 4. 5. – Socijalno osiguranje

Cilj: Obezbediti preduzimanje mera na osnovu kojih će se pomorcima pružiti zaštita socijalnog osiguranja

1. Svaka članica mora da obezbedi da svi pomorci i, u obimu predviđenim nacionalnim zakonom, od njih zavisna lica, imaju pristup zaštiti socijalnog osiguranja, u skladu sa Kodeksom, ali ne dirajući pri tome ni u koje povoljnije uslove navedene u stavu 8. člana 19. Ustava.

2. Svaka članica dužna je da preduzme korake, u skladu s sopstvenim državnim prilikama, pojedinačno ili putem međunarodne saradnje, radi postepenog postizanja sveobuhvatne zaštite socijalnog osiguranja pomoraca.

3. Svaka članica mora da obezbedi da pomorci na koje se odnosi njeno zakonodavstvo o socijalnom osiguranju i, u obimu predviđenim njenim nacionalnim zakonom, od njih zavisna lica, imaju pravo na pogodnost zaštite socijalnog osiguranja ne manje povoljnu od one koju uživaju radnici na kopnu.

Standard A 4. 5. – Socijalno osiguranje

1. Područja delatnosti koje treba razmotriti u cilju postupnog postizanja sveobuhvatne zaštite socijalnog osiguranja prema Pravilu 4. 5. su: zdravstvena nega, naknade u slučaju bolesti, nezaposlenosti, starosti i povrede na radu, porodične naknade, naknade za materinstvo, invalidnost i naknade naslednicima, a obuhvatajući zaštitu predviđenu u Pravilima 4. 1, o zdravstvenoj nezi i 4. 2. o odgovornosti brodovlasnika i prema drugim poglavljima ove Konvencije.

2. U vreme potvrđivanja, zaštita koju će predvideti svaka članica u skladu s stavom 1. Pravila 4. 5, mora da uključi najmanje tri od devet područja delatnosti nabrojanih u stavu 1. ovog Standarda.

3. Svaka članica mora da preduzme korake, prema okolnostima u svojoj državi, i da pruži dopunsku zaštitu socijalnog osiguranja navedenu u stavu 1. ovog Standarda svim pomorcima koji imaju redovno prebivalište na njenoj teritoriji. Ova obaveza može biti ispunjena npr. putem odgovarajućih bilateralnih ili multilateralnih ugovora ili sistemima na osnovu doprinosa. Takva zaštita ne sme biti manje povoljna od one koju uživaju radnici na kopnu koji imaju prebivalište na njenoj teritoriji.

4. Bez obzira na odgovornosti koje su predviđene stavom 3. ovog Standarda, članice mogu da odrede, bilateralnim ili multilateralnim ugovorima i odredbama usvojenim u

okviru regionalnih organizacija za ekonomsku integraciju, druga pravila socijalnog osiguranja utvrđena zakonom koji se primenjuje na pomorce.

5. Svaka odgovornost članice prema pomorcima na brodovima koji plove pod njenom zastavom mora da uključi i odgovornost predviđenu pravilima 4. 1. i 4. 2. i odgovarajućim odredbama Kodeksa, kao i one koje su u bitnoj vezi sa njenim opštim obavezama prema međunarodnom pravu.

6. Svaka članica mora da razmotri različite mogućnosti u kojima će odgovarajuće pogodnosti, u skladu sa nacionalnim zakonom ili praksom, biti predviđene za pomorce u nedostatku odgovarajuće pokrivenosti područja delatnosti navedenim u stavu 1. ovog Standarda.

7. Zaštita prema stavu 1. Pravila 4. 5. može da, u meri u kojoj je to odgovarajuće, bude predviđena zakonima ili pravilima, privatnim programima, ugovorima o kolektivnom pregovaranju ili njihovom kombinacijom.

8. U obimu koji je u skladu sa njihovim zakonima ili praksom, članice su dužne da sarađuju, putem bilateralnih ili multilateralnih ugovora ili drugih dogovora kako bi obezbedile ostvarivanje prava na socijalno osiguranje, predviđena programima doprinosa ili drugačije, a koja su stečena ili su u toku sticanja, svim pomorcima bez obzira na prebivalište.

9. Svaka članica mora da utvrdi poštene i efikasne postupke za rešavanje sporova.

10. Svaka članica mora u vreme potvrđivanja da navede područja delatnosti za koje je predviđena zaštita u skladu sa stavom 2. ovog Standarda. Ona naknadno mora da obavesti generalnog direktora Međunarodne kancelarije rada kada obezbedi zaštitu socijalnog osiguranja jedne ili više drugih područja delatnosti navedenih u stavu 1. ovog Standarda. Generalni direktor vodiće upisnik ovih obaveštenja i učiniti ih dostupnim svim zainteresovanim stranama.

11. Izveštaji upućeni Međunarodnoj kancelariji rada, prema članu 22. Ustava, moraju takođe da sadrže obaveštenje o preduzetim koracima u skladu sa stavom 2. Pravila 4. 5. o proširenju zaštite na druga područja delatnosti.

Smernica B 4. 5. – Socijalno osiguranje

1. Zaštita koja će biti predviđena u vreme potvrđivanja u skladu sa stavom 2. Standarda A 4. 5, treba da uključi barem sledeća područja: zdravstvenu negu, pomoć u slučaju bolesti i pomoć u slučaju povrede na poslu.

2. U okolnostima navedenim u stavu 6. Standarda A 4. 5. odgovarajuće pogodnosti mogu da se predvide osiguranjem, bilateralnim ili multilateralnim ugovorima ili drugim efikasnim merama, uzimajući u obzir odredbe odgovarajućih ugovora o kolektivnom pregovaranju. Ako su takve mere usvojene, pomorce na koje se takve mere odnose treba obavestiti o načinima na koje će različita područja socijalne sigurnosti biti obezbeđene.

3. Ako su pomorci podvrgnuti više od jednog nacionalnog zakonodavstva o socijalnom osiguranju, članice treba da sarađuju kako bi međusobnim ugovorom utvrdile koje će se zakonodavstvo primeniti, uzimajući u obzir takve faktore kao što su vrsta i nivo zaštite prema određenom zakonodavstvu koje je povoljnije za pojedinog pomorca, kao i izbor pomorca.

4. Postupci koji će biti utvrđeni prema stavu 9. Standarda A 4. 5. treba da se odrede tako da se primenjuju na sve sporove koji se odnose na potraživanja pomoraca, bez obzira na način na koji je predviđena primena.

5. Svaka članica koja ima pomorce državljane ili pomorce ne-državljane ili jedne i druge koji služe na brodovima koji plove pod njenom zastavom, treba da im pruži zaštitu socijalnog osiguranja iz Konvencije, kako je odgovarajuće, i treba redovno da

preispituje grane zaštite socijalnog osiguranja iz stava 1. Standarda A 4. 5. radi utvrđivanja svih dodatnih delatnosti koje odgovaraju tim pomorcima.

6. Ugovorom o zaposlenju pomoraca treba utvrditi načine na koje će brodovlasnik različite vrste zaštite socijalnog osiguranja predvideti za pomorca, kao i svaku drugu informaciju s tim u vezi kojom raspolaže brodovlasnik, kao što su zakonska odbijanja od plata pomorca i doprinosi brodovlasnika u skladu sa zahtevima određenih ovlašćenih tela prema odgovarajućim državnim programima zaštite socijalnog osiguranja.

7. Članica pod čijom zastavom brod plovi treba da se, efikasnom primenom svoje jurisdikcije nad socijalnim pitanjima, uveri da je brodovlasnik ispunio svoje obaveze u odnosu na zaštitu socijalnog osiguranja, uključujući plaćanje zahtevanih doprinosa prema programima socijalnog osiguranja.

POGLAVLJE 5. USKLAĐENOST I PRIMENA

1. Pravila u ovom Poglavlju utvrđuju obavezu svake članice da u potpunosti primeni i sprovede načela i prava utvrđena u članovima ove Konvencije kao i posebne obaveze predviđene u 1, 2, 3. i 4. Poglavlju.

2. St. 3. i 4. člana VI. koje dopuštaju primenu Dela A Kodeksa putem bitno jednakih odredbi, ne primenjuju se na Deo A Kodeksa u ovom Poglavlju.

3. U skladu sa stavom 2. članka VI, svaka članica mora da izvršava svoje obaveze prema Pravilima na način koji je utvrđen u odgovarajućim Standardima Dela A Kodeksa, obraćajući dužnu pažnju na odgovarajuće Smernice u Delu B Kodeksa.

4. Odredbe ovog Poglavlja primeniće se uzimajući u obzir činjenicu da su pomorci i brodovlasnici, kao i sva druga lica, jednaki pred zakonom i da imaju pravo na jednaku pravnu zaštitu, kao i da ne smeju da budu podvrgnuti diskriminaciji u pogledu pristupa sudovima, tribunalima ili drugim načinima rešavanja sporova. Odredbama ovog Poglavlja ne određuje se pravni poredak ili mesna nadležnost.

Pravilo 5. 1. – Obaveze države zastave

Cilj: Obezbediti da svaka članica izvršava svoje obaveze prema ovoj Konvenciji prema brodovima koji plove pod njenom zastavom.

Pravilo 5. 1. 1. – Opšta načela

1. Svaka članica dužna je da obezbedi primenu svojih obaveza prema ovoj Konvenciji na brodove koji plove pod njenom zastavom.

2. Svaka članica mora da ustanovi efikasan sistem inspekcije i izdavanja svedočanstva o radu pomoraca, u skladu sa Pravilima 5. 1. 3. i 5. 1. 4, koji će obezbediti da radni i životni uslovi pomoraca na brodovima koji plove pod njenom zastavom ispunjavaju i da će nadalje ispunjavati standarde iz ove Konvencije.

3. Pri utvrđivanju efikasnog sistema inspekcije i izdavanja svedočanstva o radu pomoraca, članica može da, kada je to odgovarajuće, ovlasti javne ustanove ili druge organizacije (uključujući one drugih država, ako se one slože) koje ona priznaje kao sposobne i nezavisne za sprovođenje inspekcije ili izdavanje svedočanstva, ili za jedno i drugo. U svim slučajevima članica i dalje mora da bude potpuno odgovorna za inspekciju i izdavanje svedočanstva o radnim i životnim uslovima pomoraca na brodovima koji plove pod njenom zastavom.

4. Svedočanstvo o radu pomoraca dopunjena deklaracijom o ispunjavanju uslova rada pomoraca, mora da predstavlja dokaz *prima facie* da je brod bio podvrgnut odgovarajućoj inspekciji članice pod čijom zastavom plovi i da su zahtevi ove

Konvencije o radnim i životnim uslovima pomoraca ispunjeni u tamo navedenom obimu.

5. Obaveštenje o sistemu navedenom u stavu 2. ovog Pravila, uključujući način koji je korišćen za utvrđivanje njegove efikasnosti mora biti uključen u izveštaj članice Međunarodnoj kancelariji rada, prema članu 22. Ustava.

Standard A 5. 1. 1. – Opšta načela

1. Svaka članica mora da utvrdi jasne ciljeve i standarde upravljanja sopstvenom inspekcijom i sisteme za izdavanja svedočanstva, kao i odgovarajuće opšte postupke za utvrđivanje obima u kojem će ovi ciljevi i standardi biti ostvareni.

2. Svaka članica zahtevaće da svi brodovi koji plove pod njenom zastavom imaju kopiju ove Konvencije na raspolaganju.

Smernica B 5. 1. 1. – Opšta načela

1. Nadležna vlast treba da preduzeme odgovarajuće mere za unapređenje efikasne saradnje između javnih ustanova i drugih organizacija navedenih u Pravilima 5. 1. 1. i 5. 1. 2, koja se odnose na radne i životne uslove pomoraca na brodu.

2. Da bi obezbedile bolju saradnju između inspektora i brodovlasnika, pomoraca i njihovih organizacija i održale ili unapredile radne i životne uslove pomoraca, nadležne vlasti treba da se konsultuju s predstavnicima takvih organizacija u redovnim rokovima kao najboljim mogućim načinom za postizanje ovih ciljeva. Način takvih konsultacija treba da utvrdi nadležna vlast nakon konsultacija sa organizacijama brodovlasnika i pomoraca.

Pravilo 5. 1. 2. – Ovlašćenja priznatih organizacija

1. Javne ustanove ili druge organizacije navedene u stavu 3. Pravila 5. 1. 1. („priznate organizacije“) nadležna vlast mora da prizna uz pretpostavku da ispunjavaju zahteve Kodeksa koji se odnose na sposobnost i nezavisnost. Inspeksijske delatnosti ili poslovi izdavanja svedočanstva koje priznate organizacije mogu da budu ovlašćene da sprovode moraju da budu u okviru delatnosti koje su izričito navedene u Kodeksu kao poslovi koje sprovodi nadležna vlast ili priznata organizacija.

2. Izveštaji navedeni u stavu 5. pravila 5. 1. 1. moraju da sadrže obaveštenje o priznatoj organizaciji, obimu ovlašćenja i određenja koje je utvrdila članica kako bi obezbedila da se ovlašćene delatnosti sprovode potpuno i efikasno.

Standard A 5. 1. 2. – Ovlašćenje priznatih organizacija

1. U cilju priznanja u skladu sa stavom 1. Pravila 5. 1. 2, nadležna vlast mora da proveriti sposobnost i samostalnost određene organizacije i da utvrdi da li organizacija pokazuje, u obimu koji je potreban za sprovođenje delatnosti pokrivena predmetnim ovlašćenjem, da ima:

(a) potrebnu stručnost o pitanjima iz ove Konvencije i odgovarajuće znanje o radu broda, uključujući najmanje zahteve koji se odnose na rad pomoraca na brodu, uslove zaposlenja, smeštaj, prostorije za odmor, ishranu i posluživanje hrane, sprečavanje nezgoda, zaštitu zdravlja, zdravstvenu negu, socijalnu zaštitu i zaštitu socijalne sigurnosti;

(b) sposobnost održavanja i osavremenjivanja stručnosti svog osoblja;

(c) potrebno znanje o zahtevima ove Konvencije, kao i o nacionalnim zakonima i pravilima i odgovarajućim međunarodnim dokumentima koji se primenjuju; i

(d) odgovarajuću veličinu, strukturu, iskustvo i sposobnost srazmerno vrsti i nivou ovlašćenja.

2. Sva izdata ovlašćenja koja se odnose na inspekciju, moraju da ovlaste priznatu organizaciju najmanje da zahteva ispravljanje nedostataka utvrđenih u pogledu radnih i životnih uslova pomoraca i da na zahtev države luke sprovodi inspekcije s tim u vezi.

3. Svaka članica mora da ustanovi:

(a) sistem koji će obezbediti svrsishodnost rada a koji uključuje obaveštenje o svim primenjivim nacionalnim zakonima i pravilima i odgovarajućim međunarodnim dokumentima; i

(b) postupke za održavanje veza sa organizacijama i nadzor nad njima.

4. Svaka članica Međunarodnoj kancelariji rada mora da dostavi tekući popis svih priznatih organizacija ovlašćenih da rade u njeno ime, kao i da predmetni popis ažurira. U popisu treba da navede poslove koje su priznate organizacije ovlašćene da obavljaju. Kancelarija će popis učiniti dostupnim javnosti.

Smernica B 5. 1. 2. – Ovlašćenje priznatih organizacija

1. Organizacija koja traži priznavanje treba da pokaže tehničku, upravnu i upravljačku osposobljenost i sposobnost da obezbedi pružanje odgovarajuće usluge zadovoljavajućeg kvaliteta.

2. Prilikom procene sposobnosti neke organizacije, nadležna vlast treba da utvrdi da li organizacija ima:

(a) odgovarajuće tehničko, upravljačko i pomoćno osoblje;

(b) dovoljno stručno osposobljenog osoblja za pružanje zahtevane usluge na odgovarajućem geografskom području;

(c) dokazanu sposobnost za pružanje pravovremene usluge odgovarajućeg kvaliteta; kao i

(d) da li je nezavisna i odgovorna u svom radu.

3. Nadležna vlast treba da zaključi pisani ugovor s organizacijom koju ona priznaje kao ovlašćenu. Ugovor treba da sadrži sledeće elemente:

(a) obim primene;

(b) svrhu;

(c) opšte uslove;

(d) obavljanje odobrenih poslova;

(e) pravnu osnovu odobrenih poslova;

(f) izveštavanje nadležne vlasti;

(g) navođenje ovlašćenja nadležne vlasti priznatoj organizaciji; i

(h) nadzor nadležne vlasti nad delatnostima poverenim priznatoj organizaciji.

4. Svaka članica treba da zahteva da priznate organizacije izrade sistem osposobljavanja osoblja zaposlenog u svojstvu inspektora kako bi se obezbedilo pravovremeno osavremenjivanje njihovog znanja i stručnosti.

5. Svaka članica mora da zahteva da priznate organizacije vode evidenciju o uslugama koje su obavile kako bi bile u stanju da pokažu ispunjenost zahtevanih standarda u pitanjima na koje se odnose te usluge.

6. Prilikom utvrđivanja postupaka nadzora navedenih u stavu 3 (b) Standarda A 5. 1. 2, svaka članica treba da uzme u obzir vodič *Smernica za ovlašćivanje organizacija koja nastupaju u ime administracija*, usvojen u okviru Međunarodne pomorske organizacije.

Pravilo 5. 1. 3. – Svedočanstvo o radu pomoraca i deklaracija o ispunjavanju uslova rada pomoraca

1. Ovo pravilo primenjuje se na brodove:

- (a) od 500 bruto tonaže i veće, zaposlene na međunarodnim putovanjima; i
- (b) od 500 bruto tonaže i veće, koji plove pod zastavom članice i rade iz luke, ili između luka u drugoj zemlji.

Za svrhu ovog Pravila, „međunarodno putovanje” znači putovanje iz zemlje do luke izvan te zemlje.

2. Ovo Pravilo primenjuje se i na svaki brod koji plovi pod zastavom članice, a na kojeg se ne primenjuje stav 1. ovog Pravila, na zahtev brodoglasnika predmetne članice.

3. Svaka članica zahtevaće da brodovi koji plove pod njenom zastavom imaju sa sobom i održavaju svedočanstvo o radu pomoraca kojom se potvrđuje da su radni i životni uslovi pomoraca na brodu, uključujući i mere za obezbeđenje stalne usklađenosti koje će biti unete u deklaraciju o ispunjavanju uslova rada pomoraca, navedene u stavu 4. ovog Pravila, bili podvrgnuti inspekciji i da ispunjavaju zahteve nacionalnih zakona ili pravila ili drugih mera kojima se primenjuje ova Konvencija.

4. Svaka članica mora da zahteva da brodovi koji plove pod njenom zastavom imaju sa sobom i drže se deklaracije o ispunjavanju uslova rada pomoraca kojom se utvrđuju državni zahtevi kojima se primenjuje ova Konvencija o radnim i životnim uslovima pomoraca i primenjuju mere koje je usvojio brodoglasnik, a kojima se ispunjavanju zahtevi na predmetnom brodu ili brodovima.

5. Svedočanstvo o radu pomoraca i deklaracija o ispunjavanju uslova rada pomoraca mora biti u skladu sa obrascem propisanim u Kodeksu.

6. Ako je nadležna vlast članice ili u tu svrhu na odgovarajući način ovlašćena priznata organizacija inspekcijom utvrdila da brod koji plovi pod zastavom članice ispunjava ili nastavlja da ispunjava standarde propisane ovom Konvencijom, ona mora da izda ili obnovi svedočanstvo o radu pomoraca, kao i da vodi evidenciju o tom svedočanstvu koja će biti dostupna javnosti.

7. Detaljni zahtevi u odnosu na svedočanstvo o radu pomoraca na moru i deklaraciju o ispunjavanju uslova rada pomoraca, uključujući popis elemenata koji moraju da budu podvrgnuti inspekciji i odobreni, utvrđeni su u Delu A Kodeksa.

Standard A 5. 1. 3. – Svedočanstvo o radu pomoraca i deklaracija o ispunjavanju uslova rada pomoraca

1. Svedočanstvo o radu pomoraca brodu mora da izda nadležna vlast ili u tu svrhu na odgovarajući način ovlašćena priznata organizacija za period koji ne sme da bude duži od pet godina. Popis elemenata koji moraju da budu podvrgnuti inspekciji a za koje se mora utvrditi da ispunjavaju zahteve propisane nacionalnim zakonima i pravilima ili drugim merama kojima se primenjuju zahtevi ove Konvencije, a koji se odnose na radne i životne uslove pomoraca na brodovima pre nego što se izda svedočanstvo o radu pomoraca, nalazi se u Dodatku A 5. 1.

2. Ispravnost svedočanstva o radu pomoraca zavisi od periodične inspekcije nadležne vlasti ili u tu svrhu od nje na odgovarajući način ovlašćene priznate organizacije, kako bi se obezbedilo stalno ispunjavanje zahteva odobrenih od

nadležnih državnih organa kojima se primenjuje ova Konvencija. Ako je obavljena samo jedna periodična inspekcija, a valjanost svedočanstva o radu pomoraca je pet godina, ona se mora obaviti između druge i treće godišnjice trajanja svedočanstva. Datum godišnjice znači dan i mesec svake godine koji odgovara datumu isteka svedočanstva o radu pomoraca. Obim i širina periodične inspekcije moraju da budu jednaki pregledu za obnovu svedočanstva. Svedočanstvo će biti overeno nakon zadovoljavajuće periodične inspekcije.

3. Bez obzira na stav 1. ovog Standarda, ako je obnovna inspekcija urađena u periodu od tri meseca pre isteka postojećeg svedočanstva o radu pomoraca, novo svedočanstvo važiće od datuma završetka obnovne inspekcije za period ne duži od pet godina od datuma isteka postojećeg svedočanstva.

4. Ako je obnovna inspekcija izvršena u periodu dužem od tri meseca pre datuma isteka postojećeg svedočanstva o radu pomoraca, novo svedočanstvo će važiti za period koji nije duži od pet godina, a koji počinje da teče od datuma završetka obnovne inspekcije.

5. Privremeno svedočanstvo o radu pomoraca može da se izda:

- (a) novim brodovima prilikom isporuke;
- (b) ako je brod promenio zastavu; i
- (c) ako je brodovlasnik preuzeo odgovornost za rad broda koji je nov za tog brodovlasnika.

6. Privremeno svedočanstvo o radu pomoraca može da izda nadležna vlast ili od nje u tu svrhu na odgovarajući način ovlašćena organizacija za period koji nije duži od šest meseci.

7. Privremeno svedočanstvo o radu pomoraca može da se izda samo nakon što je potvrđeno da je:

- (a) brod bio pod inspekcijom koliko je razumno i moguće, u materiji nabrojenoj u Dodatku A5-I, vodeći računa o proveru pojedinosti prema tač. (b), (c) i (d) ovog stava;
- (b) brodovlasnik dokazao nadležnoj vlasti ili priznatoj organizaciji da brod primenjuje odgovarajuće postupke kako bi ispunio zahteve ove Konvencije;
- (c) zapovednik dobro upoznat sa zahtevima ove Konvencije i obavezama u njenoj primeni;
- (d) pruženo odgovarajuće obaveštenje nadležnoj vlasti ili priznatoj organizaciji koji izdaju deklaraciju o ispunjavanju uslova rada pomoraca.

8. Potpuna inspekcija u skladu sa stavom 1. ovog Standarda mora se obaviti pre isteka privremenog svedočanstva kako bi se omogućilo izdavanje svedočanstva o radu pomoraca u punom trajanju. Nikakvo dalje privremeno svedočanstvo ne može biti izdato nakon početnih šest meseci navedenih u stavu 6. ovog Standarda. Deklaracija o ispunjavanju uslova rada pomoraca neće biti izdata za period važenja privremenog svedočanstva.

9. Svedočanstvo o radu pomoraca, privremeno svedočanstvo o radu pomoraca i deklaracija o ispunjavanju uslova rada pomoraca moraju da se izdaju u obliku koji odgovara obrascima u Dodatku A5-II.

10. Deklaracija o ispunjavanju uslova rada pomoraca mora biti priložena uz svedočanstvo o radu pomoraca. Ona mora da ima dva dela:

- (a) Deo I. mora da sačini nadležna vlast koja će da: i) utvrdi popis elemenata koji će biti podvrgnuti inspekciji u skladu sa stavom 1. ovog Standarda; ii)

utvrdi zahteve odobrene od nadležnih državnih organa u koje su ugrađene odgovarajuće odredbe ove Konvencije pozivajući se na odgovarajuće nacionalne pravne odredbe kao i, u potrebnom obimu, na sažetu informaciju o glavnom sadržaju navedenih zahteva; iii) utvrdi posebne zahteve za vrstu broda prema nacionalnom zakonodavstvu; iv) unese sve bitne jednakovredne odredbe usvojene po stavu 3. člana VI; i v) jasno naznači svako oslobođenje koje je odobrila nadležna vlast kako je predviđeno u Poglavlju 3; i

(b) Deo II. mora da sastavi brodovlasnik i istom prilikom da utvrdi usvojene mere kojima će se obezbedi trajno ispunjavanje zahteva između inspekcija i predložene mere koje će da obezbede stalan napredak.

Nadležna vlast ili u tu svrhu na odgovarajući način ovlašćena priznata organizacija mora da potvrdi Deo II. i izda deklaraciju o ispunjavanju uslova rada pomoraca.

11. Rezultati svih naknadnih inspekcija ili drugih provera predmetnog broda i svi značajni nedostaci pronađeni tokom svake takve provere moraju da se evidentiraju zajedno sa datumom kada su nedostaci koji su bili utvrđeni otklonjeni. Ova evidencija, uz prevod na engleskom jeziku ako u originalu nije na engleskom, mora, u skladu sa nacionalnim zakonima ili pravilima, da bude upisana na deklaraciji o ispunjavanju uslova rada pomoraca ili njoj dodata, ili na neki drugi način da bude dostupna pomorcima, inspektorima države zastave, ovlašćenim službenicima država luka i predstavnicima brodovlasnika i pomoraca.

12. Odgovarajuće tekuće svedočanstvo o radu pomoraca i deklaracija o ispunjavanju uslova rada pomoraca, kojoj je pridodat prevod na engleskom jeziku, ako ona nije na engleskom, mora se nalaziti na brodu, a kopija mora da bude izložena na vidljivom mestu na brodu kako bi bila dostupna pomorcima. Kopija mora na zahtev da bude dostupna, u skladu sa nacionalnim zakonima i pravilima, pomorcima, inspektorima države zastave, ovlašćenim službenicima u državama luka i predstavnicima brodovlasnika i pomoraca.

13. Zahtev za prevod na engleski jezik iz stava 11. i 12. ovog Standarda ne primenjuje se na brod koji ne obavlja međunarodna putovanja.

14. Svedočanstvo izdato prema stavu 1. ili 5. ovog Standarda prestaće da važi u svakom od sledećih slučajeva;

- (a) ako odgovarajuće inspekcije nisu obavljene u periodu koji je naveden u stavu 2. ovog Standarda;
- (b) ako svedočanstvo nije overeno u skladu sa stavom 2. ovog Standarda;
- (c) kada je brod promenio zastavu;
- (d) kada brodovlasnik više ne preuzima odgovornost za rad broda; i
- (e) kada su obavljene značajne izmene strukture ili opreme na koju se odnosi Poglavlje 3.

15. U slučaju navedenom u stavu 14(c), (d) ili (e) ovog Standarda, novo svedočanstvo biće izdato samo kada se nadležna vlast ili priznata organizacija koja izdaje novo svedočanstvo u potpunosti uverila da brod ispunjava zahteve ovog Standarda.

16. Nadležna vlast ili u tu svrhu na odgovarajući način ovlašćena priznata organizacija države zastave mora da povuče svedočanstvo o radu pomoraca ako postoji dokaz da predmetni brod ne ispunjava zahteve ove Konvencije, a zahtevano korektivno delovanje nije preduzeto.

17. Prilikom razmatranja da li treba da svedočanstvo o radu pomoraca bude povučeno u skladu sa stavom 16. ovog Standarda, nadležna vlast ili priznata organizacija moraju uzeti u obzir ozbiljnost ili učestalost nedostataka.

Smernica B 5. 1. 3. – Svedočanstvo o radu pomoraca i deklaracija o ispunjavanju uslova rada pomoraca

1. Navođenje zahteva u Delu I. Deklaracije o ispunjavanju uslova rada pomoraca treba da uključi ili treba da mu bude priloženo pozivanje na zakonske odredbe koje se odnose na radne i životne uslove pomoraca u svakom od elemenata navedenih u Dodatku A5-I. Ako nacionalno zakonodavstvo u potpunosti primenjuje zahteve utvrđene u ovoj Konvenciji, pozivanje može biti sve što je potrebno. Ako je odredba Konvencije primenjena putem u značajnoj meri jednakog rešenja kako predviđa stav 3. člana VI, ovu odredbu treba da utvrdi i obezbedi sažeto objašnjenje. Kada je nadležna vlast priznala izuzeće, kako to predviđa III. Poglavlje, o tome treba da bude jasno naznačena posebna odredba ili odredbe.

2. Mere navedene u Delu II. Deklaracije o ispunjavanju uslova rada pomoraca koje je ispunio brodovlasnik, treba da, naročito, naznače prilike u kojima će stalno ispunjavanje posebnih zahteva, koje odobri nadležni državni organ, biti provereno, lica odgovorna za proveru, evidencije koje treba voditi i postupke koji će se preduzeti kada se utvrdi neispunjavanje. Deo II. može da poprimi različite oblike. On se može pozivati na druge obimnije dokumente o politici i postupcima koji se odnose na druge aspekte pomorskog sektora, npr. isprave koje zahteva *Međunarodni kodeks o bezbednom upravljanju* (ISM Code) ili obaveštenje koje zahteva pravilo 5 SOLAS Konvencije, Poglavlje XI-1 koje se odnosi na Trajni sažeti zapis.

3. Mere kojima se obezbeđuje stalno ispunjavanje treba da uključe opšte međunarodne zahteve kako bi brodovlasnik i zapovednik bili upoznati sa najnovijim napretkom tehnologije, kao i sa naučnim otkrićima koja se odnose na izgled radnog mesta, vodeći računa o bitnim opasnostima za rad pomoraca, kao i da o tome budu obavešteni predstavnici pomoraca i pri tom garantovati viši nivo zaštite radnih i životnih uslova pomoraca.

4. Deklaracija o ispunjavanju uslova rada pomoraca treba pre svega da sadrži jasne izraze koji će pomoći svim zainteresovanim licima, kao što su inspektori države zastave, ovlašćeni službenici u državama luka i pomorci da provere da li su zahtevi pravilno primenjeni.

5. Primer podataka koje može da sadrži deklaracija o ispunjavanju uslova rada pomoraca dat je u Dodatku B5-I.

6. Kada brod promeni zastavu kako je navedeno u stavu 14(c) Standarda A 5. 1. 3, i ako obe države potvrde ovu Konvenciju, članica pod čijom zastavom brod pre toga nije bio ovlašćen da plovi treba, čim je to moguće, nadležnoj vlasti druge članice dostaviti kopije svedočanstva o radu pomoraca i deklaracije o ispunjavanju uslova rada pomoraca koje je brod imao pre promene zastave i, ako je to moguće, kopije odgovarajućih izveštaja inspekcije ako nadležna vlast to zatraži u periodu od tri meseca od kada je izvršena promena zastave.

Pravilo 5. 1. 4. – Inspekcija i primena

1. Svaka članica mora da proverava, kroz efikasan i usklađen sistem redovnih inspekcija, praćenjem i drugim merama nadzora, da brodovi koji plove pod njenom zastavom ispunjavaju zahteve ove Konvencije kako su primenjeni u nacionalnim zakonima i pravilima.

2. Detaljni zahtevi koji se odnose na inspekciju i sistem primene iz stava 1. ovog Pravila utvrđeni su u Delu A Kodeksa.

Standard A 5. 1. 4. – Inspekcija i primena

1. Svaka članica mora da održava sistem inspekcije uslova za pomorce na brodovima koji plove pod njenom zastavom, koji mora da uključi proveru da li su mere koje se odnose na radne i životne uslove utvrđene u deklaraciji o ispunjavanju uslova rada primenjene, gde je to odgovarajuće, kao i da li su ispunjeni zahtevi ove Konvencije.
2. Nadležna vlast mora da imenuje dovoljan broj stručno osposobljenih inspektora radi ispunjavanja njenih obaveza iz stava 1. ovog Standarda. Tamo gde su priznate organizacije ovlašćene da sprovode inspekcije, članica mora da zahteva stručnost osoblja koje sprovodi inspekciju za sprovođenje ovih dužnosti i mora im dati potrebna pravna ovlašćenja za obavljanje njihovih dužnosti.
3. Potrebno je usvojiti odgovarajuće odredbe kojima će se obezbediti da su inspektori obučeni, osposobljeni, da imaju utvrđen domen rada, snagu, pravni položaj i nezavisnost, potrebnu ili poželjnu, koja će im omogućiti obavljanje provere i obezbediti ispunjavanje kako je navedeno u stavu 1. ovog Standarda.
4. Takve inspekcije moraju da se preduzimaju u odgovarajućim vremenskim razmacima koje zahteva Standard A 5. 1. 3. Ovaj period ni u kom slučaju ne sme da bude duži od tri godine.
5. Ako članica primi prigovor koji smatra očigledno osnovanim ili pribavi dokaz da brod koji plovi pod njenom zastavom ne ispunjava zahteve ove Konvencije ili da postoje ozbiljni nedostaci u primeni mera utvrđenih u deklaraciji o ispunjavanju uslova rada pomoraca, članica mora da preduzme korake potrebne da se taj predmet istraži, i obezbedi preduzimanje radnji za otklanjanje pronađenih nedostataka.
6. Svaka članica treba da predvidi odgovarajuća pravila i efikasno ih sprovodi, kako bi time garantovala da inspektori imaju pravni položaj i uslove službe koji će im obezbediti nezavisnost od promena vlade i nepovoljnih spoljnih uticaja.
7. Inspektori, nakon što su dobili jasna uputstva kako da obave poslove i nakon što su snabdeveni odgovarajućim akreditivima, moraju da budu ovlašćeni da:
 - (a) stupe na brod koji plovi pod zastavom članice;
 - (b) sprovedu proveru, ispitivanje ili istragu koje smatraju potrebnim da bi se uverili da su standardi bili ispravno primenjeni; i
 - (c) zahtevaju otklanjanje svakog nedostatka, kao i da, kada osnovano sumnjaju da nedostaci predstavljaju ozbiljno kršenje zahteva ove Konvencije (uključujući prava pomoraca) ili predstavljaju značajnu opasnost za bezbednost, zdravlje i zaštitu pomoraca, zabrane brodu da napusti luku dok ne budu preduzete potrebne radnje.
8. Protiv svake radnje iz stava 7(c) ovog Standarda dopuštena je žalba sudskoj ili upravnoj vlasti.
9. Inspektori imaju pravo da po sopstvenom nahođenju daju savet umesto da pokrenu postupak ili preporuče njegovo pokretanje u slučajevima kada ne postoji očigledno kršenje zahteva ove Konvencije koji ugrožava bezbednost, zdravlje ili zaštitu pomoraca, a ne postoji dokaz o ranijim sličnim kršenjima.
10. Inspektori moraju da smatraju poverljivim izvorom svaku pritužbu ili prigovor u kojima se navode opasnost ili nedostatak radnih i životnih uslova pomoraca ili povrede zakona i pravila, i ne smeju da stavljaju do znanja brodovlasniku, njegovom predstavniku ili operateru broda da je inspekcija obavljena kao posledica takve pritužbe ili prigovora.

11. Inspektorima se ne smeju poveriti dužnosti koje mogu da, zbog njihovog broja ili naravi, štete efikasnosti inspekcije ili na neki drugi način da štete njihovom ugledu ili nepristranosti u njihovim odnosima sa brodovlasnicima, pomorcima ili drugim zainteresovanim stranama. Konačno, inspektorima mora:

(a) biti zabranjeno da imaju direktni ili indirektni interes u nekoj radnji nad kojom su oni pozvani da sprovedu inspekciju; i

(b) uz primenu odgovarajućih sankcija ili disciplinskih mera, pa i nakon napuštanja službe, da bude zabranjeno otkrivanje svih poslovnih tajni ili poverljivih radnih postupaka ili informacija lične prirode koje su mogli da saznaju u toku njihove službe.

12. Inspektori o svakoj inspekciji moraju da podnesu izveštaj nadležnoj vlasti. Jedna kopija izveštaja na engleskom ili radnom jeziku broda mora da se dostavi zapovedniku broda, a druga da se istakne na brodskoj oglasnoj tabli radi informacije pomorcima i, na zahtev, da se pošalje njihovim predstavnicima.

13. Nadležna vlast svake članice mora da vodi knjigu inspekcija o uslovima pomoraca na brodovima koji plove pod njenom zastavom. Ona mora da objavljuje godišnji izveštaj o radu inspekcije unutar određenog perioda, koji ne sme da bude duži od šest meseci, nakon isteka godine.

14. U slučaju istrage o većoj nezgodi, izveštaj treba da se podnese nadležnoj vlasti, čim je to moguće, ali najkasnije u roku od mesec dana od dana završetka istrage.

15. Kada je inspekcija izvršena ili kada su preduzete mere prema ovom Standardu, treba uložiti sve moguće napore da se spreči neopravdano zadržavanje ili odlaganje odlaska broda.

16. U skladu sa nacionalnim zakonima i pravilima mora da se plati naknada za svaki gubitak ili štetu koji su nastali nezakonitom primenom inspektorskih ovlašćenja. Teret dokaza u svakom pojedinačnom slučaju pada na tužioca.

17. Svaka članica mora da predvidi i efikasno primeni odgovarajuće kazne i druge mere za otklanjanje kršenja zahteva ove Konvencije (uključujući prava pomoraca) i za sprečavanje inspektora u obavljanju njihovih dužnosti.

Smernica B 5. 1. 4. – Inspekcija i primena

1. Nadležna vlast i bilo koja druga služba ili vlast koja je u potpunosti ili delimično odgovorna za inspekciju radnih i životnih uslova pomoraca treba da ima sredstva potrebna za ispunjenje svojih zadataka. Naročito:

(a) svaka članica treba da preduzme potrebne mere tako da odgovarajuće osposobljeni tehnički eksperti i stručnjaci mogu da budu pozvani da pomognu inspektorima u radu, ako je to potrebno; i

(b) inspektori treba da raspolazu odgovarajućim zgradama, opremom i odgovarajućim sredstvima prevoza za efikasno obavljanje zadataka.

2. Nadležna vlast treba da utvrdi politiku ispunjavanja i primene radi obezbeđenja doslednosti ili drugačije vođenje inspekcije i primenu delatnosti koji se odnose na ovu Konvenciju. Kopiju takve politike treba dostaviti svim inspektorima i predmetnim odeljenjima za primenu, kao i da budu dostupne javnosti, brodovlasnicima i pomorcima.

3. Nadležna vlast treba da utvrdi jednostavne postupke koji će joj omogućiti primanje poverljivih informacija o mogućim kršenjima zahteva iz ove Konvencije (uključujući prava pomoraca) koje predoče pomorci direktno ili preko predstavnika pomoraca, i da omogući inspektorima neodložnu istragu takvih predmeta, uključujući:

(a) mogućnost da zapovednici, pomorci ili predstavnici pomoraca zahtevaju inspekciju kada je oni smatraju potrebnom; i

(b) pribavljanje tehničkih informacija i saveta brodovlasnika i pomoraca i zainteresovanih organizacija o najefikasnijim načinima ispunjavanja zahteva ove Konvencije i postizanje stalnog unapređenja uslova rada pomoraca na brodovima.

4. Inspektori treba da budu potpuno stručni i mora ih biti u dovoljnom broju kako bi se obezbedilo efikasno izvršenje njihovih dužnosti imajući u vidu:

(a) važnost dužnosti koje inspektori moraju da obave, posebno broj, prirodu i veličine brodova podvrgnutih inspekciji, kao i broj i složenost pravnih odredbi koje treba primenjivati;

(b) sredstva stavljena na raspolaganje inspektorima; i

(c) praktične uslove pod kojima inspekcije moraju da budu izvršene da bi bile efikasne.

5. Poštujući uslove za stupanje u javnu službu koje mogu propisati nacionalni zakoni i pravila, inspektori treba da budu osposobljeni i odgovarajuće obučeni za obavljanje svojih dužnosti i da, kada je to moguće, imaju pomorsko obrazovanje ili iskustvo kao pomorci. Oni treba da imaju odgovarajuće znanje o radnim i životnim uslovima pomoraca i engleskom jeziku.

6. Treba preduzeti mere da se inspektorima pruži odgovarajuća dalja obuka tokom njihovog zaposlenja.

7. Svi inspektori treba da jasno razumeju okolnosti u kojima se sprovodi inspekcija, obim inspekcija kakve se sprovode u različitim okolnostima i opšti način sprovođenja inspekcije.

8. Inspektori koji su dobili odgovarajuće ovlašćenje po nacionalnom zakonu treba da budu ovlašćeni najmanje da:

(a) dolaze na brod slobodno i bez prethodne najave; međutim, početkom inspekcije broda inspektori treba da o svojoj prisutnosti obaveste zapovednika broda ili lice u službi i, kada je moguće, pomorce ili njihove predstavnike;

(b) ispituju zapovednika broda, pomorca ili neko drugo lice, uključujući brodovlasnika ili njegovog predstavnika, o svakom pitanju koje se odnosi na primenu zahteva propisanih zakonima i pravilima, u prisustvu svedoka kojeg lice može da zahteva;

(c) zahtevaju uvid u knjige, brodske dnevnike, registre, svedočanstva ili druge isprave koje se direktno odnose na predmet inspekcije, da bi proverili ispunjenost zahteva propisanih nacionalnim zakonima i pravilima kojima se primenjuje ova Konvencija;

(d) sprovedu isticanje obaveštenja koje zahtevaju nacionalni zakoni i pravila kojima se primenjuje ova Konvencija;

(e) u svrhu analize uzmu ili izdvoje uzorke proizvoda, tereta, pitke vode, zaliha, materijala i stvari koji se koriste ili kojima se rukuje;

(f) nakon inspekcije, skrenu bez odlaganja pažnju brodovlasniku, operateru broda ili zapovedniku na nedostatke koji mogu da prouzrokuju štetu zdravlju i bezbednosti lica na brodu;

(g) upozore nadležnu vlast i, ako je moguće, priznatu organizaciju, o svakom nedostatku ili zloupotrebi na koju se postojeći zakoni i pravila direktno ne odnose i da im podnesu predloge za poboljšanje zakona ili pravila; i

(h) obaveste nadležnu vlast o svakoj povredi na radu ili bolesti pomoraca u slučajevima i na način koji mogu propisati zakoni i pravila.

9. Kada se uzorak naveden u stavu 8(e) ove Smernice uzima ili vadi, brodovlasnik ili njegov predstavnik, i kada je to prikladno, pomorac, treba da budu obavješteni ili budu prisutni uzimanju ili vađenju uzorka. Inspektor treba tačno da evidentira količinu takvog uzorka.

10. Godišnji izveštaj koji objavljuje nadležna vlast neke članice o brodovima koji plove pod njenom zastavom, treba da sadrži:

- (a) popis zakona i pravila na snazi koji se odnose na radne i životne uslove i svaku izmenu i dopunu koja je stupila na snagu tokom godine;
- (b) pojedinosti o organizaciji sistema inspekcije;
- (c) statističke podatke o brodovima i drugim prostorima podvrgnutih inspekciji i brodovima i drugim prostorima koji su stvarno pregledani;
- (d) statističke podatke o svim pomorcima na koje se odnose njeni nacionalni zakoni i pravila;
- (e) statističke podatke i obaveštenja o povredama zakonodavstva, izrečenim kaznama i slučajevima zadržavanja brodova; i
- (f) statističke podatke o prijavljenim povredama na radu i bolestima koji su pogodili pomorce.

Pravilo 5. 1. 5. – Postupci po prigovoru na brodu

1. Svaka članica mora da zahteva da brodovi koji plove pod njenom zastavom imaju postupke na brodu za pravedno, uspešno i brzo rešavanje svih prigovora pomoraca zbog navodnog kršenja zahteva ove Konvencije (uključujući prava pomoraca).
2. Svaka članica mora da zabrani i kazni bilo koju vrstu šikaniranja pomorca zbog podnošenja prigovora.
3. Odredbe ovog pravila i odgovarajući delovi Kodeksa ne diraju u pravo pomorca da zatraži obeštećenje bilo kojim pravnim sredstvom koje pomorac smatra odgovarajućim.

Standard A 5. 1. 5. – Postupci po prigovoru na brodu

1. Ne dirajući u širi obim koji mogu da daju nacionalni zakoni, pravila ili kolektivni ugovori, pomorci imaju na raspolaganju postupak podnošenjem prigovora na brodu o svakom predmetu koji navodno predstavlja kršenje zahteva ove Konvencije (uključujući prava pomoraca).
2. Svaka članica svojim zakonima ili pravilima mora obezbediti primenu odgovarajućih postupaka po prigovorima kako bi se ispunili zahtevi Pravila 5. 1. 5.
3. Takvi postupci moraju da imaju za cilj da se prigovori reše na najnižem mogućem nivou. Međutim, u svim slučajevima, pomorci moraju da imaju pravo da podnesu prigovore direktno zapovedniku broda, a ako to smatraju potrebnim, i odgovarajućim vlastima van broda.
4. Postupci po prigovoru na brodu moraju uključiti pravo pomorca da ima pratnju ili predstavnika u postupku po prigovoru, kao i na zaštitu protiv mogućeg šikaniranja zbog podnošenja prigovora. Izraz „šikaniranje“ odnosi se na svaku štetnu radnju preduzetu od nekog lica prema pomorcu zbog podnošenja prigovora koji očigledno nije učinjen radi uznemiravanja ili zlobe.
5. Pored kopije svog ugovora o zaposlenju, svi pomorci moraju da dobiju kopiju postupka po prigovoru koji se primenjuje na brodu. Ona mora da sadrži obaveštenje

o vezi sa nadležnim vlastima u državi zastave i, ako je ona različita, u zemlji prebivališta pomorca, i ime lica ili više lica na brodu koji mogu da, na poverljivoj osnovi, pruže pomorcima nepristrasan savet o njihovom prigovoru ili da im pomognu na drugi način u postupcima po prigovoru koji slede, a koji im stoje na raspolaganju na brodu.

Smernica B 5. 1. 5. – Postupci po prigovoru na brodu

1. Pridržavajući se odgovarajućih odredbi primenljivih kolektivnih ugovora, nadležna vlast treba da u tesnoj saradnji sa organizacijama brodovlasnika i pomoraca, izradi predlog primene pravednog, brzog i detaljno evidentiranog broskog postupka po prigovoru za sve brodove koji plove pod zastavom članice. Prilikom izrade ovih postupaka treba razmotriti sledeća pitanja:

(a) mnogi prigovori mogu da se odnose posebno na one pojedince kojima se prigovor podnosi ili čak na zapovednika broda. U svim slučajevima pomorci treba da budu u mogućnosti da podnesu prigovor direktno zapovedniku ili nekome van broda; i

(b) da bi se pomoglo u sprečavanju problema šikaniranja pomoraca koji su podneli prigovor o materiji iz ove Konvencije, postupci treba da podstaknu imenovanje lica na brodu koje može da savetuju pomorce o postupcima koji im stoje na raspolaganju i da, ako pomorac koji je podneo prigovor to zahteva, prisustvuje svim sastancima ili raspravama o predmetu prigovora.

2. Postupci raspravljani tokom konsultacija navedenog u stavu 1. ove Smernice treba da uključuje barem sledeće:

(a) prigovori treba da budu upućeni rukovodiocu službe pomorca koji podnosi prigovor ili nadređenom oficiru pomorca;

(b) rukovodilac službe ili nadređeni oficir treba da pokušaju da reše predmet unutar propisanog ograničenog vremena koje odgovara ozbiljnosti predmeta;

(c) ako rukovodilac službe ili nadređeni oficir ne mogu da reše prigovor na zadovoljstvo pomorca, ovaj ga može podneti zapovedniku broda koji o ovom predmetu treba da odluči lično;

(d) pomorci treba da neprestano imaju pravo na prisutnost drugog pomorca ili da budu predstavljani od drugog pomorca po svom izboru na tom brodu;

(e) svi prigovori i odluke o njima treba da se evidentiraju, a kopija preda zainteresovanom pomorcu;

(f) ako se prigovor ne može rešiti na brodu, predmet treba podneti brodovlasniku na kopnu, kojem treba dati odgovarajuće ograničeno vreme za rešavanje predmeta, ako je to odgovarajuće, konsultacijama sa pomorcima vezanih uz slučaj ili nekom osobom koju oni mogu imenovati kao svog predstavnika; i

(g) u svim slučajevima pomorci treba da imaju pravo da podesu svoje prigovore direktno zapovedniku broda, brodovlasniku i nadležnim vlastima.

Pravilo 5. 1. 6. – Pomorske nezgode

1. Svaka članica mora da sprovede službeni istragu o svim ozbiljnim pomorskim nezgodama koje su dovele do povrede ili smrti u koju je uključen brod koji plovi pod njenom zastavom. Završni izveštaj o istrazi po pravilu mora da se objavi.

2. Članice su dužne da međusobno sarađuju kako bi se olakšala istraga ozbiljnih pomorskih nezgoda navedenih u stavu 1. ovog pravila.

Standard A 5. 1. 6. – Pomorske nezgode

(nema odredbi)

Smernica B 5. 1. 6. – Pomorske nezgode

(nema odredbi)

Pravilo 5. 2. – Obaveze države luke

Cilj: Omogućiti svakoj članici da izvrši svoje obaveze iz ove Konvencije koje se odnose na međunarodnu saradnju u primeni i sprovođenju standarda Konvencije na stranim brodovima

Pravilo 5. 2. 1. – Inspekcije u luci

1. Svaki strani brod koji je u toku svog redovnog poslovanja ili iz drugih razloga, uplovio u luku članice može da bude podvrgnut inspekciji u skladu sa stavom 4. člana V radi provere da li ispunjava zahteve ove Konvencije (uključujući i prava pomoraca) koji se odnose na radne i životne uslove pomoraca na brodu.
2. Svaka članica mora da prihvati svedočanstvo o radu pomoraca i deklaraciju o ispunjavanju uslova rada koje zahteva pravilo 5. 1. 3. kao prima facie dokaz o ispunjavanju zahteva ove Konvencije (uključujući prava pomoraca). Zbog toga inspekcija u njenim lukama mora da bude, osim u okolnostima navedenim u Kodeksu, ograničena na proveru svedočanstva i deklaracije.
3. Inspekcije u luci moraju da obavljaju ovlašćeni službenici u skladu sa odredbama Kodeksa i drugih primenjivih međunarodnih zahteva kojima se uređuje inspeksijski nadzor države luke u članici. Svaka takva inspekcija mora da bude ograničena na proveru da li je predmet podvrgnut inspekciji u skladu sa odgovarajućim zahtevima utvrđenim u članovima i Pravilima ove Konvencije i u Delu A Kodeksa.
4. Inspekcije koje mogu da se sprovedu u skladu sa ovim pravilom moraju da se zasnivaju na efikasnom sistemu inspekcije i nadzora države luke koji će doprineti obezbeđenju da radni i životni uslovi na brodovima koji ulaze u luku članice ispunjavaju zahteve ove Konvencije (uključujući i prava pomoraca).
5. Obaveštenje o sistemu navedenom u stavu 4. ovog Pravila, uključujući i način procene njegove efikasnosti, mora da bude uključen u izveštaje članice prema članu 22. Ustava.

Standard A 5. 2. 1. – Inspekcije u luci

1. Kada ovlašćeni službenik, nakon dolaska na brod radi obavljanja inspekcije, zatraži, ako je to odgovarajuće, svedočanstvo o radu pomoraca i deklaraciju o ispunjavanju uslova rada pomoraca, kao i utvrdi da:
 - (a) zahtevane isprave nisu na raspolaganju ili se ne drže na brodu ili su lažne ili da podnete isprave ne sadrže podatke koje zahteva ova Konvencija ili da su na drugi način neispravne; ili
 - (b) postoji osnovana sumnja da radni i životni uslovi na brodu nisu u skladu sa zahtevima ove Konvencije; ili
 - (c) postoji opravdana sumnja da je brod promenio zastavu kako bi izbegao ispunjavanje zahteva ove Konvencije; ili
 - (d) postoji prigovor u kojem se tvrdi da posebni radni i životni uslovi na brodu nisu u skladu sa zahtevima ove Konvencije;

isti može da izvrši detaljniju inspekciju kako bi utvrdio radne i životne uslove na tom brodu. Takva inspekcija mora u svakom slučaju da bude izvršena i u slučaju kada se smatra ili tvrdi da nedostatak može da predstavlja očiglednu opasnost za bezbednost, zdravlje ili sigurnosnu zaštitu pomoraca, ili gde ovlašćeni službenik

osnovano sumnja da neki nedostaci predstavljaju ozbiljno kršenje zahteva ove Konvencije (uključujući i prava pomoraca).

2. Kad detaljniju inspekciju na stranom brodu u luci članice sprovode ovlašćeni službenici u okolnostima utvrđenim u tač. (a), (b) ili (c) stava 1. ovog Standarda, ona se u načelu mora odnositi na predmete navedene u Dodatku A5-III.

3. U slučaju prigovora prema stavu 1(d) ovog Standarda, inspekcija se mora po pravilu ograničiti na predmet prigovora, s tim da prigovor ili istraga u vezi s tim mogu biti povod za detaljniju inspekciju u skladu sa stavom 1(b) ovog Standarda. U svrhu stava 1(d) ovog Standarda „prigovor” znači obaveštenje koje su podneli pomorac, stručno telo, neko udruženje, sindikat ili, uopšteno, bilo koje lice zainteresovano za bezbednost broda, uključujući opasnosti za bezbednost ili zdravlje pomoraca na brodu.

4. Kada se nakon detaljnije inspekcije utvrdi da radni i životni uslovi ne odgovaraju zahtevima ove Konvencije, ovlašćeni službenik mora odmah da skrene pažnju zapovedniku broda na nedostatke, uz određeni rok za njihovo otklanjanje. U slučaju da takve nedostatke ovlašćeni službenik smatra značajnim ili ako se oni odnose na prigovor koji je podnet u skladu sa stavom 3. ovog Standarda, ovlašćeni službenik mora o tim nedostacima da skrene pažnju odgovarajućim organizacijama pomoraca i brodovlasnika u članici u kojoj je inspekcija izvršena, i može:

(a) obavestiti predstavnika države zastave;

(b) dostaviti odgovarajuće obaveštenje nadležnim vlastima naredne luke pristajanja.

5. Članica u kojoj je izvršena inspekcija ima pravo da dostavi kopiju izveštaja službenika, uz koju mora da bude priložen odgovor koji je primljen od nadležnih vlasti države zastave unutar propisanog roka, generalnom direktoru Međunarodne kancelarije rada s namerom da se takva mera smatra odgovarajućom i primerenom kako bi se obezbedilo vođenje evidencije o takvom obaveštenju i skrenula pažnja stranaka koje mogu da budu zainteresovane da se koriste odgovarajućim postupcima za naknadu štete.

6. Kada je nakon detaljnije inspekcije ovlašćenog službenika utvrđeno da brod ne odgovara zahtevima ove Konvencije i da:

(a) uslovi na brodu očigledno predstavljaju opasnost za bezbednost, zdravlje ili sigurnosnu zaštitu pomoraca; ili

(b) ova neusklađenost predstavlja ozbiljno ili ponovljeno kršenje zahteva ove Konvencije (uključujući prava pomoraca)

ovlašćeni službenik preduzeće korake da obezbedi da brod ne nastavi plovidbu dok sve neusklađenosti na koje se odnose tač. (a) ili (b) ovog stava nisu ispravljene ili dok ovlašćeni službenik nije prihvatio plan za otklanjanje tih neusklađenosti i uverio se da će plan biti brzo primenjen. Ako je brod sprečen da nastavi plovidbu, ovlašćeni službenik će o tome odmah obavestiti državu zastave i pozvati predstavnika države zastave da bude prisutan, ako je moguće, zahtevajući odgovor države zastave u propisanom roku. Ovlašćeni službenik će isto tako bez odlaganja obavestiti odgovarajuće organizacije brodovlasnika i pomoraca u državi luke u kojoj je inspekcija izvršena.

7. Svaka članica mora da obezbedi da njeni ovlašćeni službenici dobiju uputstvo o okolnostima navedenim u Delu B Kodeksa, kao vrstama okolnosti koje opravdavaju zadržavanje broda prema stavu 6. ovog Standarda.

8. Kada izvršava svoje obaveze prema ovom Standardu, svaka članica mora da uloži sav mogući napor da spreči neopravdano zadržavanje broda ili odlaganje njegovog

odlaska. Ako je utvrđeno da je brod neopravdano zadržan ili je njegov odlazak odložen tom brodu mora da se plati naknada za svaki gubitak ili štetu koja mu je pričinjena. Teret dokaza u svakom slučaju pada na tužioca.

Smernica B 5. 2. 1. – Inspekcije u luci

1. Nadležna vlast treba da utvrdi politiku inspekcija za ovlašćene službenike koji izvršavaju inspekcije prema pravilu 5. 2. 1. Cilj politike treba da bude obezbeđenje doslednosti, kao i vođenje inspekcije i izvršnih delatnosti koje se odnose na zahteve iz ove Konvencije (uključujući prava pomoraca). Kopija politike mora da bude data svim ovlašćenim službenicima kao i da bude na raspolaganju javnosti, brodovlasnicima i pomorcima.

2. Prilikom utvrđivanja politike kojom se određuju okolnosti u kojima se može zadržati brod prema stavu 6. Standarda A 5. 2. 1, nadležna vlast treba da uzme u obzir da, imajući u vidu kršenja navedena u stavu 6(b) Standarda A 5. 2. 1, ozbiljnost može biti posledica prirode predmetnog nedostatka. Ovo naročito može da bude važno u slučaju povrede osnovnih prava i načela ili prava zaposlenja pomoraca i socijalnih prava prema članovima III. i IV. Na primer, zaposlenje lica mlađeg od određenih godina starosti treba smatrati ozbiljnim kršenjem čak i ako postoji samo jedno takvo lice na brodu. U drugim slučajevima, treba uzeti u obzir broj različitih nedostataka utvrđenih tokom pojedine inspekcije, na primer, nekoliko nedostataka u pogledu smeštaja, hrane ili posluživanja hrane koji ne štete bezbednosti ili zdravlju treba nužno utvrditi pre nego što se počnu smatrati ozbiljnim kršenjem.

3. Članice treba da međusobno sarađuju u najvećoj mogućoj meri prilikom usvajanja međunarodno ugovorenih smernica o politici inspekcije, posebno onih koje se odnose na okolnosti koje opravdavaju zadržavanje broda.

Pravilo 5. 2. 2. – Postupci po prigovoru na kopnu

1. Svaka članica mora da obezbedi da pomorci na brodu koji su došli u luku na teritoriji članice a koji se pozivaju na kršenje zahteva ove Konvencije (uključujući prava pomoraca) imaju pravo da podnesu prigovor kako bi se omogućio brz i praktičan postupak naknade.

Standard A 5. 2. 2. – Postupci po prigovoru na kopnu

1. Prigovor pomorca koji se poziva na kršenje zahteva ove Konvencije (uključujući prava pomoraca) može se podneti ovlašćenom službeniku u luci u koju je pomorac stigao. U takvim slučajevima ovlašćeni službenik mora poduzeti početno istraživanje.

2. Kada je to odgovarajuće, imajući u vidu prirodu prigovora, početno istraživanje mora da razmotri da li su postupci po prigovoru na brodu, predviđeni prema Pravilu 5. 1. 5, bili izvršeni. Ovlašćeni službenik može da izvrši i detaljniju inspekciju u skladu sa Standardom A 5. 2. 1.

3. Ovlašćeni službenik mora da, kada je to prikladno, nastoji da pomogne rešavanju prigovora u okviru broda.

4. U slučaju da se istraživanjem ili inspekcijom predviđenom ovim Standardom otkrije neusklađenost koja spada u okvir stava 6. ovog Standarda, primeniće se odredbe tog stava.

5. Kada odredbe stava 4. ovog Standarda nisu primenjene, a prigovor nije rešen na nivou broda, ovlašćeni službenik mora da bez odlaganja obavesti državu zastave tražeći u propisanom roku savet i plan delovanja radi otklanjanja nedostataka.

6. Kada prigovor nije rešen nakon delovanja preduzetog u skladu sa stavom 5. ovog Standarda, država luke dostaviće kopiju izveštaja ovlašćenog službenika generalom direktoru. Uz izveštaj mora da budu priloženi svi odgovori primljeni u okviru propisanog roka od nadležne vlasti države zastave. Isto tako, moraju da budu

obaveštene odgovarajuće organizacije brodovlasnika i pomoraca. Pored toga, država luke mora generalom direktoru redovno da podnosi statističke podatke i obaveštenja o rešenim prigovorima. Obe ove obaveze predviđene su da bi se, na osnovu takvih radnji, a koje se mogu smatrati odgovarajućim, omogućilo vođenje evidencije, kao i skrenula pažnja strankama, uključujući i organizacije brodovlasnika i pomoraca, koje mogu da budu zainteresovane da se posluže njima u odgovarajućim postupcima ostvarivanja naknade.

7. Treba da se preduzmu odgovarajući koraci radi zaštite tajnosti prigovora koje su podneli pomorci.

Smernica 5. 2. 2. – Postupci po prigovoru na kopnu

1. Kad ovlašćeni službenik postupa po prigovoru navedenom u Standardu A 5. 2. 2, on treba prvo da ispita da li je prigovor opšte prirode a odnosi se na sve pomorce na brodu ili neku kategoriju njih, ili se odnosi samo na slučaj pojedinog pomorca.

2. Ako je prigovor opšte prirode, treba razmotriti preduzimanje detaljnije inspekcije u skladu sa Standardom A 5. 2. 1.

3. Ako se prigovor odnosi na pojedini slučaj, tada treba razmotriti rezultate postupka za rešavanje tog prigovora na brodu. Ako takav postupak nije izvršen, ovlašćeni službenik treba da predloži podnosiocu prigovora da iskoristi priliku koju mu pruža jedan takav postupak. Treba da postoje dobri razlozi za razmatranje prigovora pre nego što se postupak po prigovoru izvrši na brodu. To mogu biti neprimeren ili preterano odložen unutrašnji postupak ili bojazan podnosioca prigovora od odmazde zbog uloženog prigovora.

4. U svakom istraživanju prigovora, ovlašćeni službenik treba da zapovedniku, brodovlasniku ili nekom drugom licu povezanom sa prigovorom pruži priliku da iznesu svoje mišljenje.

5. U slučaju da država zastave pokaže, u odgovoru na obaveštenja države luke u skladu sa stavom 5. Standarda A 5. 2. 2, da će ona raspraviti predmet i da ima efikasne postupke za tu svrhu, kao i da je podnela prihvatljiv plan delovanja, ovlašćeni službenik može da se uzdrži od daljeg mešanja povodom prigovora.

Pravilo 5. 3. – Obaveze podrške radu

Cilj: Obezbediti da svaka članica izvrši svoje obaveze prema ovoj Konvenciji koje se odnose na pribavljanje i zapošljavanje pomoraca i socijalnu zaštitu pomoraca

1. Bez uticaja na načelo odgovornosti članice za radne i životne uslove pomoraca na brodovima koji plove pod njenom zastavom, članica je odgovorna i za obezbeđenje izvršenja zahteva iz Konvencije koji se odnose na pribavljanje i zapošljavanje pomoraca i zaštitu socijalne sigurnosti pomoraca koji su njeni državljani, stanovnici ili su nastanjeni ili smešteni na njenoj teritoriji u obimu u kojem je takva odgovornost predviđena ovom Konvencijom.

2. Detaljniji zahtevi za primenu stava 1. ovog pravila nalaze se u Kodeksu.

3. Svaka članica dužna je da utvrdi efikasnu inspekciju i sistem praćenja radi izvršenja svojih obaveza u pogledu pribavljanja radne snage iz ove Konvencije.

4. Obaveštenje o sistemu navedenom u stavu 3. ovog Pravila, uključujući načine procene njegovog dejstva, mora da bude uključena u izveštaje članice prema članu 22. Ustava.

Standard A 5. 3. – Obaveze podrške radu

1. Svaka članica mora da sprovede zahteve ove Konvencije koji se primenjuju na rad i praksu službi za angažovanje i zapošljavanje pomoraca smeštenih na njihovo

teritoriji kroz sistem inspekcija, praćenja i zakonskih postupaka u slučaju kršenja koncesijskih i drugih radnih zahteva predviđenih u Standardu A 1. 4.

Smernica B 5. 3. – Obaveze podrške radu

1. Od privatnih službi za angažovanje i zapošljavanje pomoraca smeštenih na teritoriji članice koje angažuju pomorce za brodovlasnike, gde god da se oni nalaze, treba zahtevati da preuzmu obaveze i obezbede da brodovlasnici tačno ispune uslove iz ugovora o zaposlenju zaključene između njih i pomoraca.

DODATAK A5-I

Uslovi rada i života pomoraca koji moraju da budu podvrgnuti inspekciji i odobreni od strane države zastave pre izdavanja svedočanstva u skladu sa Standardom A 5. 1. 3. stav 1:

Najmanje godine života

Uverenja o zdravstvenom stanju

Osposobljenost pomoraca

Ugovori o zaposlenju pomoraca

Korišćenje odobrene ili ovlašćene ili regulisane privatne službe za angažovanje i zapošljavanje pomoraca

Sati rada ili odmora

Nivo brojnosti posade na brodu

Smeštaj

Brodске просторије за одмор

Hrana i posluživanje

Zdravlje, bezbednost i sprečavanje nezgoda

Medicinska nega na brodu

Brodski postupak po prigovoru

Isplata plata

DODATAK A5-II

SVEDOČANSTVO O RADU POMORACA

(Napomena: Ovo Svedočanstvo mora da ima priloženu Deklaraciju o ispunjavanju uslova rada pomoraca)

Izdato prema odredbama člana V i Poglavlja 5.

Konvencije o radu pomoraca, 2006

(u nastavku „Konvencija“) prema ovlašćenju Vlade:

(puni naziv države pod čijom zastavom je brod ovlašten ploviti)

od

(puni naslov i adresa nadležne uprave ili priznate organizacije ovlašćene prema odredbama ove Konvencije)

Pojedinosti o brodu

Ime

broda _____

Broj ili znak raspoznavanja _____

Luka upisa _____

Datum

upisa _____

Bruto tonaža[1] _____

IMO broj _____

Vrsta

broda _____

Naziv i adresa brodovlasnika[2] _____

Ovim se potvrđuje:

1. Da je brod podvrgnut inspekciji i proveren u skladu sa odredbama Konvencije, kao i odredbama priložene deklaracije o ispunjavanju uslova rada pomoraca.

2. Da je utvrđeno da uslovi rada i života pomoraca, navedeni u Dodatku A5-I ove Konvencije, odgovaraju zahtevima prethodno navedene države koja je primenila Konvenciju. Ovi zahtevi ukratko su prikazani u Deklaraciji o ispunjavanju uslova rada pomoraca, Deo I.

Ovo Svedočanstvo važi do uz uslov izvršenja inspekcije prema Standardu A 5. 1. 3. i A 5. 1. 4. ove Konvencije.

Ovo Svedočanstvo važi isključivo ako je uz nju priložena Deklaracija o ispunjavanju uslova rada pomoraca izdata u na dan

Datum završetka inspekcije na kojoj se zasniva ovo Svedočanstvo je

Izdato u dana

Potpis ovlašćenog službenika koji je izdao Svedočanstvo

(Pečat ili žig uprave koja izdaje Svedočanstvo, kako je odgovarajuće)

Overa obavezne prelazne inspekcije i, ako se zahteva, svake druge inspekcije

Ovim se potvrđuje da je brod pregledan od strane inspekcije u skladu sa Standardom A 5. 1. 3. i A 5. 1. 4. ove Konvencije, kao i da uslovi rada i života pomoraca, navedeni u Dodatku A5-I ove Konvencije, odgovaraju zahtevima prethodno navedene države koja je primenila Konvenciju.

<i>Prelazna inspekcija</i> (između druge i treće godišnjice)	Potpis
	(potpis ovlašćenog službenika)
	Mesto
	Datum
	(Pečat ili žig uprave, kako je odgovarajuće)

Dodatne overe (ako se zahtevaju)

Ovim se potvrđuje da je brod bio podvrgnut dodatnoj inspekciji radi provere da je trajno u skladu sa zahtevima kojima se primenjuje Konvencija, kako zahteva Standard A 3.1. stav 3. Konvencije (preregistracija ili značajne izmene smeštaja) ili iz drugih razloga.

<i>Dodatna inspekcija</i> (ako se zahteva)	Potpis
	(potpis ovlašćenog službenika)
	Mesto
	Datum
	(Pečat ili žig uprave, kako je odgovarajuće)

<i>Dodatna inspekcija</i> (ako se zahteva)	Potpis
	(potpis ovlašćenog službenika)
	Mesto
	Datum
	(Pečat ili žig uprave, kako je odgovarajuće)

<i>Dodatna inspekcija</i> (ako se zahteva)	Potpis
	(potpis ovlašćenog službenika)
	Mesto
	Datum
	(Pečat ili žig uprave, kako je odgovarajuće)

KONVENCIJA O RADU POMORACA, 2006

Deklaracija o ispunjavanju uslova rada pomoraca – Deo I

(Napomena: Ova Deklaracija mora da bude priložena uz brodsko Svedočanstvo o radu pomoraca)

Izdato na osnovu ovlašćenja:

(upisati naziv ovlašćene uprave kako je utvrđeno u članu II stavu 1. (a) Konvencije)

Poštujući odredbe Konvencije o radu pomoraca, usvojene 2006. godine, sledeći naznačeni brod:

Ime broda	IMO broj	Bruto tonaža

održavan je u skladu sa Standardom A 5.1.3. Konvencije.

Dole potpisani izjavljuje, u ime prethodno navedene ovlašćene uprave:

(a) da su odredbe Konvencije o radu pomoraca u potpunosti sadržane u nacionalnim zahtevima koji se nadalje navode;

(b) da su zahtevi sadržani u nacionalnim propisima koji se nadalje navode; objašnjenja, koja se odnose na te propise, su priloženi gde je to potrebno;

(c) detalji o suštinski jednakim zahtevima prema članu VI. st. 3. i 4, su predviđeni <prema predmetnim nacionalnim zahtevima navedenim u nastavku> <u odeljku koji je za to predviđen u nastavku> *(precrtati nepotrebno)*

(d) svako izuzeće dopušteno od ovlašćene uprave u skladu sa Poglavljem 3. je izričito naznačeno u odeljku koji je u nastavku predviđen za tu svrhu; i

(e) svaki zahtev koji se odnosi na vrstu broda prema nacionalnom zakonodavstvu naveden je i u predmetnom zahtevu.

1. Najniže godine života (Pravilo 1.1)

2. Uverenje o zdravstvenom stanju (Pravilo 1.2)

3. Osposobljenost pomoraca (Pravilo 1.3)

4. Ugovori o zaposlenju pomoraca (Pravilo 2.1)

5. Korišćenje odobrene ili ovlašćene ili regulisane privatne službe za angažovanje i zapošljavanje pomoraca (Pravilo 1.4)

6. Sati rada ili odmora (Pravilo 2.3)

7. Nivo brojnosti posade na brodu (Pravilo 2.7)

8. Smeštaj (Pravilo 3.1)

9. Brodske prostorije za odmor (Pravilo 3.1)

10. Hrana i posluživanje (Pravilo 3.2)

11. Zdravlje, bezbednost i sprečavanje nezgoda (Pravilo 4.3)

12. Zdravstvena nega na brodu (Pravilo 4.1)

13. Brodski postupak po prigovoru (Pravilo 5.1.5)

14. Isplata plata (Pravilo 2.2)

Ime _____

Naslov _____

Potpis _____

Mesto _____

Datum _____

(Pečat ili žig uprave, kako je odgovarajuće)

Suštinski jednaki zahtevi

(Napomena: precrtati nepotrebno)

Sledeći suštinski jednaki zahtevi, kako je predviđeno članom VI, st. 3. i 4. Konvencije, osim gde je prethodno navedeno, upisani su (uneti opis ako je odgovarajuće):

Nijedan suštinski jednaki zahtev nije dopušten.

Ime _____

Naslov _____

Potpis _____

Mesto _____

Datum _____

(Pečat ili žig uprave, kako je odgovarajuće)

Izuzeća

(Napomena: precrtati nepotrebno)

Sledeća izuzeća, dopuštena od strane ovlašćene uprave prema Poglavlju 3. Konvencije upisani su:

Nijedno izuzeće nije dopušteno.

Ime _____

Naslov _____

Potpis _____

Mesto _____

Datum _____

(Pečat ili žig uprave, kako je odgovarajuće)

DEKLARACIJA O ISPUNJAVANJU USLOVA RADA POMORACA – DEO II

Mere prihvaćene u cilju obezbeđenja stalne usklađenosti između inspekcija

Sledeće mere su izabrane od strane brodovlasnika, navedenog u Svedočanstvu o radu pomoraca uz koju je ova Deklaracija priložena, radi obezbeđenja stalne usklađenosti između inspekcija.

(Ispod je potrebno navesti mere kojima se obezbeđuje usklađenost sa pojedinim stavovima iz Dela I)

1. Najniže godine života (Pravilo 1.1) []
2. Uverenje o zdravstvenom stanju (Pravilo 1.2) []
3. Osposobljenost pomoraca (Pravilo 1.3) []
4. Ugovori o zaposlenju pomoraca (Pravilo 2.1) []
5. Korišćenje odobrene ili ovlašćene ili regulisane privatne službe za angažovanje i zapošljavanje pomoraca (Pravilo 1.4) []
6. Sati rada ili odmora (Pravilo 2.3) []
7. Nivo brojnosti posade na brodu (Pravilo 2.7) []
8. Smeštaj (Pravilo 3.1) []
9. Brodske prostorije za odmor (Pravilo 3.1) []
10. Hrana i posluživanje (Pravilo 3.2) []
11. Zdravlje, bezbednost i sprečavanje nezgoda (Pravilo 4.3) []
12. Zdravstvena nega na brodu (Pravilo 4.1) []
13. Brodski postupak po prigovoru (Pravilo 5.1.5) []
14. Isplata plata (Pravilo 2.2) []

Ovim potvrđujem da su prethodno navedene mere izabrane radi obezbeđenja stalne usklađenosti, između inspekcija, kao i da su u skladu sa zahtevima navedenim u Delu I.

Naziv brodovlasnika^[3]_____

Adresa kompanije_____

Ime ovlašćenog potpisnika_____

Naslov_____

Potpis ovlašćenog potpisnika_____

Datum_____

(Pečat ili žig ovlašćenog potpisnika)

Prethodno navedene mere pregledane su od strane (*upisati ime ovlašćene uprave ili priznate organizacije*), i nakon inspekcije broda, utvrđeno je da zadovoljavaju cilj utvrđen prema Standardu A 5. 1. 3. stavu 10(b), kao mere kojima je cilj da obezbede početnu i stalnu usklađenost sa zahtevima navedenim u Delu I. ove Deklaracije.

Ime_____

Naslov_____

Adresa_____

Potpis _____

Mesto _____

(Pečat ili žig uprave, kako je odgovarajuće)

PRIVREMENO SVEDOČANSTVO O RADU POMORACA

Izdato prema odredbama člana V i Poglavlja 5.
Konvencije o radu pomoraca, 2006
(u nastavku „Konvencija“)
prema ovlašćenju Vlade:

.....
(puni naziv države pod čijom zastavom je brod ovlašćen da plovi)

od

(puni naslov i adresa ovlaštene uprave ili priznate organizacije ovlaštene prema odredbama ove Konvencije)

Pojedinosti o brodu

Ime
broda.....
Broj ili znak raspoznavanja.....
Luka upisa.....
Datum
upisa.....
Bruto tonaža[4].....
IMO
broj.....
Vrst broda.....
Naziv i adresa brodovlasnika[5].....

Ovim se potvrđuje, za svrhu Standarda A 5. 1. 3. stav VII Konvencije:

(a) Da je brod podvrgnut inspekciji, koliko je to bilo razumno i praktično, prema popisu navedenom u Dodatku A5-I Konvencije, uzevši pritom u obzir proveru tačaka navedenih u nastavku pod (b), (c) i (d);

(b) Da je brodovlasnik pokazao ovlaštenoj upravi ili priznatoj organizaciji da brod ima na odgovarajuće postupke usklađene sa Konvencijom;

(c) Da je zapovednik upoznat sa zahtevima Konvencije, kao i sa odgovornostima za njenu primenu; i

(d) Da su potrebni podaci dostavljeni ovlaštenoj upravi ili priznatoj organizaciji u cilju izrade Deklaracije o ispunjavanju uslova rada pomoraca.

Ovo Svedočanstvo važi do uz uslov izvršenja inspekcije prema Standardu A 5. 1. 3. i A 5. 1. 4.

Datum završetka inspekcije na kojem se zasniva ovo Svedočanstvo je

Izdato u dana

Potpis ovlašćenog službenika koji je izdao Svedočanstvo

.....
(Pečat ili žig uprave koja izdaje Svedočanstvo, kako je odgovarajuće)

DODATAK A5-III

Opšta područja koja su podložna detaljnoj inspekciji ovlašćenog službenika u luci članice koja vrši nadzor države luke u skladu sa Standardom A 5.2 1:

Najmanje godine života

Uverenje o zdravstvenom stanju

Osposobljenost pomoraca

Ugovori o zapošljavanju pomoraca

Korištenje koncesijske ili potvrđene ili regulisane privatne službe za angažovanje i zapošljavanje pomoraca

Sati rada ili odmora

Nivo brojnosti posade na brodu

Smeštaj

Brodске prostorije za odmor

Hrana i posluživanje

Zdravlje, bezbednost i sprečavanje nezgoda

Zdravstvena nega na brodu

Brodski postupak po prigovoru

Isplata plata

DODATAK B5-I

PRIMER DRŽAVNE DEKLARACIJE

Vidi Smernice B 5.1.3.

Konvencija o radu pomoraca, 2006

Deklaracija o ispunjavanju uslova rada pomoraca – Deo I.

(Napomena: Ova Deklaracija mora da bude priložena uz brodsko Svedočanstvo o radu pomoraca)

Izdato na osnovu ovlašćenja Ministarstva pomorskog transporta hxxxx

Poštujući odredbe Konvencije o radu pomoraca, 2006, sledeći naznačeni brod:

Ime broda	IMO broj	Bruto tonaža
M.S. PRIMER	12345	1,000

koji je održavan u skladu sa Standardom A 5.1.3. Konvencije.

Dole potpisani izjavljuje, u ime prethodno navedene ovlašćene uprave:

- (a) da su odredbe Konvencije o radu pomoraca u potpunosti sadržane u zahtevima odobrenim od nadležnog državnog organa koji se nadalje navode;
- (b) da su i zahtevi sadržani u nacionalnim propisima koji se nadalje navode; objašnjenja koja se odnose na te propise su priloženi gde je to potrebno;
- (c) detalji o suštinski jednakim zahtevima prema članu VI, st. 3. i 4, su predviđeni <prema predmetnim zahtevima navedenim u nastavku> <u odeljku koji je za to predviđen u nastavku> *(precrtati nepotrebno)*
- (d) svako izuzeće dopušteno od ovlašćene uprave u skladu sa Poglavljem 3. izričito je naznačeno u odeljku koji je u nastavku predviđen za tu svrhu; i
- (e) svaki zahtev koji se odnosi na vrstu broda prema nacionalnom zakonodavstvu takođe je naveden u predmetnom zahtevu.

1. Najniže godine života (Pravilo 1.1)

Pomorski zakon, br. 123 iz 1905. godine, kako je izmenjen i dopunjen („Zakon“). Poglavlje X: Pomorski propisi („Propisi“), 2006. godine, Odredbe 1111-1222

Najniže godine života određene su u Konvenciji.

„Noć“ označava period od 9 sati uveče do 6 sati ujutro, osim ako Ministarstvo pomorskog transporta („Ministarstvo“) ne odobri neki drugi period.

Primeri opasnog rada dopuštenog za lica od 18 godina ili starija naveden je u priloženoj Tabeli 1. U slučaju teretnih brodova, nijedno lice mlađe od 18 godina ne sme da radi u prostorima označenim na brodomskom planu (priloženom uz ovu Deklaraciju) kao „opasna područja“.

2. Uverenja o zdravstvenom stanju (Pravilo 1.2)

Zakon, Poglavlje XI: Pravila, Odredbe 1223-1233

Uverenja o zdravstvenom stanju moraju da odgovaraju zahtevima STCW konvencije gde je to odgovarajuće; u svim drugim slučajevima primenjuju se zahtevi STCW konvencije uz potrebna prilagođavanja.

Osposobljeni okulistii na popisu odobrenom od Ministarstva smeju da izdaju ovlašćenja koja se odnose na vid.

Zdravstveni pregledi slede ILO/WHO Smernice spomenute u Smjernicama B 1.2.1.

**Deklaracija o ispunjavanju uslova rada pomoraca –
Deo II.**

*Mere prihvaćene u cilju obezbeđenja stalne usklađenosti
između inspekcija*

Sledeće mere izabrane su od strane brodovlasnika, navedenog u Svedočanstvu o radu pomoraca uz koju je ova Deklaracija priložena, radi obezbeđenja stalne usklađenosti između inspekcija.

(Ispod treba navesti mere kojima se obezbeđuje usklađenost sa pojedinim stavovima iz Dela I)

1. Najniže godine života (Pravilo 1.1) [X]

Datum rođenja svakog pomorca upisan je uz njegovo/njeno ime na popisu posade.

Popis je proveren na početku svakog putovanja od strane zapovednika ili oficira koji radi u njegovo ili njeno ime („ovlašćeni oficir“) i koji je dužan da upiše datum provere.

Svaki pomorac mlađi od 18 godina u trenutku zaposlenja prima obaveštenje o zabrani noćnog rada ili rada izričito navedenog kao opasnog (vidi Deo 1, odeljak 1 prethodno) kao i bilo kojeg drugog opasnog rada, uz zahtev da se posavetuje sa ovlašćenim oficirima u slučaju sumnje. Primer obaveštenja, sa potpisom pomorca u rubrici „Primio i pročitao“, kao i s datumom potpisa čuva ovlašćeni oficir.

2. Uverenje o zdravstvenom stanju (Pravilo 1.2) [X]

Uverenja o zdravstvenom stanju čuvaju se pod posebnom pažnjom ovlašćenog oficira, zajedno sa popisom, pripremljenim u okviru odgovornosti ovlašćenog oficira, kao i navodeći za svakog člana posade zadatke pomorca, datum tekućeg uverenja o zdravstvenom stanju, kao i zdravstveno stanje upisano na predmetnom svedočanstvu.

U svakom slučaju moguće sumnje da li je pomorac medicinski spreman za pojedini posao ili poslove, ovlašćeni oficir će se konsultovati sa lekarom pomorca ili drugim osposobljenim lekarom, kao i ukratko zabeležiti zaključke lekara kao i njegovo ime, telefonski broj i datum konsultacija.

[1] Za brodove na koje se primenjuje privremeni sistem baždarenja prihvaćen od IMO-a, bruto tonaža je ona upisana i rubriku NAPOMENE Međunarodnog svedočanstva o baždarenju (1969). Vidi član II. stav 1(c) Konvencije.

[2] *Brodovlasnik* označava vlasnika broda, ili bilo koju drugu organizaciju ili lice, kao što su menadžer, agent ili zakupoprimac broda bez posade, koji su preuzeli dužnosti i odgovornost za rad broda od brodovlasnika u skladu sa ovom Konvencijom i to bez obzira da li obavlja neka druga organizacija ili lice određene dužnosti ili odgovornosti u ime brodovlasnika. Vidi član II. stav 1(j) Konvencije.

[3] *Brodovlasnik* označava vlasnika broda, ili bilo koju drugu organizaciju ili lice, kao što su menadžer, agent ili zakupoprimac broda bez posade, koji su preuzeli dužnosti i odgovornost za rad broda od brodovlasnika u skladu sa ovom Konvencijom i to bez obzira da li obavlja neka druga organizacija ili lice određene dužnosti ili odgovornosti u ime brodovlasnika. Vidi član II. stav 1(j) Konvencije.

[4] Za brodove na koje se primenjuje privremeni sistem baždarenja prihvaćen od IMO-a, bruto tonaža je ona upisana i rubriku NAPOMENE Međunarodnog svedočanstva o baždarenju (1969). Vidi član II. stav 1(c) Konvencije.

[5] *Brodovlasnik* označava vlasnika broda, ili bilo koju drugu organizaciju ili lice, kao što su menadžer, agent ili zakupoprimac broda bez posade, koji su preuzeli dužnosti i odgovornost za rad broda od brodovlasnika u skladu sa ovom Konvencijom i to bez

obzira da li obavlja neka druga organizacija ili lice određene dužnosti ili odgovornosti u ime brodovlasnika. Vidi član II. stav 1(j) Konvencije.

Član 3.

Ovaj zakon stupa na snagu osmog dana od dana objavljivanja u „Službenom glasniku Republike Srbije – Međunarodni ugovori”.