

# **INTERNATIONAL LABOUR ORGANIZATION**

**International Labour Standards Department**

**Sectoral Policies Department**

**Working Group of the Special Tripartite Committee  
established under the Maritime Labour Convention,  
2006 (MLC, 2006)**

***The preparation of proposals for amendments  
to the Code of the MLC, 2006***

Second round of consultations

December 2016 - January 2017

**INTERNATIONAL LABOUR OFFICE, GENEVA**

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## 1. Introduction

1. This paper has been prepared in the framework of the second round of consultations with the Working Group of the Special Tripartite Committee (STC) which was established in February 2016 with the following terms of reference:
  - (i) to examine issues related to the protection of seafarers' wages when the seafarer is held captive on or off the ship as a result of acts such as piracy or armed robbery, and to prepare proposals including an amendment to the Code of the MLC, 2006, to address these issues;
  - (ii) to recommend improvements to the process for preparing proposals for amendments to the Code of the MLC, 2006, for consideration by the STC in accordance with Article XV of the Convention and article 11 of the Standing Orders of the STC, to promote their earlier and fuller consideration by member States and representative organizations of Seafarers and Shipowners; and
  - (iii) to deliver a report, with recommendations, to be submitted to the third meeting of the STC, not later than nine months before the meeting.<sup>1</sup>
2. A background paper and a questionnaire addressing possible improvements to the process of preparing proposals for amendments to the Code of the MLC, 2006 was transmitted to the members of the Working Group in August 2016. The Office received replies from seafarers' and shipowners' representatives as well as from the Governments of Norway (transmitted by France), Singapore and Canada. On the basis of those inputs, the Office has prepared the possible way forward as presented below.

## 2. Possible way forward

3. As a general remark, it is worth noting the indication by the seafarers' representatives that any possible way forward should be considered as a recommendatory guideline that cannot in law or practice weaken the provisions of Article XV of the MLC, 2006. Along the same lines, the shipowners' representatives stated that any new procedure or documentary requirements should not be intended to obstruct future amendments and should not lose sight of the goal of the mechanism contained in Article XV of the MLC, 2006 which is to permit an accelerated process of amendments to its Code.
4. The Government of Norway indicated that a more elaborated process for the submission of amendment is needed in light off the high probability of the entry into force of amendments adopted in the framework of the tacit acceptance procedure. It further states that in order to achieve the consensus required, much work needs to be done prior to the adoption of the amendments.

<sup>1</sup> Resolution concerning the establishment of a Working Group of the Special Tripartite Committee, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/meetingdocument/wcms\\_452072.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/meetingdocument/wcms_452072.pdf)

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**(i) A template to submit proposals**

5. There are converging views among the members of the Working Group that the adoption by the STC of a simple template that may be used to submit proposals can constitute a useful way forward.
6. There are also converging views that the template should include the following elements:
  - (a) The purpose of the proposal and the reasons why the proposal is needed.
  - (b) The background of the proposal including existing relevant documentation on the subject known to the proposer.
  - (c) Any suggested transitional measure that the STC should adopt together with the proposed amendments.
7. The Office notes that views diverge as to the inclusion, in the template, of the following elements:
  - (a) When relevant, an explanation on why an amendment to Part A of the Code is needed and why an amendment to Part B could not achieved the desired effect.
  - (b) Any previous bipartite or tripartite regional or international discussions or negotiations on the subject.
  - (c) Relevant regional or international instruments.
  - (d) The possible implications of the proposal for seafarers and shipowners and their organizations and member States.
8. Some members suggested to incorporate the following additional elements to the template:
  - (a) An explanation of how the proposal falls within the scope of the ILO's objectives and meets the strategic intent of the MLC, 2006.
  - (b) An analysis of the proposal, including its practicability, feasibility and proportionality.
  - (c) The benefits of the proposal for seafarers, shipowners and administrations.
9. On the basis of the existing agreement and using the model submitted by the Government of Canada, the Office has prepared the template included in the Annex. *The members of the Working Group are invited to provide comments on the proposed template and provide further guidance on the elements included in paragraphs 7 and 8.*
10. Concerning the incorporation of the use of the template as a recommended practice in the Standing Orders of the STC, the Office notes that this possibility has not gathered general support among the members of the Working Group. *Noting that some of those who supported the idea suggested that, in any case, it would be important to give some time for experience and fine-tuning before any such*

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*incorporation, the members of the Working Group may wish to suggest that the STC examine this possibility at a later stage, if considered necessary.*

**(ii) Possible development of more detailed procedures in the STC**

11. The Office notes that views diverge among the members of the Working Group concerning the possible development of a procedure enabling the STC to refer an amendment proposal to an intersessional Working Group or other subsidiary body for further consideration prior to resubmission to a subsequent session of the STC.
12. While the Government members and the shipowners' representatives support the idea, seafarers' representatives consider that the possibility suggested is already provided for in Article 15 of the Standing Orders of the STC related to subsidiary bodies. They therefore indicate that there is no need for further elaboration of such a procedure for the submission of amendments.
13. In view of the lack of agreement on this proposal, the Office has not further developed it. *The members of the Working Group are invited to provide further guidance on this matter.*

**(iii) Other suggestions**

14. Shipowners' representatives and the Government of Singapore suggested that, in order to ensure that the proposals are sufficiently detailed or unambiguous and allow for constructive discussions, the Office or the Officers of the STC could play a role to ensure that any proposal submitted meets the requirements of the template. As a result, when a proposal is incomplete, the ILO Office or the Officers could request the proposers to amend, clarify or provide further information as necessary within a particular timeframe. Only the format and the extent of the information submitted should be considered at this stage without any reference to the substantive nature of the proposal. It was however indicated that the proposers should retain the right to submit their original proposal unchanged.
15. Seafarers' representatives suggested that proposals for amendments by the social partners could be preliminary discussed either formally through the Joint Maritime Commission or through some informal process before being sent to the ILO.
16. The Government of Norway indicated that two sessions of the STC should be needed for the adoption of amendments. The first meeting would allow initial discussions to see whether a proposed amendment is acceptable while the second meeting would be dedicated to the adoption (or not) of the proposed amendment. This would be in line with the normal practice followed in the ILO according to which a double discussion is required for the adoption of any new instrument.
17. *The members of the Working Group are invited to provide comments and further guidance regarding the proposals formulated in the paragraphs 13 to 15.*

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### 3. Conclusions

18. The members of the Working Group who responded to the questionnaire recognize the need to improve the process for preparing proposals for amendments to the Code of the MLC, 2006 without hindering the rights recognized in Article XV of the MLC, 2006.
19. At this stage, the adoption of a template by the STC appears to gather general support and is presented as the most appropriate way forward. Shipowners, seafarers and governments representatives would be invited to use such a template on a voluntary basis. A template developed by the Office, included in the Annex, is presented for comments to the Working Group.
20. Members are invited to provide further guidance on the possible adoption of a more detailed procedure allowing the STC to establish a subsidiary body for a preliminary examination of proposed amendments, taking into account that this option has not received general support at this stage.
21. Finally, members are invited to provide their views on the other suggestions formulated by members under the relevant part of this paper.

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Members of the Working Group are invited to provide their comments on the template included in Annex I as well on the issues raised in paragraphs 9, 10, 13 and 17 **no later than 20 January 2017** to [mlcstc@ilo.org](mailto:mlcstc@ilo.org).





**TEMPLATE FOR  
PROPOSAL FOR AMENDMENT TO THE CODE OF THE MLC, 2006**

Date: month/day/year

Name of the person submitting the proposal:

Email address:

Subject:

Entities that support the proposed amendments:

Organization	Country

**Background:**

(Explain the circumstances and events leading up to the proposed amendment)

**Purpose:**

(Explain the reasons for which the proposed amendment is needed)

**Specify any suggested transitional measure that the STC should adopt with the proposed amendment:**

Proposed Amendment

Standard

Guideline

Current Text

Proposed Text

Please attach to this template any relevant documentation related to the background and purpose of the proposed amendment.