

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

Geneva  
3–5 April 2017

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**Proposals from the outcome of the  
discussion of the Working Group related  
to the protection of seafarers' wages  
when the seafarer is held captive on or  
off the ship as a result of acts of piracy  
or armed robbery against ships**

The text that follows reflects the various types of proposals discussed and is without prejudice to the positions of any government or group. These outcomes should be considered and treated as not replacing or obstructing the need for proposals to be submitted to the Director-General of the International Labour Office in accordance with Article XV, paragraph 2 of the Maritime Labour Convention, as amended (MLC, 2006).

**(a) Amendments to Standard A2.1 of the  
MLC, 2006 and the accompanying  
Guideline**

Insert new paragraph 1 in Standard A2.1 – Seafarers' employment agreements, as follows:

For the purpose of this Standard, the term:

- (a) piracy shall have the same meaning as in the United Nations Convention on the Law of the Sea, 1982 (UNCLOS);
- (b) armed robbery against ships means any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of

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piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters and territorial sea, or any act of inciting or of intentionally facilitating an act described above<sup>1</sup>.

Insert new paragraph 7 in Standard A2.1 – Seafarers' employment agreements, as follows:

Each Member shall adopt laws or regulations establishing that a seafarers' employment agreement shall not expire or be terminated while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships.

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Elements to be considered when drafting the accompanying Guideline:

(1) The Guideline should point out that a shipowner is not in a position to repatriate seafarers while they are in captivity and hence cannot validly terminate the seafarers' employment agreement should the shipowner wish to do so.

(2) (Point to be inserted in Standard or Guideline): clarification on the period of captivity and the date of death, the latter to be defined in accordance with the applicable national legislation of the flag state or the seafarer's State of residence as applicable.

## **(b) Amendments to Standard A2.2 of the MLC, 2006 and the accompanying Guideline**

Insert a new paragraph 7 in Standard A2.2 – Wages, as follows:

Where a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, the seafarer's wages and entitlements as indicated in the seafarers' employment agreement shall continue to be paid, including the remittance of any allotments as provided in paragraph 4 of this Standard, during the entire period of captivity and until the seafarer is released and duly repatriated in accordance with Standard A2.5, or until the death of the seafarer while in captivity.

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Elements to be considered when drafting the accompanying Guideline:

<sup>1</sup> IMO Resolution A.1025(26).

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- (1) Elaboration of the definition of armed robbery against ships to make sure that kidnapping is covered.
  - (2) No provision in Standard A2.2 enables the shipowner to terminate the seafarers' employment agreement during the period of captivity.
  - (3) Recommendation that the entitlement to repatriation cannot lapse while the seafarer is held captive.
  - (4) (Point to be inserted in Standard or Guideline): clarification on the period of captivity and the date of death, the latter to be defined in accordance with the applicable national legislation of the flag state or the seafarer's State of residence as applicable.

**(c) Elements to be incorporated into Office guidelines outside the MLC, 2006**

1. Shipowners should continue to pay seafarers' wages and provide all other entitlements in accordance with their seafarers' employment agreements, when seafarers are held captive on or off the ship as a result of acts of piracy or armed robbery against ships.
2. For the purpose of these guidelines, "piracy" has the same meaning as in the United Nations Convention on the Law of the Sea, 1982 (UNCLOS) and "armed robbery against ships" has the same meaning as in IMO Resolution A.1025(26).
3. The shipowner's obligations under paragraph 1 above should continue until the seafarer is released and duly repatriated, in accordance with the provisions in Standard A2.5 and Guideline B2.5; or until the date of death if the seafarer dies while in captivity. The date of death should be defined according to the applicable national legislation.
4. The shipowner should continue to remit allotments to the person or persons nominated by the seafarer in accordance with Standard A2.2(4) of the MLC, 2006.
5. The shipowner should not terminate the seafarers' employment agreement while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships.

Where the seafarers' employment agreement has been made for a fixed period and it expires while the seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, the shipowner should treat the seafarers' employment agreement as continuing to have effect until the period of captivity ends.

Where the shipowner has already served notice of termination of the seafarers' employment agreement to the seafarer and the date of

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termination occurs while the seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, the shipowner should ensure that the seafarers' employment agreement continues to have effect until the period of captivity ends.

6. There should be a reference to existing guidance to shipowners on best practice to support seafarers and their families during or after piracy incidents, for example the International Seafarers Welfare and Assistance Network's Good Practice Guide for Shipping Companies and Manning Agents, Humanitarian Support of Seafarers and their Families in cases of armed robbery and piracy attack.
7. Encouragement of seafarers to conclude arrangements on allotments.
8. Support for Post-traumatic stress disorder for seafarers.

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