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Maritime Labour Convention (MLC 2006) amendments of 2014 on Repatriation (Regulation 2.5) and Shipowner's Liability (Reg. 4.2)

TO: DEPUTY REGISTRARS, SHIP OWNERS/ISM OPERATORS/RECOGNIZED ORGANIZATIONS/SHIPPING AGENTS/GENERAL SAFETY INSPECTORS

INTRODUCTION

The ILO approved amendments of 2014 to the Maritime Labour Convention, 2006 on 11 June 2014, which have the aim to improve the protection of seafarers against financial risks in possible hazardous situations. For the first time, the amendments contain standards for financial protection of seafarers' entitlements when abandoned by the shipowner. In addition, the amendments of the Maritime Labour Convention provide minimum requirements for financial security for compensation claims for the death or disability of seafarers due to occupational accidents, diseases or hazards. The amendments of the Maritime Labour Convention will enter into force on January 18, 2017.

PURPOSE

The Togo Maritime Administration with the aim to avoid detentions during the entering into force of the MLC 2006 amendments requires all addressed parties to ensure ships compliance with the new Regulations for Repatriation (Reg. 2.5) and Shipowners Liability (Reg. 4.2).

CONTENT

A- Amendments relating to the Code Standard A2.5 -New Standard A2.5.2 -Financial security (MLC, 2006 Regulation 2.5)

1. The new Standard A2.5.2 of the Maritime Labour Convention (MLC, 2006) regulates the obligation of the shipowner to ensure financial security for cases of abandonment. For the purposes of this Standard, a seafarer shall be deemed to have been abandoned where, in violation of the requirements of this Convention or the terms of the seafarers' employment agreement, if the shipowner:

- (a) Fails to cover the cost of the seafarer's repatriation; or
- (b) Has left the seafarer without the necessary maintenance and support; or
- (c) Has otherwise unilaterally severed their ties with the seafarer including failure to pay contractual wages for a period of at least two (2) months.

1.1 The shipowner has to maintain a financial security (P&I Club or insurer) for cases of abandonment (1 (b) above). The insurance policy must cover the necessary support for seafarers which shall include: adequate food, accommodation, drinking water, supplies, essential fuel for survival on board the ship and necessary medical care.

1.2 Evidence of financial security (P&I Club or insurer) under Regulation 2.5, paragraph 2. The certificate or other documentary evidence referred to in Standard A2.5.2, paragraph 7, shall be in English and include the

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following information:

- (a) name of the ship;
- (b) port of registry of the ship;
- (c) call sign of the ship;
- (d) IMO number of the ship;
- (e) name and address of the provider or providers of the financial security;
- (f) contact details of the persons or entity responsible for handling seafarers' requests for relief;
- (g) name of the shipowner;
- (h) period of validity of the financial security; and
- (i) an attestation from the financial security provider that the financial security meets the requirements of Standard A2.5.2.

1.3 The Financial Security (P&I Club or insurer) must provide that:

- (a) The crew members may assert their claims directly to insurer or crew management;
- (b) The insurance cover or protection provided by the other financial security does not cease before the end of the contract unless the insurer has given prior notification of at least 30 days to the Technical Department of Togo Maritime Administration (tech@togoregistrar.com)

1.4. Shipowner has an obligation to ensure that their ships are covered by financial security (P&I Club or insurer) in accordance with MLC 2006 as amended.

B-Amendments to the Code implementing Regulation 4.2 -Shipowners' liability of the MLC,2006

2. Implementing -Regulation 4.2 -Shipowners' liability of the MLC, 2006. The amendments to the Code require further providing 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. The shipowners shall maintain an financial security (P&I Club or insurer) which compensate crew members or their survivors in case of disability or death of crew members due to occupational accidents or diseases, according to the previous published circular MLC2006 – 005 Rev. 00/13 (whereby the Maritime Labour Convention, 2006 is regulated), "Shipowners must 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, asset out in the seafarers employment agreement or any applicable collective agreement"

2.1 Evidence of financial security under Regulation 4.2. The certificate or other documentary evidence of financial security required under Standard A4.2.1, paragraph 14, shall be in English and include the following information:

- (a) name of the ship,
- (b) port of registry of the ship,
- (c) call sign of the ship,
- (d) IMO number of the ship,
- (e) name and address of the provider or providers of the financial security,
- (f) contact details of the persons or entity responsible for handling seafarers' contractual claims,
- (g) name of the shipowner,
- (h) period of validity of the financial security (P&I Club or insurer) y; and
- (i) an attestation from the financial security (P&I Club or insurer) meets the requirements of Standard A4.2.1

2.2 The financial security (P&I Club or insurer) shall not cease before the end of the period of validity of financial security (P&I Club or insurer) provider has given prior notification of at least 30 days to the Technical Department of Togo Maritime Administration (tech@togoregistrar.com)



2.3 In both cases (Section A and B) a copy of financial security (P&I Club or insurer) shall be posted in a conspicuous place on board where it is available to the seafarers. Where more than one financial security (P&I Club or insurer) provides cover, the document provided by each provider shall be carried on board and available to the seafarers as well.

C-Transitional measures relating to the entry into force of the amendments to the Maritime Labour Convention, 2006

3. Resolution on the transitional measures relating to the entry into force of the amendments concerning financial security requirements in respect of abandonment of seafarers and for shipowners' liability. April, 2014.

- (a) Requests Members to recognize the need for a transitional period to issue or renew Maritime Labour Certificates and the related declarations of maritime labour compliance in accordance with the requirements of the Convention as amended;
- (b) Urges Members to ensure that the Maritime Labour Certificates and the declarations of maritime labour compliance are issued or renewed so as to comply with the requirements of the Convention as amended, on ships that fly their flag, no later than the date of the first renewal inspection following entry into force of the amendments;

D-Verification of Compliance before the entry into force of the amendments to the Maritime Labour Convention, 2006

4. In order to ensure compliance by 17 January 2017, The Togo Maritime Administration will require shipowners to submit Declaration of Compliance (Attached copy) duly completed, in English language, along with copies of the financial Security (P&I Club or insurer) stated in section A and B above. The Togo Maritime Administration will stamp/endorse the Declaration of Compliance and return such to shipowners in order to be placed onboard. There will be no fee for the Declaration of Compliance duly stamped/endorsed by Togo Maritime Administration.

4.1 The Togo Maritime Administration will issue at shipowner request a DMLC-Part I for current registered vessel (s), Application form "Application. DMLC part I. rev. 01/2017" (Attached copy) must be submitted along with copies of the financial security (P & I Club or insurer) stated in section A and B above. Shipowners that would like to apply for new DMLC-Part I must contact their responsible Deputy Registrar Office in order for them to submit us the necessary documents. Deputy Registrar Office that apply for new DMLC-Part I of current registered vessel will be responsible for the applicable fee.

4.2 Once new DMLC-Part I has been issued at shipowners request (Item 4.1 above), the vessel will need to complete again DMLC Part II (Attached copy) and contact the responsible Recognized Organization in order to carry out an additional inspection for a new Maritime Labour Certificate to be issued. Short Term Maritime Labour Certificate must be issue and submitted to Togo Maritime Administration upon completion of the additional inspection. The authorized Recognized Organization will be responsible for paying the applicable fee when the new full term Maritime Labour Certificate is issued on behalf of Togo.



E-Declaration of Maritime Labour Compliance (DMLC).

5. The DMLC-Part I issued from January 18, 2017 will include the new MLC 2006 amendments.

(a) **Financial Security for Repatriation (Regulation 2.5):** All ships that fly the flag of Togo must provide the competent authority with evidence of financial security to ensure that seafarers are duly repatriated.

(b) **Financial Security relating to ship-owners Liability (Regulation 4.2):** ship owners must provide financial security to assure compensation in the event of death or long-term disability of seafarers.

5.1 From January 18, 2017 on board of all Togo Flag Vessels shall maintain on board both financial security (P&I Club or insurer) -Regulations 2.5 -Repatriation-and 4.2 -Ship owners Liability-which shall be verified during the first intermediate or renewal inspection carried out on or after January 18, 2017. The RO should include in the correspondent MLC check list the verification of the two (2) financial securities (P&I Club or insurer) and verified these requirements during the initial, intermediate (after January 18, 2017) and renewal inspections.

Look forward for your cooperation and assistance.

Kind Regards
V. N. Medawar
Registrar
for the Togo Maritime Administration

