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To:	All Surveyors/Auditors
Applicable to flag:	All Flags
Subject:	MLC 2006, Title 4, C4.5, Social Security
Reference:	ILO - MLC, 2006 – Maritime Labour Convention, 2006

MLC 2006, Title 4, C4.5, Social Security

C4.5. Social security

C4.5.a. What is social security and social protection?

The notion of social security as it is commonly used within the ILO covers all measures providing benefits, whether in cash or in kind, to secure protection, inter alia, from lack of or insufficient work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; lack of access or unaffordable access to health care; insufficient family support, particularly for children and adult dependents; general poverty and social exclusion. Social security schemes can be of a contributory (social insurance) or non-contributory nature.

Social protection is referred to as the set of public measures that a society provides for its members to protect them against economic and social distress that would be caused by the absence or a substantial reduction of income from work as a result of various contingencies (sickness, maternity, employment injury, unemployment, invalidity, old age, and death of the breadwinner); the provision of health care; and, the provision of benefits for families with children. This concept of social protection is also reflected in the various ILO standards. By definition, social protection is broader and more inclusive than social security since it incorporates non-statutory or private measures for providing social security, but still encompasses traditional social security measures such as social assistance, social insurance and universal social security benefits. It may be noted that there are significant differences among societies and institutions around the world of how they define and approach social protection.

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C4.5.b. What does the MLC, 2006 require for social security?

The MLC, 2006 requires that all seafarers be provided with social protection. This covers a number of complementary requirements including prevention based approaches in connection with occupational safety and health, medical examinations, hours of work and rest and catering. Social protection is mainly addressed in Title 4 with respect to Medical care (Regulation 4.1); Shipowners' liability (Regulation 4.2) and Social security (Regulation 4.5). Regulation 4.5 and the related Standard A4.5 reflect an approach that recognizes the wide range of national systems and schemes and differing areas of coverage with respect to the provision of social security. Under Standard A4.5, paragraphs 1, 2 and 3, a ratifying country is required to "take steps according to its national circumstances" to provide the complementary social security protection, in at least three branches [see C4.5.c. What is meant by "branches of social security"?] to all seafarers ordinarily resident in its territory. The resulting protection must be no less favorable than that enjoyed by shoreworkers resident in its territory. If a country's social security system for seafarers at least meets these two basic conditions, the country is in a position to ratify the MLC, 2006 as far as its obligation to provide social security to seafarers is concerned. Flexibility is provided to facilitate the fulfillment of this obligation [see C4.5.f. What are the different ways that social security can be provided under the MLC, 2006?]. Although the aim of Regulation 4.5 is that all seafarers, whatever their nationality or residence and whatever the flags of the ships they work on, should be protected by comprehensive social security protection, the undertaking under the MLC, 2006 of each ratifying country is not to provide such comprehensive coverage outright, but rather to progress towards it: "to take steps, according to its national circumstances ... to achieve progressively" comprehensive social security protection for seafarers".

C4.5.c. What is meant by "branches of social security"?

Branches of social security refer to various types of benefits classified in relation to the contingency which they seek to address and for the support of which they are provided. These social security branches in the MLC, 2006 correspond to the nine classical branches of social security laid down and defined in the Social Security (Minimum Standards) Convention, 1952 (No. 102), 32 which should be referred to for guidance on the components and protection required under the respective branches. These nine branches are:

- Medical care
- Sickness benefit
- Unemployment benefit
- Old-age benefit
- Employment injury benefit
- Family benefit
- Maternity benefit

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- Invalidity benefit
- Survivors' benefit

C4.5.d. What is meant by complementary social security protection?

In the MLC, 2006, many of the areas of social protection are addressed through what can be described as complementary requirements for shipowners, flag States and States of residence, which, together, aim at providing comprehensive social security protection for seafarers. Short-term protection is ensured by (1) the obligation for flag States which ratify the MLC, 2006, to provide medical care on board while any ratifying State must give access to its facilities to seafarers in need of immediate medical care who are on board ships within its territory (Regulation 4.1). (2) At the same time, shipowners are required to provide protection (often through insurance systems) against sickness, injury or death occurring in conjunction with employment to the seafarers working on their ships, irrespective of the seafarers' nationality or place of residence (Regulation 4.2).

This shorter term protection is intended to be complemented or to be combined with the longer term protection required in Regulation 4.5 in at least three branches at the time of ratification [see C4.5.c. What is meant by “branches of social security”?]. The branches of medical care, sickness benefit and employment injury benefit are recommended in this regard in Guideline B4.5, paragraph 1, because they directly complement the existing responsibilities of shipowners under Regulations 4.1 and 4.2.

C4.5.e. What should a country that has already a national social security system in place

verify prior to ratifying the MLC, 2006?

For countries that already have established national social security system covering workers including seafarers “ordinarily resident” in the country concerned and their dependents, then it is likely that very few or possibly no adjustments would be required in order to ratify the MLC, 2006. The only concern would be to specify which of the nine branches are covered and to seek to move to cover all nine branches, if these are not yet covered (Standard A4.5, paragraph 10 and Regulation 4.5, paragraph 2, respectively). If a country has a social security system but it does not yet cover seafarers ordinarily resident, then the existing protection would need to be extended to seafarers and their dependants, at a level at least equal to the protection enjoyed by shoreworkers (Regulation 4.5, paragraph 3). If these seafarers are working outside the country, on board ships which fly the flag of other States, then the countries concerned should cooperate, through multilateral and bilateral agreements or other arrangements, to ensure the maintenance of social security rights which have been acquired or in course of acquisition (Standard A4.5, paragraph 8). Administrative arrangements should be also made with shipowners and flag States concerned to ensure coverage and the due payment and collection of contributions, where applicable.

C4.5.f. What are the different ways that social security can be provided under the MLC,

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2006?

The MLC, 2006 offers a high degree of flexibility to members States with regard to the choice of means through which they can fulfill their obligation of providing social security to seafarers. Flexibility is provided for in that this obligation can be met:

- through various bilateral and multilateral agreements or contribution-based systems (Standard A4.5, paragraph 3);
- through the additional flexibility that is provided as to the manner in which the country ensures protection. For example, Standard A4.5, paragraph 7, recognizes that it could be provided in laws or regulations or in private schemes or in collective bargaining agreements or in a combination of these. Furthermore, if a contributory scheme is chosen, it would seem reasonable (having regard to Guideline B4.5, paragraph 7) for the country of residence to expect the flag States concerned to require that shipowners under their respective flags make the relevant contribution

REFERENCES:

- ILO - MLC, 2006 – Maritime Labour Convention, 2006

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