

CONFERENCE OF PARTIES TO THE
INTERNATIONAL CONVENTION ON
STANDARDS OF TRAINING
CERTIFICATION AND WATCHKEEPING
FOR SEAFARERS, 1978
Agenda item 7

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**CONSIDERATION OF THE DRAFT AMENDMENTS TO THE SEAFARERS'
TRAINING, CERTIFICATION AND WATCHKEEPING (STCW) CODE**

Review of section A-VIII/1 – Fitness for Duty

**Submitted by the Bahamas, Liberia, the International Chamber of Shipping (ICS),
the International Shipping Federation (ISF), BIMCO, the International Association of
Independent Tanker Operators (INTERTANKO), the Cruise Lines International
Association (CLIA), the International Association of Dry Cargo Shipowners (INTERCARGO),
the International Ship Managers' Association (InterManager) and
the International Marine Contractors Association (IMCA)**

SUMMARY

<i>Executive summary:</i>	This document highlights the importance of maintaining both a daily and weekly exception, with appropriate safeguards, from the minimum rest periods set out in paragraph 2 of section A-VIII/1 of the STCW Code, in order to allow for short-term peak workloads. Flexibility through exceptions, with safeguards, is required to ensure harmonization with other relevant International Conventions, avoid problems with Port State Control and to help prevent fatigue.
<i>Strategic direction:</i>	5
<i>High-level action:</i>	5.2
<i>Planned output:</i>	5.2.2.1
<i>Action to be taken:</i>	Paragraph 9
<i>Related document:</i>	STCW/CONF.2/4

Background

1 The Sub-Committee on Standards of Training and Watchkeeping, at its forty-first session (from 11 to 15 January 2010) (STW 41), considered draft amendments relating to fitness for duty of seafarers and in particular an exception clause for hours of rest limits. Two proposed options for paragraph 9 of section A-VIII/1 were considered. The Sub-Committee, recognizing that the divergence of opinion could not be resolved at that stage, agreed to retain both proposals in square brackets for a decision by the Conference.

2 The co-sponsors acknowledge the efforts made by delegations in seeking to harmonize the rest hour provisions in section A-VIII/1 of the STCW Code with the requirements of ILO Convention No. 180 (ILO 180) and the Maritime Labour Convention, 2006 (MLC, 2006), which is expected to enter into force in 2011.

3 These efforts highlight the vital importance of ensuring that there are no conflicting rest hour provisions in any relevant International Conventions.

General

4 An important principle underlying the present rest hour regulations in chapter VIII of the STCW Code and ILO 180 was established in December 1994, at the preparatory meeting to revise ILO Convention 109 and develop the future Convention, ILO 180. This principle, which concerned the ability to permit exceptions to the minimum rest periods set out in ILO 180 was contained in paragraph 6 of that Convention (now transposed verbatim into the MLC, 2006 as paragraph 13 of Standard A.2.3). It should be noted that the MLC, 2006, with these rest hour provisions, was adopted on a near-unanimous vote at the ILO in 2006, with only two Governments abstaining and with no votes against.

5 The availability of derogations was considered necessary to overcome short term peak workloads. Examples of circumstances which may lead to such a short-term peak workload include:

- arrival in port, where it may be necessary to adjust to a different working routine to that maintained at sea;
- port State control inspections may require the presence of the Master and other seafarers at a time that had been set aside for rest, after the Master's participation in navigation when approaching the port of arrival was required;
- delays caused by tides;
- extreme weather conditions, reduced visibility, high winds causing delays at sea and berthing;
- suspension of pilotage services;
- the possibility of extended pilotage for ports;
- delays caused in port by breakdowns of port equipment;
- delays at canal locks or similar; and
- cumulative effects of delays on activities that are part of multi-task operations, which may be dependent on activities being completed in a particular sequence (e.g., Anchor handling activities as part of a rig move operation).

6 Such short-term peak workloads continue to occur for safety reasons or as a result of port operations beyond the control of the ship. Hence the flexibility inherent in the current text of the STCW Convention accepted in the ILO Convention 180 in 1996 and then in the ILO MLC

in 2006, needs to be maintained. The text of section A-VIII/1, as set out in document STCW/CONF.2/4, when finally adopted, needs to continue to allow for the application of a weekly exception of up to 70 hours of rest in any 7-day period in paragraph 9 (the text of which is presently in square brackets for a decision of the Conference). The said text also needs to establish parameters for daily exceptions to the requirement for 10 hours of rest in any 24-hour period set out in paragraph 2 of section A-VIII/1. This will ensure harmonization with ILO 180 and the MLC, 2006.

7 In addition to the weekly exception contained in paragraph 9, the introduction of a daily exception to the requirements of paragraph 2 of section A-VIII/1 will ensure that vital safeguards are required for any exception. Any daily exception to paragraph 2 of A-VIII/1 should always ensure that the requirements of paragraph 3 of section A-VIII/1, as set out in document STCW/CONF.2/4 are met, ensuring that the hours of rest may be divided into no more than two periods, one of which shall be at least 6 hours in length, and the intervals between consecutive periods of rest shall not exceed 14 hours.

8 With the allowance of a daily exception for short-term peak workloads, the provision of a safeguard will ensure uniform application and avoid fatigue and problems with port State control. Additionally, the flexibility allowed for by ILO 180 and the MLC, 2006 will be compatible with that of the revised STCW Convention and Code.

Action requested of Conference

9 The Conference is invited to consider the proposal and decide as appropriate.
