

## **MLC, 2006 RESOLUTION VII – OCCUPATIONAL GROUPS**

(Resolution adopted on 22 February 2006)

### **7. RESOLUTION CONCERNING INFORMATION ON OCCUPATIONAL GROUPS**

The General Conference of the International Labour Organization,

Having adopted the Maritime Labour Convention, 2006,

Noting that many of the maritime instruments consolidated within the Maritime Labour Convention contained different definitions of the term "seafarer,"

Considering the need for clarity over the issue of the definition in the Convention,

Recognizing that situations may arise in which a Member may have doubts as to whether or not certain categories of persons who undertake periods of work on board a ship should be regarded as seafarers for the purpose of the Convention,

Recognizing also that there is need for clarification on this subject to help to provide uniformity in the application in the rights and obligations provided by the Convention,

Noting that Article II, paragraph 1(f), of the Convention provides that:

"Seafarer means any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies,"

Noting also that Article II, paragraph 3, provides that:

"In the event of doubt as to whether any categories of persons are to be regarded as seafarers for the purpose of this Convention, the question shall be determined by the competent authority in each Member after consultation with the shipowners' and seafarers' organizations concerned with this question;"

Decides that the International Labour Organization should seek to ensure uniform implementation of the Convention and invites member States to maintain the intent of Article II, paragraph 1(f), through the application of Annex II.

## Annex

### **Maritime Labour Convention, 2006**

#### *Information on occupational groups*

#### **General**

The Convention recognizes in Article II, paragraph 3, that there may be doubts whether a particular category or categories of persons who may perform work on board a ship covered by the Convention should be regarded as seafarers for the purpose of the Convention.

This Annex has therefore been adopted by the General Conference of the International Labour Organization to assist administrations in resolving any difficulties that might arise.

There are persons who principally work onshore, but who occasionally spend a short period working on a ship. These may not be seafarers. There are persons who regularly spend a short period on a ship. These may be seafarers. In both cases, their work may or may not be directly concerned with the routine business of the ship.

Persons who might not be determined to be seafarers include harbour pilots and portworkers, as well as certain specialist staff such as guest entertainers, ship inspectors, superintendents and repair technicians.

Persons who regularly spend more than short periods aboard, even where they perform tasks that are not normally regarded as maritime tasks, may still be regarded as seafarers for the purpose of this Convention regardless of their position on board. For example, repair and maintenance squads and specialist ship staff engaged to work at sea on particular ships may well be regarded as seafarers and entitled to be covered by the rights and obligations provided for in this Convention.

The Convention provides seafarers with significant rights and benefits covering their working and living conditions that might not always be available to them in their home countries. Therefore, in resolving doubts about whether particular persons are seafarers, account should also be taken of the extent to which their national legal and social system provides protection for their labour standards comparable to that provided for under the Convention.

#### **Categories**

An administration may have doubts about designating a particular category of persons working on board as a seafarer under Article II, paragraph 1(f), because:

- (i) the nature of their work is not part of the routine business of the ship (for example, scientists, researchers, divers, specialist offshore technicians, etc.);
- (ii) although trained and qualified in maritime skills, the persons concerned perform key specialist functions that are not part of the routine business of the ship (for example, harbour pilots, inspectors or superintendents);

- (iii) the work they perform is occasional and short term, with their principal place of employment being onshore (for example, guest entertainers, repair technicians, surveyors or portworkers).

A person or category of persons should not automatically be excluded from the definition of seafarers solely on account of falling within one or more of the categories listed above. These lists are simply illustrative of situations where doubts may arise. Special factors in the situation may lead the administration to determine when a person is or is not a seafarer