

Co70 - Social Security (Seafarers) Convention, 1946 (No. 70)

Preamble

The General Conference of the International Labour Organisation,

Having been convened at Seattle by the Governing Body of the International Labour Office, and having met in its Twenty-eighth Session on 6 June 1946, and

Having decided upon the adoption of certain proposals with regard to social security for seafarers, which is the second item on the agenda of the Session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-eighth day of June of the year one thousand nine hundred and forty-six the following Convention, which may be cited as the Social Security (Seafarers) Convention, 1946:

Article 1

- 1. In this Convention--
 - (a) the term **seafarer** includes every person employed on board or in the service of any sea-going vessel, other than a ship of war, which is registered in a territory for which this Convention is in force;
 - (b) the term **dependant** shall have the meaning assigned to it by national laws or regulations; and
 - (c) the term **repatriation** means transportation to a port to which a seafarer is entitled to be returned in accordance with national laws or regulations.
- 2. Any Member may in its national laws or regulations make such exceptions as it deems necessary in respect of--
 - (a) persons employed on board or in the service of--
 - (i) vessels of public authorities when such vessels are not engaged in trade;
 - (ii) coastwise fishing boats;
 - (iii) boats of less than twenty-five tons gross register tonnage;
 - (iv) wooden ships of primitive build such as dhows and junks; and

- (v) in so far as ships registered in India are concerned and for a period not exceeding five years from the date of registration of the ratification of this Convention by India, home trade vessels of a gross register tonnage not exceeding 300 tons;
 - (b) members of the shipowner's family;
 - (c) pilots not members of the crew;
 - (d) persons employed on board or in the service of the ship by an employer other than the shipowner, except radio officers or operators and catering staff;
 - (e) persons employed in port who are not ordinarily employed at sea;
 - (f) salaried employees in the service of a national public authority who are entitled to benefits at least equivalent on the whole to those provided for in this Convention;
 - (g) persons not remunerated for their services or remunerated only by a nominal salary or wage;
 - (h) persons working exclusively on their own account.
- 3. Where any benefit provided for in this Convention is furnished otherwise than in virtue of national laws or regulations relating to the liability of the shipowner in respect of sickness, injury or death of seafarers, such further exceptions as are deemed necessary may be made in national laws, regulations or collective agreements in respect of the right to such benefit and any obligation to contribute of--
 - (a) persons remunerated exclusively by a share of profits;
 - (b) persons employed on board or in the service of fishing vessels for whom an exception is not already permitted under paragraph 2 (a) (ii) of this Article or on board or in the service of vessels engaged in hunting seals;
 - (c) persons employed on board or in the service of whale-catching, floating factory or transport vessels or otherwise for the purpose of whaling or similar operations under conditions regulated by the provisions of a special collective whaling or similar agreement determining the rates of pay, hours of work and other conditions of service concluded by an organisation of seafarers concerned;
 - (d) persons employed on board or in the service of vessels which are not engaged in the transport of cargo or passengers for the purposes of trade; and
 - (e) persons employed on board or in the service of vessels of less than 200 gross register tons.

Article 2

- 1. Seafarers and their dependants who are resident and present in the territory of a Member shall be entitled in virtue of the seafarer's employment on board or in the service of vessels registered in the territory of that Member to the following benefits:
 - (a) seafarers shall be entitled to medical benefit not less favourable in respect of conditions of award, extent and duration than that to which industrial workers are entitled; in so far as industrial workers are not entitled to medical benefit, seafarers shall be entitled to proper and sufficient medical care;
 - (b) seafarers shall be entitled in respect of incapacity for work (whether due to employment injury or not) and in respect of unemployment and old age to cash benefits not less favourable in respect of conditions of award, amount and duration than those to which industrial workers are entitled; in so far as industrial workers are not entitled to cash benefits in respect of incapacity for work (whether due to employment injury or not) seafarers shall be entitled to such benefits at rates commensurate, having regard to the standard of living in the territory, with their needs and those of their dependants;
 - (c) the dependants of a seafarer shall be entitled to medical benefit not less favourable in respect of conditions of award, extent and duration than that to which the dependants of industrial workers are entitled;
 - (d) on the death of a seafarer his dependants shall be entitled to cash benefits not less favourable in respect of conditions of award, amount and duration than those to which the dependants of industrial workers are entitled; in so far as the dependants of industrial workers are not entitled to cash benefits in the event of the death of the worker, the dependants of seafarers shall be entitled to such benefits at a rate commensurate, having regard to the standard of living in the territory, with their needs.
- 2. Where medical or cash benefits for seafarers and their dependants are provided under any special scheme, such special provisions (other than those resulting from shipowners' liability) shall be appropriately co-ordinated or integrated with any scheme which applies to industrial workers and their dependants and provides corresponding benefits not less favourable in respect of conditions of award, extent or amount, and duration.

Article 3

- 1. A seafarer resident in the territory in which the vessel is registered who is left behind in another territory by reason of injury in the service of the ship or sickness not due to his own wilful act shall be entitled to--
 - (a) proper and sufficient medical care until he is cured or repatriated, whichever first occurs;

- (b) board and lodging until he is able to obtain suitable employment or is repatriated, whichever first occurs; and
 - (c) repatriation.
- 2. Such a seafarer shall also be entitled to an allowance equal to 100 per cent. of his wages (exclusive of bonuses) until he is able to obtain suitable employment, or until he is repatriated, or until the expiry of a period of a length prescribed by national laws or regulations or by collective agreement, which period shall not be less than twelve weeks, whichever event first occurs. If the prescribed period expires before the seafarer is able to obtain suitable employment or is repatriated, he or his dependants shall be entitled to any benefit under a scheme of compulsory social insurance or workmen's compensation which would be payable if the seafarer were present in the territory of registration. Any benefit payable to the seafarer or his dependants under such a scheme prior to the expiry of the prescribed period may be deducted from the allowance.

Article 4

Arrangements for the maintenance of rights in course of acquisition by a person who, having ceased to be subject to a scheme of compulsory social insurance for seafarers, becomes subject to such a scheme for shoreworkers, or, having ceased to be subject to such a scheme for shoreworkers, becomes subject to such a scheme for seafarers, shall be made between the schemes concerned.

Article 5

National laws and regulations relating to the liability of the shipowner in respect of sickness, injury or death of seafarers, compulsory insurance against employment injury or workmen's compensation, compulsory sickness insurance and compulsory unemployment insurance shall ensure equality of treatment to seafarers and their dependants irrespective of nationality or race.

Article 6

- 1. National laws and regulations relating to the liability of the shipowner in respect of sickness, injury or death of seafarers shall ensure equality of treatment to seafarers and their dependants whether or not they reside in the territory in which the vessel is registered.
- 2. Where the laws or regulations of a Member relating to the liability of shipowners do not entitle seafarers resident outside its territory to the benefits prescribed in paragraph 1 of Article 3, the Member shall provide these benefits by other laws or regulations.

Article 7

- 1. The laws and regulations of a Member relating to medical and cash benefits in case of employment injury shall not impose on seafarers or their dependants resident in the territory of any other Member for which this Convention is in effective operation any condition or limitation which does not apply equally to seafarers and their dependants resident in the territory of the first Member.
- 2. Provided that no such benefits and no contributions towards the cost of such benefits shall be payable under the scheme in force in the territory of the first Member if they are payable in respect of such seafarers under any scheme in force in the territory of the second Member.

Article 8

In order to facilitate continuity of insurance and to eliminate double contributions and double benefits, Members may enter into agreements providing that nationals or residents of one Member employed on board or in the service of a vessel registered in the territory of another Member shall be subject to an insurance or compensation scheme of the first Member and therefore excluded from the corresponding scheme of the second Member.

Article 9

Nothing in this Convention shall affect any law, award, custom or agreement between shipowners and seafarers which ensures to the seafarers conditions more favourable than those provided for by this Convention.

Article 10

- 1. Effect may be given to paragraph 2 of Article 3 of this Convention by (a) laws or regulations; (b) collective agreements between recognised associations of shipowners or shipowners and recognised associations of seafarers which cover all seafarers to whom the said paragraph applies; or (c) a combination of laws or regulations and collective agreements between recognised associations of shipowners or shipowners and recognised associations of seafarers which cover all seafarers to whom the said paragraph applies. Except as may be otherwise provided herein, the provisions of this Convention shall be made applicable to every vessel registered in the territory of the ratifying Member and to every person engaged on any such vessel.
- 2. Each Member ratifying this Convention shall supply to the Director-General of the International Labour Office information on the measures by which the Convention is applied, including particulars of any collective agreements which give effect to any of its provisions and are in force at the date when the Member ratifies the Convention.
- 3. Each Member ratifying the Convention undertakes to take part, by means of a tripartite delegation, in any committee representative of Governments and shipowners' and seafarers' organisations, and including in an advisory

capacity representatives of the Joint Maritime Commission of the International Labour Office, which may be set up for the purpose of examining the measures taken to give effect to the Convention.

- 4. The Director-General will lay before the said Committee a summary of the information received by him under paragraph 2 above.
- 5. The Committee shall consider whether the collective agreements reported to it give effect to the provisions of the Convention. Each Member ratifying the Convention undertakes to give consideration to any observations or suggestions concerning the application of the Convention made by the Committee and further undertakes to bring to the notice of the organisations of employers and of workers who are parties to any of the collective agreements mentioned in paragraph 1 any observations or suggestions of the aforesaid Committee concerning the degree to which such agreements give effect to the provisions of the Convention.

Article 11

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 12

- 1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
- 2. It shall come into force six months after the date on which there have been registered ratifications by seven of the following countries: United States of America, Argentine Republic, Australia, Belgium, Brazil, Canada, Chile, China, Denmark, Finland, France, United Kingdom of Great Britain and Northern Ireland, Greece, India, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Sweden, Turkey and Yugoslavia, including at least four countries each of which has at least one million gross register tons of shipping. This provision is included for the purpose of facilitating and encouraging early ratification of the Convention by Member States.
- 3. Thereafter, this Convention shall come into force for any Member six months after the date on which its ratification has been registered.

Article 13

- 1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

- 2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 14

- 1. The Director-General of the International Labour Office shall notify all the Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
- 2. When notifying the Members of the Organisation of the registration of the last ratification required to bring the Convention into force, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 15

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

Article 16

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 17

- 1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13 above, if and when the new revising Convention shall have come into force;
 - (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

- 2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 18

The English and French versions of the text of this Convention are equally authoritative.