

C147 - Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)

Preamble

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-second Session on 13 October 1976, and

Recalling the provisions of the Seafarers' Engagement (Foreign Vessels) Recommendation, 1958, and of the Social Conditions and Safety (Seafarers) Recommendation, 1958, and

Having decided upon the adoption of certain proposals with regard to substandard vessels, particularly those registered under flags of convenience, which is the fifth item on the agenda of the session, and

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

adopts this twenty-ninth day of October of the year one thousand nine hundred and seventy-six the following Convention, which may be cited as the Merchant Shipping (Minimum Standards) Convention, 1976:

Article 1

- 1. Except as otherwise provided in this Article, this Convention applies to every sea-going ship, whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the purpose of trade or is employed for any other commercial purpose.
- 2. National laws or regulations shall determine when ships are to be regarded as sea-going ships for the purpose of this Convention.
- 3. This Convention applies to sea-going tugs.
- 4. This Convention does not apply to--
 - (a) ships primarily propelled by sail, whether or not they are fitted with auxiliary engines;
 - (b) ships engaged in fishing or in whaling or in similar pursuits;

- (c) small vessels and vessels such as oil rigs and drilling platforms when not engaged in navigation, the decision as to which vessels are covered by this subparagraph to be taken by the competent authority in each country in consultation with the most representative organisations of shipowners and seafarers.
- 5. Nothing in this Convention shall be deemed to extend the scope of the Conventions referred to in the Appendix to this Convention or of the provisions contained therein.

Article 2

Each Member which ratifies this Convention undertakes--

- (a) to have laws or regulations laying down, for ships registered in its territory--
 - (i) safety standards, including standards of competency, hours of work and manning, so as to ensure the safety of life on board ship;
 - (ii) appropriate social security measures; and
 - (iii) shipboard conditions of employment and shipboard living arrangements, in so far as these, in the opinion of the Member, are not covered by collective agreements or laid down by competent courts in a manner equally binding on the shipowners and seafarers concerned;

and to satisfy itself that the provisions of such laws and regulations are substantially equivalent to the Conventions or Articles of Conventions referred to in the Appendix to this Convention, in so far as the Member is not otherwise bound to give effect to the Conventions in question;

- (b) to exercise effective jurisdiction or control over ships which are registered in its territory in respect of--
 - (i) safety standards, including standards of competency, hours of work and manning, prescribed by national laws or regulations;
 - (ii) social security measures prescribed by national laws or regulations;
 - (iii) shipboard conditions of employment and shipboard living arrangements prescribed by national laws or regulations, or laid down by competent courts in a manner equally binding on the shipowners and seafarers concerned;
- (c) to satisfy itself that measures for the effective control of other shipboard conditions of employment and living arrangements, where it has no effective jurisdiction, are agreed between shipowners or their organisations and seafarers' organisations constituted in accordance with the substantive provisions of the

Freedom of Association and Protection of the Right to Organise Convention, 1948, and the Right to Organise and Collective Bargaining Convention, 1949;

- (d) to ensure that--
 - (i) adequate procedures--subject to over-all supervision by the competent authority, after tripartite consultation amongst that authority and the representative organisations of shipowners and seafarers where appropriate--exist for the engagement of seafarers on ships registered in its territory and for the investigation of complaints arising in that connection;
 - (ii) adequate procedures--subject to over-all supervision by the competent authority, after tripartite consultation amongst that authority and the representative organisations of shipowners and seafarers where appropriate--exist for the investigation of any complaint made in connection with and, if possible, at the time of the engagement in its territory of seafarers of its own nationality on ships registered in a foreign country, and that such complaint as well as any complaint made in connection with and, if possible, at the time of the engagement in its territory of foreign seafarers on ships registered in a foreign country, is promptly reported by its competent authority to the competent authority of the country in which the ship is registered, with a copy to the Director-General of the International Labour Office;
- (e) to ensure that seafarers employed on ships registered in its territory are properly qualified or trained for the duties for which they are engaged, due regard being had to the Vocational Training (Seafarers) Recommendation, 1970;
- (f) to verify by inspection or other appropriate means that ships registered in its territory comply with applicable international labour Conventions in force which it has ratified, with the laws and regulations required by subparagraph (a) of this Article and, as may be appropriate under national law, with applicable collective agreements;
- (g) to hold an official inquiry into any serious marine casualty involving ships registered in its territory, particularly those involving injury and/or loss of life, the final report of such inquiry normally to be made public.

Article 3

Any Member which has ratified this Convention shall, in so far as practicable, advise its nationals on the possible problems of signing on a ship registered in a State which has not ratified the Convention, until it is satisfied that standards equivalent to those fixed by this Convention are being applied. Measures taken by the ratifying State to this

effect shall not be in contradiction with the principle of free movement of workers stipulated by the treaties to which the two States concerned may be parties.

Article 4

- 1. If a Member which has ratified this Convention and in whose port a ship calls in the normal course of its business or for operational reasons receives a complaint or obtains evidence that the ship does not conform to the standards of this Convention, after it has come into force, it may prepare a report addressed to the government of the country in which the ship is registered, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.
- 2. In taking such measures, the Member shall forthwith notify the nearest maritime, consular or diplomatic representative of the flag State and shall, if possible, have such representative present. It shall not unreasonably detain or delay the ship.
- 3. For the purpose of this Article, **complaint** means information submitted by a member of the crew, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest in safety or health hazards to its crew.

Article 5

- 1. This Convention is open to the ratification of Members which--
 - (a) are parties to the International Convention for the Safety of Life at Sea, 1960, or the International Convention for the Safety of Life at Sea, 1974, or any Convention subsequently revising these Conventions; and
 - (b) are parties to the International Convention on Load Lines, 1966, or any Convention subsequently revising that Convention; and
 - (c) are parties to, or have implemented the provisions of, the Regulations for Preventing Collisions at Sea of 1960, or the Convention on the International Regulations for Preventing Collisions at Sea, 1972, or any Convention subsequently revising these international instruments.
- 2. This Convention is further open to the ratification of any Member which, on ratification, undertakes to fulfil the requirements to which ratification is made subject by paragraph 1 of this Article and which are not yet satisfied.
- 3. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 6

- 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 twelve months after the date on which there have been registered ratifications by at least ten Members with a total share in world shipping gross tonnage of 25 per cent.
- 3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 7

- 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 8

- 1. The Director-General of the International Labour Office shall notify all 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 the conditions provided for in Article 6, paragraph 2, above have been fulfilled, 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 9

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 10

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 11

- 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 7 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 12

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

ANNEX

APPENDIX

Minimum Age Convention, 1973 (No. 138), or

Minimum Age (Sea) Convention (Revised), 1936 (No. 58), or

Minimum Age (Sea) Convention, 1920 (No. 7);

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55), or

Sickness Insurance (Sea) Convention, 1936 (No. 56), or

Medical Care and Sickness Benefits Convention, 1969 (No. 130);

Medical Examination (Seafarers) Convention, 1946 (No. 73);

Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)(Articles 4 and 7);

Accommodation of Crews Convention (Revised), 1949 (No. 92);

Food and Catering (Ships' Crews) Convention, 1946 (No. 68) (Article 5);

Officers' Competency Certificates Convention, 1936 (No. 53) (Articles 3 and 4) ;

(Note: In cases where the established licensing system or certification structure of a State would be prejudiced by problems arising from strict adherence to the relevant standards of the Officers' Competency Certificates Convention, 1936, the principle of substantial equivalence shall be applied so that there will be no conflict with that State's established arrangements for certification.)

Seamen's Articles of Agreement Convention, 1926 (No. 22);

Repatriation of Seamen Convention, 1926 (No. 23);

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);

Right to Organise and Collective Bargaining Convention, 1949 (No. 98).