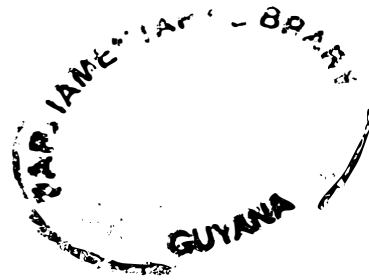


GUYANA

PROPOSALS



On the following Conventions, Recommendations and Protocol which were adopted by the International Labour Conference at its 84th (Maritime) session held in October, 1996.

- 1) Labour Inspection (Seafarers) Convention, 1996, No. 178.
- 2) Recruitment and Placement of Seafarers Convention, 1996, No. 179.
- 3) Seafarers' Hours of Work and the Manning of Ships Convention, 1996, No. 180.
- 4) Labour Inspection (Seafarers) Recommendation, 1996, No. 185.
- 5) Recruitment and Placement of Seafarers Recommendation, 1996 No. 186.
- 6) Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996, No. 187.
- 7) Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976.

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MINISTRY OF HEALTH AND LABOUR.

OCTOBER, 1998.

SUBMISSION OF INTERNATIONAL LABOUR INSTRUMENTS TO THE
NATIONAL ASSEMBLY OF THE PARLIAMENT OF GUYANA FOR IMPLEMENTATION

The International Labour Conference at its 84th (maritime) session held in October, 1995 adopted the following Conventions, Recommendations and Protocol:-

- 1) Labour Inspection (Seafarers) Convention, 1996, No. 178. ✓
- 2) Recruitment and Placement of Seafarers Convention, 1996, No. 179. ✓
- 3) Seafarers' Hours of Work and the Manning of Ships Convention, 1996, No. 180. ✓
- 4) Labour Inspection (Seafarers) Recommendation, 1996, No. 185.
- 5) Recruitment and Placement of Seafarers Recommendation, 1996, No. 186.
- 6) Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996, No. 187.
- 7) Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976. ✓

2. Copies of the Conventions, Recommendations and Protocol are attached as appendices I, II, III, IV, V, VI and VII.

3. As a member of the International Labour Organisation Guyana is under obligation to bring the abovementioned Conventions, Recommendations and Protocol to the attention of the National Assembly for necessary action and to inform the Director General of the International Labour Organisation.

1) CONVENTION NO. 178 - CONCERNING INSPECTION OF SEAFARERS' WORKING
AND LIVING CONDITIONS

Part I - Definition and Scope:

For the purpose of this Convention:

- a) The term "central co-ordinating authority" means Ministers, government departments and/or other public authorities having power to issue and supervise implementation of regulations in relation to living and working conditions.
- b) The term "inspector" means any civil servant or public official with responsibility for inspecting any aspect of seafarers' working and living conditions.
- c) The term "seafarers" means persons who are employed in any capacity on board a seagoing ship.
- d) The term "seafarers working and living conditions" means the conditions such as those relating to the standards of maintenance and cleanliness of shipboard living and working areas, minimum age, food, crew accommodation, occupational health and safety, hours of work, terms and conditions of employment which are subject to national laws etc.

The Convention applies to every seagoing ship or tug which is registered in the country and is engaged in the transport of cargo or passengers for commercial purposes.

The Convention may be applied to commercial maritime fishing vessels also.

Part II - Organisation of Inspection:

Each member shall maintain a system of inspection. The central co-ordinating authority shall in all cases be responsible for inspection. However it may authorise other relevant bodies recognised as competent and independent to carry out inspections.

Inspections shall be at intervals not exceeding three (3) years and where practicable, annually. If a complaint is received or evidence obtained that a ship, duly registered, is in breach of national laws/regulations an inspection shall be done as soon as practicable.

Where substantive changes are made to ships, that is, renovations etc., the ship shall be inspected within three (3) months of change.

Inspectors shall have the status and conditions of service to ensure they are independent of changes of government and of improper external influences.

Inspectors shall be empowered to enter the premises of ships registered in the country, as is necessary, to carry out any examination, test or inquiry necessary and to require that deficiencies be remedied. Where a deficiency constitutes significant danger, inspectors can prohibit, subject to any right of appeal to a judicial or administrative authority, a ship from leaving port until necessary measures are taken to remedy the deficiency.

All reasonable efforts should be made to avoid a ship being unreasonably detained or delayed. If the foregoing occurs, the ship owner/operator shall be entitled to compensation for any loss or damage suffered. The burden of proof shall lie with the ship owner/operator.

Part III - Penalties:

Adequate penalties for violation of legal provisions and for obstructing inspectors in the performance of their duties shall be provided for by national laws and be made enforceable.

It is preferable that inspectors give warnings and advice rather than institute or recommend proceedings.

Part IV - Reports:

The central co-ordinating authority shall maintain all relevant records and shall be responsible for the publishing of annual reports in this regard.

Reports of inspection shall be submitted to the central co-ordinating authority, the ship master and one to be posted on the ship's notice board.

2.) RECOMMENDATION NO. 185 - CONCERNING INSPECTION OF SEAFARERS' WORKING AND LIVING CONDITION

The recommendation supplements the Convention concerning inspection of Seafarers' Working and Living Conditions No. 178.

The scope is basically the same as in Convention No. 178 with perhaps a little more expansion in this regard.

In addition to what is proposed in Convention 178, Recommendation 185 further recommends that:-

- (a) Inspectors should be prohibited from having any direct/indirect interest in any operation they are called upon to inspect.
- (b) All information received whether from an inspection or a complaint should be treated as confidential.
- (c) Inspectors are also encouraged to use their discretion in relation to a "time frame" given to defaulters to correct any breaches.

Where private recruitment and placement service have been or are to be established their operations shall be regulated and undue proliferation of such services shall not be encouraged.

This Convention shall not affect the right of Government to apply its laws and regulations to ships flying its flag in relation to the recruitment and placement of seafarers.

The ability of a seafarer to exercise his basic human rights including trade union rights shall not be prejudiced.

National Laws or Regulations shall:-

- (a) Ensure that no fees or other charges for recruitment or for providing employment to seafarers are borne directly or indirectly in whole or in part by the seafarer; costs for medical examination, certificates, a personal travel document and the national seafarers book shall not be deemed to be fees or other charges for recruitment;
- (b) determine whether and under which conditions recruitment and placement services may place or recruit seafarers aboard;
- (c) specify, with due regard to the right to privacy and the need to protect confidentiality, the conditions under which seafarers' personal data may be processed by recruitment and placement services including the collection, storage, combination and communication of such data to third parties;
- (d) determine the conditions under which the license, certificate or similar authorisation of a recruitment and placement service may be suspended or withdrawn in case of violation of relevant laws and regulations; and
- (e) specify, where a regulatory system other than a system of licensing or certification exists, the conditions under which recruitment and placement services can operate as well as, sanctions applicable in case of violation to those conditions.

The competent authority must ensure:-

- (a) that all recruitment and placement services are closely supervised;
- (b) that license, certificate or similar authorisation be granted or renewed only after having verified that the recruitment and placement services concerned meets the requirements of national laws and regulations;
- (c) require that the management and staff of recruitment and placement services are adequately trained;
- (d) that recruitment and placement services be prohibited from using means, mechanism or lists intended to prevent or deter seafarers from gaining employment;
- (e) require that recruitment and placement services adopt measures to ensure as far as practicable that the employer has the means to protect seafarers from being stranded in a foreign port; and
- (f) that they ensure that a system of protection, by way of insurance or an equivalent appropriate measure, is established to compensate seafarers for monetary loss that they may incur as a result of the failure of a recruitment and placement service to meet its obligations to them.

Additionally, all annual reports published by the central co-ordinating authority should contain a list of laws and regulations in relation to seafarers' and all other related statistical data.

Position in Guyana:

The law and regulations dealing with seafarers living and working conditions are practically non-existent in Guyana. However, collective agreements entered into by shipping companies and unions do provide limited coverage in this area. International maritime policies and regulations also impact to an extent on the activities at sea.

Also, while no inspections by government agencies are done with the specific objective of seafarers working and living conditions, various "bodies" impact on the activities and privileges enjoyed by owners of ocean going vessels, for instance persons are authorised to visit and conduct inspections to vessels from the Transport and Harbours Department, Customs and Excise Department and Immigration.

However, these inspections do not fulfill that objectives of the Convention.

In general, "ocean" activities are governed by the maritime Act in Guyana.

It must be noted however that even though no inspections are done to ocean going vessels inspectors are authorised and empowered to conduct labour inspection to any premises where labour is believed to be employed (Labour Act, Chapter 98:01 Section 30 (i) (a).)

Conclusion:

It is proposed, that Guyana do not ratify this Convention at present, but that a body/committee be set up to look into the laws/regulations affecting seafarers and thus bring our domestic laws on stream in this regard. In so doing, the guidelines and objectives set out in this Convention will become achievable.

3/ CONVENTION NO. 179 - CONCERNING THE RECRUITMENT AND PLACEMENT OF SEAFARERS'

DEFINITION AND SCOPE:

For the purpose of this Convention -

- (a) The term "competent authority" means the Minister, designated official, Government department or authority having powers to issue regulations, orders etc in respect of recruitment and placement of seafarers.
- (b) The term "recruitment and placement service" means any person, company, institution, agency or other organisation in the Public or the Private Sector which is engaged in recruiting seafarers on behalf of employers or placing seafarers' with employers.
- (c) The term "shipowner" means the owner of the ship, other organisation or person who had assumed the responsibility for operation of the ship.
- (d) The term "seafarer" means any person who fulfills the conditions to be employed or engaged in any capacity on board a sea going ship other than a government ship used for military or non commercial purposes.

Nothing in the provisions of the Convention shall be deemed to:

- (a) Prevent government from maintaining a free public recruitment and placement service for seafarers.
- (b) Impose an obligation on Government to establish a system for the operation of private recruitment and placement services for seafarers

- 6-
- (iii) the placement of apprentices, cadets and other trainees and vocational guidance for prospective seafarers;
 - (iv) that staff responsible for the recruitment and placement services be adequately trained;
 - (v) that operational standards are approved and codes of conduct and ethical practices are encouraged at employment services.

2. The operational standard referred to above should include provisions dealing with:

- (a) the proper qualifications and training of the management and staff of the recruitment and placement services as it relates to the maritime sector;
- (b) the keeping of a register of seafarers seeking employment and;
- (c) matters pertaining to seafarers documents, medical examinations and vaccinations as may be required on seeking employment.

3. The operational standards should also provide that each recruitment and placement service maintain a system, subject to privacy and confidentiality, of full and complete records of seafarers covered by its system.

Such records should include -

- (a) seafarers' qualifications, records of employment, personal data and medical data;
- (b) up-to-date crew lists of vessels for which it provides crew;
- (c) financial transaction;
- (d) procedures for dealing with requests for information by family members.

Position in Guyana

There are laws and regulation in Guyana that deal with the establishment of a recruitment and placement service. There are also collective labour agreements that help to protect the rights of seafarers.

In October, 1944 the employment exchange was instituted by the Employment Exchange Act 98:05. In 1971 the Seamen's Pool was instituted as part of the employment exchange service to cater for seamen.

The recruitment and placement service of the Ministry though catering for the recruitment and placement of seafarers does not at present have any legal authority to ensure that seafarers are recruited through the service.

There is no authority at present with legal powers to enforce the requirements of the Convention.

Conclusion

It is recommended that Guyana do not ratify this Convention at present but make efforts to have the necessary legislations enacted to facilitate the enforcement of the provision of this Convention.

5) CONVENTION NO. 180 CONCERNING SEAFARERS' HOURS OF WORK AND THE MANNING OF SHIPS.

PART 1 - DEFINITION AND SCOPE:

For the purpose of this Convention.

All recruitment and placement services must maintain a register of all seafarers recruited or placed through them.

All recruitment and placement services must also ensure that:

- (a) Any seafarer recruited or placed by them is qualified and holds the documents necessary for the job;
- (b) contracts of employment or agreements must be in accordance with applicable laws, regulation and collective agreements;
- (c) seafarers must be informed of their rights and duties under their contracts of employment and agreements prior to or in the process of engagement;
- (d) proper arrangement must be made for seafarers to examine their contracts of employment before and after they are signed and for them to receive a copy of same.

Nothing above must be understood as diminishing the obligations and responsibilities of the ship-owner or the master.

The competent authority must ensure that:

- (a) adequate machinery and procedures exist to investigate complaints concerning the activities of recruitment and placement services, involving as appropriate, representatives of ship owners and seafarers;
- (b) all complaints be examined and responded to by the recruitment and placement services and that the competent authority be advised of any unresolved complaint.

Where complaints concerning working and living conditions on board ship are brought to the attention of the recruitment and placement services they must forward such complaint to the appropriate authority.

This however, does not prevent the seafarer from bringing any complaint directly to the appropriate authority.

This Convention revises the placing of seamen Convention 1920.

4) RECOMMENDATION NO. 186 - RECRUITMENT AND PLACEMENT OF SEAFARERS

This Recommendation supplements the Recruitment and Placement of Seafarers Convention 1996.

1. The competent authority should:

- (a) take measures to promote effective cooperation among recruitment and placement services whether public or private;
- (b) consider the needs of the maritime industry at both the national and international level when developing training programmes for seafarers;
- (c) ensure the cooperation of organisations of ship owners and seafarers and the public recruitment and placement services where they exist;
- (d) arrange for the collection and analysis of all relevant information on the maritime labour market which includes:
 - (i) seafarers classified by age, sex, rank and qualification;
 - (ii) availability of employment on national and foreign ships;

PART VI - Final Provisions

This Convention revises the Wages, Hours of Work and Manning (Sea) Convention 1936 and the 1946, 1949 and 1958 revisions.

6 / RECOMMENDATION NO. 187 - CONCERNING SEAFARERS' WAGES AND HOURS OF WORK AND MANNING OF SHIPS.

This Recommendation supplements the Hours of Work and the Manning of Ships Convention No. 180.

DEFINITION AND SCOPE

The definitions are the same as in the Convention except that the wages aspect are defined as follows:-

- (a) "basic pay or wages" means the pay, however composed, for normal hours of work; it does not include payments for overtime worked;
- (b) "consolidated wage" means a wage or salary which includes the basic wage and other pay related benefits, a consolidated wage may include compensation for all overtime hours which are worked and all other pay-related benefits, or it may include only certain benefits in a partial consolidation.

Where remuneration excludes overtime the normal hours of work should not exceed 8 hours per day or 44 hours per week. Overtime should be calculated at not less than 1½ times the basic pay.

Overtime or work performed on the weekly day of rest and public holidays should be compensated for by at least equivalent time off duty and off the ship or additional leave in lieu of remuneration or any other compensation so provided.

Procedures for determining minimum wages for seafarers should be established. Minimum wages should be adjusted to take into account changes in the cost of living and the needs of seafarers.

The monthly basic pay for an "able seaman" should be no less than the amount periodically set by the Joint Maritime Commission. The rate as at 1st January 1995 was 385 United States dollars.

Position in Guyana:

There are trade unions which have bargaining rights or Collective Labour Agreements with management of some seafarers.

The laws and regulations dealing with Seafarer's Hours of Work, Wages and Manning of ship are practically non-existent in Guyana.

Guyana, through the law of Merchant Shipping Act Chapter 49:01, provides for matters of shipping to be dealt with under the Law of England with regard to Merchant Shipping and matters connected therewith.

Current Structure of the Maritime Administration

The T & H. D as a Department of the Ministry of Public Works and Communications is responsible for ports and harbours, and certain other maritime matters.

The registration of ships is carried out by the Comptroller of Customs who also functions as Receiver of Wrecks. He is also responsible for inspection of ships.

The Administration of riverain navigation is currently within the province of the Commissioner of Lands and Surveys, who is the competent authority under the River Navigation Act.

- (a) the term "competent authority" means the minister, government department or other authority having power to issue regulations, order or other instructions having the force of Law in respect of Seafarers' hours of work or rest or the manning of ships;
- (b) the term "hours of work" means time during which a seafarer is required to do work on account of the ship;
- (c) the term "hours of rest" means time outside hours of work, this term does not include short breaks;
- (d) the term "seafarer" means any person defined as such by national laws or regulations or collective agreements who is employed or engaged in any capacity on board a seagoing ship to which this Convention applies;
- (e) the term "shipowner" means the owner of the ship or any other organisation or person, such as the manager or bareboat charterer, who has assumed the responsibility for the operation of the ship from the ship owner and who on assuming such responsibility has agreed to take over all the attendant duties and responsibilities.

PART II - Seafarers' Hours of Work and Hours of Rest.

There shall be fixed maximum number of hours of work which shall not exceed:-

- (i) 14 hours in any 24 hours period; and
- (ii) 72 hours in any seven day period.

Maximum hours of rest shall not be less than:-

- (i) 10 hours in any 24 hour period; and
- (ii) 77 hours in any 7 day period.

Hours of rest can be divided in two periods one of which shall be at least 6 hours in length and the intervening period shall not exceed 14 hours.

A seafarer on call shall have an adequate compensatory rest period.

There shall be posted, in an easily accessible place a table with the shipboard working arrangements, which shall contain the schedule of service at sea and service in port and the maximum hours of work and minimum hours of rest.

No seafarer under 18 years of age shall work at night i.e a period of at least nine consecutive hours including the interval from midnight to five a.m.

The hours of work schedule may be suspended if necessary for the immediate safety of a ship, persons on board or cargo or to assist other ships or persons in distress at sea.

Records to show compliance with the above shall be kept and shall be examined at appropriate intervals by the competent authority.

PART III - Manning of Ships

Every ship shall be sufficiently, safely and efficiently manned.

No person under 16 years of age shall work on a ship.

PART IV - Responsibilities of Shipowners and Masters.

The shipowner shall ensure that the master is provided with the necessary resources for the purpose of compliance with the requirements of the Convention.

PART V - Application

Government shall take all measures necessary to effect the enforcement of the provisions of the Convention, including inspection services and investigation of complaints.

Summary of Existing Maritime Legislation
Law of Merchant Shipping Act Cap. 49:01

This Act simply provides that the Law of England applies to all matters in Guyana relating to ships and shipping including the rights, duties and liabilities of masters and mariners. It preserves the jurisdiction of the High Court as a Court of Admiralty Jurisdiction which is conferred on it by Section 21 of the High Court Act (Cap. 3:02).

Carriage of Goods by Sea Act (Cap. 49:02)

This Act incorporates the Hague Rules and is outdated.

Passengers Act (Cap. 49:03)

This Act basically deals with the outward clearance of passengers' ships and related matters.

Transport and Harbours Act (Cap. 49:04)

This Act established the T&HD which is charged with the management of government vessels, and the regulation and Control of Guyanese Harbours. This act also contains the legislation on pilotage which which is outdated and inadequate.

Harbour and Pilotage Regulations

These deal with the regulation of vessel movements, moorings and anchorage in harbours, the removal of vessels sunk or aground in harbours which pose a danger to navigation and their marking with buoys and lights until such removal.

Harbour Regulations

The Harbour Master is empowered to issue certificate of sea worthiness to vessels navigating in harbours.

Home Trade Ship (Masters, Mates and Engineer Certificates Regulations)

These are the current regulations for the certification of seafarers in the home trade.

CONCLUSION

It is proposed that Guyana do not ratify the Convention at present but endeavour to update its legislations taking the provisions as a guide.

7) PROTOCOL OF 1996 TO THE MERCHANT SHIPPING (MINIMUM STANDARDS) CONVENTION, 1976

The Protocol draws attention to the Merchant Shipping (Minimum Standards) Convention, 1976, the Discrimination (Employment and Occupation) Convention, 1958, the United Nations Convention on the Law of the Sea, 1982 and the International Convention on Standards of Training, Certification and watchkeeping for Seafarers, 1978, as amended in 1995 by the International Maritime Organisation.

For the purpose of this Protocol, the Merchant Shipping (Minimum Standards) Convention, 1976 shall be referred to as the Principal Convention.

Governments which ratify the Protocol shall extend the list of Conventions, appearing in the appendix to the Principal Convention, to include:-

- (a) Seafarers' Identity Documents Convention, 1958 No. 108.
- (b) Workers' Representatives Convention, 1971, No. 135.
- (c) Health Protection and Medical Care (Seafarers) Convention, 1987, No. 164.
- (d) Repatriation of Seafarers Convention (Revised) 1987, No. 166.

Position in Guyana

Guyana has not ratified the Principal Convention.

CONCLUSION

Guyana cannot ratify the Protocol at present since the principal convention has not been ratified.

**International Labour Conference
Conférence internationale du Travail**

CONVENTION 178

CONVENTION CONCERNING THE INSPECTION
OF SEAFARERS' WORKING AND LIVING CONDITIONS,
ADOPTED BY THE CONFERENCE AT ITS
EIGHTY-FOURTH SESSION, GENEVA, 22 OCTOBER 1996



CONVENTION 178

CONVENTION CONCERNANT L'INSPECTION DES CONDITIONS
DE TRAVAIL ET DE VIE DES GENS DE MER,
ADOPTÉE PAR LA CONFÉRENCE À SA
QUATRE-VINGT-QUATRIÈME SESSION, GENÈVE, 22 OCTOBRE 1996

AUTHENTIC TEXT
TEXTE AUTHENTIQUE

Convention 178

**CONVENTION CONCERNING THE INSPECTION OF SEAFARERS'
WORKING AND LIVING CONDITIONS**

The General Conference of the International Labour Organization,
Having been convened at Geneva by the Governing Body of the International
Labour Office and having met in its Eighty-fourth Session on 8 October
1996, and

Noting the changes in the nature of the shipping industry and, as a
consequence thereof, the changes in seafarers' working and living
conditions since the Labour Inspection (Seamen) Recommendation, 1926,
was adopted, and

Recalling the provisions of the Labour Inspection Convention and
Recommendation, 1947, the Labour Inspection (Mining and Transport)
Recommendation, 1947, and the Merchant Shipping (Minimum
Standards) Convention, 1976, and

Recalling the entry into force of the United Nations Convention on the Law
of the Sea, 1982, on 16 November 1994, and

Having decided upon the adoption of certain proposals with regard to the
revision of the Labour Inspection (Seamen) Recommendation, 1926,
which is the first item on the agenda of the session, and

Having determined that these proposals shall take the form of an international
Convention for flag State implementation only;

adopts, this twenty-second day of October of the year one thousand nine hundred
and ninety-six, the following Convention, which may be cited as the Labour
Inspection (Seafarers) Convention, 1996:

PART I. SCOPE AND DEFINITIONS

Article 1

1. Except as otherwise provided in this Article, this Convention applies to every seagoing ship, whether publicly or privately owned, which is registered in the territory of a Member for which the Convention is in force and is engaged in the transport of cargo or passengers for the purpose of trade or is employed for any other commercial purpose. For the purpose of this Convention, a ship that is on the register of two Members is deemed to be registered in the territory of the Member whose flag it flies.

2. National laws or regulations shall determine which ships are to be regarded as seagoing ships for the purpose of this Convention.

3. This Convention applies to seagoing tugs.

4. This Convention does not apply to vessels less than 500 gross tonnage and, when not engaged in navigation, vessels such as oil rigs and drilling platforms. The decision as to which vessels are covered by this paragraph shall be taken by the central coordinating authority in consultation with the most representative organizations of shipowners and seafarers.

5. To the extent the central coordinating authority deems it practicable, after consulting the representative organizations of fishing vessel owners and fishermen, the provisions of this Convention shall apply to commercial maritime fishing vessels.

6. In the event of any doubt as to whether or not any ships are to be regarded as engaged in commercial maritime operations or commercial maritime fishing for the purpose of this Convention, the question shall be determined by the central coordinating authority after consulting the organizations of shipowners, seafarers and fishermen concerned.

7. For the purpose of this Convention:

- (a) the term "central coordinating authority" means ministers, government departments or other public authorities having power to issue and supervise the implementation of regulations, orders or other instructions having the force of law in respect of inspection of seafarers' working and living conditions in relation to any ship registered in the territory of the Member;
- (b) the term "inspector" means any civil servant or other public official with responsibility for inspecting any aspect of seafarers' working and living conditions, as well as any other person holding proper credentials performing an inspection for an institution or organization authorized by the central coordinating authority in accordance with Article 2, paragraph 3;
- (c) the term "legal provisions" includes, in addition to laws and regulations, arbitration awards and collective agreements upon which the force of law is conferred;
- (d) the term "seafarers" means persons who are employed in any capacity on board a seagoing ship to which the Convention applies. In the event of any 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 central coordinating authority after consulting the organizations of shipowners and seafarers concerned;
- (e) the term "seafarers' working and living conditions" means the conditions such as those relating to the standards of maintenance and cleanliness of shipboard living and working areas, minimum age, articles of agreement, food and catering, crew accommodation, recruitment, manning, qualifications, hours of work, medical examinations, prevention of occupational accidents, medical care, sickness and injury benefits, social welfare and related matters, repatriation, terms and conditions of employment which are subject to national laws and regulations, and freedom of association as defined in the Freedom of Association and Protection of the Right to Organise Convention, 1948, of the International Labour Organization.

PART II. ORGANIZATION OF INSPECTION

Article 2

1. Each Member for which the Convention is in force shall maintain a system of inspection of seafarers' working and living conditions.

2. The central coordinating authority shall coordinate inspections wholly or partly concerned with seafarers' working and living conditions and shall establish principles to be observed.

3. The central coordinating authority shall in all cases be responsible for the inspection of seafarers' working and living conditions. It may authorize public institutions or other organizations it recognizes as competent and independent to carry out inspections of seafarers' working and living conditions on its behalf. It shall maintain and make publicly available a list of such institutions or organizations.

Article 3

1. Each Member shall ensure that all ships registered in its territory are inspected at intervals not exceeding three years and, when practicable, annually, to verify that the seafarers' working and living conditions on board conform to national laws and regulations.

2. If a Member receives a complaint or obtains evidence that a ship registered in its territory does not conform to national laws and regulations in respect of seafarers' working and living conditions, the Member shall take measures to inspect the ship as soon as practicable.

3. In cases of substantial changes in construction or accommodation arrangements, the ship shall be inspected within three months of such changes.

Article 4

Each Member shall appoint inspectors qualified for the performance of their duties and shall take the necessary steps to satisfy itself that inspectors are available in sufficient number to meet the requirements of this Convention.

Article 5

1. Inspectors shall have the status and conditions of service to ensure that they are independent of changes of government and of improper external influences.

2. Inspectors provided with proper credentials shall be empowered:

- (a) to board a ship registered in the territory of the Member and to enter premises as necessary for inspection;
- (b) to carry out any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed;
- (c) to require that deficiencies are remedied; and
- (d) where they have grounds to believe that a deficiency constitutes a significant danger to seafarers' health and safety, to prohibit, subject to any right of appeal to a judicial or administrative authority, a ship from leaving port until necessary measures are taken, the ship not being unreasonably detained or delayed.

Article 6

1. When an inspection is conducted or when measures are taken under this Convention, all reasonable efforts shall be made to avoid a ship being unreasonably detained or delayed.

2. If a ship is unreasonably detained or delayed, the shipowner or operator of the ship shall be entitled to compensation for any loss or damage suffered. In any instance of alleged unreasonable detention or delay, the burden of proof shall lie with the shipowner or operator of the ship.

PART III. PENALTIES

Article 7

1. Adequate penalties for violations of the legal provisions enforceable by inspectors and for obstructing inspectors in the performance of their duties shall be provided for by national laws or regulations and shall be effectively enforced.

2. Inspectors shall have the discretion to give warnings and advice instead of instituting or recommending proceedings.

PART IV. REPORTS

Article 8

1. The central coordinating authority shall maintain records of inspections of seafarers' working and living conditions.

2. It shall publish an annual report on inspection activities, including a list of institutions and organizations authorized to carry out inspections on its behalf. This report shall be published within a reasonable time after the end of the year to which it relates and in any case within six months.

Article 9

1. Inspectors shall submit a report of each inspection to the central coordinating authority. One copy of the report in English or in the working language of the ship shall be furnished to the master of the ship and another copy shall be posted on the ship's notice board for the information of the seafarers or sent to their representatives.

2. In case of an inspection pursuant to a major incident, the report shall be submitted as soon as practicable but not later than one month following the conclusion of the inspection.

PART V. FINAL PROVISIONS

Article 10

This Convention supersedes the Labour Inspection (Seamen) Recommendation, 1926.

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 Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General

3. Thereafter, this Convention shall come into force for any Member 12 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 Members of the International Labour Organization of the registration of all ratifications and denunciations communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall 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 the Director-General 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.

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the International Labour Organization during its Eighty-fourth Session which was held at Geneva and declared closed 22 October 1996.

IN FAITH WHEREOF we have appended our signatures this twenty-second day of October 1996.

The text of the Convention as here presented is a true copy of the text authenticated by the signatures of the President of the International Labour Conference and of the Director-General of the International Labour Office.

Le texte de la convention présentée ici est une copie exacte du texte authentiqué par les signatures du Président de la Conférence internationale du Travail et du Directeur général du Bureau international du Travail.

Certified true and complete copy,
Copie certifiée conforme et complète,

*For the Director-General of the International Labour Office:
Pour le Directeur général du Bureau international du Travail:*

International Labour Conference Conférence internationale du Travail

CONVENTION 179

CONVENTION CONCERNING THE RECRUITMENT
AND PLACEMENT OF SEAFARERS,
ADOPTED BY THE CONFERENCE AT ITS
EIGHTY-FOURTH SESSION, GENEVA, 22 OCTOBER 1996

CONVENTION 179

CONVENTION CONCERNANT LE RECRUTEMENT
ET LE PLACEMENT DES GENS DE MER,
ADOPTÉE PAR LA CONFÉRENCE À SA
QUATRE-VINGT-QUATRIÈME SESSION, GENÈVE, 22 OCTOBRE 1996

AUTHENTIC TEXT
TEXTE AUTHENTIQUE

Convention 179

**CONVENTION CONCERNING THE RECRUITMENT
AND PLACEMENT OF SEAFARERS**

The General Conference of the International Labour Organization,
Having been convened at Geneva by the Governing Body of the International
Labour Office, and having met in its Eighty-Fourth Session on 8 October
1996, and

Noting the provisions of the Seamen's Articles of Agreement Convention,
1926, the Freedom of Association and Protection of the Right to
Organise Convention, 1948, the Employment Service Convention and
Recommendation, 1948, the Right to Organise and Collective Bargaining
Convention, 1949, the Seafarers' Engagement (Foreign Vessels)
Recommendation, 1958, the Discrimination (Employment and
Occupation) Convention, 1958, the Employment of Seafarers (Technical
Developments) Recommendation, 1970, the Minimum Age Convention,
1973, the Continuity of Employment (Seafarers) Convention and
Recommendation, 1976, the Merchant Shipping (Minimum Standards)
Convention, 1976, the Repatriation of Seafarers Convention (Revised),
1987, and the Labour Inspection (Seafarers) Convention, 1996, and

Recalling the entry into force of the United Nations Convention on the Law
of the Sea, 1982, on 16 November 1994, and

Having decided upon the adoption of certain proposals with regard to the
revision of the Placing of Seamen Convention, 1920, which is the third
item on the agenda of the session, and

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

adopts, this twenty-second day of October of the year one thousand nine hundred
and ninety-six, the following Convention, which may be cited as the Recruitment
and Placement of Seafarers Convention, 1996:

Article 1

1. For the purpose of this Convention:

- (a) the term "competent authority" means the minister, designated official,
government department or other authority having power to issue regulations,
orders or other instructions having the force of law in respect of the
recruitment and placement of seafarers;
- (b) the term "recruitment and placement service" means any person, company,
institution, agency or other organization, in the public or the private sector,
which is engaged in recruiting seafarers on behalf of employers or placing
seafarers with employers;
- (c) the term "shipowner" means the owner of the ship or any other organization
or person, such as the manager, agent or bareboat charterer, who has assumed
the responsibility for operation of the ship from the shipowner and who on
assuming such responsibilities has agreed to take over all the attendant duties
and responsibilities;
- (d) the term "seafarer" means any person who fulfils the conditions to be
employed or engaged in any capacity on board a seagoing ship other than a
government ship used for military or non-commercial purposes.

2. To the extent it deems practicable, after consultation with the
representative organizations of fishing-vessel owners and fishermen or those of

International Labour Conference Conférence internationale du Travail

CONVENTION 179

**CONVENTION CONCERNING THE RECRUITMENT
AND PLACEMENT OF SEAFARERS,
ADOPTED BY THE CONFERENCE AT ITS
EIGHTY-FOURTH SESSION, GENEVA, 22 OCTOBER 1996**

CONVENTION 179

**CONVENTION CONCERNANT LE RECRUTEMENT
ET LE PLACEMENT DES GENS DE MER,
ADOPTÉE PAR LA CONFÉRENCE À SA
QUATRE-VINGT-QUATRIÈME SESSION, GENÈVE, 22 OCTOBRE 1996**

**AUTHENTIC TEXT
TEXTE AUTHENTIQUE**

Convention 179

**CONVENTION CONCERNING THE RECRUITMENT
AND PLACEMENT OF SEAFARERS**

The General Conference of the International Labour Organization,
Having been convened at Geneva by the Governing Body of the International
Labour Office, and having met in its Eighty-Fourth Session on 8 October
1996, and

Noting the provisions of the Seamen's Articles of Agreement Convention,
1926, the Freedom of Association and Protection of the Right to
Organise Convention, 1948, the Employment Service Convention and
Recommendation, 1948, the Right to Organise and Collective Bargaining
Convention, 1949, the Seafarers' Engagement (Foreign Vessels)
Recommendation, 1958, the Discrimination (Employment and
Occupation) Convention, 1958, the Employment of Seafarers (Technical
Developments) Recommendation, 1970, the Minimum Age Convention,
1973, the Continuity of Employment (Seafarers) Convention and
Recommendation, 1976, the Merchant Shipping (Minimum Standards)
Convention, 1976, the Repatriation of Seafarers Convention (Revised),
1987, and the Labour Inspection (Seafarers) Convention, 1996, and

Recalling the entry into force of the United Nations Convention on the Law
of the Sea, 1982, on 16 November 1994, and

Having decided upon the adoption of certain proposals with regard to the
revision of the Placing of Seamen Convention, 1920, which is the third
item on the agenda of the session, and

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

adopts, this twenty-second day of October of the year one thousand nine hundred
and ninety-six, the following Convention, which may be cited as the Recruitment
and Placement of Seafarers Convention, 1996:

Article 1

1. For the purpose of this Convention:

- (a) the term "competent authority" means the minister, designated official,
government department or other authority having power to issue regulations,
orders or other instructions having the force of law in respect of the
recruitment and placement of seafarers;
- (b) the term "recruitment and placement service" means any person, company,
institution, agency or other organization, in the public or the private sector,
which is engaged in recruiting seafarers on behalf of employers or placing
seafarers with employers;
- (c) the term "shipowner" means the owner of the ship or any other organization
or person, such as the manager, agent or bareboat charterer, who has assumed
the responsibility for operation of the ship from the shipowner and who on
assuming such responsibilities has agreed to take over all the attendant duties
and responsibilities;
- (d) the term "seafarer" means any person who fulfils the conditions to be
employed or engaged in any capacity on board a seagoing ship other than a
government ship used for military or non-commercial purposes.

2. To the extent it deems practicable, after consultation with the
representative organizations of fishing-vessel owners and fishermen or those of

owners of maritime mobile offshore units and seafarers serving on such units, as the case may be, the competent authority may apply the provisions of the Convention to fishermen or to seafarers serving on maritime mobile offshore units.

Article 2

1. Nothing in the provisions of this Convention shall be deemed to:

- (a) prevent a Member from maintaining a free public recruitment and placement service for seafarers in the framework of a policy to meet the needs of seafarers and shipowners, whether it forms part of or is coordinated with a public employment service for all workers and employers;
- (b) impose on a Member the obligation to establish a system for the operation of private recruitment and placement services.

2. Where private recruitment and placement services have been or are to be established, they shall be operated within the territory of a Member only in conformity with a system of licensing or certification or other form of regulation. This system shall be established, maintained, modified or changed only after consultation with representative organizations of shipowners and seafarers. Undue proliferation of such private recruitment and placement services shall not be encouraged.

3. Nothing in this Convention shall affect the right of a Member to apply its laws and regulations to ships flying its flag in relation to the recruitment and placement of seafarers.

Article 3

Nothing in this Convention shall in any manner prejudice the ability of a seafarer to exercise basic human rights, including trade union rights.

Article 4

1. A Member shall, by means of national laws or applicable regulations:

- (a) ensure that no fees or other charges for recruitment or for providing employment to seafarers are borne directly or indirectly, in whole or in part, by the seafarer; for this purpose, costs of the national statutory medical examination, certificates, a personal travel document and the national seafarer's book shall not be deemed to be "fees or other charges for recruitment";
- (b) determine whether and under which conditions recruitment and placement services may place or recruit seafarers abroad;
- (c) specify, with due regard to the right to privacy and the need to protect confidentiality, the conditions under which seafarers' personal data may be processed by recruitment and placement services including the collection, storage, combination and communication of such data to third parties;
- (d) determine the conditions under which the licence, certificate or similar authorization of a recruitment and placement service may be suspended or withdrawn in case of violation of relevant laws and regulations; and
- (e) specify, where a regulatory system other than a system of licensing or certification exists, the conditions under which recruitment and placement services can operate, as well as sanctions applicable in case of violation of these conditions.

2. A Member shall ensure that the competent authority:

- (a) closely supervise all recruitment and placement services;

- (b) grant or renew the licence, certificate, or similar authorization only after having verified that the recruitment and placement service concerned meets the requirements of national laws and regulations;
- (c) require that the management and staff of recruitment and placement services for seafarers should be adequately trained persons having relevant knowledge of the maritime industry;
- (d) prohibit recruitment and placement services from using means, mechanisms or lists intended to prevent or deter seafarers from gaining employment;
- (e) require that recruitment and placement services adopt measures to ensure, as far as practicable, that the employer has the means to protect seafarers from being stranded in a foreign port; and
- (f) ensure that a system of protection, by way of insurance or an equivalent appropriate measure, is established to compensate seafarers for monetary loss that they may incur as a result of the failure of a recruitment and placement service to meet its obligations to them.

Article 5

1. All recruitment and placement services shall maintain a register of all seafarers recruited or placed through them, to be available for inspection by the competent authority.

2. All recruitment and placement services shall ensure that:

- (a) any seafarer recruited or placed by them is qualified and holds the documents necessary for the job concerned;
- (b) contracts of employment and articles of agreement are in accordance with applicable laws, regulations and collective agreements;
- (c) seafarers are informed of their rights and duties under their contracts of employment and the articles of agreement prior to or in the process of engagement; and
- (d) proper arrangements are made for seafarers to examine their contracts of employment and the articles of agreement before and after they are signed and for them to receive a copy of the contract of employment.

3. Nothing in paragraph 2 above shall be understood as diminishing the obligations and responsibilities of the shipowner or the master.

Article 6

1. The competent authority shall ensure that adequate machinery and procedures exist for the investigation, if necessary, of complaints concerning the activities of recruitment and placement services, involving, as appropriate, representatives of shipowners and seafarers.

2. All recruitment and placement services shall examine and respond to any complaint concerning their activities and shall advise the competent authority of any unresolved complaint.

3. Where complaints concerning working or living conditions on board ships are brought to the attention of the recruitment and placement services, they shall forward such complaints to the appropriate authority.

4. Nothing in this Convention shall prevent the seafarer from bringing any complaint directly to the appropriate authority.

Article 7

This Convention revises the Placing of Seamen Convention, 1920.

Article 8

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

Article 9

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

4. The ratification by a Member of this Convention shall, as from the date it has come into force, constitute an act of immediate denunciation of the Placing of Seamen Convention, 1920.

Article 10

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 11

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and denunciations communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

Article 12

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 the Director-General in accordance with the provisions of the preceding Articles.

Article 13

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

Article 14

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 10 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 15

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

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the International Labour Organization during its Eighty-fourth Session which was held at Geneva and declared closed 22 October 1996.

IN FAITH WHEREOF we have appended our signatures this twenty-second day of October 1996.

The text of the Convention as here presented is a true copy of the text authenticated by the signatures of the President of the International Labour Conference and of the Director-General of the International Labour Office.

Le texte de la convention présentée ici est une copie exacte du texte authentiqué par les signatures du Président de la Conférence internationale du Travail et du Directeur général du Bureau international du Travail.

Certified true and complete copy,
Copie certifiée conforme et complète,

*For the Director-General of the International Labour Office:
Pour le Directeur général du Bureau international du Travail:*



FRANCIS MAUPAIN
Legal Adviser
of the International Labour Office
Conseiller juridique
du Bureau International du Travail

International Labour Conference Conférence internationale du Travail

CONVENTION 180

CONVENTION CONCERNING SEAFARERS' HOURS OF WORK
AND THE MANNING OF SHIPS,
ADOPTED BY THE CONFERENCE AT ITS
EIGHTY-FOURTH SESSION, GENEVA, 22 OCTOBER 1996

CONVENTION 180

CONVENTION CONCERNANT LA DURÉE DU TRAVAIL
DES GENS DE MER ET LES EFFECTIFS DES NAVIRES,
ADOPTÉE PAR LA CONFÉRENCE À SA
QUATRE-VINGT-QUATRIÈME SESSION, GENÈVE, 22 OCTOBRE 1996

AUTHENTIC TEXT
TEXTE AUTHENTIQUE

Convention 180

**CONVENTION CONCERNING SEAFARERS' HOURS OF WORK
AND THE MANNING OF SHIPS**

The General Conference of the International Labour Organization,
Having been convened at Geneva by the Governing Body of the International
Labour Office, and having met in its Eighty-fourth Session on 8 October
1996, and,

Noting the provisions of the Merchant Shipping (Minimum Standards)
Convention, 1976 and the Protocol of 1996 thereto; and the Labour
Inspection (Seafarers) Convention, 1996, and

Recalling the relevant provisions of the following instruments of the
International Maritime Organization: International Convention for the
Safety of Life at Sea, 1974, as amended, the International Convention
on Standards of Training, Certification and Watchkeeping for Seafarers,
1978, as amended in 1995, Assembly resolution A 481 (XII) (1981) on
Principles of Safe Manning, Assembly resolution A 741 (18) (1993) on
the International Code for the Safe Operation of Ships and for Pollution
Prevention (International Safety Management (ISM) Code), and
Assembly resolution A 772 (18) (1993) on Fatigue Factors in Manning
and Safety, and

Recalling the entry into force of the United Nations Convention on the Law
of the Sea, 1982, on 16 November 1994, and

Having decided upon the adoption of certain proposals with regard to the
revision of the Wages, Hours of Work and Manning (Sea) Convention
(Revised), 1958, and the Wages, Hours of Work and Manning (Sea)
Recommendation, 1958, which is the second item of the agenda of the
session, and

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

adopts, this twenty-second day of October of the year one thousand nine hundred
and ninety-six, the following Convention, which may be cited as the Seafarers'
Hours of Work and the Manning of Ships Convention, 1996:

PART I. SCOPE AND DEFINITIONS

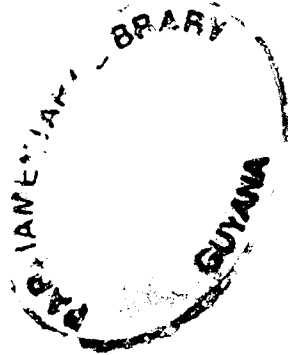
Article 1

1. This Convention applies to every seagoing ship, whether publicly or
privately owned, which is registered in the territory of any Member for which the
Convention is in force and is ordinarily engaged in commercial maritime operations.
For the purpose of this Convention, a ship that is on the register of two Members
is deemed to be registered in the territory of the Member whose flag it flies.

2. To the extent it deems practicable, after consulting the representative
organizations of fishing-vessel owners and fishermen, the competent authority shall
apply the provisions of this Convention to commercial maritime fishing.

3. In the event of doubt as to whether or not any ships are to be regarded as
seagoing ships or engaged in commercial maritime operations or commercial
maritime fishing for the purpose of the Convention, the question shall be determined
by the competent authority after consulting the organizations of shipowners,
seafarers and fishermen concerned.

4. This Convention does not apply to wooden vessels of traditional build such
as dhows and junks.



Article 2

For the purpose of this Convention:

- (a) the term "competent authority" means the minister, government department or other authority having power to issue regulations, orders or other instructions having the force of law in respect of seafarers' hours of work or rest or the manning of ships;
- (b) the term "hours of work" means time during which a seafarer is required to do work on account of the ship;
- (c) the term "hours of rest" means time outside hours of work; this term does not include short breaks;
- (d) the term "seafarer" means any person defined as such by national laws or regulations or collective agreements who is employed or engaged in any capacity on board a seagoing ship to which this Convention applies;
- (e) the term "shipowner" means the owner of the ship or any other organization or person, such as the manager or bareboat charterer, who has assumed the responsibility for the operation of the ship from the shipowner and who on assuming such responsibility has agreed to take over all the attendant duties and responsibilities.

PART II. SEAFARERS' HOURS OF WORK AND HOURS OF REST

Article 3

Within the limits set out in Article 5, there shall be fixed either a maximum number of hours of work which shall not be exceeded in a given period of time, or a minimum number of hours of rest which shall be provided in a given period of time.

Article 4

A Member which ratifies this Convention acknowledges that the normal working hours' standard for seafarers, like that for other workers, shall be based on an eight-hour day with one day of rest per week and rest on public holidays. However, this shall not prevent the Member from having procedures to authorize or register a collective agreement which determines seafarers' normal working hours on a basis no less favourable than this standard.

Article 5

1. The limits on hours of work or rest shall be as follows:

- (a) maximum hours of work shall not exceed:
 - (i) 14 hours in any 24-hour period; and
 - (ii) 72 hours in any seven-day period;
- or
- (b) minimum hours of rest shall not be less than:
 - (i) ten hours in any 24-hour period; and
 - (ii) 77 hours in any seven-day period.

2. Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.

3. Musters, fire-fighting and lifeboat drills, and drills prescribed by national laws and regulations and by international instruments shall be conducted in a manner that minimizes the disturbance of rest periods and does not induce fatigue.

4. In respect of situations when a seafarer is on call, such as when a machinery space is unattended, the seafarer shall have an adequate compensatory rest period if the normal period of rest is disturbed by call-outs to work.

5. If no collective agreement or arbitration award exists or if the competent authority determines that the provisions in the agreement or award in respect of paragraph 3 or 4 are inadequate, the competent authority shall determine such provisions to ensure the seafarers concerned have sufficient rest.

6. Nothing in paragraphs 1 and 2 shall prevent the Member from having national laws or regulations or a procedure for the competent authority to authorize or register collective agreements permitting exceptions to the limits set out. Such exceptions shall, as far as possible, follow the standards set out but may take account of more frequent or longer leave periods or the granting of compensatory leave for watchkeeping seafarers or seafarers working on board ships on short voyages.

7. The Member shall require the posting, in an easily accessible place, of a table with the shipboard working arrangements, which shall contain for every position at least:

- (a) the schedule of service at sea and service in port; and
- (b) the maximum hours of work or the minimum hours of rest required by the laws, regulations or collective agreements in force in the flag State.

8. The table referred to in paragraph 7 shall be established in a standardized format in the working language or languages of the ship and in English.

Article 6

No seafarer under 18 years of age shall work at night. For the purpose of this Article, "night" means a period of at least nine consecutive hours, including the interval from midnight to five a.m. This provision need not be applied when the effective training of young seafarers between the ages of 16 and 18 in accordance with established programmes and schedules would be impaired.

Article 7

1. Nothing in this Convention shall be deemed to impair the right of the master of a ship to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea.

2. In accordance with paragraph 1, the master may suspend the schedule of hours of work or hours of rest and require a seafarer to perform any hours of work necessary until the normal situation has been restored.

3. As soon as practicable after the normal situation has been restored, the master shall ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.

Article 8

1. The Member shall require that records of seafarers' daily hours of work or of their daily hours of rest be maintained to allow monitoring of compliance with the provisions set out in Article 5. The seafarer shall receive a copy of the records pertaining to him or her which shall be endorsed by the master, or a person authorized by the master, and by the seafarer.

2. The competent authority shall determine the procedures for keeping such records on board, including the intervals at which the information shall be recorded. The competent authority shall establish the format of the records of the seafarers' hours of work or of their hours of rest taking into account any available International Labour Organization guidelines or shall use any standard format prepared by the Organization. The format shall be established in the language or languages provided by Article 5, paragraph 8.

3. A copy of the relevant provisions of the national legislation pertaining to this Convention and the relevant collective agreements shall be kept on board and be easily accessible to the crew.

Article 9

The competent authority shall examine and endorse the records referred to in Article 8, at appropriate intervals, to monitor compliance with the provisions governing hours of work or hours of rest that give effect to this Convention.

Article 10

If the records or other evidence indicate infringement of provisions governing hours of work or hours of rest, the competent authority shall require that measures, including if necessary the revision of the manning of the ship, are taken so as to avoid future infringements.

PART III. MANNING OF SHIPS

Article 11

1. Every ship to which this Convention applies shall be sufficiently, safely and efficiently manned, in accordance with the minimum safe manning document or an equivalent issued by the competent authority.

2. When determining, approving or revising manning levels, the competent authority shall take into account:

- (a) the need to avoid or minimize, as far as practicable, excessive hours of work, to ensure sufficient rest and to limit fatigue; and
- (b) the international instruments identified in the Preamble.

Article 12

No person under 16 years of age shall work on a ship.

PART IV. RESPONSIBILITIES OF SHIPOWNERS AND MASTERS

Article 13

The shipowner shall ensure that the master is provided with the necessary resources for the purpose of compliance with obligations under this Convention, including those relating to the appropriate manning of the ship. The master shall take all necessary steps to ensure that the requirements on seafarers' hours of work and rest arising from this Convention are complied with.

PART V. APPLICATION

Article 14

A Member which ratifies this Convention shall be responsible for the application of its provisions by means of laws or regulations, except where effect is given by collective agreements, arbitration awards or court decisions.

Article 15

The Member shall:

- (a) take all necessary measures, including the provision of appropriate sanctions and corrective measures, to ensure the effective enforcement of the provisions of this Convention;
- (b) have appropriate inspection services to supervise the application of the measures taken in pursuance of this Convention and provide them with the necessary resources for this purpose; and
- (c) after consulting shipowners' and seafarers' organizations, have procedures to investigate complaints relating to any matter contained in this Convention.

PART VI. FINAL PROVISIONS

Article 16

This Convention revises the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958; the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949; the Wages, Hours of Work and Manning (Sea) Convention, 1946; and the Hours of Work and Manning (Sea) Convention, 1936. As from the date this Convention has come into force, the above-listed Conventions shall cease to be open to ratification.

Article 17

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

Article 18

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. This Convention shall come into force six months after the date on which the ratifications of five Members, three of which each have a least one million gross tonnage of shipping, have been registered with the Director-General of the International Labour Office.

3. Thereafter, this Convention shall come into force for any Member six months after the date on which its ratification has been registered.

Article 19

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 20

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and denunciations communicated by the Members of the Organization.

2. When the conditions provided for in Article 18, paragraph 2, above have been fulfilled, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

Article 21

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 the Director-General in accordance with the provisions of the preceding Articles.

Article 22

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 23

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 19 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 24

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

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the International Labour Organization during its Eighty-fourth Session which was held at Geneva and declared closed the 22 October 1996.

IN FAITH WHEREOF we have appended our signatures this twenty-second day of October 1996.

The text of the Convention as here presented is a true copy of the text authenticated by the signatures of the President of the International Labour Conference and of the Director-General of the International Labour Office.

Le texte de la convention présentée ici est une copie exacte du texte authentiqué par les signatures du Président de la Conférence internationale du Travail et du Directeur général du Bureau international du Travail.

Certified true and complete copy,
Copie certifiée conforme et complète,

*For the Director-General of the International Labour Office:
Pour le Directeur général du Bureau international du Travail:*

International Labour Conference Conférence internationale du Travail

RECOMMENDATION 185

RECOMMENDATION CONCERNING THE INSPECTION
OF SEAFARERS' WORKING AND LIVING CONDITIONS,
ADOPTED BY THE CONFERENCE AT ITS
EIGHTY-FOURTH SESSION, GENEVA, 22 OCTOBER 1996

RECOMMANDATION 185

RECOMMANDATION CONCERNANT L'INSPECTION DES CONDITIONS
DE TRAVAIL ET DE VIE DES GENS DE MER,
ADOPTÉE PAR LA CONFÉRENCE À SA
QUATRE-VINGT-QUATRIÈME SESSION, GENÈVE, 22 OCTOBRE 1996

AUTHENTIC TEXT
TEXTE AUTHENTIQUE

Recommendation 185

RECOMMENDATION CONCERNING THE INSPECTION OF SEAFARERS' WORKING AND LIVING CONDITIONS

The General Conference of the International Labour Organization,
Having been convened at Geneva by the Governing Body of the International
Labour Office and having met in its Eighty-fourth Session on 8 October
1996, and

Having decided upon the adoption of certain proposals with regard to the
revision of the Labour Inspection (Seamen) Recommendation, 1926,
which is the first item on the agenda of the session, and

Having determined that these proposals shall take the form of a
Recommendation supplementing the Labour Inspection (Seafarers)
Convention, 1996;

adopts, this twenty-second day of October of the year one thousand nine hundred
and ninety-six, the following Recommendation, which may be cited as the Labour
Inspection (Seafarers) Recommendation, 1996:

I. COOPERATION AND COORDINATION

1. The central coordinating authority should make appropriate arrangements
to promote effective cooperation between public institutions and other organizations
concerned with seafarers' working and living conditions.

2. To ensure cooperation between inspectors, shipowners, seafarers and their
respective organizations, and in order to maintain or improve seafarers' working and
living conditions, the central coordinating authority should consult the
representatives of such organizations at regular intervals as to the best means of
attaining these ends. The manner of such consultation should be determined by the
central coordinating authority after consulting with shipowners' and seafarers'
organizations.

II. ORGANIZATION OF INSPECTION

3. The central coordinating authority and any other service or authority
wholly or partly concerned with the inspection of seafarers' working and living
conditions should have the resources necessary to fulfil their functions.

4. The number of inspectors should be sufficient to secure the efficient
discharge of their duties and should be determined with due regard to:

- (a) the importance of the duties which the inspectors have to perform, in
particular the number, nature and size of ships liable to inspection and the
number and complexity of the legal provisions to be enforced;
- (b) the material means placed at the disposal of the inspectors; and
- (c) the practical conditions under which inspections must be carried out in order
to be effective.

5. The system of inspection of seafarers' working and living conditions
should permit inspectors:

- (a) to alert the central coordinating authority to any deficiency or abuse not
specifically covered by existing legal provisions and submit proposals to it for
the improvement of laws and regulations; and
- (b) to board ships and enter relevant premises freely and without previous notice
at any hour of the day or night.

6. The central coordinating authority should:

- (a) establish simple procedures to enable it to receive information in confidence concerning possible infringements of legal provisions presented by seafarers directly or through representatives, and enable inspectors to investigate such matters promptly;
- (b) enable masters, crew members or representatives of the seafarers to call for an inspection when they consider it necessary; and
- (c) supply technical information and advice to shipowners and seafarers and organizations concerned as to the most effective means of complying with the legal provisions and improving seafarers' working and living conditions.

III. STATUS, DUTIES AND POWERS OF INSPECTORS

7. (1) Subject to any conditions for recruitment to the public service which may be prescribed by national laws or regulations, inspectors should have qualifications and adequate training to perform their duties and where possible should have a maritime education or experience as a seafarer. They should have adequate knowledge of seafarers' working and living conditions and of the English language.

(2) The means for ascertaining such qualifications should be determined by the central coordinating authority.

8. Measures should be taken to provide inspectors with appropriate further training during their employment.

9. Each Member should take the necessary measures so that duly qualified technical experts and specialists may be called upon, as needed, to assist in the work of inspectors.

10. Inspectors should not be entrusted with duties which might, because of their number or nature, interfere with effective inspection or prejudice in any way their authority or impartiality in their relations with shipowners, seafarers or other interested parties.

11. All inspectors should be provided with conveniently situated premises, equipment and means of transport adequate for the efficient performance of their duties.

12. (1) Inspectors provided with proper credentials should be empowered:

- (a) to question the master, seafarer or any other person, including the shipowner or the shipowner's representative, on any matter concerning the application of the legal provisions in the presence of a witness that the person may have requested;
- (b) to require the production of any books, log books, registers, certificates or other documents or information directly related to matters subject to inspection, in order to check conformity with the legal provisions;
- (c) to enforce the posting of notices required by the legal provisions; and
- (d) to take or remove, for the purposes of analysis, samples of products, cargo, drinking-water, provisions and materials and substances used or handled.

(2) The shipowner or the shipowner's representative, and where appropriate the seafarer, should be notified of any sample being taken or removed in accordance with subparagraph (1)(d) or should be present at the time a sample is taken or removed. The quantity of such a sample should be properly recorded by the inspector.

13. When commencing a ship inspection, inspectors should provide notification of their presence to the master or person in charge and, where appropriate, to the seafarers or their representatives.

14. The central coordinating authority should be notified of any occupational injuries or diseases affecting seafarers in such cases and in such manner as may be prescribed by national laws or regulations.

15. Inspectors should:

- (a) be prohibited from having any direct or indirect interest in any operation which they are called upon to inspect;
- (b) subject to appropriate penalties or disciplinary measures, not reveal, even after leaving service, any commercial secrets or confidential working processes or information of a personal nature which may come to their knowledge in the course of their duties;
- (c) treat as confidential the source of any complaint alleging a danger or deficiency in relation to seafarers' working and living conditions or an infringement of legal provisions and give no intimation to the shipowner, the shipowner's representative or the operator of the ship that an inspection was made as a consequence of such a complaint; and
- (d) have discretion, following an inspection, to bring immediately to the attention of the shipowner, the operator of the ship or the master deficiencies which may affect the health and safety of those on board ship.

IV. REPORTS

16. The annual report published by the central coordinating authority in accordance with Article 8, paragraph 2, of the Convention should also contain:

- (a) a list of laws and regulations in force relevant to seafarers' working and living conditions and any amendments which have come into operation during the year;
- (b) details of the organization of the system of inspection referred to in Article 2 of the Convention;
- (c) statistics of ships or other premises liable to inspection and of ships and other premises actually inspected;
- (d) statistics of seafarers subject to the laws and regulations referred to in subparagraph (a) of this paragraph;
- (e) statistics and information on infringements of legislation, penalties imposed and cases of detention of ships; and
- (f) statistics of occupational injuries and diseases affecting seafarers.

17. The reports referred to in Article 9 of the Convention should be drawn up in such manner and should deal with such subject matter as may be prescribed by the central coordinating authority.

The foregoing is the authentic text of the Recommendation duly adopted by the General Conference of the International Labour Organization during its Eighty-fourth Session which was held at Geneva and declared closed 22 October 1996.

IN FAITH WHEREOF we have appended our signatures this twenty-second day of October 1996.

The text of the Recommendation as here presented is a true copy of the text authenticated by the signatures of the President of the International Labour Conference and of the Director-General of the International Labour Office.

Le texte de la recommandation présentée ici est une copie exacte du texte authentiqué par les signatures du Président de la Conférence internationale du Travail et du Directeur général du Bureau international du Travail.

Certified true and complete copy,
Copie certifiée conforme et complète,

*For the Director-General of the International Labour Office:
Pour le Directeur général du Bureau international du Travail:*

International Labour Conference Conférence internationale du Travail

RECOMMENDATION 186

RECOMMENDATION CONCERNING THE RECRUITMENT
AND PLACEMENT OF SEAFARERS,
ADOPTED BY THE CONFERENCE AT ITS
EIGHTY-FOURTH SESSION, GENEVA, 22 OCTOBER 1996

RECOMMANDATION 186

RECOMMANDATION CONCERNANT LE RECRUTEMENT
ET LE PLACEMENT DES GENS DE MER,
ADOPTÉE PAR LA CONFÉRENCE À SA
QUATRE-VINGT-QUATRIÈME SESSION, GENÈVE, 22 OCTOBRE 1996

AUTHENTIC TEXT
TEXTE AUTHENTIQUE

Recommendation 186

RECOMMENDATION CONCERNING THE RECRUITMENT AND PLACEMENT OF SEAFARERS

The General Conference of the International Labour Organization,
Having been convened at Geneva by the Governing Body of the International
Labour Office, and having met in its Eighty-fourth Session on 8 October
1996, and

Having decided upon the adoption of certain proposals with regard to the
revision of the Placing of Seamen Convention, 1920, which is the third
item on the agenda of the session, and

Having determined that these proposals shall take the form of a
Recommendation supplementing the Recruitment and Placement of
Seafarers Convention, 1996;

adopts, this twenty-second day of October of the year one thousand nine hundred
and ninety-six, the following Recommendation, which may be cited as the
Recruitment and Placement of Seafarers Recommendation, 1996:

1. The competent authority should:

- (a) take the necessary measures to promote effective cooperation among
recruitment and placement services, whether public or private;
- (b) take account of the needs of the maritime industry at both the national and
international levels, when developing training programmes for seafarers, with
the participation of shipowners, seafarers and the relevant training institutions;
- (c) make suitable arrangements for the cooperation of representative organizations
of shipowners and seafarers in the organization and operation of the public
recruitment and placement services where they exist;
- (d) maintain an arrangement for the collection and analysis of all relevant
information on the maritime labour market, including:
 - (i) the current and prospective supply of seafarers classified by age, sex, rank
and qualifications and the industry's requirements, the collection of data on
age and sex being admissible only for statistical purposes or if used in the
framework of a programme to prevent discrimination based on age and sex;
 - (ii) the availability of employment on national and foreign ships;
 - (iii) continuity of employment;
 - (iv) the placement of apprentices, cadets and other trainees; and
 - (v) vocational guidance to prospective seafarers;
- (e) ensure that the staff responsible for the supervision of recruitment and placement
services be adequately trained and have relevant knowledge of the maritime
industry;
- (f) prescribe or approve operational standards and encourage the adoption of codes
of conduct and ethical practices for these services; and
- (g) promote continued supervision on the basis of a system of quality standards.

2. The operational standards referred to in Paragraph 1(f) should include
provisions dealing with:

- (a) the qualifications and training required of the management and staff of
recruitment and placement services, which should include knowledge of the
maritime sector, particularly of relevant maritime international instruments on
training, certification and labour standards;

- (b) the keeping of a register of seafarers seeking employment at sea; and
- (c) matters pertaining to medical examinations, vaccinations, seafarers' documents and such other items as may be required for the seafarer to gain employment.

3. In particular, the operational standards referred to in Paragraph 1(f) should provide that each recruitment and placement service:

- (a) maintain, with due regard to the right to privacy and the need to protect confidentiality, full and complete records of the seafarers covered by its recruitment and placement system, which should include but not be limited to:
 - (i) the seafarers' qualifications;
 - (ii) record of employment;
 - (iii) personal data relevant to employment;
 - (iv) medical data relevant to employment;
- (b) maintain up-to-date crew lists of the vessels for which it provides crew and ensure that there is a means by which it can be contacted in an emergency at all hours;
- (c) have formal procedures to ensure that seafarers are not subject to exploitation by the agency or its personnel with regard to the offer of engagement on particular ships or by particular companies;
- (d) have formal procedures to prevent the opportunities for exploitation of seafarers arising from the issue of joining advances or any other financial transaction between the employer and the seafarer which are handled by it;
- (e) clearly publicize costs which the seafarer will bear by way of medical or documentary clearance;
- (f) ensure that seafarers are advised of any particular conditions applicable to the job for which they are to be engaged and of particular employers' policies relating to their employment;
- (g) have formal procedures which are in accordance with the principles of natural justice for dealing with cases of incompetence or indiscipline consistent with national laws and practice and, where applicable, with collective agreements;
- (h) have formal procedures to ensure, as far as practicable, that certificates of competency and medical certificates of seafarers submitted for employment are up-to-date and have not been fraudulently obtained and that employment references are verified;
- (i) have formal procedures to ensure that requests for information or advice by families of seafarers while they are at sea are dealt with promptly and sympathetically and at no cost; and
- (j) as a matter of policy, supply seafarers only to employers who offer terms and conditions of employment to seafarers which comply with applicable laws or regulations or collective agreements.

4. International cooperation should be encouraged between Members and relevant organizations and may include:

- (a) the systematic exchange of information on the maritime industry and labour market on a bilateral, regional and multilateral basis;
- (b) the exchange of information on maritime labour legislation;
- (c) the harmonization of policies, working methods and legislation governing recruitment and placement of seafarers;
- (d) the improvement of procedures and conditions for the international recruitment and placement of seafarers; and
- (e) workforce planning, taking account of the supply of and demand for seafarers and the requirements of the maritime industry.

The foregoing is the authentic text of the Recommendation duly adopted by the General Conference of the International Labour Organization during its Eighty-fourth Session which was held at Geneva and declared closed 22 October 1996.

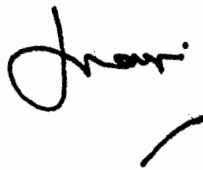
IN FAITH WHEREOF we have appended our signatures this twenty-second day of October 1996.

The text of the Recommendation as here presented is a true copy of the text authenticated by the signatures of the President of the International Labour Conference and of the Director-General of the International Labour Office.

Le texte de la recommandation présentée ici est une copie exacte du texte authentiqué par les signatures du Président de la Conférence internationale du Travail et du Directeur général du Bureau international du Travail.

Certified true and complete copy,
Copie certifiée conforme et complète,

*For the Director-General of the International Labour Office:
Pour le Directeur général du Bureau international du Travail:*

A handwritten signature in black ink, appearing to read 'Francis', with a horizontal line underneath.

FRANCIS MAUPAIN
Legal Adviser
of the International Labour Office
Conseiller juridique
du Bureau International du Travail

International Labour Conference
Conférence internationale du Travail

RECOMMENDATION 187

RECOMMENDATION CONCERNING SEAFARERS' WAGES
AND HOURS OF WORK AND THE MANNING OF SHIPS,
ADOPTED BY THE CONFERENCE AT ITS
EIGHTY-FOURTH SESSION, GENEVA, 22 OCTOBER 1996

RECOMMANDATION 187

RECOMMANDATION CONCERNANT LES SALAIRES ET LA DURÉE DU TRAVAIL
DES GENS DE MER ET LES EFFECTIFS DES NAVIRES,
ADOPTÉE PAR LA CONFÉRENCE À SA
QUATRE-VINGT-QUATRIÈME SESSION, GENÈVE, 22 OCTOBRE 1996

AUTHENTIC TEXT
TEXTE AUTHENTIQUE

Recommendation 187

RECOMMENDATION CONCERNING SEAFARERS' WAGES AND HOURS OF WORK AND THE MANNING OF SHIPS

The General Conference of the International Labour Organization,
Having been convened at Geneva by the Governing Body of the International
Labour Office, and having met in its Eighty-fourth Session on 8 October
1996, and

Noting the provisions of the Protection of Wages Convention, 1949; the
Minimum Wage-Fixing Convention, 1970, the Seafarers' Annual Leave
with Pay Convention, 1976, the Merchant Shipping (Minimum
Standards) Convention, 1976, the Repatriation of Seafarers Convention
(Revised), 1987, the Protection of Workers' Claims (Employer's
Insolvency) Convention, 1992, and the International Convention on
Maritime Liens and Mortgages, 1993, and

Having decided upon the adoption of certain proposals with regard to the
revision of the Wages, Hours of Work and Manning (Sea) Convention
(Revised), 1958 and the Wages, Hours of Work and Manning (Sea)
Recommendation, 1958, which is the second item on the agenda of the
session, and

Having determined that these proposals shall take the form of a
Recommendation supplementing the Seafarers' Hours of Work and the
Manning of Ships Convention, 1996;

adopts this twenty-second day of October of the year one thousand nine hundred and
ninety-six, the following Recommendation, which may be cited as the Seafarers'
Wages, Hours of Work and the Manning of Ships Recommendation, 1996:

I. SCOPE AND DEFINITIONS

1. (1) This Recommendation applies to every seagoing ship, whether publicly
or privately owned, which is registered in the territory of the Member and is
ordinarily engaged in commercial maritime operations.

(2) To the extent it deems practicable, after consulting the representative
organizations of fishing-vessel owners and fishermen, the competent authority
should apply the provisions of this Recommendation to commercial maritime
fishing.

(3) In the event of doubt as to whether or not any ships are to be regarded
as seagoing ships or engaged in commercial maritime operations or commercial
maritime fishing for the purposes of this Recommendation, the question should be
determined by the competent authority after consulting the organizations of
shipowners, seafarers and fishermen concerned.

(4) This Recommendation does not apply to wooden vessels of traditional
build such as dhows and junks.

2. For the purpose of this Recommendation:

(a) the term "basic pay or wages" means the pay, however composed, for normal
hours of work; it does not include payments for overtime worked, bonuses,
allowances, paid leave or any other additional remuneration;

(b) the term "competent authority" means the minister, government department
or other authority having power to issue regulations, orders or other
instructions having the force of law in respect of seafarers' wages, hours of
work or rest or the manning of ships;

- (c) the term "consolidated wage" means a wage or salary which includes the basic wage and other pay-related benefits; a consolidated wage may include compensation for all overtime hours which are worked and all other pay-related benefits, or it may include only certain benefits in a partial consolidation;
- (d) the term "hours of work" means time during which a seafarer is required to do work on account of the ship;
- (e) the term "overtime" means time worked in excess of the normal hours of work;
- (f) the term "seafarer" means any person defined as such by national laws or regulations or collective agreements who is employed or engaged in any capacity on board a seagoing ship to which this Recommendation applies; and
- (g) the term "shipowner" means the owner of the ship or any other organization or person, such as the manager or bareboat charterer, who has assumed the responsibility for the operation of the ship from the shipowner and who on assuming such responsibility has agreed to take over all the attendant duties and responsibilities.

II. SEAFARERS' WAGES

3. For seafarers whose remuneration includes separate compensation for overtime worked:

- (a) for the purpose of calculating wages, the normal hours of work at sea and in port should not exceed eight hours per day;
- (b) for the purpose of calculating overtime, the number of normal hours per week covered by the basic pay or wages should be prescribed by national laws or regulations, if not determined by collective agreements, but should not exceed 48 hours per week; collective agreements may provide for a different but not less favourable treatment;
- (c) the rate or rates of compensation for overtime, which should be not less than one and one-quarter times the basic pay or wages per hour, should be prescribed by national laws or regulations or by collective agreements; and
- (d) records of all overtime worked should be maintained by the master, or a person assigned by the master, and endorsed by the seafarer at regular intervals.

4. For seafarers whose wages are fully or partially consolidated:

- (a) the collective agreement, articles of agreement, contract of employment and letter of engagement should specify clearly the amount of remuneration payable to the seafarer and where appropriate the number of hours of work expected of the seafarer in return for this remuneration, and any additional allowances which might be due in addition to the consolidated wage, and in which circumstances;
- (b) where hourly overtime is payable for hours worked in excess of those covered by the consolidated wage, the hourly rate should be not less than one and one-quarter times the basic rate corresponding to the normal hours of work as defined in Paragraph 3; the same principle should be applied to the overtime hours included in the consolidated wage;
- (c) remuneration for that portion of the fully or partially consolidated wage representing the normal hours of work as defined in Paragraph 3(a) should be no less than the applicable minimum wage; and

- (d) for seafarers whose wages are partially consolidated, records of all overtime worked should be maintained and endorsed as provided in Paragraph 3(d).

5. National laws or regulations or collective agreements may provide for compensation for overtime or for work performed on the weekly day of rest and on public holidays by at least equivalent time off duty and off the ship or additional leave in lieu of remuneration or any other compensation so provided.

6. National laws and regulations adopted after consulting the representative organizations of seafarers and shipowners or, as appropriate, collective agreements should take into account the following principles:

- (a) equal remuneration for work of equal value should apply to all seafarers employed upon the same ship without discrimination based upon race, colour, sex, religion, political opinion, national extraction or social origin;
- (b) the articles of agreement or other agreement specifying the applicable wages or wage rates should be carried on board the ship; information on the amount of wages or wage rates should be made available to each seafarer, either by providing at least one signed copy of the relevant information to the seafarer in a language which the seafarer understands, or by posting a copy of the agreement in a place accessible to the crew or by some other appropriate means;
- (c) wages should be paid in legal tender; where appropriate, they may be paid by bank transfer, bank cheque, postal cheque or money order;
- (d) wages should be paid monthly or at some other regular interval, and on termination of engagement all remuneration due should be paid without undue delay;
- (e) adequate penalties or other appropriate remedies should be imposed by the competent authorities where shipowners unduly delay, or fail to make, payment of all remuneration due;
- (f) wages should be paid directly to the seafarer or to the seafarer's designated bank account unless he or she requests otherwise in writing;
- (g) subject to subparagraph (h), the shipowner should impose no limit on the seafarer's freedom to dispose of his or her remuneration;
- (h) deduction from remuneration should be permitted only if:
 - (i) there is an express provision therefor in national laws or regulations or in an applicable collective agreement;
 - (ii) the seafarer has been informed, in the manner deemed most appropriate by the competent authority, of the conditions for such deductions; and
 - (iii) they do not in total exceed the limit that may have been established by national laws or regulations or collective agreements or court decisions for making such deductions;
- (i) no deductions should be made from a seafarer's remuneration in respect of obtaining or retaining employment;
- (j) the competent authority should have the power to inspect stores and services provided on board ship to ensure that fair and reasonable prices are applied for the benefit of the seafarers concerned; and

- (k) to the extent that seafarers' claims for wages and other sums due in respect of their employment are not secured in accordance with the provisions of the International Convention on Maritime Liens and Mortgages, 1993, such claims should be protected in accordance with the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992, of the International Labour Organization.

7. The Member should, after consulting with shipowners' and seafarers' organizations, have procedures to investigate complaints relating to any matter contained in this Recommendation.

III. MINIMUM WAGES

8. (1) Without prejudice to the principle of free collective bargaining, the Member should, after consulting representative organizations of shipowners and seafarers, establish procedures for determining minimum wages for seafarers. Representative organizations of shipowners and seafarers should participate in the operation of such procedures.

(2) When establishing such procedures and in fixing minimum wages, due regard should be given to international labour standards concerning minimum wage fixing, as well as the following principles:

(a) the level of minimum wages should take into account the nature of maritime employment, manning levels of ships, and seafarers' normal hours of work; and

(b) the level of minimum wages should be adjusted to take into account changes in the cost of living and in the needs of seafarers.

(3) The competent authority should ensure:

(a) by means of a system of supervision and sanctions, that wages are paid at not less than the rate or rates fixed; and

(b) that any seafarer who has been paid at a rate lower than the minimum wage is enabled to recover, by an inexpensive and expeditious judicial or other procedure, the amount by which he or she has been underpaid.

IV. MINIMUM MONTHLY BASIC PAY OR WAGE FIGURE FOR ABLE SEAMEN

9. For the purpose of this Part, the term "able seaman" means any seafarer who is deemed to be competent to perform any duty which may be required of a rating serving in the deck department, other than the duties of a leading or specialist rating, or any seafarer who is defined as an able seaman in accordance with national laws, regulations or practice, or collective agreement.

10. The basic pay or wages for a calendar month of service for an able seaman should be no less than the amount periodically set by the Joint Maritime Commission or another body authorized by the Governing Body of the International Labour Office. Upon a decision of the Governing Body, the Director-General of the ILO shall notify any revised amount to the Members of the International Labour Organization. As of 1 January 1995, the amount set by the Joint Maritime Commission was 385 United States dollars.

11. Nothing in this Part should be deemed to prejudice arrangements agreed between shipowners or their organizations and seafarers' organizations with regard to the regulation of standard minimum terms and conditions of employment, provided such terms and conditions are recognized by the competent authority.

V. EFFECT ON EARLIER RECOMMENDATION

12. This Recommendation supersedes the Wages, Hours of Work and Manning (Sea) Recommendation, 1958.

The foregoing is the authentic text of the Recommendation duly adopted by the General Conference of the International Labour Organization during its Eighty-fourth Session which was held at Geneva and declared closed 22 October 1996.

IN FAITH WHEREOF we have appended our signatures this twenty-second day of October 1996.

The text of the Recommendation as here presented is a true copy of the text authenticated by the signatures of the President of the International Labour Conference and of the Director-General of the International Labour Office.

Le texte de la recommandation présentée ici est une copie exacte du texte authentiqué par les signatures du Président de la Conférence internationale du Travail et du Directeur général du Bureau international du Travail.

Certified true and complete copy,
Copie certifiée conforme et complète,

*For the Director-General of the International Labour Office:
Pour le Directeur général du Bureau international du Travail:*

International Labour Conference Conférence internationale du Travail

PROTOCOL

PROTOCOL OF 1996 TO THE MERCHANT SHIPPING
(MINIMUM STANDARDS) CONVENTION, 1976,
ADOPTED BY THE CONFERENCE AT ITS
EIGHTY-FOURTH SESSION, GENEVA, 22 OCTOBER 1996

PROTOCOLE

PROTOCOLE DE 1996 RELATIF À LA CONVENTION SUR LA
MARINE MARCHANDE (NORMES MINIMA), 1976,
ADOPTÉ PAR LA CONFÉRENCE À SA
QUATRE-VINGT-QUATRIÈME SESSION, GENÈVE, 22 OCTOBRE 1996

AUTHENTIC TEXT
TEXTE AUTHENTIQUE

**Protocol of 1996 to the Merchant
Shipping (Minimum Standards) Convention, 1976**

The General Conference of the International Labour Organization,
Having been convened at Geneva by the Governing Body of the International
Labour Office and having met in its Eighty-fourth Session on 8 October
1996, and

Noting the provisions of Article 2 of the Merchant Shipping (Minimum
Standards) Convention, 1976 (referred to below as “the principal
Convention”), which states in part that:

“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”; and

Noting also the provisions of Article 4, paragraph 1, of the principal Convention, which states that:

“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”; and

Recalling the Discrimination (Employment and Occupation) Convention, 1958, Article 1, paragraph 1, of which states that:

“For the purpose of this Convention the term ‘discrimination’ includes —

- (a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
- (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers’ and workers’ organisations, where such exist, and with other appropriate bodies”; and

Recalling the entry into force of the United Nations Convention on the Law of the Sea, 1982, on 16 November 1994, and

Recalling the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995, of the International Maritime Organization,

Having decided on the adoption of certain proposals with regard to the partial revision of the principal Convention, which is the fourth item on the agenda of the session, and

Having determined that these proposals should take the form of a Protocol to the principal Convention;

adopts, this twenty-second day of October one thousand nine hundred and ninety-six, the following Protocol, which may be cited as the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976:

Article 1

1. Each Member which ratifies this Protocol shall extend the list of Conventions appearing in the Appendix to the principal Convention to include the Conventions in Part A of the Supplementary Appendix and such Conventions listed in Part B of that Appendix as it accepts, if any, in accordance with Article 3 below.

2. Extension to the Convention listed in Part A of the Supplementary Appendix that is not yet in force shall take effect only when that Convention comes into force.

Article 2

A Member may ratify this Protocol at the same time as or at any time after it ratifies the principal Convention, by communicating its formal ratification of the Protocol to the Director-General of the International Labour Office for registration.

Article 3

1. Each Member which ratifies this Protocol shall, where applicable, in a declaration accompanying the instrument of ratification, specify which Convention or Conventions listed in Part B of the Supplementary Appendix it accepts.

2. A Member which has not accepted all of the Conventions listed in Part B of the Supplementary Appendix may, by subsequent declaration communicated to the Director-General of the International Labour Office, specify which other Convention or Conventions it accepts.

Article 4

1. For the purposes of Article 1, paragraph 1, and Article 3 of this Protocol, the competent authority shall hold prior consultations with the representative organizations of shipowners and seafarers.

2. The competent authority shall, as soon as practicable, make available to the representative organizations of shipowners and seafarers information as to ratifications, declarations and denunciations notified by the Director-General of the International Labour Office in conformity with Article 8, paragraph 1, below.

Article 5

For the purpose of this Protocol, the Repatriation of Seafarers Convention (Revised), 1987, shall, in the case of a Member which accepts that Convention, be regarded as a replacement of the Repatriation of Seamen Convention, 1926.

Article 6

1. This Protocol shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.
2. This Protocol shall come into force 12 months after the date on which the ratifications of five Members, three of which each have at least one million gross tonnage of shipping, have been registered.
3. Thereafter, this Protocol shall come into force for any Member 12 months after the date on which its ratification has been registered.

Article 7

A Member which has ratified this Protocol may denounce it whenever the principal Convention is open to denunciation in accordance with its Article 7, by an act communicated to the Director-General of the International Labour Office for registration. Denunciation of this Protocol shall not take effect until one year after the date on which it is registered.

Article 8

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and acts of denunciation communicated by the Members of the Organization.
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 Organization to the date upon which the Protocol shall 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 the Director-General 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 Protocol 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

For the purposes of revising this Protocol and closing it to ratification, the provisions of Article 11 of the principal Convention shall apply *mutatis mutandis*.

Article 12

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

The foregoing is the authentic text of the Protocol duly adopted by the General Conference of the International Labour Organization during its Eighty-fourth Session which was held at Geneva and declared closed 22 October 1996.

IN FAITH WHEREOF we have appended our signatures this twenty-second day of October 1996.

Supplementary Appendix

Part A

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)
and
Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180)

Part B

Seafarers' Identity Documents Convention, 1958 (No. 108)
Workers' Representatives Convention, 1971 (No. 135)
Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)
Repatriation of Seafarers Convention (Revised), 1987 (No. 166)