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INTERNATIONAL LABOUR ORGANIZATION  
Sectoral Activities Programme

**Meeting of Experts on Working and  
Living Conditions of Seafarers on board  
Ships in International Registers**

**Report I**

Geneva, 2002



INTERNATIONAL LABOUR OFFICE GENEVA

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Sectoral Activities Programme

Report I

**Report on an ILO investigation into  
the living and working conditions  
of seafarers**

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## **Acknowledgements**

This report is based upon an analysis of the replies to an ILO questionnaire on the living and working conditions of seafarers, prepared by Dr. Heather Leggate and Professor James McConville of the Centre for International Transport Management at the London Guildhall University. However, the ILO is solely responsible for this report in its present final form.

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# 1. Introduction

## 1.1. The ILO and seafarers

The seafarer is the archetypal international worker, employed on board vessels that are registered under differing flags and owned and operated by enterprises in many different countries. The international structure of the industry is also reflected in the numerous nationalities of the seafarers themselves. The Baltic and International Maritime Council/International Shipping Federation (BIMCO/ISF) manpower update estimates the total number of seafarers worldwide at 1,227,000, comprising 404,000 officers and 823,000 ratings,<sup>1</sup> with a comparatively small number of countries providing most of these. Such a diverse industry is necessarily dependent on international regulation to establish, and ensure adherence to, acceptable standards and conditions of employment. The ILO brings together governments and employers' and workers' organizations in order to achieve this end and has, since its creation in 1919, adopted more than 50 Conventions and Recommendations relating to such aspects of the welfare of seafarers as:

- conditions for admission to employment, for example, minimum age;
- compulsory medical examination prior to employment;
- repatriation of seafarers at the end of employment contract;
- entitlement to social security benefits;
- particular minimum standards for food, catering and accommodation;
- standards for vocational training and welfare facilities;
- measures to prevent occupational accidents on board, and investigation procedures for such accidents.

Member States have an obligation to regularly provide information on measures taken to implement the Conventions. Under the established system of supervision such reports, together with comprehensive analyses of national legislation and the provision of collective agreements, are examined each year by the ILO's Committee of Experts on the Application of Conventions and Recommendations. The comments of this Committee are communicated to the concerned member States and published as appropriate.

Notwithstanding these Conventions and procedures, substantial variations in living and working conditions continue to exist between vessels operating under different flags. This report sets out to document contemporary practice regarding the regulations and other institutional factors which protect seafarers in their working lives, bearing in mind the importance of seafarers to the shipping industry and their key role with regard to its prosperity and the development of international seaborne trade.

<sup>1</sup> BIMCO/ISF manpower update: *The world demand for and supply of seafarers*, Institute for Employment Research (University of Warwick, 2000).

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## 1.2. Methodology

Both in qualitative and quantitative terms there is a paucity of information on seafarers and seafaring. What does exist is often anecdotal or simply mythology in an industry steeped in mythology. In 2001, the ILO sought to extend the information base by a survey based on a questionnaire distributed to government departments, and to shipowners' and seafarers' organizations in countries throughout the world, which is included in Appendix 1. Responses were obtained from 73 organizations in 60 member States. A complete list of these respondents is shown in Appendix 2.

The survey questionnaire concentrated on three main areas: firstly, general questions concerned with inspection of living and working conditions, restrictions on the use of foreign seafarers, legislation, and collective agreements for nationals and non-nationals; secondly, employment conditions within flag States with questions focused on recruitment issues, minimum age, wages, health and social security; and thirdly, questions for labour-supplying countries, with an emphasis on the ability and extent to which domestic legislation may protect seafarers working on vessels flying foreign flags.

The replies from governments were invariably the most comprehensive, and thus form the basis of the most extensive analysis of general questions and those relating to the flag States. Where more than one reply was received from a country, the government response was used in the analysis. However, there were some differences of perception reflected in the replies of governments, shipowners and seafarers and these are recorded in Appendix 3 and are also indicated in the relevant parts of this report. In the cases of the Republic of Korea and the Russian Federation, the only replies were from workers' organizations.

The high level of response illustrates the perception among ILO member States of the importance of the issues contained in the survey. However, there was no response from a small number of countries, and not only those with limited resource commitments to the maritime industry. There was also some unevenness in response, and certain questions were misinterpreted. In both cases, certain judgements had to be made. Moreover, in some cases two responding agencies or organizations gave diametrically opposing responses. With such a substantial survey, however, it was impossible to establish the validity of the responses or engage in further investigation of discrepancies and misinterpretations. Hence the analysis is based on the responses given, supplemented by information from country case studies where appropriate.<sup>2</sup>

<sup>2</sup> The authors have completed investigations of seafarers in Denmark, India, Panama and the Philippines, all of which form ILO case studies.

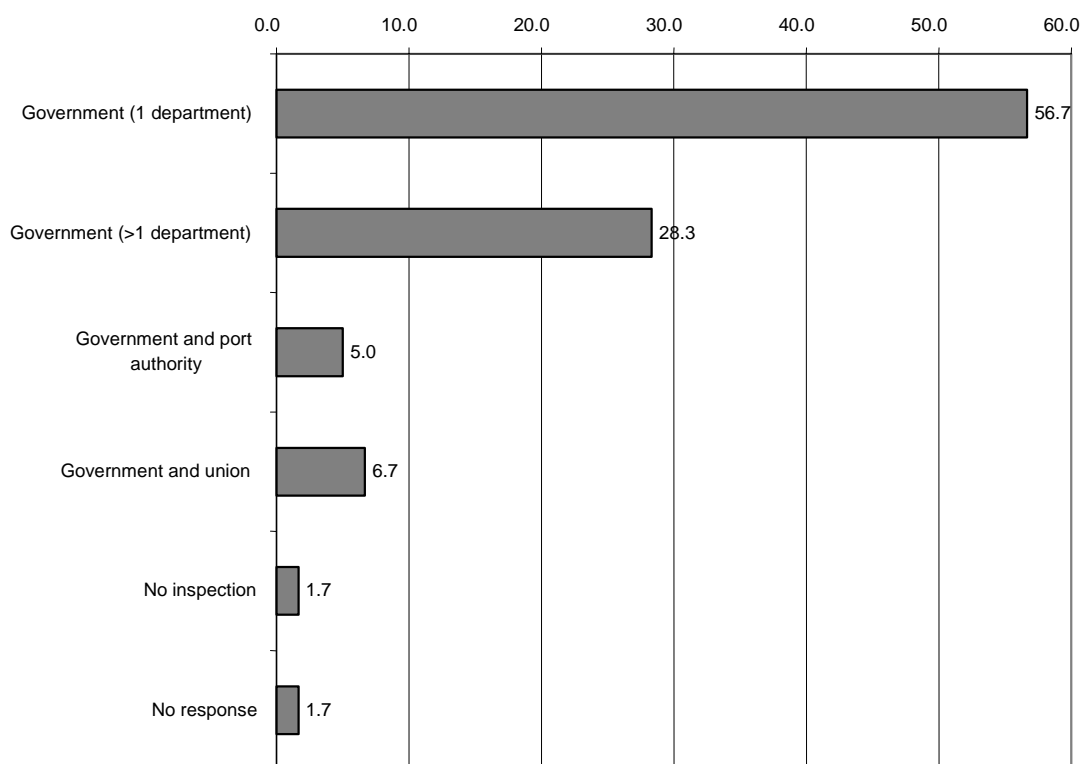
## 2. General questions

### 2.1. Inspection of living and working conditions

The relevant ILO Conventions imply that regulations should be in place to ensure appropriate living and employment conditions which are equally binding on seafarers and shipowners. There should also be adequate procedures for the investigation of complaints. The inspection of such living and working conditions is an important part of this process and the responses indicated the importance of government participation in inspection work, which occurs in 97 per cent of countries replying.

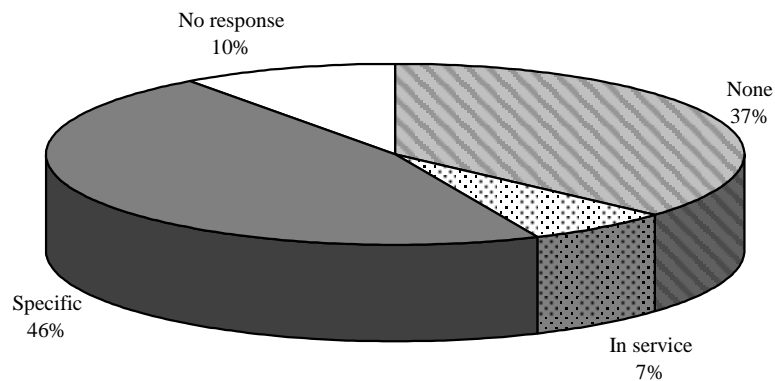
Figure 2.1 shows that in some 28 per cent of countries more than one department takes responsibility, usually the ministries of transport and labour. However, there was possibly some confusion between inspections related to safety issues and those of living and working conditions. Workers' organizations participate only in four cases – including Nicaragua, Pakistan, Papua New Guinea and Romania. Bahrain was the only country to admit to no inspection at all.

Figure 2.1. Responsibility of inspection (percentage of countries replying)



An indicator of the importance given to inspection was the level of training given to inspectors. Specific courses form part of the training in 46 per cent of countries, but no special training was provided in 37 per cent of the total. (There was a discrepancy between the Government and union of Croatia in this regard, the latter claiming that no specific training was provided.) In some countries, previous experience in the industry was the only attribute required of inspectors, who were often ex-masters or senior officers (figure 2.2).

Figure 2.2. Training of inspectors (percentage of countries replying)



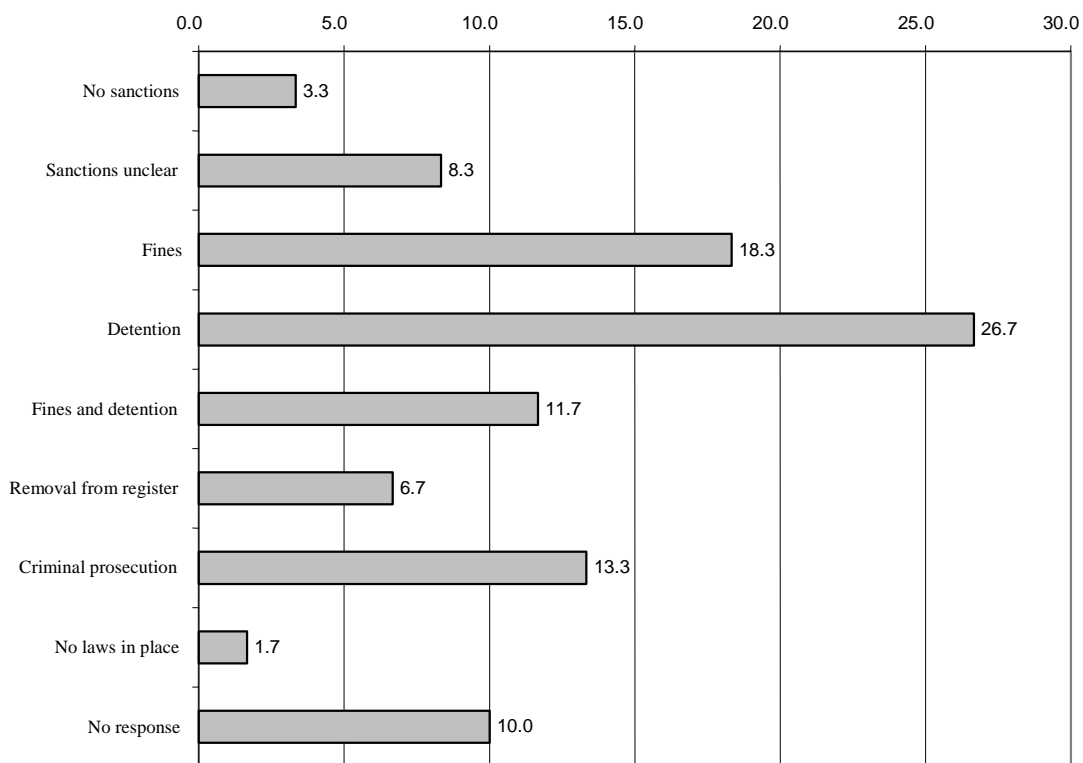
A significant part of the inspection system is the existence of a procedure by which seafarers can complain about conditions. Such procedures were mentioned by most countries and in 63 per cent would lead to an inspection. Furthermore, measures for accident investigation are a legal requirement in 73 per cent of countries. However, the Danish trade unions were of the opinion that accidents were not thoroughly investigated by the authorities. In the Philippines and Romania, although an investigation may take place, it does not constitute a legal requirement.

Sanctions on shipowners for non-compliance with standards for living and working conditions varied considerably as shown in figure 2.3. Fines and detention or some combination of the two are the most common practice. A criminal prosecution may often be brought but penalties are unclear. In the case of Venezuela, no laws are as yet in place to address non-compliance. No sanctions regarding unsatisfactory working conditions are evident in the responses from Iceland and Malaysia. The replies from the Pakistan and Romanian seafarers' unions differed from those of the government, claiming that sanctions are not imposed. In Bahrain, it was claimed that no violations had occurred although laws are in place to deal with them. It is possible that this question may have caused some confusion with some countries explaining sanctions applicable to safety issues but not necessarily relevant to poor living and working conditions.

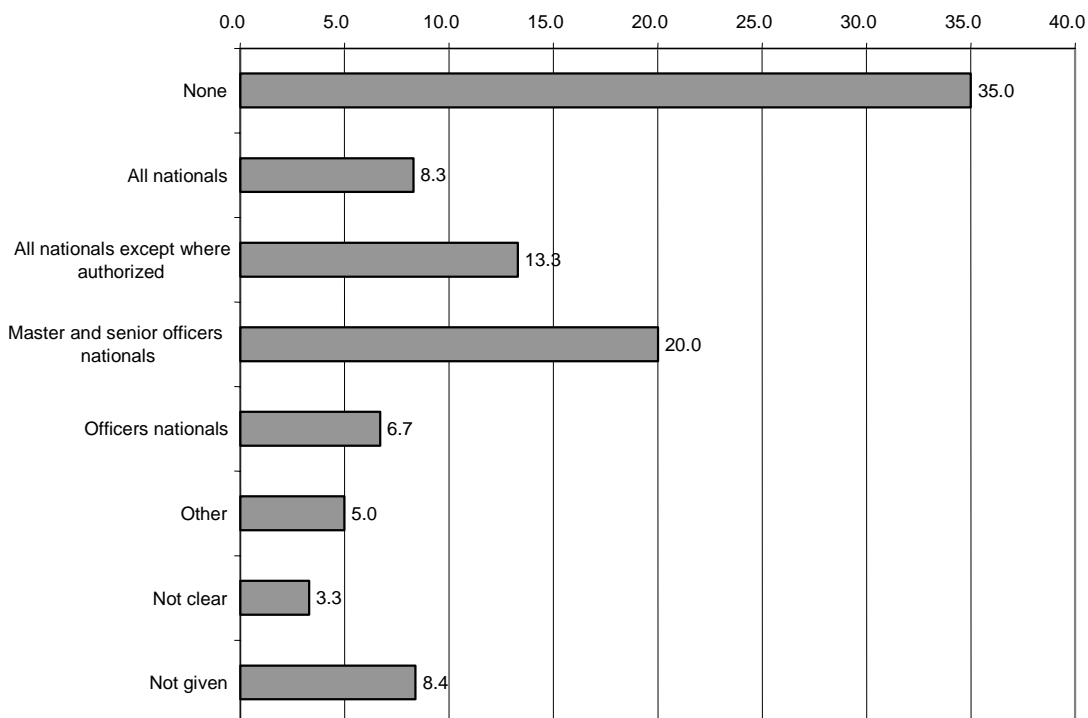
## 2.2. Foreign seafarers, legislation and collective agreements

The international nature of the industry and labour force means that regulation is required for the protection of non-nationals working on ships flying foreign flags. Most States operate some kind of restrictive policy, particularly regarding the master and senior officer positions. Figure 2.4 shows that 8.3 per cent, or five flag States, require an all-national crew: India, Italy, Mexico, Pakistan and the United States (where the crew must be United States residents). Authorization for non-nationals is possible in eight other countries: Bulgaria, Chile, Papua New Guinea, Peru, Philippines, Portugal and Yemen. There was a requirement in 16 countries for the officers or senior officers to be nationals. In summary it must be stressed that only 35 per cent of countries have no legal restriction on foreign seafarers, although in some of these countries non-nationals are rarely found among crews.

**Figure 2.3. Sanctions on shipowners for non-compliance with standards relating to working and living conditions (percentage of countries replying)**

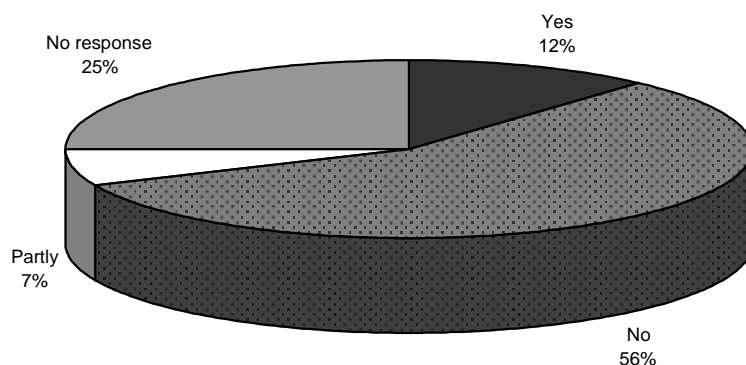


**Figure 2.4. Restrictions on the nationality of seafarers (percentage of all countries responding)**



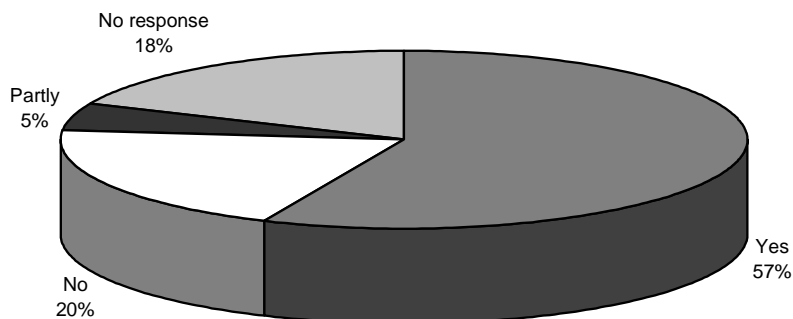
National legislation covers seafarers in 33 (55 per cent) countries. Seafarers are not covered by the normal legislation in eight cases (Greece, India, Japan, Malaysia, Marshall Islands, Mauritius, Norway and Vanuatu). Specific seafarer legislation exists in 25 (42 per cent) countries. In labour-supplying countries only limited legislation is in place to protect seafarers working on foreign-flagged vessels. Figure 2.5 shows that national legislation provides for these groups in only seven (12 per cent) cases: Bulgaria, Colombia, France, India, Italy, Mexico and Pakistan. This result may be somewhat misleading since the number of labour-supplying countries is limited. Specific issues related to labour supply are investigated further in Chapter 4 of this study.

**Figure 2.5. Does national legislation cover seafarers on ships flying foreign flags?**  
(Percentage of countries replying)



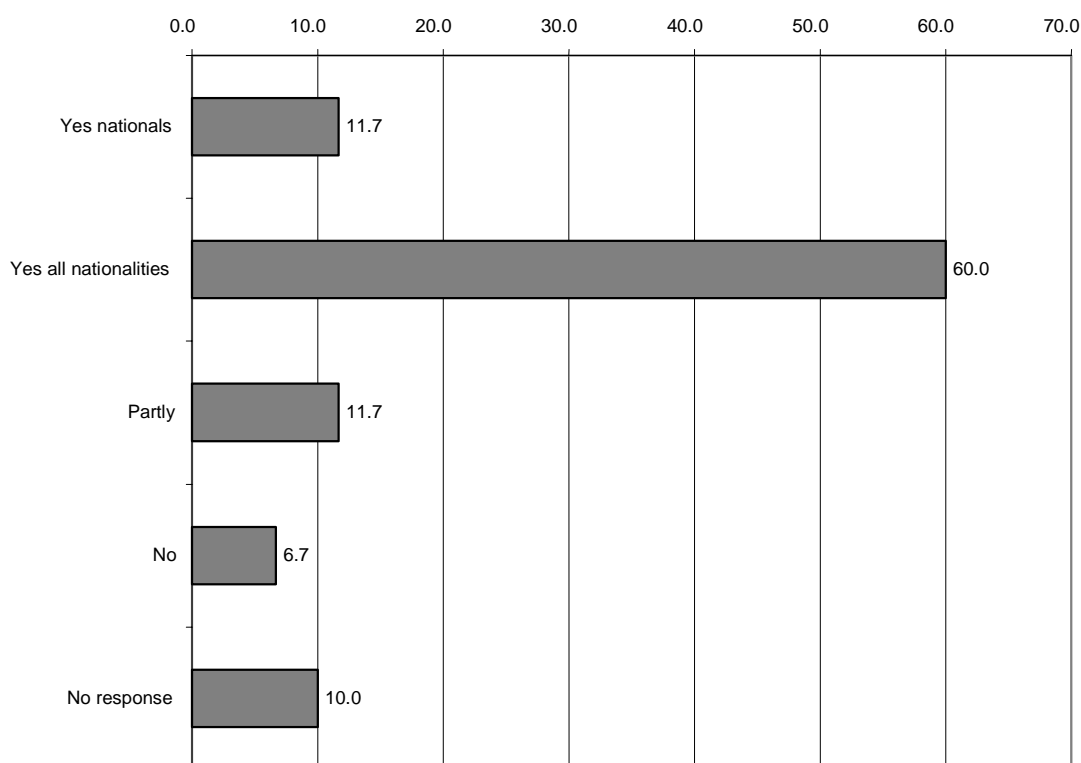
For flag States the question is whether legislation covers non-nationals aboard ships flying their flag. As figure 2.6 shows, in 57 per cent of cases such legislation does exist but 20 per cent of respondents answered negatively. In the cases of Australia and Lithuania, although the governments claimed otherwise, the workers' organizations maintained that legislation did not cover non-nationals working on their registered vessels. This question of legislation by the flag State is pursued further in Chapter 3 below.

**Figure 2.6. Does legislation cover non-national seafarers on register?**  
(Percentage of all countries replying)



Collective agreements are an important feature in the determination of terms and conditions of employment. Trade unions negotiate such agreements with shipowners' associations or companies for the benefit of all their members. In most countries these agreements apply to all nationalities (60 per cent) as shown in figure 2.7, but in seven cases (Chile, Denmark, Finland, France, Greece, Netherlands and Poland) they only apply to nationals. In some of these countries a separate agreement operates for non-nationals – notably in Denmark and Japan (according to the reply from the Japanese workers' organization). No collective agreements are in force in Ecuador, Lebanon, Malaysia and the United Arab Emirates. The submission of the Romanian workers' organization claims that seafarers are often not covered by collective agreements since the high levels of unemployment permit private companies to impose their own requirements without negotiation.

Figure 2.7. Are seafarers covered by collective agreements? (Percentage of countries replying)



Individual contracts may be established in the absence of collective agreement (40 per cent of cases) or in combination with them (22 per cent). No individual contracts exist in 11 States but these may be covered by collective agreement.

To summarize the conclusions arising from this chapter, the inspection of living and working conditions appears to be taken seriously in many countries with government accepting responsibility and providing specific training for inspectors. Non-compliance with requirements for living and working conditions leads to various sanctions on shipowners, with fines and detention being the usual penalty. Discrimination against non-nationals is an important issue with most countries exhibiting some form of bias. The most obvious and prevalent of these is restrictions on the employment of foreign seafarers with as many as 65 per cent of countries operating some kind of discriminatory policy. Further inequality stems from the fact that non-nationals are not covered by legislation on certain flags. However, in 60 per cent of countries collective agreements cover all crew whatever the nationality.

### 3. Flag States

This chapter concerns the factors and variables surrounding the law and regulations which flag States impose on their seafaring community. Such regulations do of course have a serious influence on living and working conditions at sea. The chapter concerns recruitment issues, conditions of employment, repatriation, and health and welfare.

#### 3.1. Recruitment issues

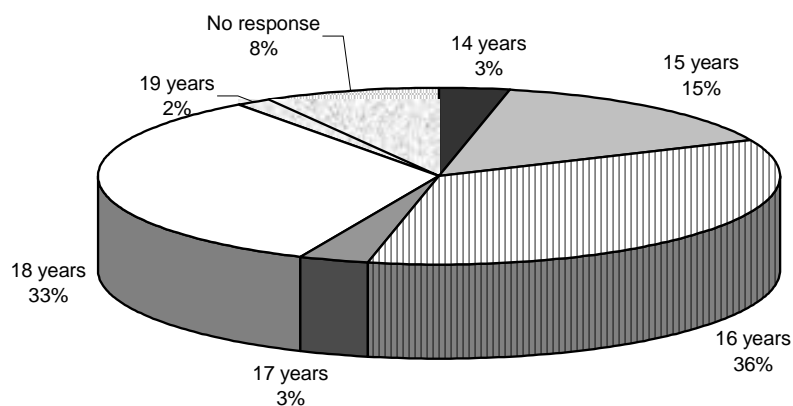
The ILO survey examined four main issues in relation to recruitment, which are related to the international Conventions:

- minimum age of going to sea;
- whether non-nationals can be members of trade unions;
- whether recruitment is regulated by law;
- whether a medical examination is required prior to employment.

The Minimum Age Convention, 1973 (No. 138), states that children under the age of 15 shall not be employed.

An analysis of the minimum age requirement for the recruitment of seafarers reveals a wide range of ages from 14 to 19 years. The majority, that is 35 per cent, cited 16 years as the statutory age of entry, closely followed by 33 per cent which set it at 18 years as indicated by figure 3.1 below.

Figure 3.1. Minimum age of seafarers (percentage of all countries replying)

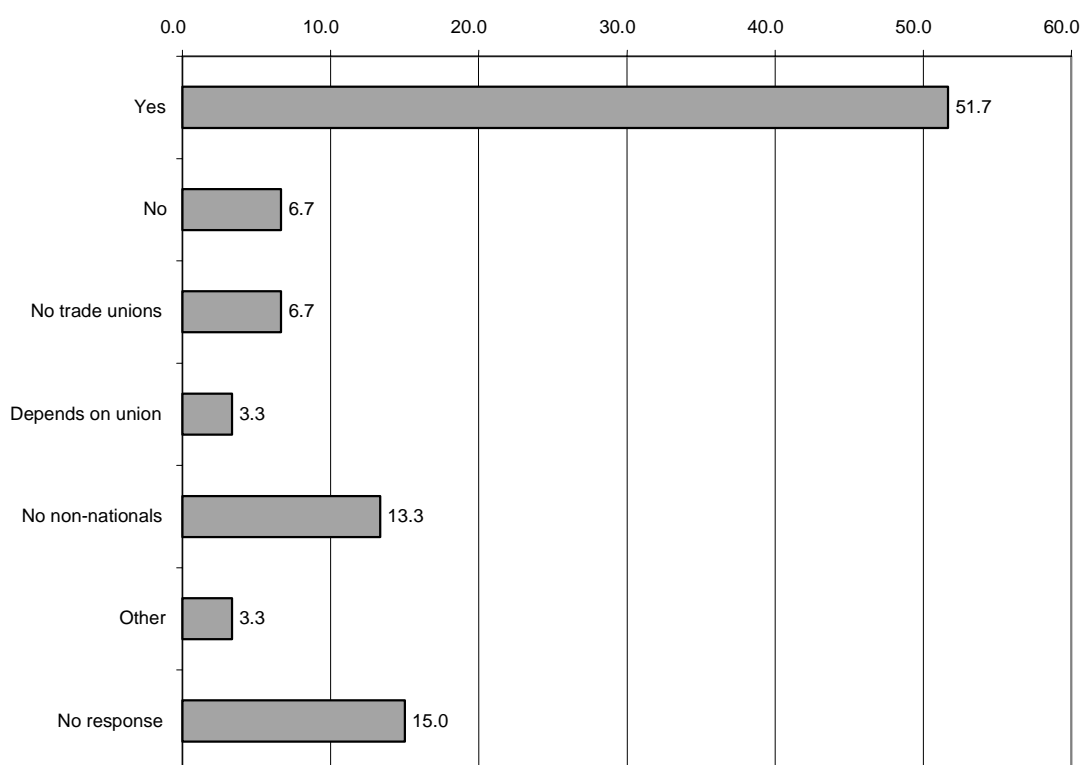


At one extreme, the employment of 14-year-olds is permitted in two countries, Malaysia and Pakistan. A further nine countries (15 per cent) cited 15 years of age. Thus, some 20 per cent of countries permit the recruitment of seafarers under the age of 16. The other extreme was the minimum of 19 years required by Bulgaria. There were some detailed requirements in relation to individual countries concerning officers and ratings; men and women; deep-sea and coastal shipping. In Georgia, ratings may be recruited at 16

and officers at 18 years of age. Finland differentiates on the grounds of gender; men may be employed at 16, while women are required to be 17 years of age. In Norway, there was a distinction between those who worked deep sea, who must be 17, as opposed to coastal shipping where they need to be 16 years of age. There were several trade union organizations (in Australia, Brazil and Sweden) which disagreed with governments on the question of minimum age.

Turning to an examination of the attitudes of trade unions towards recruitment of non-nationals to their membership, only around half (52 per cent) of respondents stated that there were no restrictions whatsoever on such recruitment, as shown in figure 3.2.

**Figure 3.2. Can non-nationals be members of a trade union?**  
(Percentage of all countries replying)



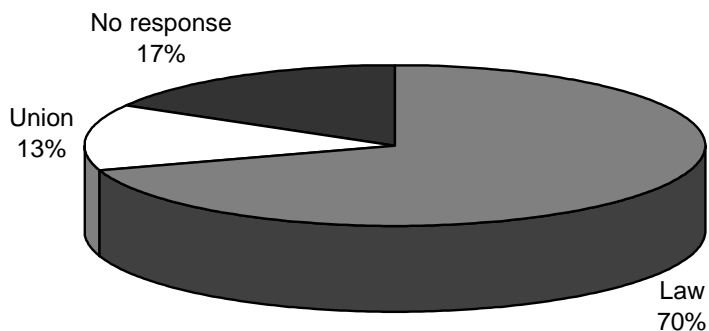
A small minority of countries (7 per cent) – Canada, France, Lebanon and Papua New Guinea – stated explicitly that non-nationals are prevented from joining national trade unions. Another 13 per cent did not have such requirements because non-nationals are not employed in their fleet. In 7 per cent of countries there was no recruitment because no trade unions existed – namely Malaysia, Oman, United Arab Emirates and Vanuatu. In the United States, recruitment is limited to seafarers in possession of residential or work permits and in Venezuela there is no regulation in force at present. A special case is Denmark, where a non-national is allowed to join a trade union but cannot be represented by it in collective bargaining agreements.<sup>1</sup>

<sup>1</sup> See the case study on Denmark commissioned by the ILO.

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It is interesting to note the role of trade unions in the settlement of disputes. The available data, shown in figure 3.3 below, suggest that it is the legal system which resolves disputes in 70 per cent of countries, with 13 per cent being resolved by trade unions.

Figure 3.3. How are disputes settled? (Percentage of countries replying)



The legal framework is of importance in the recruitment of seafarers. The survey indicated that 67 per cent of States have a regulatory structure. The remaining 33 per cent do not necessarily lack procedure or regulation, but they have no obvious legal basis. In those cases it is the trade union or the shipowners' association or a combination of both institutions which controls such recruitment. Further recruitment issues including the ILO Conventions are discussed in Chapter 4.

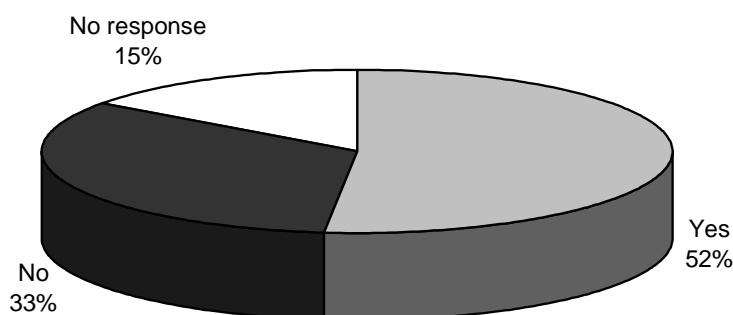
In general recruitment is combined with a medical examination, and this is mentioned in the Medical Examination (Seafarers) Convention, 1946 (No. 73). This Convention states that no person shall be engaged in a vessel to which it applies unless in possession of a certificate of fitness for work signed by a medical practitioner. Such a certificate is valid for a maximum of two years. The vast majority of seafarers (90 per cent) require a medical examination prior to seagoing employment. Only 10 per cent of respondents require no such examination (in Honduras, Kuwait, Lebanon, Oman, Singapore and Ukraine).

### 3.2. Conditions of employment

The second part of the questions addressed to flag States concerns conditions of employment. This area covers a wide range of topics, some of which are not addressed in this report despite their importance because of the absence of comparable data. This remark applies in particular to issues such as maximum hours of work, minimum hours of rest and annual leave.

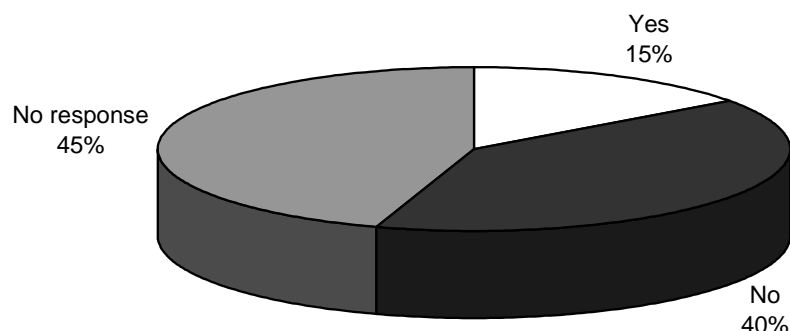
As regards the statutory minimum wage, it appears that in only 52 per cent of countries does a minimum wage exist. There was a definite negative response in 33 per cent of cases (see figure 3.4).

Figure 3.4. Statutory minimum wage (percentage of countries replying)



The survey contained questions on the general levels of wages at the various ranks and over nationalities but the replies do not constitute a base of comparable data. A general question on wage discrimination did produce a 55 per cent response and revealed the existence of wage differences between nationals and non-nationals working in vessels flying the same flag (see figure 3.5).

Figure 3.5. Difference in wages between nationals and non-nationals (percentage of countries replying)



Some 40 per cent of the total stated that no wage discrimination existed. Where discrimination was practised, in 15 per cent of cases, it took various forms. In Yemen considerably higher rates were paid to non-nationals. Similarly in Peru, non-national seafarers from European Union countries and North America secured wages 50 per cent higher than nationals. This practice was reversed in other cases where non-nationals received lower wages, for example in Japan, Malaysia and Papua New Guinea. In Denmark, Italy and Norway, non-nationals or non-European Union seafarers were paid less than European Union-domiciled seafarers. This is clearly a field requiring more extensive research.

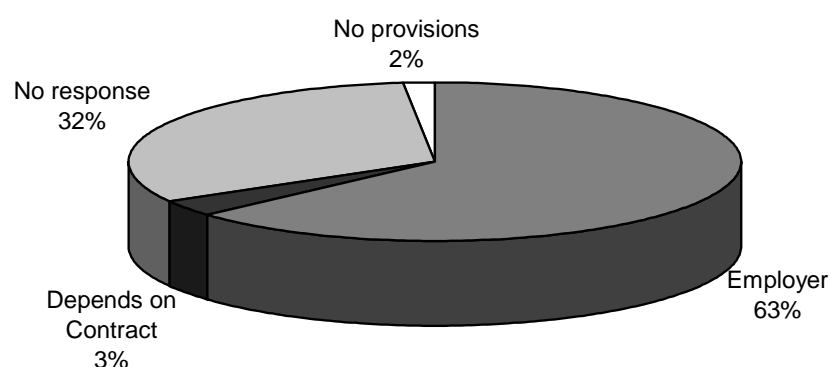
### 3.3. Repatriation

The security of repatriation of seafarers to their home country in both foreseen and unforeseen circumstances is of obvious importance to their general welfare. The most recent ILO Convention on the repatriation of seafarers is the Repatriation of Seafarers Convention (Revised), 1987 (No. 166). This Convention provides that the shipowner is

responsible for repatriation and assigns further responsibilities to various authorities to assist with repatriation in case of failure of the shipowner to do so. A seafarer is entitled to be taken back to his own country or to the port at which he was engaged or to the port at which the voyage commenced and that there should be legal provisions to determine who shall bear the cost of this repatriation.

Figure 3.6 shows that the responsibility for seafarer repatriation at the end of the voyage or the termination of articles of agreement rests mainly with the employer (63 per cent). However, there was a substantial number of non-respondents (32 per cent). Otherwise, Papua New Guinea and the Philippines pointed out that repatriation is dependent on the contract of employment signed by the seafarer. In the case of Malaysia, there is no specific provision regarding repatriation.

Figure 3.6. Repatriation responsibility (percentage of countries replying)



### 3.4. Health and welfare

The final part of the questionnaire for flag States covers the existence of laws relating to food, accommodation, accidents, and welfare and social security. Food issues are addressed in the Food and Catering (Ships' Crews) Convention, 1946 (No. 68), which requires member States to have laws and regulations concerning food supply and catering arrangements designed to secure the health and well-being of all crews. Moreover, the catering department should have the equipment and facilities necessary for the provision of proper meals to the crew. Laws must provide for the inspection of such facilities. The Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), sets detailed minimum standards for floor space, berth dimensions, and recreational areas. In addition it highlights the need for proper planning and control. It goes on to state that the prevention of occupational accidents should be the subject of regulations, including general provisions covering all workers, which are also applicable to seafarers, together with specific measures applying to seafarers where appropriate.

According to the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134), regulations or laws should concern structural features, machinery, special safety measures, loading and unloading, fire prevention, anchor chains, dangerous cargo and ballast, and personal protective equipment for seafarers. The Seafarers' Welfare Convention, 1987 (No. 163), states that each member State should undertake to ensure that adequate welfare facilities and services are provided in port and on board ship. Facilities and services in appropriate ports should be available for all seafarers, irrespective of nationality, race

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colour, sex, religion, political opinion, or social origin and irrespective of the country in which the ship on which they are employed is registered.

The response to these questions was good as illustrated in table 3.1. Over 63 per cent of countries had laws in place to cover food and accommodation. The response concerning accidents and welfare was marginally less positive. The countries which consistently have no laws relating to these issues are Bahrain, Belgium, Brazil, Lebanon, Pakistan and Venezuela.

**Table 3.1. Laws relating to health and welfare**

	Percentage of positive respondents
Food	63.3
Accommodation	63.3
Accident prevention	55.0
Welfare	48.3

Several questions related to social security. The Social Security (Seafarers) Convention (Revised), 1987 (No. 165), states that seafarers should enjoy benefits which are no less favourable than other workers. This very detailed Convention sets standards for medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity, and survivors' benefits.

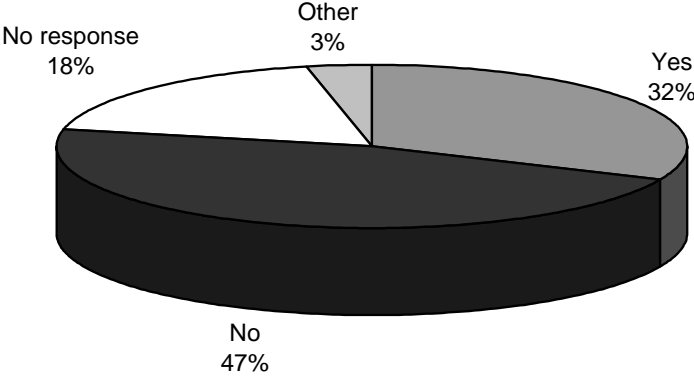
The first question was whether seafarers were covered by the national social security system, which was true in 73 per cent of cases. The countries where seafarers are outside the system are Greece, India, Japan, Liberia, Malaysia, Marshall Islands, Nicaragua, Pakistan and Venezuela. There are eight countries in which there is a separate system of benefits for seafarers – Chile, France, Greece, India, Japan, Portugal, Singapore and Sweden. It is not clear whether these are state or private systems.

There is clearly some discrimination between nationals and non-nationals as regards social security benefits. The 32 per cent shown in figure 3.7 below relates to cases where non-nationals or, in the case of members of the European Union, non-European Union seafarers are not covered, or are required to be resident in the country to benefit from the system. There are other examples where non-national seafarers are covered by their national social security system. For example in Denmark the collective bargaining agreements with the Filipino union stipulate that shipowners should contribute to the Filipino social security system.<sup>2</sup>

What emerges from the above analysis of recruitment and conditions of employment are issues both of convergence and of divergence. Most countries have laws and regulations in place for the settlement of disputes, recruitment, medical examinations, and food and accommodation on board. Repatriation is consistently the responsibility of the employer. The national social security system covers seafarers in most cases. As regards issues on which there is divergence, the first relates to the minimum age, which varies between 14 and 19 years of age with 20 per cent of countries setting the limit at under 16 years of age. Also, wage differentials between nationals and non-nationals are significant. Further discrimination between these groups is manifested in varying social security coverage. Important policy issues are implied in respect of these three issues.

<sup>2</sup> *ibid.*

Figure 3.7. Is there a difference between nationals and non-nationals in terms of social security?  
(Percentage of countries replying)



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## 4. Labour-supplying countries

In recent decades, there have been significant changes in the composition of the workforce on board ship. At its simplest there has been a continuing decline in the number of seafarers coming from developed countries, due to an appreciable reduction in recruitment and retention. Thus, the average age of this group has progressively increased. The declining number of seafarers from developed countries, coupled with a desire to reduce labour unit costs, has created an increasing demand for seafarers from developing countries. Thus, a new concept has been created, that of the seafarer labour-supplying country. Initially, the majority of these seafarers from these countries were ratings, but there is now a growing supply of officers working on deck and in the engine room.<sup>1</sup>

A part of the ILO questionnaire concerned these countries, which see themselves as suppliers of labour to the world fleet. It begins with questions regarding the number of seafarers involved. These were followed by questions on methods of recruitment and in particular on the role of manning agencies. Employment protection and trade union participation in negotiations were then addressed, together with the issue of the way in which conditions of employment are determined. It should be stressed that, among the 14 labour-supplying countries which completed the survey, the Philippines is without doubt the most important. Thus, the analysis of the replies also draws on other information from the case study on the Philippines.<sup>2</sup>

A recent report by the International Commission on Shipping<sup>3</sup> listed the ten top labour-supplying countries as shown in table 4.1 below (based on BIMCO/ISF data).

Table 4.1. Top ten labour-supplying countries (2000)

Country	Officers	Ratings	Total in 2000	Total in 1995
China	34 197	47 820	82 017	76 482
Greece	17 000	15 500	32 500	40 000
India	11 700	43 000	54 700	53 000
Indonesia	15 500	68 000	83 500	83 500
Italy	9 500	14 000	23 500	32 300
Japan	18 813	12 200	31 013	42 537
Philippines	50 000	180 000	230 000	244 782
Russian Federation	21 680	34 000	55 680	47 688
Turkey	14 303	48 144	62 447	80 000
Ukraine	14 000	23 000	37 000	38 000
<b>Total</b>	<b>206 693</b>	<b>485 664</b>	<b>692 357</b>	<b>738 109</b>

Source: BIMCO/ISF manpower update, 2000, and Couper et. al, 1999.

<sup>1</sup> See ILO: *The impact of seafarers' living and working conditions of changes in the structure of the shipping industry*, JMC/29/2001/3 (Geneva, 2001).

<sup>2</sup> See the case study on the Philippines commissioned by the ILO.

<sup>3</sup> International Commission on Shipping: *Ships slaves and competition* (2000).

The top ten labour-supplying countries provided 56 per cent of all seafarers in 2000 (the total supply being 1,227,000). Of this 56 per cent, some 87 per cent came from the Far East, the Indian subcontinent and Eastern Europe. As can be seen, there is a slight contraction in the total numbers and some minor redistribution between 1995 and 2000. Within the total, Filipino seafarers represent some 19 per cent, by far the largest source of supply. The total for China has marginally increased while all the developed countries listed show some reduction.

Published information from other sources indicate that the total figure for Filipino seafarers is a serious underestimate. Data compiled by the Philippines Overseas Employment Administration (POEA) suggest that the number of Filipino seafarers has in fact increased by almost 20 per cent over the last five years. The number of registered seafarers in 1999 was 472,225, which is the total of new recruits since registration began in 1988. Since the number of new entrants since 1996 has totalled nearly 170,000, it is likely that the total number of active seafarers in 2000 was substantially higher than the 230,000 indicated in table 4.1. Despite this predominant position, the Filipino authorities are increasingly aware of the threat of international competition from other labour-supplying countries, in particular China and Eastern Europe.

The general recruitment situation was given close attention in Chapter 3 from the point of view of regulation. In this chapter methods of recruitment are examined, where the common factor is the role of manning agencies. The extent of their activities is shown in table 4.2.

**Table 4.2. How are seafarers recruited?**

Manning agents	9	Bulgaria, Croatia, Georgia, Lithuania, Pakistan, Philippines, Poland, Romania, Russian Federation
Direct by company	2	Poland, Venezuela

As can be seen, within the total of 14 labour-supplying countries the majority use manning agencies in the recruitment of non-national seafarers. What must be emphasized is the differing level of influence of such agencies over the seafarers they supply and their employment opportunities. Before looking in detail at the example of the Philippines, it is important to consider the Recruitment and Placement of Seafarers Convention, 1996 (No. 179). This Convention makes it clear that private recruitment services should be regulated. Further, an undue proliferation of such private services should not be encouraged. Laws or regulations should be established to ensure that no fees or other charges for recruitment are borne directly or indirectly in whole or in part by seafarers. Recruitment agencies should be closely supervised and prohibited from using means, mechanisms or lists intended to prevent or deter seafarers from gaining employment.

In the case study on the Philippines, it has been estimated that there are about 300 manning agencies in operation of which approximately 200 are members of the main associations. Despite the ratification of Convention No. 179 by the Philippines, manning agencies in that country are subject to much criticism and there are allegations about illegal practices and breaches of the ILO Convention, including the extraction of fees from seafarers.

Other disturbing practices are “watchlisting” and “blacklisting”. Manning agencies complain to the POEA about certain seafarers, who are then put on a watchlist and invited to respond to the complaint. The process of arbitration may take several years to decide and in the meantime the seafarer cannot work at sea. Furthermore, the manning agencies are careful to circulate the Watchlist to prevent employment of these seafarers. If following the arbitration, the seafarer is found guilty, he is blacklisted for two years. If found

innocent, no compensation is paid. This discriminatory process often leads seafarers to accept poor conditions of employment for fear of being put on a watchlist. Exclusion could take place for offences such as contacting union officials to complain about unfair treatment. In the Philippines some seafarers claimed that the local unions were not meeting their needs, and particular concern was voiced at the unions' refusal to represent the interests of blacklisted seafarers after six months' unemployment, because they had been unable to continue to pay their union dues.<sup>4</sup>

In this case it appears that the authorities provide little protection for the seafarers named by the manning agencies and thus there is increasing reliance on international organizations such as the ILO and the International Transport Workers' Federation (ITF) to monitor compliance with Conventions and other agreements.

The ILO questionnaire included questions on the nature and extent of representation in negotiations and collective bargaining.

As can be seen in table 4.3, most respondents indicated that their trade unions negotiate on behalf of their nationals working on foreign-flagged vessels. In three of these countries unions had negotiated the ITF total crew cost concept (TCC) agreement. There appears to be a heavy reliance upon such ITF agreements, but it is interesting to note that the number of ships covered by this scheme fell from 1,138 in 1999 to 1,029 in 2000. There is serious concern at the tendency of nationals of certain maritime countries to serve in vessels of other countries without properly negotiated collective agreements to ensure them the protection they would normally enjoy on vessels of their own country.

**Table 4.3. Do national trade unions negotiate on behalf of nationals on foreign-flagged vessels? (Number of countries)**

Yes	9	Bulgaria, Croatia, Georgia, India, Lithuania, Pakistan, Philippines, Poland, Russian Federation
ITF agreements	3	Georgia, India, Poland
Not given	5	Colombia, Mauritius, Mexico, Venezuela

Some indication of the practical importance of these collective bargaining agreements is highlighted in table 4.4.

**Table 4.4. Details of the agreements**

Croatia	Agreements in six countries covering 1,600 seafarers
India	Agreements with FOSMA, MASSA, manning agencies covering 23,000 ratings and 6,700 officers
Pakistan	Agreements with eight organizations covering 10,000 workers
Russian Federation	ITF agreements covering 250 vessels

As shown in the table, only a limited number of labour-supplying countries responded in detail but these limited data indicate that these agreements benefit a substantial number of seafarers. Moreover, additional information from the case study on the Philippines<sup>5</sup> revealed that the Associated Marine Officers' and Seamen's Union of the Philippines

<sup>4</sup> *ibid.*

<sup>5</sup> The Philippines case study.

(AMOSUP) have negotiated collective bargaining agreements with owners of foreign-flagged vessels, notably those on the Danish International Register (DIS).

The final question posed related to the existence of laws covering seafarers on foreign-flagged vessels. The answer by all who responded was that such legislation does not exist. Each register seeks to ensure compliance with its own national legislation but, due to sovereignty privileges, it is not legally possible for other nations to intervene. In other words, it is impossible to legally protect national seafarers in a foreign jurisdiction. Because of this constraint, collective bargaining agreements and contracts of employment are essential in the employment relationship of seafarers. Typically, the vast majority are covered by collective bargaining agreements or contracts of employment as illustrated in table 4.5.

**Table 4.5. How are conditions of employment determined?**

Collective bargaining agreements	6	Croatia, India, Mauritius, Mexico, Pakistan, Philippines
Contracts of employment	6	Bulgaria, Colombia, Georgia, Mauritius, Pakistan, Philippines

From information gained in the case study, it was clear that the standard contract plays a vital role in determining employment conditions for the Filipino worker. Under the labour laws in the Philippines, their overseas seafarers are generally considered to be contractual employees and are not deemed to have the same rights as regular employees in terms of security of tenure, minimum social security benefits and other rights as prescribed in the same labour laws. Thus, the contract between the employer and the employee is very important in determining the terms and conditions of employment. The POEA issues and prescribes a standard employment contract (SEC) which contains the minimum terms and conditions of employment, but this does not prevent employer and employee from agreeing to improved terms and conditions.

Collective agreements between the unions and employers or their organizations also play an important part in determining terms and conditions. Given this fact, it was surprising to discover that Filipino seafarers are the least organized of any Filipino workers, with only 17 per cent belonging to a labour union or association. However, the typical Filipino seafarer may be a member of several of unions, depending on which flag he or she is sailing under, in order to benefit from collective agreements negotiated in each flag State.

The focus of this chapter has been to consider the protection afforded by their own country's institutions to non-national seafarers. The main conclusion that emerges is that there is a strong reliance on collective bargaining agreements and contracts of employment since national legislation cannot protect non-national workers on foreign-registered vessels. Fortunately, there appears to be frequent negotiation between trade unions and foreign owners, which results in better protection of seafarers. The recruitment process, however, is a cause for some concern because of the practices of some manning agencies.

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## 5. Conclusion

The main objective of this report has been to investigate the factors and variables that influence the living and working conditions of seafarers and to document contemporary practice, as reflected in the replies to the ILO's questionnaire.

This report deals with an international industry – one, it can be argued, that broadly responds to the same market and economic signals. It would therefore seem reasonable to expect some degree of uniformity in the structure of the industry. However, this expectation of uniformity between national systems and structures proved ill-founded: in fact the opposite was the case. Indeed, the remarkable feature of this investigation is that there appear to be few common features in the industry. However, this is not to assert that there are no areas of convergence. The extent of diversity and the desirability of convergence must be central elements in any discussion of the future of the industry.

As regards government involvement with the industry, there are a number of areas of convergence. The inspection process is taken seriously with government departments being actively involved in the process and specific training being given to inspectors. Other areas appear to be well regulated by the legal system, such as recruitment, medical examinations, health and social security, food and accommodation. However, empirical evidence from the survey indicates the presence of discrimination against non-national seafarers. Although such discrimination has been reduced by institutional regulation, there appears to be a distinct limit to what has been achieved: a minority of governments, shipowners and trade unions are not always as active as they might be in removing or modifying unfair practices. There is confirmation of this in restrictions on the numbers of foreign seafarers, wage differentials, trade union membership, and the general treatment of non-nationals. Whereas flag States tend to make some provision for this group, there is a problem for labour-supplying countries as regards the legal protection of their seafarers working on foreign-flagged vessels. Many of the labour-supplying countries are developing countries, which have limited material and administrative resources. Their governments, despite these disadvantages or perhaps because of them, are seeking to maintain or increase their country's share of the total number of seafarers, against a background of heightened competition, both in the labour market itself and in the proliferation of open registers. This complex situation implies the need for adequate collective bargaining agreements, combined with fewer restrictions on the non-national membership of trade unions.

The overriding conclusion is of wide diversity in seafarers' living and working conditions in an industry undergoing substantial economic and social change. Such change is reflected strongly in the labour market for seafarers in which the objectives of the labour-supplying developing countries play an increasingly important role. Against this dynamic background, this report confirms the need for regulation at the national and international levels to be reshaped and better enforced in order to safeguard the industry and the seafarers employed in it.

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# Appendix 1

## Questionnaire <sup>1</sup>

### I. General framework

#### 1. Forms of registers

- (a) Please indicate the different forms of registers that exist in your country and when they were established. Please provide copies of laws, regulations, etc., that govern the establishment of the register/register(s).

	Indicate the type of registers that exist	The year of establishment
National/first		
Second/international		
Other		

- (b) Please give a short explanation on the background for the creation of these registers.

#### 2. Maritime administration and inspection unit

- (a) Please explain which unit or units in your government have administrative and practical responsibility for the working and living conditions on board vessels in your register/register(s).
- (b) Please explain how the inspection of the working and living conditions of national-flagged ships is organized (including the use of classification societies); how many inspectors are employed and how often the inspection of the working and living conditions is conducted. Please include any relevant statistics and documents.
- (c) Please state whether or not the inspectors are required to have/are offered special training in inspecting working and living conditions.
- (d) Please indicate whether or not laws or regulations or collective agreements permit workers/workers' representatives or organizations to file a complaint concerning working and living conditions and whether or not such a complaint could result in an inspection by the relevant authority.
- (e) Please indicate how accidents, including those resulting in invalidity of the seafarer, are investigated in your country.
- (f) Please state what sanctions might be imposed on the shipowner if laws/regulations on safety, working and living conditions are violated.

#### 3. Restriction in laws and regulations on the employment of foreign seafarers

Please explain whether a law/regulation restricts non-national/non-domiciled seafarers from working on board ships in your register/register(s). Please provide a copy of the legislation.

<sup>1</sup> Both flag States and labour-supplying States should respond to section I of this questionnaire. Section II is primarily addressed to flag States and section III to labour-supplying States. Where possible labour-supplying States should seek to respond to section II.

4. Number and nationalities of seafarers

Please indicate the numbers and nationalities of the seafarers employed under your register/registers. Please indicate the figures for each register.

Nationalities	Number of seafarers on national/first register	Number of seafarers on second/international register	Number of seafarers on other register

5. Labour legislation

*(In replying to this question, please note the questions in Parts II and III below are related to specific areas. The question below is therefore of a more general nature.)*

- (a) Does the general national labour legislation, where it exists, cover all workers, including seafarers (please tick off)? Please provide a copy of the legislation.

Yes	
Partly	
No	
Do not exist	

If necessary, please, give further explanation below.

- (b) If not, does specific labour legislation apply to seafarers on board your register/registers (please tick off)? Please provide a copy of the legislation.

	First/national register	Second/international register	Other register
Yes			
Partly			
No			
Do not exist			

If necessary, please give further explanation below.

- (c) *In your role as a labour-supplying country:*

Does the national labour legislation or the specific labour legislation for seafarers cover the employment of national seafarers on board foreign-flagged ships (please tick off)? Please provide a copy of the legislation.

Yes	
Partly	
No	

If necessary, please give further explanation below.

(d) *In your role as a flag State:*

Does the national labour legislation or the specific labour legislation cover the employment of non-national/non-domiciled seafarers on board ships registered in your register/registers (please tick off)? Please provide a copy of the legislation.

	First/national register	Second/international register	Other register
Yes			
Partly			
No			

If necessary please give further explanation below.

## 6. Collective agreements and individual contracts

(a) Are seafarers on board ships in your register/registers covered by collective agreements (please tick off)?

	First/national register	Second/international register	Other register
Yes			
Partly			
No			

If “yes”, is this decided by law or only by practice? Please explain.

(b) To what extent are seafarers on board the different registers and are of different nationalities or domicile covered by separate collective agreements (please tick off)?

	First/national register	Second/international register	Other register
Yes			
Partly			
No			

If so, please explain.

(c) If seafarers are not covered by collective agreements are they covered by individual contracts (please tick off)?

	First/national register	Second/international register	Other register
Yes			
In combination with collective agreements			
No			

Is a standard contract or an individual contract normally used?

Please provide samples of such contracts.

## 7. Treatment of different groups of seafarers

Please indicate whether, in your opinion, there exists a difference in treatment based on sex, religion, nationality or residence of seafarers in areas such as recruitment, hours of work or rest, food and catering, crew accommodation, paid annual leave, etc. Please provide copies of any relevant documents.

## II. Questions related to specific areas – For flag States only

### A. Basic workers' rights

#### 1. Minimum age

- (a) Please state the minimum age for seafarers in the register/registers. Please also refer to and provide copies of the law/regulation or collective agreements where the minimum age is stated.

	Minimum age in first/national register	Minimum age in second/international register	Minimum age in other register	Indicate law, register, or collective agreement referred to
Law/regulation				
Collective agreement				
Not covered				

- (b) If necessary, please give further explanation below.

#### 2. Right to organize and to bargain collectively

**Important:** In all of the questions below, please refer to and provide copies of the relevant laws, regulations, collective agreements, etc.

- (a) In general, please state whether laws or regulations provide seafarers and shipowners with the right to organize and the right to bargain collectively.
- (b) Do non-national/non-domiciled seafarers working on board ships in your register/registers have a role in the development of legislation concerning working and living conditions and other safety aspects on board ships?
- (c) Does law or practice prevent non-national/non-domiciled seafarers from becoming members of unions and from being included in the collective bargaining by your national union/unions?
- (d) Do trade unions (of the flag State) on behalf of a group of non-national/non-domiciled seafarers negotiate and conclude collective agreements in your register/registers?
- (e) Do trade unions from a labour-supplying country negotiate and conclude collective agreements for seafarers working on board ships registered in your register/registers? Please indicate whether there is a difference in practice between the different registers.
- (i) To what extent are the trade unions in your country involved in these negotiations? Please explain or provide details.
- (f) Please state how disputes concerning collective agreements or individual contracts are regulated in your country and indicate whether or not this covers non-national/non-domiciled seafarers or organizations representing them.

- (g) Please indicate with which employers' organizations and trade unions and in which countries have such collective agreements been agreed and how many seafarers they approximately cover.

Name of the trade union and country	Name of employers' organization	Number of seafarers covered

## B. Entry into employment

**Important:** In all the questions below, please refer to and provide copies of the relevant laws, regulations, collective agreements, etc.

### 1. Recruitment of seafarers

- (a) Is the system of recruitment of seafarers regulated in law/regulations or by other means?
- (b) Please give a short description of the manner and methods of recruitment of:
- (i) national seafarers on ships registered in your register/registers;
  - (ii) non-national/non-domiciled seafarers in your register/registers.
- (c) Please indicate to what extent ship management companies and manning agencies are used in the recruitment process. Please indicate whether the use of such companies influences the employment conditions for seafarers in areas such as wages, continuity of employment with the same ship/company, length of a tour of duty, the right to organize, etc.

### 2. Medical certificate

- (a) Before taking up employment is it required that seafarers (nationals and non-nationals/domiciled) have a valid medical certificate? Please provide copies of laws, regulations, collective agreements, etc., and indicate which paragraph/section is referred to.
- (b) Please indicate who pays for the certificates.

## C. General conditions for employment

**Important:** In all the questions below, please refer to and provide copies of the relevant laws, regulations, collective agreements, statistics, etc.

### 1. Wages

- (a) Do laws or regulations secure seafarers (national as well as non-national/non-domiciled seafarers) with the right to a minimum basic wage and payment for overtime or are they provided for by other means?
- (b) If possible, please indicate the monthly minimum and average wage (excluding payment for overtime, holiday with pay and all allowances) for national and non-national/non-domiciled seafarers as indicated below.

	Wages for national seafarers	Wages for non-national/ domiciled seafarers
	Minimum/average	Minimum/average
Master	/	/
1. Deck officer	/	/
Chief engineer	/	/
1. Engine officer	/	/
Chief steward/cook	/	/
Able seafarers	/	/

- (c) If figures as requested above are not available, please try to indicate the level of wages and payment for overtime for national and non-national/domiciled seafarers or seafarers employed on board your register/registers.
- (d) Please explain the difference in the level of wages and payment for overtime, if any, between national and non-national/domiciled seafarers.

2. *Hours of work and/or hours of rest*

**Important:** *In all the questions below, please refer to and provide copies of the relevant laws, regulations, collective agreements, individual contracts, etc.*

- (a) Are maximum hours of work or minimum hours of rest regulated in laws or regulations, collective agreements or in individual contracts or by a combination of these means?
- (b) Please state the maximum hours of work or the minimum hours of rest, and refer to the law/regulation, collective agreement or other means where the hours of work or rest is provided.

	Max. hours of work or the min. hours of rest in first/national register	Max. hours of work or the min. hours of rest in second/international register	Max. hours of work or the min. hours of rest in other register	Indicate the law, regulation, or collective agreement referred to
Law/regulation				
Collective agreement				
Others				
Not covered				

- (c) Please explain the background for the difference in maximum hours of work or minimum hours of rest, if such exist, between:
- (i) the different registers; or
- (ii) national and non-national/non-domiciled seafarers.

3. *Employment contract; length of a contract/duty; continuity of employment; and annual leave*

**Important:** *In all the questions below please refer to and provide copies of the relevant laws, regulations, collective agreements, etc.*

- (a) Do laws, regulations, collective agreements or practice:

- (i) prescribe that an employment contract/articles of agreement should be signed before taking up employment in your register/register? If so, please indicate what such an employment contract contains;
- (ii) provide for a continuous and regular employment with the same shipowner or ship? Has a register or a list of qualified seafarers available for employment been established? Please give a short description of the arrangements;
- (iii) prescribe the normal length of a tour of duty/contract? If so what is the normal length of a tour of duty/contract in your register/register?

	The normal length of a contract in first/national register	The normal length of a contract in second/international register	The normal length of a contract in other register	Please indicate the law, register, or collective agreement referred to
Law/regulations				
Collective agreement				
Others				
Not covered				

If necessary, please give a further explanation below.

- (iv) provide for annual leave? If so, please specify the length of the annual leave provided for in your register/register.

	The length of annual leave in first/national register	The length of annual leave in second/international register	The length of annual leave in other register	Please indicate the law, register, or collective agreement referred to
Law/regulations				
Collective agreement				
Others				
Not covered				

- (a) Please explain whether the annual leave is paid in full, partial, casual or not at all, or whether he/she is entitled to free transport to the place he/she was engaged or recruited?
- (b) Please explain whether there is a difference in law or practice between national seafarers and non-national/non-domiciled seafarers or seafarers employed on board ships in your different registers in the following areas:
  - (i) employment contract;
  - (ii) the termination either by the employee or the employer of such a contract;
  - (iii) length of tour of duty/contract;
  - (iv) continuity of employment;
  - (v) annual leave.

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#### 4. Repatriation<sup>2</sup>

**Important:** *In all the questions below, please refer to and provide copies of the relevant laws, regulations, collective agreements, etc.*

- (a) Do laws, regulations or collective agreements provide for repatriation of seafarers? If so, please give a short description of the procedures and the one responsible for repatriation of a seafarer in your register/registers.
- (b) Please explain whether there is a difference in law or practice concerning repatriation of national seafarers and non-national/non-domiciled seafarers or seafarers employed on board ships registered in your different registers.

#### D. Safety, health and welfare: Food and catering, accommodation of crews, safety and health conditions, welfare facilities

- (a) Please provide copies of laws, regulations or collective agreements that provide for the facilities as described below and indicate the correct paragraphs/sections dealing with these issues. Please indicate any difference in treatment in these areas between the different registers and/or between national and non-national/domiciled seafarers.
  - (i) Food and water supplies and catering arrangements.
  - (ii) Construction, location, etc., of the crew accommodation.
  - (iii) The appointment of a suitable person or a committee (among the crew) responsible, under the master, for accident prevention.
  - (iv) The training of such a person.
  - (v) Welfare facilities and services for seafarers on board ships and in port and a system for financing these arrangements.

#### E. Social security benefits

**Important:** *In all the questions below, please refer to and provide copies of the relevant laws, regulations, collective agreements, etc.*

- 1. Does a national social security system exist in your country; if so does it cover all workers, including seafarers?
- 2. If not, is a separate social security system developed for seafarers?
- 3. Could you please give a short description of the system including the cost (who pays?), and refer to the relevant law or regulation in the following areas:
  - (a) medical care, including hospital care;
  - (b) sickness benefit;
  - (c) repatriation including transport to domicile or place of recruitment in case of sickness or invalidity;
  - (d) unemployment benefit in case of employers' insolvency, shipwreck, etc.;
  - (e) pregnancy;
  - (f) old-age benefit;
  - (g) invalidity or survivors' benefits.

<sup>2</sup> Please note that the ILO/IMO questionnaire concerning abandoned seafarers sent on 18 April 2000 also contained questions related to repatriation. We apologize for the repetition of the same questions in the two questionnaires. If you have responded to the earlier questionnaire on the same point, you are not required to respond.

4. Does the national social security system or the system developed for seafarers cover non-national/non-domiciled seafarers working on board ships registered in your register(s) and who pays for the cost?
5. If foreign seafarers are not covered under the systems referred to above, are other arrangements made for them? If so, please give a short description of the system and the differences in the coverage, if any, in the following areas:
  - (a) medical care, including hospital care;
  - (b) sickness benefit;
  - (c) repatriation including transport to domicile or place of recruitment in case of sickness or invalidity;
  - (d) unemployment benefit in case of employers' insolvency, shipwreck, etc.;
  - (e) old-age benefit;
  - (f) invalidity or survivors' benefits.

### **III. Questions related to specific areas – For labour-supplying countries only**

#### **A. Basic workers' rights**

##### **1. Minimum age**

- (i) Please state the minimum age for seafarers. Please also refer to and provide copies of the law/regulation or collective agreements where the minimum age is stated.

	Minimum age in first/national register	Indicate law, register, or collective agreement referred to
Law/regulation		
Collective agreement		
Not covered		

- (ii) If necessary, please give further explanation below.

##### **2. Right to organize and to bargain collectively**

**Important:** In all the questions below, please refer to and provide copies of the relevant laws, regulations, collective agreements, etc.

- (a) In general, please state whether laws or regulations provide seafarers and shipowners with the right to organize and the right to bargain collectively.
- (b) Do non-national/non-domiciled seafarers working on board ships in your register, if any, have a role in the development of legislation concerning working and living conditions and other safety aspects on board ships?
- (c) Do your national trade unions negotiate and conclude collective agreements for members employed on board foreign-flagged ships?
  - (i) To what extent are the trade unions of the flag State involved in these negotiations? Please explain or provide details.
  - (ii) Please indicate with which trade unions and employers' organizations in which countries have such collective agreements been concluded.

Name of trade union	Name of employers' organization and country	Number of seafarers covered

**B. Entry into employment**

**Important:** *In all the questions below, please refer to and provide copies of the relevant laws, regulations, collective agreements, etc.*

**1. Recruitment of seafarers**

- (a) Is the system of recruitment of seafarers regulated in law/regulations or by other means?
- (b) Please give a short description of the manner and methods of recruitment of:
  - (i) national seafarers on ships recorded in your register;
  - (ii) national seafarers on board foreign-registered ships.
- (c) Please indicate to what extent ship management companies and manning agencies are used in the recruitment process. Please indicate whether the use of such companies influence the employment conditions for seafarers, in areas such as wages, continuity of employment with the same ship/company, length of a tour of duty, the right to organize, etc.

**2. Medical certificate**

- (a) Before taking up employment is it required that seafarers (nationals and seafarers employed on board a foreign-flagged ship) have a valid medical certificate? Please provide copies of laws, regulations, collective agreements, etc., and indicate which paragraph/section is referred to.
- (b) Please indicate who pays for the certificate.

**C. General conditions for employment**

**Important:** *In all the questions below, please refer to and provide copies of the relevant laws, regulations, collective agreements, statistics, etc.*

**1. Wages**

- (a) Do laws or regulations secure seafarers with the right to a minimum basic wage and payment for overtime or are they provided for by other means?
- (b) If possible, please state the monthly minimum and average wage for seafarers as indicated below (excluding payment for overtime, holiday with pay and all allowances).

	Wages for national seafarers employed on board national ships	Wages for national seafarers employed on board foreign ships
	Minimum/average	Minimum/average
Master	/	/
1. Deck officer	/	/
Chief engineer	/	/
1. Engine officer	/	/
Chief steward/cook	/	/
Able seafarers	/	/

- (c) If figures as requested above are not available, please try to indicate the level of wages and payment for overtime for national seafarers employed on board national registered ships and for national seafarers employed on board foreign-flagged ships.
- (d) Please explain the difference in the level of wages and payment for overtime, if any, between national seafarers employed on board national ships and foreign-flagged ships.

2. *Hours of work and/or hours of rest*

**Important:** *In all the questions below, please refer to and provide copies of the relevant laws, regulations, collective agreements, individual contracts, etc.*

- (a) Are maximum hours of work or minimum hours of rest regulated in laws or regulations, collective agreements or in individual contracts or by a combination of these means?
- (b) Please state the maximum hours of work or the minimum hours of rest, and refer to the law/regulation, collective agreement or other means where the hours of work or rest is provided.

	Max. hours of work or the min. hours of rest in national register	Indicate the law, regulation, or collective agreement referred to
Law/regulation		
Collective agreement		
Others		
Not covered		

- (c) Please indicate, if possible, whether the maximum hours of work or minimum hours of rest are different for national seafarers employed on board national ships and foreign-flagged ships.

3. *Employment contract; length of a contract/duty; continuity of employment; and annual leave*

**Important:** *In all the questions below please refer to and provide copies of the relevant laws, regulations, collective agreements, etc.*

- (a) Do laws, regulations, collective agreements or practice:
- (i) prescribe that an employment contract/articles of agreement should be signed before taking up employment in your register? If so, please indicate what such an employment contract contains;

- (ii) provide for a continuous and regular employment with the same shipowner or ship? Has a register or a list of qualified seafarers available for employment been established? Please give a short description of the arrangements;
- (iii) prescribe the normal length of a tour of duty/contract? If so what is the normal length of a tour of duty/contract in your register?

	The normal length of a contract in national register	Please indicate the law, register, or collective agreement referred to
Law/regulations		
Collective agreement		
Others		
Not covered		

If necessary, please give a further explanation below.

- (iv) provide for annual leave? If so, please specify the length of the annual leave provided for in your register.

	The length of annual leave in national register	Please indicate the law, register, or collective agreement referred to
Law/regulations		
Collective agreement		
Others		
Not covered		

Please explain whether the annual leave is paid in full, partial, casual or not at all or whether he/she is entitled to free transport to the place he/she was engaged or recruited.

- (b) Please explain, if possible, whether there is a difference in law or practice between national seafarers on board national-flagged ships and national seafarers employed on board foreign-flagged ships in the following areas:
  - (i) employment contract;
  - (ii) the termination either by the employee or the employer of such a contract;
  - (iii) length of a tour of duty/contract;
  - (iv) continuity of employment;
  - (v) annual leave.

#### 4. Repatriation<sup>3</sup>

**Important:** In all the questions below, please refer to and provide copies of the relevant laws, regulations, collective agreements, etc.

- (a) Do laws, regulations or collective agreements provide for repatriation of seafarers? If so, please give a short description of the procedures and the one responsible for repatriation of a seafarer in your register.

<sup>3</sup> Please note that the ILO/IMO questionnaire concerning abandoned seafarers sent on 18 April 2000 also contained questions related to repatriation. If you have responded to the earlier questionnaire on the same point, you are not required to respond.

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- (b) Please explain, if possible, whether there is a difference in law or practice concerning repatriation of national seafarers on board national-flagged ships and national seafarers employed on board foreign-flagged ships.

**D. Safety, health and welfare: food and catering, accommodation of crews, safety and health conditions, welfare facilities**

Please provide copies of laws, regulations or collective agreements that provide for the facilities as described below and indicate the correct paragraphs/sections dealing with these issues.

- (a) Food and water supplies and catering arrangements.
- (b) Construction, location, etc., of the crew accommodation.
- (c) The appointment of a suitable person or a committee (among the crew) responsible, under the master, for accident prevention.
- (d) The training of such a person.
- (e) Welfare facilities and services for seafarers on board ships and in port and a system for financing these arrangements. Will these services also be provided for national seafarers employed on board foreign-flagged ships?

**E. Social security benefits**

**Important:** *In all the questions below, please refer to and provide copies of the relevant laws, regulations, collective agreements, etc.*

1. Does a national social security system exist in your country; if so does it cover all workers, including seafarers?
2. If not, is a separate social security system developed for seafarers?
3. Could you please give a short description of the system including the cost (who pays?), and refer to the relevant law or regulation in the following areas:
  - (a) medical care, including hospital care;
  - (b) sickness benefit;
  - (c) repatriation including transport to domicile or place of recruitment in case of sickness or invalidity;
  - (d) unemployment benefit in case of employers insolvency, shipwreck, etc.;
  - (e) pregnancy;
  - (f) old-age benefit;
  - (g) invalidity or survivors' benefits.
4. Does the national social security system or the system developed for seafarers cover nationals working on board foreign-flagged ships, and who pays for the cost?
5. If nationals working on board foreign-flagged ships are not covered under the system referred to above, are other arrangements made for them? If so, please give a short description of the system and the differences in the coverage, if any, in the following areas:
  - (a) medical care, including hospital care;
  - (b) sickness benefit;
  - (c) repatriation, including transport to domicile or place of recruitment in case of sickness or invalidity;
  - (d) unemployment benefit in case of employers' insolvency, shipwreck, etc.;
  - (e) old-age benefit;
  - (f) invalidity or survivors' benefits.

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**IV. Contact person**

Please indicate below the contact person in your administration if the ILO secretariat needs further information on clarification of replies to this questionnaire:

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Telephone:-----

Fax:-----

E-mail:-----

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## Appendix 2

### The respondents

<b>State</b>	<b>Source</b>
Algeria	Permanent Mission
Australia	Ministry, union
Bahamas	Bahamas Maritime Authority
Bahrain	Government
Belgium	Shipowners' association, union
Brazil	Ministry, union
Bulgaria	Ministry of Transport
Canada	Government
Chile	Government
Colombia	Ministry of Labour and Social Security
Croatia	Ministry of Social Welfare, union
Denmark	Ministry of Trade and Industry, shipowners' association, union
Ecuador	Ministry
Egypt	Ministry
Estonia	Ministry of Social Affairs
Finland	Ministry of Labour
France	Government
Georgia	Maritime Administration
Germany	Shipowners' and seafarers' associations
Greece	Government, shipowners, union
Honduras	Government
Iceland	Ministry of Social Affairs
India	Ministry of Labour
Israel	Ministry of Transport
Italy	Ministry of Labour and Social Affairs, Confitarma
Japan	Government, union
Korea, Republic of	Union
Kuwait	Permanent Mission
Lebanon	Ministry of Public Works and Transport
Liberia	Bureau of Maritime Affairs
Lithuania	Ministry of Labour and Social Security, union
Malaysia	Ministry of Human Resources
Malta	Government
Marshall Islands	Maritime Administration
Mauritius	Mission to the United Nations

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<b>State</b>	<b>Source</b>
Mexico	Government
Morocco	Government
Netherlands	Department of International Social Policy and Information, union
Nicaragua	Ministry
Norway	Government, shipowners, union
Oman	Ministry of Transport and Housing
Pakistan	Ministry of Labour, union
Panama	Ministry
Papua New Guinea	Department of Labour and Employment
Peru	Government
Philippines	Maritime Industry Authority, POEA, Maritime Training Council
Poland	Ministry of Labour and Social Policy
Portugal	Ministry
Romania	Government
Russian Federation	Union
Singapore	Ministry
Spain	Government
Sweden	Ministry of Industry, Employment and Communications
Ukraine	Ministry of Transport
United Arab Emirates	Ministry of Labour and Social Affairs
United States	Government, US Coastguard
Uruguay	Ministry
Vanuatu	Maritime Services
Venezuela	Ministry
Yemen	Union

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## Appendix 3

### Discrepancies between responses of union and government

#### *Australia*

- Unions claimed legislation did not cover non-nationals working under the Australian flag but no explanation was given.
- Unions claimed that individual contracts did exist in combination with collective agreements but the Government did not answer.
- Unions say minimum age is 17 not 16, but 16 for trainees.
- Unions claim no minimum wage in force, all determined by collective agreements.

#### *Brazil*

- Unions claim foreign seafarer restriction: two-thirds of crew must be nationals including master and chief engineer according to a quoted law. Government does not indicate any restriction other than requirement of work visa.
- Unions say minimum age is 15 not 16.
- Unions claim hours not regulated by law but by individual contracts with employers.

#### *Croatia*

- Unions claim no specific training of inspectors.
- Foreign seafarer restrictions are that the master must be a national and non-nationals cannot be employed if a national can do the job.

#### *Denmark*

- Unions say that accidents are not thoroughly investigated by any authority except when very serious. Not all deaths are investigated.
- Unions also claim differential treatment for non-nationals in collective agreements.
- Unions say non-nationals cannot be members of Danish trade union.

#### *Japan*

- Collective agreement different for foreigners according to union.
- Disputes settled with respect to collective agreements and not law.
- Unions dispute existence of laws relating to food, accommodation and accident prevention.

#### *Lithuania*

- Unions claim national labour legislation does not cover seafarers and there is no specific seafarer legislation.
- Unions claim labour legislation does not cover non-nationals.
- Unions say there are no collective agreements.

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## **Netherlands**

- Unions claim no restriction on foreign seafarers, whereas the Government claims that the master must be Dutch or European Union citizen except in exceptional circumstances.
- Unions claim no specific seafarers' legislation whereas the Government indicates specific laws contained in the Merchant Code.
- Unions say legislation covers non-nationals in part. Working, rest, living conditions covered but social security only applies to European Union citizens except where there is a treaty with the Netherlands.
- Unions claim that there are individual agreements relating to the employer.
- Unions claim discrimination between European Union and non-European Union workers. Wages are less for non-European Union domiciled workers.
- Unions claim difference between nationals and non-nationals with respect to European Union and non-European Union workers' tours of duty. European Union seafarers have a maximum tour of four/five months. Non-European Union seafarers have a contract of eight/nine months.
- Annual leave is 35 days for European Union and six-eight days per month of service for non-European Union seafarers.

## **Pakistan**

- Unions claim no sanctions on shipowners for poor living and working conditions.
- Unions claim separate system of social security.

## **Romania**

- Unions claim no sanctions on shipowners except industrial action which is costly for vessel in port. The Government claims that fines are imposed.
- Unions claim that legislation in fact excludes seafarers.
- Unions claim that collective agreements do not cover all seafarers. There is so much unemployment that private companies can impose their own requirements without negotiation and they have no protection in law.
- In law companies with less than 21 employees do not need to have collective bargaining.

## **Sweden**

- Unions give 18 as minimum age not 16.
- Unions do not refer to separate system for social security for seafarers. The Government claims there is a system which is regulated by the Merchant Seaman Act, 1973.