

INTERNATIONAL LABOUR OFFICE

REPORT FORM

FOR THE

**PAID VACATIONS (SEAFARERS)
(REVISED) CONVENTION, 1949 (No. 91)**

The present report form is for the use of countries which have ratified the Convention. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: "Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request."

GENEVA

1980

REPORT

for the period to, made by the Government of
., in accordance with article 22 of the
Constitution of the International Labour Organisation, on the measures taken to give
effect to the provisions of the

PAID VACATIONS (SEAFARERS) CONVENTION (REVISED), 1949

ratification of which was registered on

I. Article 10 of the Convention provides:

1. Effect may be given to this Convention by (a) laws or regulations; (b) collective agreements between shipowners and seafarers; or (c) a combination of laws or regulations and collective agreements between shipowners and seafarers. Except as may be otherwise provided herein, the provisions of this Convention shall be made applicable to every vessel registered in the territory of the ratifying Member and to every person engaged on any such vessel.

2. Where effect has been given to any provision of this Convention by a collective agreement in pursuance of paragraph 1 of this Article, then, notwithstanding anything contained in Article 8 of this Convention, the Member in whose territory the agreement is in force shall not be required to take any measures in pursuance of Article 8 in respect of the provisions of the Convention to which effect has been given by collective agreement.

3. Each Member ratifying this Convention shall supply to the Director-General of the International Labour Office information on the measures by which the Convention is applied, including particulars of any collective agreements which give effect to any of its provisions and are in force at the date when the Member ratifies the Convention.

4. Each Member ratifying this Convention undertakes to take part, by means of a tripartite delegation, in any committee representative of governments and shipowners' and seafarers' organisations, and including in an advisory capacity representatives of the Joint Maritime Commission of the International Labour Office, which may be set up for the purpose of examining the measures taken to give effect to the Convention.

5. The Director-General will lay before the said Committee a summary of the information received by him under paragraph 3 above.

6. The Committee shall consider whether the collective agreements reported to it give full effect to the provisions of this Convention. Each Member ratifying the Convention undertakes to give consideration to any observations or suggestions concerning the application of the Convention made by the Committee and further undertakes to bring to the notice of the organisations of employers and of workers who are parties to any of the collective agreements mentioned in paragraph 1 any observations or suggestions of the aforesaid Committee concerning the degree to which such agreements give effect to the provisions of the Convention.

Please state whether the provisions of the Convention are applied by means of—

- (a) laws or regulations,
- (b) collective agreements between shipowners and seafarers,
- (c) a combination of laws or regulations and collective agreements.

Please give a list of the measures (laws, regulations, collective agreements, etc.) by which the provisions of the Convention are applied. Where this has not already been done please forward copies of the said laws, regulations, agreements, etc., to the International Labour Office with this report.

Please give any available information concerning the extent to which these laws and regulations have been enacted or modified to permit of, or as a result of, ratification.

- II. Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied. In addition, please provide any indication specifically requested below under individual Articles.

If in your country ratification of the Convention gives the force of national law to its terms please indicate by virtue of what constitutional provisions the ratification has had this effect. Please also specify what action has been taken to make effective those provisions of the Convention which require a national authority to take certain specific steps for its implementation, such as measures to define its exact scope and the extent to which advantage may be taken of permissive exceptions provided for in it, measures to draw the attention of the parties concerned to its provisions, and arrangements for adequate inspection and penalties.

If the Committee of Experts or the Conference Committee on the Application of Conventions and Recommendations has requested additional information or has made an observation on the measures adopted to apply the Convention, please supply the information asked for or indicate the action taken by your Government to settle the points in question.

Article 1

1. This Convention applies to every sea-going mechanically propelled vessel, whether publicly or privately owned, engaged in the transport of cargo or passengers for the purpose of trade and registered in a territory for which this Convention is in force.

2. National laws or regulations shall determine when vessels are to be regarded as sea-going vessels.

3. This Convention does not apply to—

- (a) wooden vessels of primitive build such as dhows and junks;
- (b) vessels engaged in fishing or in operations directly connected therewith or in sealing or similar pursuits;
- (c) estuarial craft.

4. National laws or regulations or collective agreements may provide for the exemption from the provisions of this Convention of vessels of less than 200 gross register tons.

Please indicate whether, in application of paragraph 4, vessels of less than 200 gross register tons have been exempted from the provisions of the Convention; if so, please indicate the relevant provisions.

Article 2

1. This Convention applies to every person who is engaged in any capacity on board a vessel except—

- (a) a pilot not a member of the crew;
- (b) a doctor not a member of the crew;
- (c) nursing staff engaged exclusively on nursing duties and hospital staff not members of the crew;
- (d) persons working exclusively on their own account or remunerated exclusively by a share of profits or earnings;
- (e) persons not remunerated for their services or remunerated only by a nominal salary or wage;
- (f) persons employed on board by an employer other than the shipowner, except radio officers or operators in the service of a wireless telegraphy company;
- (g) travelling dockers (longshoremen) not members of the crew;
- (h) persons employed in whale-catching vessels, in floating factories, or otherwise for the purpose of whaling or similar operations under conditions regulated by the provisions of a special collective whaling or similar agreement determining the rates of pay, hours of work and other conditions of service concluded by an organisation of seafarers;
- (i) persons employed in port who are not ordinarily employed at sea.

2. The competent authority may, after consultation with the organisations of shipowners and seafarers concerned, exempt from the application of the Convention masters, chief navigating officers and chief engineers who by virtue of national laws or regulations or collective agreements enjoy conditions of service which are not less favourable in respect of annual leave than those required by the Convention.

If advantage has been taken of paragraph 2 of this Article, please indicate the categories of persons who have been exempted from the application of the Convention and the laws, regulations or collective

agreements by virtue of which the categories concerned enjoy conditions of service which are not less favourable in respect of annual leave than those required by the Convention.

Please also supply information on the consultations which have taken place with the organisations of shipowners and seafarers concerned in regard to any such exemptions.

Article 3

1. Every person to whom this Convention applies shall be entitled after twelve months of continuous service to an annual vacation holiday with pay, the duration of which shall be—

- (a) in the case of masters, officers and radio officers or operators, not less than eighteen working days for each year of service;
- (b) in the case of other members of the crew, not less than twelve working days for each year of service.

2. A person with not less than six months of continuous service shall on leaving such service be entitled in respect of each complete month of service to one and a half working days' leave in the case of a master, officer, or radio officer or operator, and one working day's leave in the case of another member of the crew.

3. A person who is discharged through no fault of his own before he has completed six months of continuous service shall on leaving such service be entitled in respect of each complete month of service to one-and-a-half working days' leave in the case of a master, officer, or radio officer or operator, and one working day's leave in the case of another member of the crew.

4. For the purpose of calculating when a vacation holiday is due—

- (a) service off articles shall be included in the reckoning of continuous service;
- (b) short interruptions of service not due to the act or fault of the employee and not exceeding a total of six weeks in any twelve months shall not be deemed to break the continuity of the periods of service which precede and follow them;
- (c) continuity of service shall not be deemed to be interrupted by any change in the management or ownership of the vessel or vessels in which the person concerned has served.

5. The following shall not be included in the annual vacation holiday with pay:

- (a) public and customary holidays;
- (b) interruptions of service due to sickness or injury.

6. National laws or regulations or collective agreements may provide for the division into parts of an annual vacation holiday due in virtue of this Convention or for the accumulation of such a vacation holiday due in respect of one year with a subsequent vacation holiday.

7. National laws or regulations or collective agreements may, in very exceptional circumstances when the service so requires, provide for the substitution for an annual vacation holiday due in virtue of this Convention of a cash payment at least equivalent to the remuneration provided for in Article 5.

If advantage has been taken of paragraph 7 of this Article, please indicate the circumstances in which national laws or regulations or collective agreements provide for the substitution for an annual vacation holiday due in virtue of this Convention of a cash payment and the manner in which the amount of any such cash payment is determined.

Article 4

1. When an annual vacation holiday is due it shall be given by mutual agreement at the first opportunity as the requirements of the service allow.

2. No person may be required without his consent to take the annual vacation holiday due to him at a port other than a port in the territory of engagement or a port in his home territory. Subject to this requirement, the vacation holiday shall be given at a port permitted by national laws or regulations or collective agreement.

Article 5

1. Every person taking a vacation holiday in virtue of Article 3 of this Convention shall receive in respect of the full period of the vacation holiday his usual remuneration.

2. The usual remuneration payable in virtue of the preceding paragraph, which may include a suitable subsistence allowance, shall be calculated in a manner which shall be prescribed by national laws or regulations or fixed by collective agreement.

Please indicate the manner in which the usual remuneration is calculated, and the provisions regulating this matter.

Article 6

Subject to the provisions of paragraph 7 of Article 3 any agreement to relinquish the right to an annual vacation holiday with pay, or to forgo such a vacation holiday, shall be void.

Article 7

A person who leaves or is discharged from the service of his employer before he has taken a vacation holiday due to him shall receive in respect of every day of vacation holiday due to him in virtue of this Convention the remuneration provided for in Article 5.

Article 8

Each Member which ratifies this Convention shall ensure the effective application of its provisions.

Article 9

Nothing in this Convention shall affect any law, award, custom or agreement between ship-owners and seamen which ensures more favourable conditions than those provided by this Convention.

- III. Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.**
- IV. Please state whether courts of law or other tribunals have given decisions involving questions of principle relating to the application of the Convention. If so, please supply the text of these decisions.**
- V. Please give a general appreciation of the manner in which the Convention is applied in your country including, for instance, extracts from official reports and information on any practical difficulties in the application of the Convention.**
- VI. Please indicate the representative organisations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organisation.¹ If copies of the report have not been communicated to representative organisations of employers and/or workers, or if they have been communicated to bodies other than such organisations, please supply information on any particular circumstances existing in your country which explain the procedure followed.**

Please indicate whether you have received from the organisations of employers or workers concerned any observations, either of a general kind or in connection with the present or the previous report, regarding the practical application of the provisions of the Convention or the application of the legislation or other measures implementing the Convention. If so, please communicate the observations received, together with any comments that you consider useful.

¹Article 23, paragraph 2, of the Constitution reads as follows: "Each Member shall communicate to the representative organisations recognised for the purpose of article 3 copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22."