

INTERNATIONAL LABOUR OFFICE GENEVA

REPORT FORM

FOR THE

RECRUITMENT AND PLACEMENT OF SEAFARERS CONVENTION, 1996 (No. 179)

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."

The Government may deem it useful to consult the appended text of the Recruitment and Placement of Seafarers Recommendation, 1996 (No. 186), the provisions of which supplement the present Convention and can contribute to a better understanding of its requirements and facilitate its application.

PRACTICAL GUIDANCE FOR DRAWING UP REPORTS

First reports

If this is your Government's first report following the entry into force of the Convention in your country, full information should be given on each of the provisions of the Convention and on each of the questions set out in the report form.

Subsequent reports

In subsequent reports, information need normally be given only:

- (a) on any new legislative or other measures affecting the application of the Convention;

- (b) in reply to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations;

- (c) **in reply to comments by the supervisory bodies:** the report must contain replies to any comments regarding the application of the Convention in your country which have been made by the Committee of Experts on the Application of Conventions and Recommendations or by the Conference Committee on the Application of Standards.
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Article 22 of the Constitution of the ILO

Report for the period to
made by the Government of
on the

RECRUITMENT AND PLACEMENT OF SEAFARERS CONVENTION, 1996 (No. 179)

(ratification registered on)

- I. Please give a list of the laws and regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of these texts 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, 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 laws and regulations, etc., or other measures, which give effect to each Article.**

If in your country ratification of the Convention gives the force of national law to its provisions, please indicate by virtue of what constitutional texts the ratification has had this effect. Please also specify what action has been taken to implement those provisions of the Convention which require the competent authority or authorities to take action, such as a definition of its exact scope and the institution of indispensable practical measures and procedures to apply it.

If the Committee of Experts or the Conference Committee on the Application of Standards 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. For the purpose of this Convention:

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

2. To the extent it deems practicable, after consultation with the representative organizations of fishing-vessel owners and fishermen or those of owners of maritime mobile offshore units and seafarers serving on such units, as the case may be, the competent authority may apply the provisions of the Convention to fishermen or to seafarers serving on maritime mobile offshore units.

Paragraph 2. Please indicate to what extent the provisions of the Convention are applied to fishermen or to seafarers serving on maritime mobile offshore units, and provide information on the consultations which have been held in conformity with this paragraph.

Article 2

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

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

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

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

Paragraph 2. Please indicate the consultations which have been held in conformity with this paragraph.

Article 3

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

Article 4

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

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

2. A Member shall ensure that the competent authority:

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

Please describe the measures taken in conformity with each subparagraph of this Article.

Article 5

1. All recruitment and placement services shall maintain a register of all seafarers recruited or placed through them, to be available for inspection by the competent authority.
2. All recruitment and placement services shall ensure that:
 - (a) any seafarer recruited or placed by them is qualified and holds the documents necessary for the job concerned;
 - (b) contracts of employment and articles of agreement are in accordance with applicable laws, regulations and collective agreements;
 - (c) seafarers are informed of their rights and duties under their contracts of employment and the articles of agreement prior to or in the process of engagement; and
 - (d) proper arrangements are made for seafarers to examine their contracts of employment and the articles of agreement before and after they are signed and for them to receive a copy of the contract of employment.
3. Nothing in paragraph 2 above shall be understood as diminishing the obligations and responsibilities of the shipowner or the master.

Please indicate the measures taken and the arrangements made to give effect to this Article.

Article 6

1. The competent authority shall ensure that adequate machinery and procedures exist for the investigation, if necessary, of complaints concerning the activities of recruitment and placement services, involving, as appropriate, representatives of shipowners and seafarers.
2. All recruitment and placement services shall examine and respond to any complaint concerning their activities and shall advise the competent authority of any unresolved complaint.
3. Where complaints concerning working or living conditions on board ships are brought to the attention of the recruitment and placement services, they shall forward such complaints to the appropriate authority.
4. Nothing in this Convention shall prevent the seafarer from bringing any complaint directly to the appropriate authority.

Please describe the existing machinery and procedures and indicate, if applicable, the role played by representatives of shipowners and seafarers.

- III. **Please state to what authority or authorities the application of the above-mentioned legislation, regulations, etc. is entrusted, and by what methods such application is supervised.**
- 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 and supply — in so far as the information in question has not already been supplied in connection with other questions in this form — extracts from inspection reports and, where such statistics exist, information on the number of workers covered by the measures giving effect to the Convention, the number and nature of infringements reported, etc.**
- VI. **Please indicate the representative organizations 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 Organization.¹ If copies of the report have not been communicated to representative organizations of employers and/or workers, or if they have been communicated to bodies other than such organizations, please supply information on any particular circumstances existing in your country which explain the procedure followed.**

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

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

APPENDIX

The text of the

RECOMMENDATION CONCERNING THE RECRUITMENT AND PLACEMENT OF SEAFARERS, 1996 (No. 186)

is not reproduced here.

Please consult ILOLEX or other publications containing the text of ILO
Recommendations.