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C179 - Recruitment and Placement of Seafarers Convention, 1996 (No. 179)

Convention concerning the Recruitment and Placement of Seafarers (Entry into force: 22 Apr 2000) Adoption: Geneva, 84th ILC session (22 Oct 1996) - Status: Up-to-date instrument (Technical Convention).

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Preamble

The General Conference of the International Labour Organization,

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

Noting the provisions of the Seamen's Articles of Agreement Convention, 1926, the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Employment Service Convention and Recommendation, 1948, the Right to Organise and Collective Bargaining Convention, 1949, the Seafarers' Engagement (Foreign Vessels) Recommendation, 1958, the Discrimination (Employment and Occupation)

Convention, 1958, the Employment of Seafarers (Technical Developments) Recommendation, 1970, the Minimum Age Convention, 1973, the Continuity of Employment (Seafarers) Convention and Recommendation, 1976, the Merchant Shipping (Minimum Standards) Convention, 1976, the Repatriation of Seafarers Convention (Revised), 1987, and the Labour Inspection (Seafarers) Convention, 1996, and

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

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

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

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

Article 1

- 1. For the purpose of this Convention:
 - (a) the term ***competent authority*** means the minister, designated official, government department or other authority having power to issue regulations, orders or other instructions having the force of law in respect of the recruitment and placement of seafarers;
 - (b) the term ***recruitment and placement service*** means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of employers or placing seafarers with employers;
 - (c) the term ***shipowner*** means the owner of the ship or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for operation of the ship from the shipowner and who on assuming such responsibilities has agreed to take over all the attendant duties and responsibilities;
 - (d) the term ***seafarer*** means any person who fulfils the conditions to be employed or engaged in any capacity on board a seagoing ship other than a government ship used for military or non-commercial purposes.
- 2. To the extent it deems practicable, after consultation with the representative organizations of fishing-vessel owners and fishermen or those of owners of maritime mobile offshore units and seafarers serving on such units,

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

Article 2

- 1. Nothing in the provisions of this Convention shall be deemed to:
 - (a) prevent a Member from maintaining a free public recruitment and placement service for seafarers in the framework of a policy to meet the needs of seafarers and shipowners, whether it forms part of or is coordinated with a public employment service for all workers and employers;
 - (b) impose on a Member the obligation to establish a system for the operation of private recruitment and placement services.
- 2. Where private recruitment and placement services have been or are to be established, they shall be operated within the territory of a Member only in conformity with a system of licensing or certification or other form of regulation. This system shall be established, maintained, modified or changed only after consultation with representative organizations of shipowners and seafarers. Undue proliferation of such private recruitment and placement services shall not be encouraged.
- 3. Nothing in this Convention shall affect the right of a Member to apply its laws and regulations to ships flying its flag in relation to the recruitment and placement of seafarers.

Article 3

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

Article 4

- 1. A Member shall, by means of national laws or applicable regulations:
 - (a) ensure that no fees or other charges for recruitment or for providing employment to seafarers are borne directly or indirectly, in whole or in part, by the seafarer; for this purpose, costs of the national statutory medical examination, certificates, a personal travel document and the national seafarer's book shall not be deemed to be "fees or other charges for recruitment";
 - (b) determine whether and under which conditions recruitment and placement services may place or recruit seafarers abroad;
 - (c) specify, with due regard to the right to privacy and the need to protect confidentiality, the conditions under which seafarers' personal data may be processed by recruitment and placement services including the collection, storage, combination and communication of such data to third parties;

- (d) determine the conditions under which the licence, certificate or similar authorization of a recruitment and placement service may be suspended or withdrawn in case of violation of relevant laws and regulations; and
 - (e) specify, where a regulatory system other than a system of licensing or certification exists, the conditions under which recruitment and placement services can operate, as well as sanctions applicable in case of violation of these conditions.
- 2. A Member shall ensure that the competent authority:
 - (a) closely supervise all recruitment and placement services;
 - (b) grant or renew the licence, certificate, or similar authorization only after having verified that the recruitment and placement service concerned meets the requirements of national laws and regulations;
 - (c) require that the management and staff of recruitment and placement services for seafarers should be adequately trained persons having relevant knowledge of the maritime industry;
 - (d) prohibit recruitment and placement services from using means, mechanisms or lists intended to prevent or deter seafarers from gaining employment;
 - (e) require that recruitment and placement services adopt measures to ensure, as far as practicable, that the employer has the means to protect seafarers from being stranded in a foreign port; and
 - (f) ensure that a system of protection, by way of insurance or an equivalent appropriate measure, is established to compensate seafarers for monetary loss that they may incur as a result of the failure of a recruitment and placement service to meet its obligations to them.

Article 5

- 1. All recruitment and placement services shall maintain a register of all seafarers recruited or placed through them, to be available for inspection by the competent authority.
- 2. All recruitment and placement services shall ensure that:
 - (a) any seafarer recruited or placed by them is qualified and holds the documents necessary for the job concerned;
 - (b) contracts of employment and articles of agreement are in accordance with applicable laws, regulations and collective agreements;
 - (c) seafarers are informed of their rights and duties under their contracts of employment and the articles of agreement prior to or in the process of engagement; and

- (d) proper arrangements are made for seafarers to examine their contracts of employment and the articles of agreement before and after they are signed and for them to receive a copy of the contract of employment.
- 3. Nothing in paragraph 2 above shall be understood as diminishing the obligations and responsibilities of the shipowner or the master.

Article 6

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

Article 7

This Convention revises the Placing of Seamen Convention, 1920.

Article 8

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

Article 9

- 1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.
- 2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
- 3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.
- 4. The ratification by a Member of this Convention shall, as from the date it has come into force, constitute an act of immediate denunciation of the Placing of Seamen Convention, 1920.

Article 10

- 1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
- 2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 11

- 1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and denunciations communicated by the Members of the Organization.
- 2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

Article 12

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with Article 102 of the Charter of the United Nations, full particulars of all ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

Article 13

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 14

- 1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides -
 - (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 10 above, if and when the new revising Convention shall have come into force;

- (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.
- 2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 15

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