

P147 - Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976

Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (Entry into force: 10 Jan 2003) Adoption: Geneva, 84th ILC session (22 Oct 1996) - Status: Up-to-date instrument (Technical Convention).

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Go to article : [1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#) [11](#) [12](#)

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

"Each Member which ratifies this Convention undertakes -

- (a) to have laws or regulations laying down, for ships registered in its territory -
 - (i) safety standards, including standards of competency, hours of work and manning, so as to ensure the safety of life on board ship;
 - (ii) appropriate social security measures; and
 - (iii) shipboard conditions of employment and shipboard living arrangements, in so far as these, in the opinion of the Member, are not covered by collective agreements or laid down by competent courts in a manner equally binding on the shipowners and seafarers concerned;

and to satisfy itself that the provisions of such laws and regulations are substantially equivalent to the Conventions or Articles of Conventions referred to in the Appendix to this Convention, in so far as the Member is not otherwise bound to give effect to the Conventions in question"; and

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

"If a Member which has ratified this Convention and in whose port a ship calls in the normal course of its business or for operational reasons receives a complaint or obtains evidence that the ship does not conform to the standards of this Convention, after it has come into force, it may prepare a report addressed to the government of the country in which the ship is registered, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health"; and

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

"For the purpose of this Convention the term 'discrimination' includes -

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

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

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

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

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

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

Article 1

- 1. Each Member which ratifies this Protocol shall extend the list of Conventions appearing in the Appendix to the principal Convention to include the Conventions in Part A of the Supplementary Appendix and such Conventions listed in Part B of that Appendix as it accepts, if any, in accordance with Article 3 below.
- 2. Extension to the Convention listed in Part A of the Supplementary Appendix that is not yet in force shall take effect only when that Convention comes into force.

Article 2

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

Article 3

- 1. Each Member which ratifies this Protocol shall, where applicable, in a declaration accompanying the instrument of ratification, specify which Convention or Conventions listed in Part B of the Supplementary Appendix it accepts.
- 2. A Member which has not accepted all of the Conventions listed in Part B of the Supplementary Appendix may, by subsequent declaration communicated to the Director-General of the International Labour Office, specify which other Convention or Conventions it accepts.

Article 4

- 1. For the purposes of Article 1, paragraph 1, and Article 3 of this Protocol, the competent authority shall hold prior consultations with the representative organizations of shipowners and seafarers.
- 2. The competent authority shall, as soon as practicable, make available to the representative organizations of shipowners and seafarers information as to ratifications, declarations and denunciations notified by the Director-General of the International Labour Office in conformity with Article 8, paragraph 1, below.

Article 5

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

Article 6

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

Article 7

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

Article 8

- 1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and acts of denunciation communicated by the Members of the Organization.
- 2. When the conditions provided for in Article 6, paragraph 2, above have been fulfilled, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Protocol shall come into force.

Article 9

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

Article 10

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

Article 11

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

Article 12

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

Annex

SUPPLEMENTARY APPENDIX

Part A

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)

and

Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180)

Part B

Seafarers' Identity Documents Convention, 1958 (No. 108)

Workers' Representatives Convention, 1971 (No. 135)

Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)

Repatriation of Seafarers Convention (Revised), 1987 (No. 166)