

Shipping Consultative Committee

Implementation of Regulation 1.4 of the Maritime Labour Convention, 2006 in HKSAR

Purpose

1. The purpose of this paper is to seek members' views on the implementation of Regulation 1.4 of MLC, 2006 on "Recruitment and Replacement" in HKSAR and the arrangement to provide social security protection for seafarers of non-party States to the MLC, 2006 serving onboard Hong Kong registered ships.

Backgrounds

2. The existing seafarers recruitment system in Hong Kong is regulated by the Mercantile Marine Office (MMO) of the Marine Department. Under the Merchant Shipping (Seafarers) Ordinance, Cap. 478, individual shipping company can bring with them suitable HK registered seafarers to MMO for recruitment purpose. For the sake of delegation, a number of Permitted Companies, which hold valid permits granted by MMO, are registered under the Ordinance to carry out direct recruitment of Hong Kong registered seafarers within their companies.

3. With the coming of the MLC, 2006, it requires Member Administration to regulate private seafarer recruitment and placement services (RPS) operating in its territory in compliance with Regulation 1.4 of MLC, 2006. According to the MLC, 2006, the definition of RPS 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 shipowners or placing seafarers with shipowners. The agents that provide private RPS that are to be regulated by the Member Administration are those companies whose purpose is the recruitment and placement of seafarers or they recruit and place a significant number of seafarers.

4. The Permitted Companies or the crew departments of their shipping companies in Hong Kong are not considered to be a standalone seafarers manning agent mentioned in paragraph 3 above. However, HKSAR will follow the requirements of recruitment and placement services stipulated in Reg. 1.4 of the MLC, 2006 for our Permitted Companies. In fact, our

system is very close to the requirement stipulated under the MLC, 2006. An obvious difference is to establish a system of protection, by way of insurance or an equivalent appropriate measure, to compensate seafarers for monetary loss that they may incur as a result of the failure of a recruitment and placement service or the relevant shipowner under the seafarers' employment agreements to meet its obligations to them. Such requirement as stipulated in A1.4.5 (vi) of the MLC, 2006 will be included in our local legislation.

5. According to A1.4.9 of MLC, 2006, each Member Administration which has ratified this Convention shall require that shipowners of ships that fly its flag, who use seafarer recruitment and placement services based in countries or territories in which this Convention does not apply, ensure, as far as practicable, that those services meet the requirements of Standard A1.4.

Proposals

6. To comply with Standard A1.4.5 (vi), Permitted Companies may rely on insurance protection covered under the P&I Clubs, or equivalent, and the compensation amount could be based on the monthly salary of the seafarers, etc.

7. For shipowners who would use replacement and recruitment agents in countries that have not yet Members of the MLC, 2006, they should be able to prove that those agents are certified to comply with the MLC, 2006 by the Marine Department or our Recognised Organizations with the appropriate form and amount of the insurance protection provided for the seafarers to meet the Standard A1.4.5 (vi).

8. As an associated issue on the employment of seafarers from non-party States, shipowners will have to take the following action regarding the handling of social security benefit for those seafarers to be served onboard Hong Kong registered ships upon the implementation of MLC, 2006 in HKSAR: -

- (a) Shipowners have to prove that national social security for the seafarers are covered by seafarers' States for seafarers who come from States that provide social security to their nationals to the same level as that of Hong Kong; or
- (b) Shipowners undertake to provide the social security benefit to seafarers who come from States that have no or minimal social security protection for their nationals to cover the three recommended branches of protection as given by B4.5 of MLC, 2006, i.e. medical care, sickness benefit and employment injury benefit. This may

be in the form of P&I insurance protection based on the living standards of the seafarers' States.

Consultation

9. Members are invited to comment on the above proposals on the implementation of Standard A1.4.5 (c)(vi) of MLC, 2006 and the arrangement to provide social security protection for seafarers of non-party States to the MLC, 2006 serving onboard Hong Kong registered ships. A copy of the extract of Regulation 1.4 of MLC, 2006 is attached for reference.

Marine Department
Multi-lateral Policy Division
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Encl. (Reg. 1.4 of the MLC, 2006)