

MINIMUM REQUIREMENT OF PROFESSIONAL  
CAPACITY FOR MASTERS AND OFFICERS ON  
BOARD MERCHANT SHIPS (ILO CONVENTION  
NO. 53)<sup>1</sup>

*Convention adopted by the General Conference of the International  
Labor Organization at Geneva October 24, 1936*

*Senate advice and consent to ratification, with understandings, June  
13, 1938*<sup>2</sup>

*Ratified by the President of the United States, with understandings,  
September 1, 1938*<sup>2</sup>

*Ratification of the United States registered with the Secretary-General  
of the League of Nations October 29, 1938*

*Entered into force March 29, 1939;<sup>3</sup> for the United States October  
29, 1939*

*Proclaimed by the President of the United States September 29, 1939*

54 Stat. 1683; Treaty Series 950

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the Inter-  
national Labour Office, and having met in its Twenty-first Session on 6  
October 1936, and

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<sup>1</sup> Also cited as "Officers' Competency Certificates Convention, 1936."

<sup>2</sup> The U.S. understandings read as follows:

"That the United States Government understands and construes the words 'vessels registered in a territory' appearing in this convention to include all vessels of the United States as defined under the laws of the United States.

"That the United States Government understands and construes the words 'maritime navigation' appearing in this convention to mean navigation on the high seas only.

"Nothing in this convention shall be so construed as to prevent the authorities of the United States from making such inspection of any vessel referred to in article V, paragraph 3, within the jurisdiction of the United States, as may be necessary to determine that there has been a compliance with the terms of this convention, or to prevent such authorities from withholding clearance to any such vessel which they find has not complied with the provisions of the convention until such time as any such deficiency shall be corrected.

"That the provisions of this Convention shall apply to all territory over which the United States exercises jurisdiction except the Government of the Commonwealth of the Philippine Islands and the Panama Canal Zone, with respect to which this Government reserves its decision."

<sup>3</sup> Twelve months after date of registration of second instrument of ratification.

Having decided upon the adoption of certain proposals with regard to the establishment by each maritime country of a minimum requirement of professional capacity in the case of captain, navigating and engineer officers in charge of watches on board merchant ships, which is the fourth item on the Agenda of the Session, and

Having determined that these proposals shall take the form of a Draft International Convention, adopts, this twenty-fourth day of October of the year one thousand nine hundred and thirty-six, the following Draft Convention, which may be cited as the Officers' Competency Certificates Convention, 1936:

#### ARTICLE 1

1. This Convention applies to all vessels registered in a territory for which this Convention is in force and engaged in maritime navigation with the exception of—

- (a) ships of war;
- (b) Government vessels, or vessels in the service of a public authority, which are not engaged in trade;
- (c) wooden ships of primitive build such as dhows and junks.

2. National laws or regulations may grant exceptions or exemptions in respect of vessels of less than 200 tons gross registered tonnage.

#### ARTICLE 2

For the purpose of this Convention the following expressions have the meanings hereby assigned to them:

- (a) "master or skipper" means any person having command or charge of a vessel;
- (b) "navigating officer in charge of a watch" means any person, other than a pilot, who is for the time being actually in charge of the navigation or manoeuvring of a vessel;
- (c) "chief engineer" means any person permanently responsible for the mechanical propulsion of a vessel;
- (d) "engineer officer in charge of a watch" means any person who is for the time being actually in charge of the running of a vessel's engines.

#### ARTICLE 3

1. No person shall be engaged to perform or shall perform on board any vessel to which this Convention applies the duties of master or skipper, navigation officer in charge of a watch, chief engineer, or engineer officer in charge of a watch, unless he holds a certificate of competency to perform such duties, issued or approved by the public authority of the territory where the vessel is registered.

2. Exceptions to the provisions of this Article may be made only in cases of *force majeure*.

#### ARTICLE 4

1. No person shall be granted a certificate of competency unless—

(a) he has reached the minimum age prescribed for the issue of the certificate in question;

(b) his professional experience has been of the minimum duration prescribed for the issue of the certificate in question; and

(c) he has passed the examinations organised and supervised by the competent authority for the purpose of testing whether he possesses the qualifications necessary for performing the duties corresponding to the certificate for which he is a candidate.

2. National laws or regulations shall—

(a) prescribe a minimum age to have been attained by and a minimum period of professional experience to have been completed by candidates for each grade of competency certificate;

(b) provide for the organisation and supervision by the competent authority of one or more examinations for the purpose of testing whether candidates for competency certificates possess the qualifications necessary for performing the duties corresponding to the certificates for which they are candidates.

3. Any Member of the Organisation may, during a period of three years from the date of its ratification, issue competency certificates to persons who have not passed the examinations organised in virtue of paragraph 2 (b) of this Article who—

(a) have in fact had sufficient practical experience of the duties corresponding to the certificate in question; and

(b) have no record of any serious technical error against them.

#### ARTICLE 5

1. Each Member which ratifies this Convention shall ensure its due enforcement by an efficient system of inspection.

2. National laws or regulations shall provide for the cases in which the authorities of a Member may detain vessels registered in its territory on account of a breach of the provisions of this Convention.

3. Where the authorities of a Member which has ratified this Convention find a breach of its provisions on a vessel registered in the territory of another Member which has also ratified the Convention, the said authorities shall communicate with the consul of the Member in the territory of which the vessel is registered.<sup>4</sup>

<sup>4</sup> For U.S. understandings, see footnote 2, p. 281.

## ARTICLE 6

1. National laws or regulations shall prescribe penalties or disciplinary measures for cases in which the provisions of this Convention are not respected.

2. In particular, such penalties or disciplinary measures shall be prescribed for cases in which—

(a) a shipowner, shipowner's agent, master or skipper has engaged a person not certificated as required by this Convention;

(b) a master or skipper has allowed any of the duties defined in Article 2 of this Convention to be performed by a person not holding the corresponding or a superior certificate;

(c) a person has obtained by fraud or forged documents an engagement to perform any of the duties defined in the said Article 2 without holding the requisite certificate.

## ARTICLE 7

1. In respect of the territories referred to in Article 35 of the Constitution of the International Labour Organisation,<sup>5</sup> each Member of the Organisation which ratifies this Convention shall append to its ratification a declaration stating:

(a) the territories in respect of which it undertakes to apply the provisions of the Convention without modification;

(b) the territories in respect of which it undertakes to apply the provisions of the Convention subject to modifications, together with details of the said modifications;

(c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;

(d) the territories in respect of which it reserves its decision.

2. The undertakings referred to in sub-paragraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of sub-paragraphs (b), (c) or (d) of paragraph 1 of this Article.

## ARTICLE 8

The formal ratifications of this Convention shall be communicated to the Secretary-General of the League of Nations for registration.

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<sup>5</sup> TS 874, *ante*, vol. 2, p. 251 (art. 421).

## ARTICLE 9

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Secretary-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Secretary-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

## ARTICLE 10

As soon as the ratifications of two Members of the International Labour Organisation have been registered, the Secretary-General of the League of Nations shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

## ARTICLE 11

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 Secretary-General of the League of Nations 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 12

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the Agenda of the Conference the question of its revision in whole or in part.

## ARTICLE 13

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, notwith-

standing the provisions of Article 11 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 14

The French and English texts of this Convention shall both be authentic.