

SEAFARERS' ADVISORY BOARD

Use of Electronic Certificates for Hong Kong Registered Ships under the Maritime Labour Convention, 2006 as amended

Purpose

The purpose of this paper is to seek members' views on the proposal of amending the Merchant Shipping (Seafarers) Ordinance (Cap. 478) and its subsidiary legislation to introduce the use of electronic certificates ("e-certs") for Hong Kong registered ships ("HK ships") as an alternative option of paper certificates under the Maritime Labour Convention, 2006 as amended (MLC).

Background

2. With the advent of digital encryption and other cybersecurity technology, the International Maritime Organization ("IMO") issued relevant guidelines¹ for the use of e-certs, seeking to set a global standard on the functions and security requirements of e-certs. E-certs in place of certificates in paper form are increasingly popular with flag administrations and their Recognized Organizations throughout the world because e-certs are more convenient to shipowners and ship operators and offer robust authentication security against forgery.

3. The MLC was adopted by the International Labour Organization (ILO). At present, the ILO has yet to provide their own guidelines for the use of electronic certificate. According to paragraph C5.2.3.i² of the 5th Edition

¹ FAL.5/Circ.39/Rev.2 (Guidelines for the Use of Electronic Certificates) approved by the Facilitation Committee of the IMO in April 2016.

² Nothing in the MLC, 2006 prevents the issuance of electronic Maritime Labour Certificates and Declarations of Maritime Labour Compliance, as long as print-outs of such electronic documents are placed in a conspicuous place on board, in accordance with Standard A5.1.3. Nonetheless, the use of electronic certificates should not in any manner weaken the obligations of State parties to the MLC, 2006 or shipowners with regard to ship certification and render more cumbersome the issuance, access

of the ILO MLC Frequently Asked Questions (“FAQ”), MLC allows the issuance of electronic Maritime Labour Certificates and Declarations of Maritime Labour Compliance according to the guidance and standards developed by the IMO on e-certification.

4. To facilitate the use of e-certs on board Hong Kong-registered ships and their acceptance by the Marine Department (“MD”), we will need to ensure that they are permissible under Cap. 478 and its subsidiary legislation as their previous enactment did not fully envisage the advance of the shipping industry towards electronic. In doing so, certain legal requirements under the existing legislation either require or imply that an action can only be done using paper certificates (e.g. the delivery up of certificates to the Director of Marine (“DM”), endorsement of certificates by the DM or return of certificates to the shipowners) are to be amended to provide the legislative provisions specifying the acceptance of e-certs as well as the manner for the operation of the electronic certification system.

The Proposal

5. Our policy intent is to keep the intact of our existing regulatory regime in relation to paper certificates. As such, we propose that the legislation amendment will aim to introduce the use of e-certs as an alternative option of paper certificates and to accept the cancellation of e-certs as equivalent to the delivery up of cancelled paper certificates, etc. As suggested by the FAQ and the practice of some major flag administrations in the world, we will follow the IMO “*Guidelines for the use of electronic certificates*” as the standard in the issuance of electronic Maritime Labour Certificates and Declarations of Maritime Labour Compliance.

6. It is anticipated that the proposal would render better support for shipowners and ship operators of Hong Kong ships and to enhance our services in order to better meet the needs of the industry.

or use of ship certificates by the individuals concerned. As the use of electronic record and certifying system is likely to be generalized in the foreseeable future, the guidance and standards developed by the IMO should be taken into account.

Consultation

7. Members' comments on, if any, and endorsement of the proposal are hereby sought.

Marine Department
Multi-lateral Policy Division
June 2022