

A REGULATION TO PROVIDE PROVISIONS FOR
RECRUITMENT, MEDICAL STANDARDS AND DISCIPLINE
OF SEAMEN IN ETHIOPIA

A MARITIME LEGISLATION DRAFTING PROJECT SUBMITTED IN
PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE
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DRAFTING INSTRUCTIONS

Subject

The Drafting of a Regulation for the Recruitment, Medical Standard and Discipline of Seamen working in Ethiopian Ships.

1. Background

1.1 Ethiopia, situated in East Africa has a 1080 Kms of coast-line along the Red Sea. Although the country has centuries old history of trade relationship with countries in and around the Arab World and the Far East, it acquired and started shipping in the modern sense of the term with the establishment of the Ethiopian Shipping Lines in 1963, which Shipping Lines is still developing and expanding.

According to present days government trend for the liberalization of industries more room for the participation of the private sector is envisaged.

1.2 For an operation of Sea Venture to run smoothly and to attain success, discovery, invention and advancement in technology alone may not suffice. The human factor has an indispensable role to play. It is thus obvious that

for the expansion and development of the Shipping Industry more attention must be paid to the handling and the administration of Seamen and to the nature of the rules and regulations under which they are governed.

1.3 Maritime operation in Ethiopia is basically regulated by the Ethiopian Maritime Code 1960 [EMC]. The EMC has 17 Articles (Art. 94 to 110) on "The Master" and 14 Articles (Art. 111 to 125) on the "Regulation of Maritime Employment". These provisions of the Code are annexed to these instructions for your ease of reference.

1.4 The other Ethiopian legislation which is very relevant to your assignment is the Labour Proclamation No. 64/1975, a copy of which is also herewith attached.

1.5 Though they mostly deal with the general law of contract of employment, the provisions of Articles 2512 to 2593 of the Ethiopian Civil Code may be worth perusing.

2. Problems Encountered

The laws referred to in 1 are not adequate to regulate maritime employment of the country. Among the problems so far encountered are found the following:

2.1 The provisions of the EMC, 1960, apart from being 30 years old and obviously out-dated fails to cover large number of fundamental subjects in maritime employment.

2.2 The Civil Code of 1960 and the Labour proclamation No. 64/1975 are prepared from the perspective of shore-based factory employment and as such they fail to cover the several circumstances that are unique and peculiar to maritime employment. The provisions dealing with recruitment, periods of probation, annual leave, discipline, definition of a worker are just a few examples.

2.3 It is of course provided by the Labour Proclamation that matters not provided for by the law be covered by Trade Union Agreements. This, however, is not enough. Basic and controversial issues have to be settled beforehand by legislation for Trade Union Agreements to be based upon. Otherwise, the chances of Management and labour coming to a compromise on such issues are slim.

2.4 Furthermore, Article 371 of the EMC, a copy of which is attached hereto, empowers the Minister in charge to make regulations on several subjects including terms and conditions of Service of Seamen. No official regulation has so far been issued in this regard.

2.5 The lacunae created due to the absence of appropriate, pertinent and comprehensive legislation has obviously created a set-back in the development of the Shipping Industry. Furthermore, this gap in the law created a tendency among those involved in the profession, such as lawyers, judges, managers and trade union leaders to make far-fetched and hair-splitting interpretations of the provisions of the general labour and employment laws in order to make them apply to the unique and peculiar situations existing in maritime employment.

One of the areas affected by such a situation is the procedure for the recruitment of seamen, the ascertainment of medical standards and the maintenance of discipline on board Ethiopian Ships.

3. Remedial Measures Envisaged

3.1 It is the intention of my government at this stage to close the gaps existing in maritime law in a one-by-one and a step-by-step process. The measures to be taken accordingly have been decided so as to start by the rules relating to the employment of seamen. As can be observed from Articles 3 to 5 of the Labour Proclamation No. 64/1975 employment or recruitment is carried out by a Central Labour Employment Exchange Office. As the aims and practices of that office is geared to conditions and circumstances existing in land-based factory-employment, the maritime sector has not been well-served by these provisions of The Labour Proclamation. It is thus now decided that a separate office for a Register of Seamen be established within the existing Marine Transport Authority to carry out the registration, recruitment and discharge of seamen.

2.2 The up-keeping of the medical standards for seamen is a contributing factor for the promotion of the motto "safer ships and cleaner oceans". The introduction of a regulated regime for medical standards is believed to be a necessity.

3.3 Last but not least, comes the maintenance of discipline on board ships. The existence of an inherent duty to obey orders, to respect ones duties and having cognizance of the powers of the Master need to be spelt out.

4. The specific task of the drafter

4.1 Taking the above-mentioned background data, the problems encountered and the intended remedial measures your task as a draftsman is to prepare a draft regulation to be issued by the Minister of Transport and Communications in order to implement the ideas intended in 3 above.

4.2 The draft Regulation is expected to include subjects such as:

- (a) employment exchange;
- (b) Functions of the Registrar;
- (c) Duties of an employer;
- (d) Standards of employment, including medical standards;
- (e) procedures for medical examination;
- (f) diseases disqualifying from sea service;
- (g) seaman's code of conduct;
- (h) the power of the master to maintain discipline on board;
- (i) matters related to discharge book and
- (j) other related matters.

5. It is also worth noting that the country is not a big maritime nation. The activities in the field are modest as compared to world standards. There is also a shortage of trained manpower. Furthermore according to the Constitution, the official language of the country is "Amharic". Thus, the English draft needs to be translated and it is the translated version which is official. All these create problems. For all these reasons, the draft is preferred if prepared, as far as possible, in a language clear and simple and avoiding sophistications.

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A REGULATION TO PROVIDE PROVISIONS
FOR THE RECRUITMENT, MEDICAL STANDARDS AND
DISCIPLINE OF SEAMEN IN ETHIOPIA

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PREAMBLE

WHEREAS the Republic of Ethiopia has established a firm basis for the development and expansion of the Shipping Industry during the last two decades;

AND WHEREAS the Ethiopian Maritime Code of 1960 does not contain adequate provisions for the regulation of the recruitment, standard of employment and discipline of seamen;

AND WHEREAS the Labour Proclamation No. 64/1975 does not address the conditions and the circumstances that are peculiar and unique to maritime employment;

AND WHEREAS Article 371 of the Maritime Code of 1960 empowers the Minister of Transport and Communications to make Regulations for the carrying of the Code into effect;

NOW THEREFORE, the Minister of Transport and Communications pursuant to the authority vested in him by Article 371 of the

Maritime Code issues these Regulations.

1. **SHORT TITLE**

These Regulations may be cited as the "Recruitment, Medical Standard and Discipline of Seamen working in Ethiopian Ships" Regulations.

P A R T I

PRELIMINARY

2. **INTERPRETATION**

In these Regulations -

"Apprentice" means an apprentice to the sea service;

"Authority" means the Marine Transport Authority established by the Marine Transport Proclamation No. 139/1978;

"crew" includes seamen and apprentices;

"Ethiopian Seaman" means a seaman who is not an alien within the meaning of the Ethiopian Nationality Law;

"Ethiopian Ship" means every description of sea-going vessels

registered under the Ethiopian flag used for the commercial transportation of goods and passengers but does not include -

- (a) Vessels of less than 500 tons of GRT;
- (b) Wooden Vessels of Primitive build such as dhows;
- (c) fishing vessels; and
- (d) estuarial crafts;

"Master" includes any person having command or charge of a ship, other than a pilot;

"Medical Practitioner" means any medical doctor appointed by the Registrar to carry out medical examination of seamen and to issue medical certificates;

"Minister" means the Minister of Transport and Communications;

"Registrar" means an official of the Authority appointed by the Minister as the Registrar of Seamen to carry out the functions as given to him by this Regulation;

"Seaman" includes every person employed or engaged in any capacity on board any ship, but shall not include the Master, the Chief Officer, the Chief Engineer, the Radio Officer and the Chief Steward;

"Undertaking" means a physical or a juridical person that employs seamen and includes shipowner, charterer and master.

P A R T I I
EMPLOYMENT EXCHANGE

3. APPOINTMENT OF A REGISTRAR

There is hereby established within the Authority the office of the Registrar of Seamen to be headed by the Registrar who shall carry out the functions as provided in this Regulation.

4. FUNCTIONS OF THE REGISTRAR

The following shall be the functions of the Registrar:

- (a) conduct, supervise and co-ordinate all business connected with the recruitment, employment and discharge of seamen;
- (b) keep Registers of the names and conduct of:-
 - (i) Seamen who apply to him for employment;
 - (ii) Seamen employed or discharged;
 - (iii) Seamen who produce continuous discharge certificates in proof of service in Ethiopian Ships;
 - (iv) Seamen who serve in Ethiopian Ships;

- (c) keep copies of the certificates referred to in Sub-Article (b) (iii);
- (d) send to an undertaking three seamen candidates for each vacancy for employment whenever such an undertaking seeks to effect employment so that the undertaking employs one of the three according to its own choice;
- (e) prepare and issue Discharge Books for seamen and supervise and control their proper use;
- (f) appoint one or more medical practitioners as may be appropriate;
- (g) establish and maintain close working contact and relationships with undertakings, trade unions, and other institutions carrying out activities related to employment of seamen;
- (h) carry out studies and prepare reports and recommendations, from time to time, on the conditions of maritime employment in Ethiopia;
- (i) perform such other related duties as he shall be assigned.

5. DUTY OF SEAMAN

SEEKING EMPLOYMENT

Every seaman seeking employment shall -

- (a) be registered in person at the office of the Registrar; and
- (b) produce documents as may be appropriate or as may be required by the Registrar.

6. DUTY OF AN UNDERTAKING

Every undertaking shall -

- (a) subject to Article 7 employ a seaman only through the office of the Registrar;
- (b) report to the Registrar its vacancies for the employment of seamen as soon as such vacancies occur;
- (c) report to the Registrar any discharge or employment made under Article 7;
- (d) when intending to establish a new project in shipping or expand its activities, or temporarily or permanently suspend its operations, in part or in whole, notify the Registrar of its intentions, 60 days before taking any

action towards such change; and

(c) submit such information and data as may reasonably be required by the Registrar.

7. EXCEPTIONS

(1) Where the Registrar fails to supply an undertaking with a seaman for employment within 10 days of a request made or if the employment has to be made in less than 10 days because the particular ship for which employment is required has to sail, the undertaking may directly employ a seaman of his choice.

(2) The undertaking shall report to the Registrar of such employment specifying the details of the seaman so employed and explaining the circumstances of his employment.

P A R T I I I E M P L O Y M E N T S T A N D A R D S

AGE AND RECORD

8. MINIMUM AGE

No person under the age of eighteen years shall be employed as a seaman in any Ethiopian Ship, except -

(a) upon work approved by the Minister on board a school ship or a training ship; or

(b) where the Registrar is satisfied that, having regard to the health and physical condition of the person and the prospective immediate benefit to him of the employment, the employment will be beneficial to the person.

9. PAST RECORD

The Registrar shall not send a seaman to an undertaking for employment if the records of the seaman show the following:

(a) he has been previously discharged on disciplinary grounds from that same undertaking;

(b) he has been previously discharged from any Ethiopian Ship due to misconduct endangering ships or persons on board;

(c) the medical grounds under which he has previously been discharged still persists.

HEALTH STANDARDS**10. MEDICAL AND PHYSICAL EXAMINATIONS**

1. Any person before he is employed to work as a seaman in an Ethiopian Ship shall undergo medical and physical examination carried out in person by a medical practitioner.

2. (a) The person shall present to the medical practitioner an identification document and a letter of introduction with his photograph attached thereto instructing the medical practitioner to carry out the examination.

(b) The letter shall explain the type and kind of work to which the person shall be assigned at sea on board the ship; that is to say, whether as a:

- (i) deck hand;
- (ii) engine room;
- (iii) catering staff; or
- (iv) nautical or engineering officer Cadet.

3. The examination shall include -

- (a) physical examination;
- (b) chest x-ray;
- (c) complete blood count;
- (d) stool examination;
- (e) VDRL;
- (f) pure tone audiogram;
- (g) blood chemistry;
- (h) electro-cardiogram tracing;
- (i) acuity of vision;
- (j) colour vision;
- (k) faculty of hearing; and
- (l) any other examination as may be prescribed by the Registrar.

4. The result of the examination shall be reported to the undertaking in the form prescribed by the Registrar and always in a sealed envelope.

11. MEDICAL AND PHYSICAL

STANDARDS

1. No person shall be employed as a seaman in an Ethiopian ship unless he has a valid medical certificate issued by a medical practitioner certifying his medical and physical fitness for the job to which he shall be assigned in the ship.

2.The Registrar shall, prescribe from time to time the physical and medical standards required and in particular shall always prescribe the minimum degree of the acuity of Vision, Colour Vision and the faculty of hearing that would qualify for employment in the different departments of the Ship.

3.The following physical and medical conditions shall always disqualify a seaman from employment on an Ethiopian Ship:

(a)general debility such an amputation of any extremity or any part thereof that will interfere with the performance of duty;

(b)communicable diseases likely to endanger the health of other person on board;

(c)monocular vision and diseases of the eye that cannot be cured;

(d)diseases of the ear that cannot be treated to acquire normal hearing;

(e)skin diseases that cannot be cured;

(f)diseases of the respiratory organs, such as bronchia, asthma

and pulmonary tuberculosis;

(g) blood pressure of a degree higher than that prescribed by the Registrar and other diseases of the heart or the respiratory system;

(h) emotional disturbances or mental disorders even if they have subsided;

(i) diseases of or damage to the nervous system especially of the brain and the spinal cord, including epilepsy.

12. **MEDICAL CERTIFICATE**

1. Every seaman employed on an Ethiopian ship shall be issued with a Medical Certificate.

2. A Medical Certificate shall be valid if -

(a) it is in the form prescribed by the Registrar;

(b) it is signed, stamped and issued by the Medical Practitioner;
and

(c) its date of validity has not expired.

13. **FOLLOW-UP EXAMINATION**

1. Every seaman with the exception of a seaman assigned in the Catering Department shall undergo a physical and medical examination every two years;

2. A seaman assigned in the Catering Department shall undergo a physical and medical examination every one year;

3. A seaman whose medical fitness for the work which he performs on board an Ethiopian ship is likely to be affected by defective colour vision shall undergo medical examination for colour vision every four years;

4. Notwithstanding sub-Articles (1), (2) and (3) the medical practitioner may order a follow-up examination at a shorter interval as he may deem appropriate.

14. **ADDITIONAL HEALTH DISORDERS**

DISQUALIFYING FROM SERVICE

Where the occurrence of the following health disorders shall be discovered during the follow-up examination they may be grounds for termination of the contract of employment of seamen depending on the discretionary decision of the undertaking concerned:

- (a) diabetes that may not be sufficiently stabilized with the aid of oral hypoglycaemic agents;
- (b) disturbances of the endocrine glands that may be aggravated or may give rise to complications under sea-going conditions;
- (c) ulcer which may not be cured without any after-effects within two years;
- (d) where a complaint has arisen within two years from the date of gastric resection or other operations of the stomach or

the duodenum;

(e) where there occurs further complications within six months from recovery from hepatitis;

(f) hernia if not operated or if not sufficiently retained by a well fitting hernia support.

15. **EXPENSES OF MEDICAL EXAMINATION**

All expenses for medical and physical examination both at the initial and the follow-up stages shall be borne by the undertaking.

P A R T I V

DISCIPLINE

16. **RESPONSIBILITY OF THE MASTER**

The Master in command of an Ethiopian ship shall be responsible for the maintenance of order, discipline and good behaviour on board the ship.

17. CODE OF CONDUCT TO BE OBSERVED BY A SEAMAN

A seaman shall observe the following rules of conduct in his day-to-day performance of duty on board an Ethiopian ship:

(a) both for the efficient operation of the ship and for the avoidance of putting extra work on other seamen the seaman must always be punctual in -

- (i) joining the ship at the appointed time;
- (ii) returning from shore leave;
- (iii) returning for his watch-keeping duty;

(b) he shall not possess or distribute unlawfully any sort of drugs;

(c) the ship's bar rules shall be strictly adhered to and facilities for drinking on board shall not be abused;

(d) the ship's rules or port authorities restrictions on bringing unauthorised person on board shall be observed;

(e) offensive weapons shall not be carried on board;

(f) the Ship's Rules regulating smoking and the use of naked lights

or unapproved electric torches shall be obeyed;

(g) the seaman shall obey lawful and reasonable commands and instructions within the scope of his duties and shall carry out such duties efficiently and to the best of his ability;

(h) he shall treat the accommodations and other facilities with due care whether or not such facilities are provided for his personal use or to be shared with others;

(i) behaviours such as causing excessive noise, abusive language, aggressive attitudes and offensive personal habits shall always be avoided.

18. DISMISSAL BY THE MASTER

1. The Master shall have the power to dismiss a Seaman from the ship where he proves to his reasonable satisfaction that the Seaman has committed the following acts of misconduct and is convinced that such measure shall, according to the circumstances of the case, be considered appropriate:

(a) assault;

(b) wilful damage to the ship or any property on board;

- (c)possession of offensive weapons;
- (d)theft or possession of stolen property;
- (e)persistent or wilful failure to perform duty;
- (f)unlawful possession or distribution of drugs;
- (g)conduct endangering the ship or persons on board;
- (h)combinations with others at sea to impede the progress of the voyage or navigation of the ship;
- (i)disobedience of orders relating to safety of the ship or any person on board;
- (j)to be asleep on duty or fail to remain on duty if such conduct would prejudice the safety of the ship or any person on board;
- (k)incapacity through the influence of alcohol or drugs to carry out duty to the prejudice of the safety of the ship or of any person on board;
- (l)to smoke, use a naked light or an unapproved electric torch in any part of a ship carrying dangerous cargo or stores where smoking or the use of naked lights or unapproved torches is prohibited;
- (m)intimidation, coercion and interference with the work of other employees;
- (n)behaviour which seriously detracts from the safe and efficient working of the ship;
- (o)behaviour which seriously detracts from the social well-being of any other person on board;
- (p)causing or permitting unauthorised persons to be on board the

ship whilst it is at sea;

(q) repeated commission of breaches of a lesser degree of seriousness listed in Article 19 if warnings have been given in accordance with Article 19(2).

2. (i) The decision of the Master for the dismissal from the ship of a seaman shall be effected only upon the arrival of the ship at an Ethiopian port.

(ii) Where the Master is reasonably convinced that the continued presence of the offender on board would be detrimental to the efficient and safe running of the Ship or to the maintenance of harmonious personal relations on board, he may arrange for the dismissal and the repatriation of the offender at and from the next port of call.

19. BREACHES OF CONDUCT OF A LESSER DEGREE OF SERIOUSNESS

1. The following acts of misconduct are considered to be

breaches of a lesser degree of seriousness:

- (a) offences of the kind described in Article 18 which are not considered to justify dismissal in the particular circumstances of the case;
- (b) minor acts of negligence, neglect of duty, disobedience and assault;
- (c) unsatisfactory work performance;
- (d) poor time-keeping;
- (e) stopping work before the authorized time;
- (f) failure to report to work without satisfactory reason;
- (g) absence from place of duty or from the ship without leave;
- (h) offensive or disorderly behaviour.

2. Breaches of lesser degree of seriousness listed in sub-Article (1) shall be dealt with by any one of the following measures as may be appropriate:

- (a) Informal warning administered at an appropriate level lower

than that of the Master;

(b) Formal warning by the Head of Department which shall be recorded;

(c) Formal warning by the Master recorded in the ship's official log-book;

(d) Written reprimands administered by the Master and recorded in the ship's official log-book;

3. Where a formal warning is given, the seaman shall be advised of the likely consequences of his further breaches of conduct.

20. ENTRY IN THE OFFICIAL LOG-BOOK

The Master shall enter details of the breach and the measures taken in the official log-book and report to the undertaking.

21. COMPLAINT PROCEDURE

1. A seaman who considers that the measures taken against him by the Master are not in accordance with this Regulation may appeal to the head of the undertaking.

2. Where the seaman is not satisfied with the decision of the head of the undertaking, he may bring his appeal to the trade dispute committee of the undertaking that is constituted pursuant to the Labour Proclamation No. 64/1975.

22. CRIMINAL PROSECUTION

1. Any disciplinary measure taken by the Master in accordance with this regulation shall not bar the institution of criminal proceedings against the seaman where the breach committed by the seaman constitutes an offence under the Penal Code or the Maritime Code or any other law of Ethiopia.

2. Among the prosecutable offences are included the following:

(a) serious assault even where not resulting in death or serious bodily injury;

(b) the occurrence of substantial theft of cargo, ship's stores or other crew possessions;

(c) deliberate, negligent or drunken acts or omissions that cause the loss, destruction or serious damage to the ship or death or serious injury of any person on board.

P A R T V
DISCHARGE BOOK

23. ISSUANCE OF DISCHARGE BOOK

1. The Registrar shall issue, against receipt of the prescribed fee, to an Ethiopian Seaman a Discharge Book.

2. The Discharge Book shall be in the form as shall be prescribed by the Registrar and it shall provide for the recording of the following particulars regarding an Ethiopian Seaman:

(a) his full name;

(b) home address;

(c) date and place of birth;

(d) nationality;

(e) colour of eyes;

(f) distinguishing marks, if any;

(g) height;

(h) grade, number and date of issue of any certificate of competency held;

(i) national insurance number;

(j) pension fund number;

(k) name, relationship and address of next of kin;

- (l) name of each registered Ethiopian ship in which employed, its port of registry, official number and gross or registered tonnage, capacity in which employed, date and place at which employment begins, description of each voyage and date and place of signing-on and signing-off;
- (m) any period of paid leave, unpaid leave, any period of sickness and any period of study leave, and the certificate for which the study was undertaken;
- (n) dates and nature of training courses attended and certificates and other qualifications obtained;
- (o) inoculation and vaccination certificates;
- (p) records of tests of his eye-sight;
- (q) records of tests of his faculty of hearing; and
- (r) other information as the Registrar may as may be appropriate introduce.

24. MAKING OF ENTRIES

Entries in Discharge Book of the particulars listed in Article 23(2) shall be made by the following persons only:

- (a) particulars referred to in sub-Articles (a) to (m) by the Registrar;
- (b) particulars referred to in sub-Articles (l) and (m) by the Master of the Ship in which the holder is employed or by one of the ship's officer authorized by the Master in that behalf;
- (c) particulars referred to in sub-Articles (b) and (k) by the Master of the ship in which the holder is employed;
- (d) particulars referred to in sub-Articles (m) and (k) by the respective undertaking.

25. PRODUCTION OF DISCHARGE BOOK

1. An Ethiopian Seaman shall produce his Discharge Book on demand to:

- (a) the Registrar;

- (b) his employer;
- (c) the Master; and
- (d) any other person empowered to make an entry in it.

2. Failure to produce a Discharge Book in accordance with sub-Article (1) is an offence.

26. **EFFECTIVE DATE**

This Regulation shall enter into force upon its publication in the "NEGARIT GAZETA".

Done At Addis Ababa, this
20th Day of April 1991.

**MINISTER OF TRANSPORT AND
COMMUNICATIONS**