

UiO : **Faculty of Law**
University of Oslo

Recruitment, Training and Employment Contracts of Ethiopian Seafarers Employed on Foreign Ships

Candidate number: 90

Submission deadline: May 20, 2017

Number of words: 17,644



Acknowledgment

Let me take this chance to thank the Almighty God for being with me all the time and giving me the strength to finish my work.

Next, I would like to express my sincere gratitude to my supervisor Prof. Erik Rosaeg for the continuous support of my thesis, for his patience and immense knowledge. His constructive comments helped me in all the time.

A very special gratitude goes out to my husband who was always on my side. I am also grateful for my families; my respected parents, sisters, brothers and friends. This work could not be completed without your great support.

I would also like to extend my sincere appreciation to my Colleague Dr. Beza Desalegn, who supported and advised me during this work.

Last but by means least, also to everyone in Hawassa University School of law. Thank you all for your kind encouragements and tolerance.

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Abbreviations

CBA- Collective Bargaining Agreements

EMAA- The Ethiopian Maritime Affairs Authority

EMTI- Ethiopia Maritime Training Institute

FOC- Flag of Convenience

GmbH EMA- Ethiopian Manning Agency Germany, Hamburg

ILO- International Labor Organization

IMO- International Maritime Organization

ITF- International Transport Workers Federation

MLC- Maritime Labor Convention

MOLSA- Ministry of Labor and Social Affairs

POEA- Philippines Overseas Employment Administration

SEC- Seafarers Employment Contract

SOLAS- Convention on the Safety of Life at Sea

STCW- The International Convention on Standards of Training, Certification and Watch keeping for Seafarers of 1978 as amended

UNCLOS- United Nations Convention on the Law of the Sea

Chapter one

Introduction

1.1. Background of the study

It is a surprise when someone comes across the fact that Ethiopia, a land locked country; produces hundreds of seafarers every year. Employment of Ethiopian seafarers in foreign ships is a recent phenomenon. The Ethiopian Maritime Training Institute (EMTI), which is mandated with the task of providing professional maritime training for Ethiopian Engineering graduates, was established in 2010.¹ It has trained and is still training hundreds of officers in one of the biggest cities of Ethiopia - Bahir Dar. Soon after the establishment of EMTI, Ethiopian Manning Agency Germany, Hamburg (GmbH EMA) was founded in 2011 and it is the first and only Private manning agency, which facilitates employment of Ethiopian marine engineers.²

Pini Schwarz, CEO of EMTI, who is also executive Vice President at the Liberian Registry, told HIS Maritime, “We are the only maritime training institute in Ethiopia...” EMTI works in collaboration with its partner [EMA](#), which is a privately owned German company that facilitates employment of Ethiopian Marine Engineers, with world renowned shipping companies in order to satisfy the growing demand of the international merchant fleet. EMA’s offices are located in Hamburg (Germany) and Addis Ababa (Ethiopia).

As things currently stand, many Ethiopians are flocking to EMTI looking for employment opportunities as seafarers. The desire to become seafarer and work overseas may have emanated out of different personal and economic pressures that are present in the country.

Nevertheless, as the trending developments show, being employed overseas by itself does not mean that Ethiopian seafarers will have the best terms and conditions of employment compared with non-seafarer Ethiopians working in their home country. The process of recruitment and placement of Ethiopian seafarers overseas is a very crucial area where the national frameworks of the country should work strongly.

¹ EMTI obtained certificate of approval to operate as Maritime training center after it began operation from the Ethiopian Maritime Affairs Authority pursuant to The Federal Democratic Republic of Ethiopia, Ministry of Transport- Directives on Approval and Monitoring of Maritime Training Centers No. MAA 1/2015

² <http://www.emticorp.com/ema.html>, accessed on September 15/2016

Ethiopia, as Labor Supplying State is duty bound to promote and protect labor rights of its seafarers.

1.2. Statement of the problem

Seafaring usually relates to “danger, isolation and restriction” where the protection of legal system is not easily accessible to seafarers.³ Besides working on board, staying away from family for long time and working with multinational crews often makes the labor conditions for seafarers unfavorable. These poor working conditions coupled with the temporary nature of their work and the unfavorable bodies of law that seafarers may be subjected to - dependent upon the flag under which they sail reflect - are instructive of the fact that seafarers require special protection.⁴

There are a number of international Maritime instruments and some of these give protection to the rights of seafarers. Among others, they provide for the right to fair recruitment and placement, the right to employment agreement, the right to carrier and skill development. This at the end will ensure decent working and living condition for seafarers.

Ethiopia is party to some of the major international maritime laws and this is important since Ethiopia is recently supplying seafarers for international labor market. The process of recruitment and training of Ethiopian seafarers significantly affect the competence, qualification and the type of employment agreement they may get.⁵ Among others, Ethiopia has ratified the IMO(International Maritime Organization) Convention of 1948, the 1974 Convention on the Safety of Life at Sea, as amended and its Protocol of 1978 (SOLAS), the International Convention on Standards of Training, Certification and Watch keeping for Seafarers of 1978 as amended (STCW). The training and certification of Ethiopian seafarers is also expected to comply with these international maritime laws and the Ethiopian Maritime Affairs Authority (EMAA) is working to ensure the qualification and competence of seafarers trained by the Ethiopian Maritime Training Institute (EMTI).⁶

³ Hubilla, Maria R. S. ,“An analytical Review of the Treatment of Seafarers under the Current Milieu of the International Law, Relating to Maritime Labor and Human Rights,”*World Maritime University Dissertation* 249(2009): pp. 13.

⁴ Bauer, Paul J, "The Maritime Labor Convention: An Adequate Guarantee of Seafarer Rights, or an Impediment to True Reforms?,"*Chicago Journal of International Law* Vol. 8, No. 2, Article 12 (2008): Pp. 1.

⁵ Laura C. Pineiro, *International Maritime Labor Law*(Berlin Heidelberg:Springer-Verlag, 2015), pp. 50

⁶ Interview with Capitan Getinet Abay, Nautical Advisor, Ethiopian Maritime Affairs Authority, March 24,2017

The above international laws basically deal with the Vessel and its operation, whereas the MLC (Maritime Labor Convention) 2006, which is considered as “Bills of rights” of seafarers’ deals more with rights of seafarers and it, is under the process of ratification in Ethiopia.⁷The process of ratification took more than two years but it is declared by the Ministry of Transport that it is soon to be ratified.⁸

Ethiopia, irrespective of the historical loss of its ports in 1990s, still continues to own ships and engages in the maritime industry. The fact that Ethiopia is landlocked brought about the decline of seafaring as a job. The recent practice of supplying seafarers to the international market however, is not accompanied with the required need of legislative and procedural framework. The 1960’s Maritime Code of the Empire of Ethiopia is outdated and there is no separate legislation and administrative organ working to regulate seafarers’ recruitment and placement services and provision of social security.⁹

Having this in mind and appreciating the step to create new employment opportunities for Ethiopians, this research focuses on the process of recruitment, conditions and terms of employment and compliant related issues of Ethiopian seafarers.

The majority of Ethiopian seafarers, to the extent data is available, are employed on ships that fly Liberian, Bahamas and Panama flag.¹⁰The MLC, 2006, makes it clear the flag state bears the main international responsibility in these matters, and the ground is prepared for rebuilding the flag jurisdiction as the best law to rule on employment matters.¹¹

⁷ Interview with Miss. Liyuwork Amare, Director, Maritime Administration Directorate, Ethiopian Maritime Affairs Authority, March 24,2017

⁸ Ibid

⁹ Hailegabreil Gedicho Feyissa, *Ethiopian Justice and Legal Maritime Law*,(Addis Ababa: Justice and Legal System Research Institute,2009)Pp. 15.

¹⁰ Interview with Seafarers employed on foreign ships through the recruitment and placement service of EMA. The first batches of 2011 were all employed on ships flying Liberian Flag. Recently there a tendency to employ on ships flying Panama, Bahamas, Cyprus, and Malta, in few situations.

¹¹ Laura C. Pineiro, *International Maritime Labor Law*(Berlin Heidelberg:Springer-Verlag, 2015), pp. 13.

Liberia, Bahamas, Marshal Islands and Panama¹² as agreed by the world maritime sector, do have open registry systems and are categorized as being Flags of Convenience (FOC) and having lenient regulatory requirements compared with other developed nations who do have ship registries.¹³

Pursuant to Article 94 of the UNCLOS (United Nations Convention on Laws of the Sea), Flag states have the primary jurisdiction over ships sailing under their flags. Flag states, among others, are expected to have exclusive jurisdiction over labor conditions and must ensure that their ships comply with the national and international labor standards.¹⁴ The regulatory system of Flag states is different from Port state control and the International Transport Workers Federation (ITF) regulatory system. Port states, unlike flag states do have regulatory power over all foreign ships checking their ports. Port state control is complementary of Flag state and the weak regulation of FOC states will cost Port states because the latter will have to deal with faults of substandard ships from FOC states.¹⁵

The weak regulatory system of this flag states is also known to have provided a favorable atmosphere for seafarer recruiters to hire crews from low-wage seafaring labor supply countries for work employment anywhere in the world¹⁶. This in turn affects the working and living condition of seafarers employed on such ships.

Almost all Ethiopian seafarers have never been in the flag state of the ship they are employed on and majority of them had no chance to communicate with Flag state authorities. This is important because flag states are given with the primary jurisdiction of labor disputes in maritime matters. And in case of any dispute between these seafarers and their employer, the former are without the means to pursue legal claims in courts of the flag state because of different constraints, inter alia, finance, accessibility and language barriers.

¹² Carlisle, Rodney P., *Sovereignty for Sale: The Origins and Evolution of the Panamanian and Liberian Flags of Convenience* (Annapolis: Naval Institute Press 1981), Pp2

¹³ G. Chen D. Shan, "Seafarers' Access to Jurisdiction over Labor Matters," *Marine Policy* Vol.77, No.108 (2016):Pp.6

¹⁴ Fikri, Iqbal, "Flag State Control: an overview and its relationship with port state Control," *World Maritime University Dissertations* 170(2007):PP 14

¹⁵ Ibid

¹⁶ N. Lillie, "Global Collective Bargaining on Flags of Convenience Shipping," *British Journal of Industrial relations* Vol. 42(2004):Pp. 4.

The practice of employing Ethiopian seafarers on FOC vessels is the reflection of globalization in the maritime labor market and Ethiopian seafarers can be called ‘crews of convenience’ because they can be employed by any ship owner if it is convenient for the latter. Ethiopian as a supplying state is also less developed with few and weak legislative and administrative authorities to protect its overseas labor.¹⁷

Though flag states, as provided under the UNCLOS, have primary jurisdiction over labor matters FOC states are often considered as the most inconvenient forums for different pragmatic reasons. Considering the case of Ethiopian seafarers, the geographical distance, language and other diplomatic constraints would make accessing jurisdiction in such FOC states obviously impossible.¹⁸ This however does not necessarily mean that crew can only sue their employers in the Flag states. There are also other alternative forums depending on the legal systems of involved jurisdictions. For instance, a crew can sue his employer at the latter’s domicile if the employer operates its business in an EU member state.¹⁹

Furthermore, the system of recruitment and facilitation of employment followed by EMA does not seem to allow the deployment of Ethiopian seafarers to countries which have existing labor and social standards provided under the MLC because FOC states are known for their weak regulatory and enforcement systems.²⁰ However, this does not necessarily mean that all FOC states are not party to the MLC. For instance, Liberia is party to the MLC but the problem lies on the weak enforcement mechanisms in the country.²¹

The other important issue worth mentioning is the contracts involved in the process of recruitment and employment of Ethiopian seafarers. All seafarers who pass through EMA are duty bound to sign two separate contracts.²² One is concluded between the seafarers and EMTI in which the latter is a partner of EMA. This contract is exclusively concerned with the commitment of the seafarer for EMTI. The contract provides that EMA, partner of EMTI, undertakes to facilitate job opportunity for

¹⁷ Interview with Ms Liyu Work Amare

¹⁸ Shan, “Seafarers’ Access to Jurisdiction,” Pp. 5.

¹⁹ Ibid Pp. 4

²⁰ Lillie, “Global Collective Bargaining,” Pp. 5

²¹ The Republic of Liberia, Liberian Maritime Authority, Marine Notice, MLC-001 Rev.01/14

²² See Annex for sample contracts of training and Seafarers Employment Contract

the seafarer and the latter is duty bound to pay 33,600 USD, which is deductible up on employment. Once a cadet seafarer becomes officer, 1,400 USD shall be deducted from every month's salary.²³ The second contract is the employment contract. This contract is signed between the employer, who could be ship owner or operator and the seafarer. EMA will sign the contract of employment for and on behalf of the employer.²⁴

Although all the Seafarer Employment Agreements include most of the minimum requirements, there are some terms of agreements which may put Ethiopian seafarers in a disadvantageous position. Terms in relation to bank account holder to be EMA, Collective Bargaining Agreements (CBAs) and choice jurisdiction clauses are among such terms which may have a negative impact on labor rights of Ethiopian seafarers. This problem is also related with lack of existing CBAs on which Ethiopian seafarers are represented and lack of unions which will represent seafarers in concluding CBAs with employers.

Considering the foregoing types of contracts involved, the writer would dare to say that Ethiopian Seafarers are entirely dependent on EMA for their economic survival as paying 33,600 USD will take several years. The living condition and rate of unemployment of educated youth in Ethiopia²⁵ also contributes for the submission of Ethiopian seafarers for such exploitive system.

A related problem that is faced by Ethiopian seafarers is the fact of staying unemployed long after the completion of their respective trainings and even unable to get next contract after signing off. According to Ethiopian seafarers EMA has arranged a polygraph test as part of the recruitment and placement services. Accordingly, a seafarer has to take a polygraph test every month after signing off and he will agree that his placement in the shipping industry is dependent upon satisfactory psychological fitness. In addition he will agree that if he fails the predictive assessment twice he will be dismissed from the recruitment and placement service of EMA.²⁶

²³ For a further discussion on the structure of these contracts, see below the discussion under chapter four section 4.1

²⁴ Ibid

²⁵ Nzinga H. Broussar and Tegaye G. Tekleselassie, "Youth Unemployment: Ethiopia Country Study," *International Growth Center*, Working Paper 12/0592(2012):PP. 21

²⁶ Interview with Ethiopian seafarers; few respondents disclosed that they were not employed for more than a year for they failed the polygraph test which is arranged by EMA. They also said that they were not able to

Even if they get employed, seafarers might be forced to work on the same rank in which he/she was employed despite having met the necessary requirements for promotion because of the prior contract they have concluded with EMTI. Deciding to decline from working on board would mean losing guarantor's asset.²⁷

The greatest difficulty faced by seafarers is the fact that their legal rights are often hard to separate, from the jurisdictions in which these rights can be enforced. It is common for a seafarer to work on a vessel registered in a foreign country, sailing on the high seas and calling at ports in countries other than that of her flag, owned by citizens of yet other countries, insured in other countries, perhaps chartered by interests in other countries, managed by a company in another country, and carrying cargo owned by citizens of other countries.²⁸

The case of Ethiopian seafarers is no different and may be worse for various reasons. Primary is the fact that Ethiopia is not a maritime nation and is a land locked country. The seafarer will not have any chance to get his rights enforced in his country because all employment contracts signed by Ethiopian seafarers do have forum selection clause and jurisdiction is given for the flag state.²⁹ However, the validity and enforcement of this forum clause depends on the legal system a country follows.

All private crewing agencies must be regulated and provide an efficient, adequate transparent and accountable system that protect and promote seafarers rights.³⁰ All flag states are also responsible for ensuring the implementation of seafarers' rights.³¹ This idea is reaffirmed on the Maritime Labor Convention fifth title and it requires each flag state to be responsible for enforcing labor standards over all ships that sail under their flag.³²

pursue their legal rights because there is no ground and compliant mechanism arranged through national authorities. See annex for the polygraph test consent; seafarers will consent and sign to be dismissed from the project if they fail the test for three consecutive times.

²⁷ Ibid

²⁸ Lillie, "Global Collective Bargaining," Pp .4.

²⁹ See 23 of seafarers employment agreement

³⁰ Regulation 1.4 and 5.3 of the MLC

³¹ Council Regulation (EC) No 44/2001, Jurisdiction and the Recognition and Enforcement of judgments in Civil and Commercial matters ("Brussels Regulation"), Reg. 1.4, 22 December 2000.

³² Paul J, "The Maritime Labor Convention," Pp. 3.

As it is provided under a Guideline prepared by ITF, 2006,³³ Minimum Rights of seafarers are put into place either through National Laws, Regulations, and Collective Bargaining Agreements or simply through good practice. However, the writer is of the opinion that Ethiopian seafarers lack all these alternatives. The very fact of Ethiopia being not a maritime state while supplying seafarers to the international labor market coupled with lack of national legal and institutional framework has made Ethiopian seafarers crews of convince and the country is not also getting the best benefit out of supplying seafarers. This situation can be remedied by Ethiopian legislation by at least regulating the overseas recruitment and placement of seafarers in Ethiopian.

To the extent data is available, Ethiopian seafarers will have claims of varied type such as promotion, wage and compensation. Information from some Ethiopian seafarers also reveals that they have great reservation on the amount and modality of payment of the 33,600 USD through EMA.

Based on the above inquiries, the following main research questions have been identified:

1. What are the fundamental rights of seafarers under MLC2006?
2. Is EMA's recruitment and placement service in accordance with international law and standard?
3. Is there any national law and authority mandated to watch over the work of private maritime crewing agencies?
4. What are the challenges faced by Ethiopian seafarers employed on foreign vessels through recruitment and placement services of EMA?

1.3. Objectives of the research

This research will achieve the following objectives in the process of finding answers for the above research questions.

- Analyze labor related rights of seafarers under the MLC
- Analyze the rights of seafarers under the Ethiopian legal regime
- Evaluate the recruitment and employment process of Ethiopian Manning Agency (EMA)

³³ *A Seafarers' Bill of Rights*, (London: The International Transport Workers' Federation 2006), Pp. 4

- Evaluate role of Ethiopian Manning Agency (EMA) in protecting seafarers' rights in relation to their contract of employment.
- Evaluate the types of contract involved in the manning agency in the process of facilitating employment for seafarers. And assess whether these contracts are clearly distinguished from one another.
- Evaluate the validity and enforceability of the forum selection clause under the seafarers' employment contract.
- Assess the challenges faced by Ethiopian seafarers employed on foreign vessels and role of flag states in implementing labor standards.
- Assess the role of the Ethiopian Maritime Affairs Authority in ensuring quality of maritime training.

1.4. Methodology

To find answers for the proposed research questions and to achieve its objectives this research principally uses a legal research method, although its approach is a multi-disciplinary one. Accordingly, it follows a qualitative research approach using both doctrinal and non-doctrinal methods. For the legal component, the doctrinal method is used. This method relied on the analysis as well as construction of a number of primary sources.

The primary sources, *inter alia*, are composed from pertinent international instruments, which include the Convention on the International Maritime Organization (IMO CONVENTION), Maritime Labor Convention (MLC, 2006), International Convention on Standards of Training, Certification and Watch keeping for Seafarers (STCW) and International Convention for the Safety of Life at Sea (SOLAS), 1974.

For the purpose of gathering relevant empirical data supporting the research, the study uses interviews. The interviewees were selected using purposive sampling technique. Accordingly, seafarers were categorized in to three groups. Those who have been working smoothly following the normal manning levels, those who are working for their livelihood without getting the appropriate promotion and those who have declined or withdrawn from the project for different work related and personal

reasons. Ethiopia seafarers employed on foreign ships through EMA were the main focus groups. Information on how EMA work in facilitating and deploying Ethiopian seafarers is also included.³⁴

A semi-structured in-depth interview was also made with officials and Maritime experts from Ethiopian Maritime Affairs Authority (EMAA) and the Ethiopian Ministry of Labor and Social Affairs (MLSA).

Regarding data analysis, the collected data is analyzed qualitatively. In order to reduce the bias of those involved in the interview from influencing the output of the research, the study used a triangulation method. These primary data are afterwards corroborated by a wide array of documentary sources, which include IMO Convention, MLC 2006 and STCW. Secondary sources from academic and research works are also used to match the above findings. Finally, the findings of the data are expressed in terms of words in a narrative form.

1.5. Significance of the study

The research will have various implications on the Ethiopian Maritime sector. The finding of this research, among others, will help in understanding the conditions of employment of Ethiopian Seafarers deployed on foreign vessels. It will specifically contribute recommendations in relation to adopting strong regulatory and audit system on recruitment and employment of Ethiopian seafarers on foreign vessels.

It will also increase awareness of seafarers on their international labor rights and show them the importance of having strong unions and collective bargaining agreements.

1.6. Scope and limitation of the study

Despite the existence of several rights of seafarers under the MLC, this research will basically focus on the right to fair recruitment and employment and right to fair terms of employment of Ethiopian seafarers employed on foreign vessels. Even if the research will focus on EMTI and its partner EMA, much will not be discussed because of lack official data on the process of recruitment and employment. Furthermore, the research will not cover Ethiopian seafarers who are trained and employed

³⁴ The writer tried to make interview with officials of EMA but for reasons unknown for the researcher, officials refused to make interview and give information on the work they are doing. However, it should be noted that the writer has used different informal sources to gather relevant data.

through and to the Ethiopian Shipping Lines S.C. the case of these seafarers is slightly different from those employed on foreign ships because in the former case Ethiopia is the common flag state and seafarers will have convenient access to their flag state.

1.7. Organization of the paper

The paper contains four chapters. The first area of discussion is on the conceptual framework on rights of seafarers pertaining to recruitment and employment. Under this chapter the fundamental rights of seafarers under the MLC 2006 will be discussed. Other issues like Flag of Convenience and its impact for access of jurisdiction will thoroughly discussed under this chapter. Chapter three is devoted for discussing of the normative and institutional framework of Ethiopia in relation to rights of seafarers. This chapter will make discussion on the Maritime Code of the Empire of Ethiopia. It will also cover the national institutions mandated on labor and maritime matters. After discussing the effectiveness of the national framework for the protection of rights of seafarers, the paper will go on discussing on the challenges faced by Ethiopian seafarers employed on foreign ships. The final chapter is a brief conclusion on the findings of the research.

Chapter two

Conceptual framework on Seafarers rights pertaining to Recruitment and Employment

Introduction

The global nature of the shipping industry dictates that seafarers need special protection. Since seafarers are often exempted from national labor laws, international protection is of a very crucial area of discussion.³⁵

The Maritime Labor Convention (MLC) 2006, otherwise known as Seafarers' Bill of Rights, incorporates variety of existing maritime Labor Conventions. It is aimed at ensuring decent working and living conditions for all seafarers.

This chapter will start by making few points on the meaning of seafarers. It will basically cover the fundamental rights of seafarers under the MLC.

It is a matter of fact that most of the rights of seafarers are related with maritime education, training, recruitment and employment. Therefore, institutions dealing with training, recruitment and employment services have a very important role in the implementation of the MLC and other international standards such as Convention on Standards of Training, Certification and Watch keeping for Seafarers (STCW). Consequently, the international legal regime regarding private maritime institutes and manning agencies working on recruitment and placement services of seafarers will be discussed.

The other important point of discussion is on the recent global practice of Flag of Convenience (FOC). This practice allows ship owners and operators to hire crews from anywhere in the world and FOC states often attract ships from developed countries by lowering labor standards.³⁶ Hence, the negative impact of FOC practice vis-à-vis labor standards and maritime jurisdiction will be covered.

³⁵ Alexandros X.M. Ntovas, "Introductory Note to the Maritime Labor Convention, International Legal Materials," *American Society of International Law* Vol. 53, No. 5 (2014): pp. 4.

³⁶ Elizabeth R. DeSombre, "Globalization, Competition and Convergence: Shipping and the Race to the Middle," *Global Governance* Vol.4, No.2 (2008):Pp. 4.

2.1. Who is a seafarer?

Article II of the MLC defines the term seafarer as any person, who is employed, engaged or working in any capacity on board a ship. This includes riding gangs and hotel staff on cruise ships.³⁷

To the extent data is available 80% of the world trade involves ocean shipping and it would be logical to say that seafarers, who work on ships engaged in national and international trade, play a vital role on the global economy.³⁸

Labor conditions for seafarers are often not best as one can imagine considering the international market in the shipping industry.³⁹ These poor working conditions are basically the outcomes of the temporary nature of their work and the unfavorable bodies of law that seafarers may be subjected to dependent upon the flag under which they sail. The Maritime Labor Convention aims to improve labor conditions for seafarers around the world by establishing standard rights for all seafarers.⁴⁰

2.2. Fundamental rights of seafarers under the MLC

Seafarers have always been of special concern to the International Labor Organization (ILO). Different special sessions were arranged to deal with situation of seafarers starting from the adoption of the first legal instrument, the National Seamen's Codes Recommendation, in 1920.⁴¹

The Maritime Labor Convention 2006 (MLC) is an international agreement of the International Labor Organization ('ILO') which sets out seafarers' rights to decent conditions of work. It is sometimes called the seafarers' Bill of Rights. It applies to all seafarers, including those with jobs in hotel and other passenger services on cruise ships and commercial yachts.⁴²

The MLC is one of the major developments of ILO. It is adopted with a view to create a single, coherent instrument embodying as far as possible all up-to-date standards of existing international mari-

³⁷ *A Seafarers' Bill of Rights*, Pp. 9.

³⁸ Paul J, "The Maritime Labor Convention," Pp.1.

³⁹ Marcus Oldenburg and Hans-Joachim Jensen, "Merchant seafaring and hazardous occupation," *Occupational and Environmental Medicine* Vol. 69, No. 9(2012): PP. 1

⁴⁰ Paul J, "The Maritime Labor Convention," pp2

⁴¹ Pineiro, *International Maritime Labor Law*, Pp. 13.

⁴² The Maritime Labor Convention, 2006 Article II/f: 'Seafarer means any person who is employed or engaged or works in any capacity onboard a ship to which this Convention applies.'

time labor Conventions and Recommendations, as well as the fundamental principles of other international labor Conventions.⁴³

MLC requires governments to make sure that their laws and regulations respect certain fundamental rights relating work in general.⁴⁴ These rights among others are the right to freedom of association which in turn allows seafarers to join trade unions and their rights to negotiate for a collective bargaining agreements through their unions. The general rights also include the right to work of one's own free will and to be paid for that work. The principle of equal pay for equal work, irrespective of any factor of discrimination, is also part of the general fundamental rights⁴⁵

The MLC however, expands the above rights in a more detailed and related way for workers in the Maritime Sector. It categorized rights of seafarers under four broad titles.

Title one of the Convention sets minimum requirements for nearly every aspect of working and living conditions for seafarers including recruitment and placement practices.⁴⁶

Title two is exclusively given for conditions of employment. This title sets out requirements in relation to Seafarers Employment Contract. These rights are related with hours of work and rest, repatriation, annual leave and payment of wages. Briefly title two the MLC is aimed at ensuring decent working condition for seafarers.⁴⁷

Title three and four are welfare and living condition related rights. These titles mainly focus on accommodation, recreational facilities, food and catering, health protection, occupational safety and health, medical care, onshore welfare services and social protection.⁴⁸

In short, all seafarers have a right to a safe and secure workplace, where safety standards are complied with, where they have fair terms of employment, decent living and working conditions.⁴⁹

⁴³ MLC2006, Preamble

⁴⁴ Ibid

⁴⁵ Ibid

⁴⁶ MLC2006, Title 1-Minimum Requirements for seafarers to work on a ship

⁴⁷ MLC2006, Title 2- Conditions of Employment

⁴⁸ Ibid, Title 3-Accommodation, Recreational facilities, Food and Catering

⁴⁹ *A Seafarers' Bill of Rights*, pp. 9.

2.2.1. Training and qualification

Pursuant to Regulation 1.3 of the MLC, seafarers shall not work on a ship unless they are trained or certified as competent to perform their duties.

The training must be carried out according to relevant international maritime instruments such as Convention on Standards of Training, Certification and Watch keeping for Seafarers (STCW) and seafarers must complete training for personal safety onboard.

The International Maritime Organization has provided for requirements aimed at remedying insufficiencies in maritime training and qualification of seafarers. Besides providing standards of training, IMO requires nations to audit the quality of training in national maritime education and training institutions.⁵⁰

States, after auditing maritime institutions, are required to submit a paper work to IMO. The IMO list will be prepared for states believed to be compliant and eligible to supply seafarers to work in the global labor market. Seafarers of a nation that did not pass through this eligibility process will not have their certificate and not eligible to work on board international ships. The IMO white list was expected to bring about closure of many poor quality maritime institutions.⁵¹

2.2.2. Right to fair recruitment and placement

Most seafarers are dependent up on manning agencies for their entry in to the labor market. Variations in practices with respect to recruitment, placement, trade union affiliations and pay affect both quality and quantity of supply of seafarers.⁵² In this regards about one third of seafarers are supplied by crew manning agencies to the international fleet.⁵³

A crew manning agency is an independent agency which supplies seafarers or other maritime workers with specific qualifications and under certain settings to a principal it is working with.⁵⁴

⁵⁰ Standards of Training, Certification and Watch Keeping for seafarers 1978 as Amended(STCW 1999) Rule 1/8

⁵¹ Michael Bloor and Helen Sampson, "Regulatory Enforcement of Labor Standards in an Outsourcing Globalized Industry: the case of the shipping industry," *Work, Employment & Society*, Vol. 23, No. 4(2009):pp.6-7.

⁵² Minghua Zhao and Maragtas S.V. Amante, "Chinese and Filipino Seafarers: A Race to the Top or the Bottom?,"*Modern Asian Studies*, Vol. 39, No. 3 (2005):Pp. 7.

⁵³ Shi, Jing Min, "Assurance of Seafarer's Quality: Implementation of the ISO 9002 Quality System in a Crew Manning Agency," *World Maritime University Dissertations*, Paper 266(2000):Pp. 5.

⁵⁴ *Ibid* pp. 19.

Technical confusion could be made between a 'crew manager' and 'a crew manning agency'. However there exist a significant difference between the two and the 'crew manager' will be the employer of the staff and concludes contract of employment with the crew and shall have no authority to act on behalf of the ship owner.⁵⁵

On the other hand, in 'crew manning agency' all services of recruitment and placements are done on behalf of the principal. In this case, the agency is not employer and the ship owner is the actual employer. Since there is agency relationship, the crew manning agency is given substantial protection against civil claims.⁵⁶

To complete its services, a crew-manning agency should conduct variety of activities. Its activity will start by signing a manning agency agreement with the principal and continue with recruiting competent and qualifies seafarers according to the interest of the principal. Once a principal believes in the qualification of selected seafarer, an employment contract will be signed between the employee and the manning agency, where the later acts on behalf of the employer.as part of the placement service, the manning agency is also required to arrange necessary joining documents, immigration documents, domestic transportation and any other necessary arrangements for seafarers to be ready for joining the vessel in the world wide.⁵⁷

The service a manning agency will also continue after the seafarers starts working on board a vessel. Hence, it may be required by the principal to replace the assigned seafarer because of incompetence or emergency. Furthermore, agencies are required to arrange home payment for seafarers and deal with claims and compensations on behalf of seafarers in case of injury or death of seafarers.⁵⁸

To ensure that seafarers have access to an efficient and well-regulated seafarer recruitment and placement system, manning agencies, nations where agencies are operating and flag states must make sure that crewing agencies follow the minimum requirements under the MLC.

⁵⁵ The "CREWMAN" Standard Crew Management Agreement 1994, BIMCO

⁵⁶ Min, "Assurance of Seafarer's Quality,"Pp. 19-20.

⁵⁷ Ibid

⁵⁸ Ibid

Regulation 1.4 and 5.3 of the MLC provides that private seafarer recruitment and placement agencies must verify that seafarers are qualified. Manning agencies are prohibited from charging seafarers for placing them on a vessel except cost of different certificates and personal travel documents. On the process of conclusion of their employment contract seafarers must be informed of their rights and duties under their employment agreements. Agencies must also ensure that seafarers have received a copy. Furthermore, manning agencies cannot operate any form of blacklists or other means to prevent seafarers from getting employment for which they are qualified.

2.2.3. Right to employment agreement

Title 2 of the MLC, 2006 provides conditions of employment. The purpose of establishing regulation on seafarers' employment agreements is to ensure that seafarers have fair employment agreements. This Title deals with employment conditions and the first point provided here is Seafarers' Employment Agreements. Consequently, seafarers shall have their agreements in a written and enforceable form. This part, moreover entitles seafarers to examine the agreement seek advice when appropriate and sign it freely. According to Regulation 2(1), applicable collective Bargaining Agreements (CBAs) shall also be part of the Employment Contract.⁵⁹

Standard A 2(1) of the same regulation provides with illustrative lists of matters to be included in an Employment Contract. Among others are amount of wage, conditions for termination of contract and repatriation rights. Moreover, Regulation 2.2 obliges Flag States and Labor Supplying States to ensure that seafarers have fair terms of agreements; terms for instance must not manifest serious abuses. Serious abuses may include failure to provide copy of the employment contract. Their wages must also be paid in a regular manner in accordance with their employment contract.⁶⁰

According to the MLC, 2006 a copy of the seafarer's employment agreement, including any applicable collective bargaining agreement, must be available substantively in English on board the ship for review by officers of a competent authority, including port state control officers.⁶¹

⁵⁹ Pineiro, *International Maritime Labor Law*, Pp. 51.

⁶⁰ *Ibid* PP 52

⁶¹ MLC 2006, Regulation 2.1 – Seafarers' Employment Agreements

2.2.4. Right to career and skill development

Regulation 2.8 focuses on career and skill development and opportunities for seafarers' employment. This part is aimed at promoting career and skill development and employment opportunities for seafarers.

Under the MLC, 2006 states are required to take measures for the realization seafarers' right to career and skill development. This fundamental right of seafarers needs policy measures from their nations. Accordingly, a seafarer has the right to be given opportunities to strengthen his competencies, qualifications and employment opportunités. Governments with seafarers domiciled in their territory should have national policies to promote maritime employment, encourage career and skill development and greater employment opportunities for such seafarers.⁶² There should be opportunities, both ashore and on board the ship, for further training and education to provide a seafarer with continuously developing skills and transferable skills to improve his continued employability and to keep him up to date with changing technology and labor market conditions.⁶³

2.3.Private manning agencies under the MLC

A private manning agency can be said dependable and comply with international standards if it fulfills the above standards in relation to the service of recruitment and placement of seafarers.⁶⁴

According to the MLC, a manning agency shall not be considered reliable if it charges the seafarer for employment. The only justified cost that may be covered by seafarer is in relation cost of a medical certificate, the national seafarer's book, and a passport or other personal travel document.

All private manning agencies must be regulated and provide an efficient, adequate and accountable system that protects and promotes employment rights of seafarers.

Nations, flag states or port states should require seafarer recruitment and placement services to develop and maintain verifiable operational practices.⁶⁵ This obligation is related with enhancing

⁶² MLC 2006 Regulation 2.8

⁶³ Ibid

⁶⁴ MLC, 2006, Regulation 1.4-Recruitment and Placement

⁶⁵ Ibid, Guideline B1.4 – Recruitment and placement; Guideline B1.4.1 Organizational and operational guidelines, par 2

competence and qualification of seafarers. It requires for confidential and complete record of seafarers. Transparency in the recruitment process is also among the very crucial obligations of manning agencies. They are prohibited from using measures, mechanisms or lists intended to prevent or deter seafarers from gaining employment for which they are qualified. They are also required to ensure and verify that documents and certificates are not fraudulently obtained.⁶⁶

The other obligation worth mentioning is the duty of manning agencies 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 failure of the recruitment and placement services. Seafarers must be protected if a manning agency, after recruiting, fails to discharge its obligation of placement services.⁶⁷ This obligation seems to require for arrangement of a certain separate type of contract between the manning agency and seafarers because under the contract respective obligations of the agency and a seafarer will be listed and this will in turn provide with remedies for parties at times of non-performance.

Besides the above organizational related activities, manning agencies are mandated to verify that seafarer's employment agreements are in accordance with applicable laws and regulations. They are also required to verify that labor conditions on ships are in conformity with applicable CBA concluded between a ship owner and a representative seafarer's organization.

Having the above obligations in mind, it would be appropriate to raise question in relation to the controlling and supervision of manning agencies. The lion share on controlling the operation of manning agencies is that of competent national authorities where agencies are operating. All manning agencies shall work under the close supervision and control national authorities. Licensing and renewal of license for agencies shall be done after verification of fulfillment of standard requirements of national standard and regulations. And authorities shall ensure the existence of adequate machinery and procedure for investigation of complaints concerning the activities of the manning agency. This procedure shall as appropriate, involve representatives of ship owners and seafarers.⁶⁸ Ship owners or employers must also use agencies that comply with

⁶⁶ MLC,2006 Standard A1.4 – Recruitment and placement, Par 5/a

⁶⁷ Ibid MLC2006, Standard A1.4 – Recruitment and placement, Par 5/c/vi

⁶⁸ Ibid Par 1

these minimum requirements. Furthermore, flag states should also make sure that seafarers employed on ships sailing under their flag are recruited from reliable manning agencies.⁶⁹

A labor supplying state should also establish an effective inspection and monitoring system to recruitment and placement services.⁷⁰ It must also work for the provision of social security for their seafarers. In conclusion, seafarers, depending on the situation, can contact their home country, flag states or employers if they do have compliant concerning recruitment and placement services.

2.4. Flag of Convenience (FOC) Ships, labor standards and Maritime jurisdiction

The ability of ship owners to register their ships in states which have open registries and weak regulatory system compromised labor standards. The practice of registering foreign ships in Flag of Convenience (FOC) states is aimed at avoiding tax and strong national regulations of safety high labor standards in developed Flag states.⁷¹

The world's biggest open registries include Panama, Liberia, the Bahamas and Malta. These Flag states are categorized as FOC states and they are, for the most part developing countries who run open registries for income generation, hence, little attention is given for international labor and safety standards. FOC states are also reluctant in enforcing labor rights of seafarers working on ships sailing under their flags because they want to attract ship-owners by allowing the latter to operate at lower crew wages and reduced operating costs.⁷²

2.4.1. Flag state Responsibility

Article 91 and 92 of the United Nations Convention on Law of the Sea, 1982 (UNCLOS) is the basis for ships to fly under flag of only one nation and the latter is required to have a genuine link with the ship. By knowing flag states crew will know from where they will get protection and benefits.

The starting point for discussion on responsibility of Flag states is Article 94 of UNCLOS. This article obliges flag states:

⁶⁹ Ibid Par 8,9 and 10

⁷⁰ MLC 2006, Regulation 5.3

⁷¹ A.S Bergantino and P.O'Sullivan, "Flagging out and International Registration: Main Developments and Policy Issues," *International Journal of Transport Economics*, Vol. 26, No 3(1999):Pp. 5.

⁷² DeSombre, "Globalization, Competition and Convergence," Pp 5.

*...to effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying their flag.*⁷³

This article shows that Flag states have the primary jurisdiction over ships sailing under their flags including maritime labor disputes and the regulatory and enforcement systems there highly affect the realization of labor rights of seafarers. Seafarers Employment and Social Rights set out in the MLC are to be fully implemented by Flag States and their ship-owners in accordance with the requirements of the convention.⁷⁴

Among responsibilities of the Flag State the primary duty is to inspect their ships to ensure that ships meet the requirement of the MLC. After a successful inspection the ship will be given a Maritime Labor Certificate and Declaration of Maritime Labor Compliance. Under this declaration it must be disclosed that the Flag State's laws comply with the MLC and the ship complies with those laws.⁷⁵

In the process of inspection Flag States are required to check for the fulfillment of requirements of employment under the MLC. They must also ensure that working and living conditions of seafarers are in compliance with the MLC.⁷⁶

As a matter of principle Flag State control and Port State control shall work hand in hand. The responsibility of both is to make ships to the standard and operate in conformity with international maritime standards. The inspection done by Flag states must reduce the effort of the Port state control. The fact on ground however, is different and the aim of the inspection in the two systems is different. Flag states will take measures to discharge their obligation and secure their observance of international law. Whereas, Port states exercise the right to protect their water and they need to control and select which ships may enter their ports. A country can be and often is, simultaneously a Flag state, for purposes of regulating ships that fly its flag and a Port state with respect to ships of other countries.⁷⁷

⁷³ United Nations Convention on Law of the Sea, 1982, Article 94

⁷⁴ M.L. McConnell, "The Maritime Labor Convention 2006-Reflections on Challenges for Flag State Implementation," *World Maritime University, Maritime Affairs* Vol.10(2011):Pp. 5.

⁷⁵ MLC2006, Regulation 5.1

⁷⁶ MLC 2006, Standard A 5.1.4/1

⁷⁷ Fikri, Iqbal, "Flag State Control," Pp. 50

The Flag state responsibility goes to the extent of stopping a ship to leave a port if there is a serious breach of the MLC. This right to prohibit a ship from leaving a port is also given for Port states. If a flag State inspector finds a serious breach of the Convention's requirements, he/she can prohibit the ship from leaving port until the problem is solved. Issues that qualify as a serious breach are seafarers' rights such as, non-payment of wages and situations in which there is a significant danger to safety, health or security of seafarers.⁷⁸

2.4.2. Flag of Convenience (FOC) and Labor standards

Flag of Convenience (FOC) is a shipping practice whereby a ship is registered in a country other than that of the ship owner for flexible crewing requirements and costs, tax incentives and attractive minimal registration and tonnage fees in the FOC countries.⁷⁹ The requirements of FOC states for registration of ships is not identical but most of them, especially the biggest open registries register ships without having any establishment in the flag state.⁸⁰

Globalization and business developments in recent decades brought about the birth of FOC in the shipping industry.⁸¹ Ship companies in the developed world were looking for innovative way to exploit gaps in the law and avoid the strong and costly maritime regulations in the developed countries. The major reasons for using FOC sates are commonly known and are related with low tax and flexible labor conditions. The latter flexibility allow ship-owners to hire crew from any were in the world at their convenience.⁸²

Though ship owners make cost driven decisions and this have implication on labor rights of seafarers, it is however important to note that not all ships that use FOC are abusing the labor rights of seafarers. It would be appropriate to only consider the situation in which ships owners would

⁷⁸ MLC 2006, Standard A 5.1.4/7/C

⁷⁹ Shan, "Seafarers' Access to Jurisdiction," Pp.6.

⁸⁰ William R. Gregory, "Flags of Convenience: The Development of Open Registries in the Global Maritime Business and Implications for Modern Seafarers"(Master Thesis, Georgetown University, 2012), Pp. 47

⁸¹ DeSombre, "Globalization, Competition and Convergence," Pp. 4.

⁸² Ronald Becerra Rodriguez, "Flags of Convenience Regulation with in the European Union and its Future on International Trade," *Revista Republicana* ISSN:1909-4450, No.11, July-December 2011 Pp. 22, accessed at <http://www.osj.urepublicana.edu.co>

legitimately avoid international labor rights by the protection of their Flag states and the latter having weak regulation and enforcement of seafarers' rights.⁸³

As said by R. Gregory, [*many ship owners are ethical....who choose to fly their own country's flag, pay their taxes as expected, and abide by national labor law. Not all ship owners further their business on the backs of seafarers. Not all ship owners are seeking to break the strength of maritime unions at every professional turn*].⁸⁴

According to the Rochdale Report (1970), one of the criteria to categorize flags as FOC is when manning of ships by non-nationals is freely permitted. They normally allow ships under their flag to hire crews from everywhere in the world. This intern allows ship owners/operators to hire crews with low wage from developing countries.⁸⁵ Since FOC states have weak regulatory systems and have neither the power nor the administrative machinery to effectively impose any government or international regulations, ship-owners were allowed to avoid Unions and potential seafarers' labor claims.⁸⁶

They also permit ship companies to register their ships at low cost, pay lower taxes or to register substandard ships which do not comply with the minimum requirements of international maritime law. In any case, FOC states are known for taking little or no interest in the affairs or standards of their ships and frequently fail to maintain international and domestic labor standards. They general allow ships to operate with low cost at the expense of safety of ships and seafarers.⁸⁷

According to the article 91 of 1982 United Nations Convention on the Law of the Sea (UNCLOS) there is requirement for existence of *genuine link* between a ship and the flag state. Consequently, 'every Flag State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flaying its flag. Despite the lack of express definition in the Convention text and lack consensus among writers about the meaning of *genuine link*, this re-

⁸³ Alderton *et al*, *The Global Seafarer* Pp. 35.

⁸⁴ Gregory, "Flags of Convenience," Pp.62

⁸⁵ A.S Bergantino and P.O'Sullivan, "Flagging out and International Registration: Main Developments and Policy Issues," *International Journal of Transport Economics* Vol. 26, No 3(1999):Pp. 5

⁸⁶ *Ibid*

⁸⁷ Lillie, "Global Collective Bargaining," Pp. 4.

quirement however, extends the duty of the flag state to effectively control on the high seas the ships sailing under its flag.⁸⁸

Often FOC states lack real control over ships flying their flag and there are also flag states that allow online registration without any business establishment of the ship in the flag state. In such instances it may be difficult to prove the existence of *genuine link*. However, there is also no common consensus on the consequence of lack of *genuine link* between a flag and a ship.⁸⁹

There are also instances where registries are not even run from the country of the flag. Despite different arguments and questioning of legitimacy of this practice, the FOC practice continues to exist because of lack of clear definition and consensus concerning the genuine link requirement. And there is no clear prohibition concerning FOC registries.⁹⁰

This practice is also reaffirmed by the advisory opinion of International Court of Justice in the Constitution of the Maritime Safety Committee of the Inter-governmental Maritime Consultative Organization. The Court noted ‘...registration with FOC registries therefore, is not subject to direct challenges.’⁹¹

2.4.3. Access to jurisdiction

The shipping industry is a greatly globalized sector which connects trade all over the world. Hence, seafarers are the most mobile workers.

Labor dispute in, occur always when the working or living condition of seafarers don't comply with international labor standards and employment agreements. Maritime labor disputes involve different jurisdictions because of the nature of seafaring.⁹² For a maritime labor dispute claimed by a Pilipino seafarer who works on board a ship registered in Liberia owned or operated by a German Shipping company that navigates between Asian and American ports, four alternative jurisdictions exist. These are Flag State, Port State, Labor Supplying State and the State of Ship-

⁸⁸ Robin R.Churchil, “The Meaning of the ‘Genuine Link’ Requirement in relation to the Nationality of Ships,” (A study prepared for the International Transport Worker’s Federation, October 2000)

⁸⁹ Ibid

⁹⁰ Alderton *et al*, *The Global Seafarer* Pp. 34

⁹¹ Ibid

⁹² Shan, “Seafarers’ Access to Jurisdiction,” Pp. 4.

Owner or Operator.⁹³ The jurisdiction of the Flag and Port states extends to even arresting a ship if the latter is not in compliance with national and international maritime labor standards.⁹⁴

The MLC2006 can be said incomplete regarding addressing maritime labor jurisdiction. The MLC leaves adjudicatory jurisdiction to the discretion of the member states. As discussed above, however, seafarers' labor disputes will be connected to different jurisdictions. However, Flag States are primarily mandated to exercise jurisdiction over claims and complains of seafarers on board because flag states, as provided under the UNCLOS, must exercise effective jurisdiction over and control over its ships on the high seas.⁹⁵

Even if flag states are the primary alternatives for seafarers, they are considered as the most inconvenient forum for different pragmatic reasons.

Popularity of Flags of Convenience (FOC) such as Panama, Bahamas and Liberia is the first reason. It has become difficult for seafarers to access jurisdiction of Flag States because geographical distances form the world's big supplier states of seafarers and diplomatic barriers. Lack of affiliation of seafarers with FOC is also manifested by the fact that majority of seafarers have never been to Flag States. The other is that FOC sates are also known for their weak regulatory and enforcement systems.

The second alternative of jurisdiction is the Port State. When a ship calls at a foreign port, the port state is mandated to make inspection on the labor condition of seafarers according to the MLC. The MLC gives responsibility of inspection for the Port State, and the Port state can inspect and determine whether a ship is in compliance with the requirements of the Convention, including seafarer's rights. Though it is the Flag state who certifies the ship's compliance, Port states may also take actions necessary if requirements in relation to working and living conditions are not fulfilled. The Port state can exercise its obligation to the extent of even arresting a ship which calls to its port and inspected to be not in compliance with the provide requirements.⁹⁶

⁹³ Ibid Pp.5.

⁹⁴ MLC 2006, Standard A 5.1.4/7/C

⁹⁵ Ibid Pp.6.

⁹⁶ MLC2006, Regulation 5.2, Port State Responsibility

Labor Supplying States also have adjudicatory jurisdiction over claims of seafarers.⁹⁷ For the seafarers it would be more convenient to have their case adjudicated in in their country of origin. This will solve distance, financial and other constraints of accessing flag or foreign port states. This convenience however, may be challenged if the labor supplying state is not convenient for ship-owner or the Labor-supplying state is not be party to the MLC.⁹⁸

Seafarers' rights under the MLC may be infringed by agencies. The MLC requires each member state to exercise jurisdiction over manning agencies working on recruitment and placement of seafarers.⁹⁹ Domicile of recruitment agency and seafarers may not be usually with in one state. The agency may be domiciled in Germany and seafarers are domiciled in China. In the world's largest seafarer supplying countries such as Philippines, only locally licensed manning agencies or shipping companies are allowed to recruit and place the local seafarers. In such instances the domicile of the manning agency and the seafarer are in one state. Hence at times when seafarers' rights are infringed by manning agencies the labor dispute will be jurisdiction of the Labor Supplying State.¹⁰⁰

Last but not least is jurisdiction of Ship owner's State. The Seafarers Employment Contract (SEC) creates a legal employment relationship between a ship owner/operator and a seafarer. Based on this ground of relationship a seafarer is entitled to open a lawsuit against his employer in a court of a state where ship owner /operator is domiciled. By showing the existence of employment relationship one can establish adjudicatory jurisdiction on domicile of ship owner /operator. Despite the fact that a seafarer may not easily access domicile of ship owner /operator, judgment is highly enforceable in domicile of the defendant especially if the later has assets in his/her domicile.¹⁰¹

The MLC2006 left the issue of choice of jurisdiction to the discretion of member states which has been creating different challenges in the enforcement of seafarers' labor rights.

⁹⁷ MLC2006, Regulation 5.3, Labor-supplying responsibility

⁹⁸ Pineiro, *Internationalization of Maritime Employment*, Pp. 56.

⁹⁹ MLC2006, Regulation 1.4 paragraph 2 and Regulation 5.3 Paragraph 1

¹⁰⁰ Ibid Pp.6.

¹⁰¹ Shan, "Seafarers' Access to Jurisdiction," Pp. 7.

2.5. Seafarers Unions and Collective Bargaining Agreement; ways of realization of seafarers rights

ILO Convention No. 147, ILO Convention No. 87 (1948) on freedom of association and protection of the right to organize and ILO Convention No. 98 (1949) on the right to organize and to bargain collectively are applicable in the maritime industry.

Membership to strong seafarers unions is among the practical schemes that seafarers can benefit in getting their labor rights implemented. Seafarers Union as part of their function concludes Collective Bargaining Agreements on behalf of seafarers.¹⁰² The next two sub-sections will focus on how these mechanisms can be used as way of realization of seafarer's rights.

2.5.1. Seafarers Unions

Trade unions are associations of workers formed to represent their interests and improve their pay and working conditions.

Unions carry out a number of functions including, negotiating on behalf of their members on pay scales, working hours and working conditions.¹⁰³ Depending on circumstances, unions may take measures to protect or improve worker's rights.

Before the globalization in maritime labor market, there was structure of National Seafaring Unions. The Strong National Seafaring Unions were able to protect and improve the working and living conditions of their seafarers. They were also able to force ships to comply with international maritime standards and were effective because ships were registered under flags of owners' nationality and crews are from the same nation had the chance to have strong national unions.¹⁰⁴ On the birth of FOC registries however, ship-owners flee strong national unions and the FOC states were unable to regulate labor standards and allowed ships to hire crews from anywhere in the world. These multinational crews were unable to organize and create strong unions.¹⁰⁵

¹⁰² Alderton *et al*, *The Global Seafarer*, Pp. 34.

¹⁰³ Sydney and Beatrix Webb, *History of Trade Unionism*, (London: Longmans and Co Ltd., 1920)Pp.2.

¹⁰⁴ Lillie, "Global Collective Bargaining," Pp. 5.

¹⁰⁵ *Ibid* Pp. 6

The challenge of globalization of labor sourcing and the disconnection of shipping from jurisdiction where unions have legitimate access, dictates the structure of the new transnational union networks. With the need for this new structure, national seafaring unions have been sidelined by the transnational network based around the ITF which is a coordinator and mediator between national unions.¹⁰⁶

The power of ITF has increased and it has become one of the most influential bodies in relation to employers and national unions. It is involved in pooling national unions and coordinating national activity in very systematic way.¹⁰⁷

2.5.2. Collective agreement (CBA)

CBA – collective bargaining agreement is an agreement on terms and conditions of work negotiated by a union on behalf of a group of workers. It is a special type of commercial agreement, usually as one negotiated "collectively" between management (on behalf of the company) and workers Unions (on behalf of employees). The collective agreement regulates the terms and conditions of employees in their workplace, their duties and the duties of the employer. It is usually the result of a process of [collective bargaining](#) between an employer (or a number of employers) and a trade union representing workers. Existence of strong seafarers unions is a key step in having CBA, which a single seafarer cannot do alone. A union will involve and influence national authorities to enter in to CBA and this one of the major steps in protecting labor rights of seafarers.¹⁰⁸

Conclusion

Seafaring, as it is a special and dangerous area of work, has been given special attention by International Labor Organization (ILO).The adoption of MLC in 2006 is among the manifestations of this special concern. The MLC is a very comprehensive international convention which is sometimes called as Seafarers Bill of Rights. Under the convention fundamental rights of seafarers with compliance and enforcement mechanisms are well discussed. Flag States, Labor Supplying States, Workers Unions and Manning Agencies do have significant role in ensuring the

¹⁰⁶ Ibid. Pp. 10

¹⁰⁷ Ibid

¹⁰⁸ Alderton *et al*, *The Global Seafarer* ,Pp.34

implementation of rights of seafarers, especially those related with recruitment, employment and working conditions.

Moreover, shipping industry, which is dependent on seafaring is highly affected by the working and living conditions of seafarers. Despite the special attention given for seafarers by ILO through adoption of MLC2006, there are different practices in the maritime industry affecting labor standards. These among others include the practice of manning agencies engaged in recruitment and placement services and FOC registries. One of the impacts of FOC practice is that the flag states, though they have primary jurisdiction over labor disputes, are known for their weak regulatory systems. Geographic and diplomatic barriers also made FOC states to be inconvenient forums for seafarers.

Chapter three

The Normative and Institutional Framework on the protection of the Rights of Seafarers in Ethiopia

Introduction

Ethiopia has been a very important maritime nation until the early 1990s. After the historical loss of all its ports, maritime matters have been sidelined and even abandon in the Ethiopian transport sector. This fact has also resulted in the frequent misunderstanding on the importance of maritime law in Ethiopia. Though land-locked, Ethiopia nevertheless continues to own ships and engage in international maritime commerce.¹⁰⁹

The establishment of the Ethiopian Maritime Training Institute (EMTI), which is a private company, in 2010, was a small start with big aspiration in making Ethiopia a maritime nation once again. This Institute is supporting Ethiopia in becoming Labor Supplying State and gets significant economic advantage by placing Ethiopian seafarers overseas.¹¹⁰

Ethiopian seafarers, who are employed on foreign ships in international trade can benefit from national legislations in different aspects. For instance, Ethiopia as home country for seafarers can have regulations to monitor manning agencies and ensure that seafarers are having fair recruitment and placement services. Ethiopian also needs to protect the dignity and safety of Ethiopian seafarers while they are on board.¹¹¹ National legislations can also be framed in order to have social security regulations for seafarers and encourage them to have national unions and to establish connection with global networks. Moreover, a national legislation may encourage and help unions in influencing national authorities to conclude a Collective Bargaining Agreements with employers.¹¹²

According data from EMTI, more than one thousand Ethiopian seafarers are currently certified and are engaged in seafaring with different capacities through the Ethiopian Manning Agency

¹⁰⁹ Hailegabreil Gedicho Feyissa, *Ethiopian Justice and Legal Maritime Law*,(Addis Ababa: Justice and Legal System Research Institute,2009)Pp. 15.

¹¹⁰ <http://www.emticorp.com>

¹¹¹ Proclamation No. 923/2016,Preamble

¹¹² Alderton *et al*, *The Global Seafarer* ,Pp.34

(EMA).¹¹³ Consequently, Ethiopia shall ensure that the services rendered by EMTI and EMA are in accordance with existing national and international laws. What is more, Ethiopia is one of the most convenient jurisdictions for Ethiopian seafarers for they are domiciled in Ethiopia.

Under this chapter the research will discuss on existing national frameworks for protection of Ethiopian seafarers. Special emphasis will be given on recruitment and placement services and related rights.

Equally important is the status of MLC 2006 in the Ethiopian legal system. Given the fact that Ethiopia is involving in the global labor market importance of MLC is of a great deal for discussion.

3.1. The Maritime Code of the Empire of Ethiopia

The Maritime Code of the Empire of Ethiopia, enacted 1960, is the only separate national law for the protection of Ethiopian seafarers. However, this code gives little attention for seafarer and majority of provisions of the code are concerned on ship management, carriage of goods and insurance related matters.

Perhaps this code is outdated and is of a little importance in protecting labor related rights of Ethiopian seafarers.¹¹⁴ Title III of this code is aimed at regulating employment contracts of seafarers employed on board any ship. The provisions, however, fail to regulate recruitment and placement related issues. It says nothing about working and living conditions of seafarers and compliant mechanism at times of dispute.¹¹⁵ At the time of adoption of the Maritime Code, Ethiopia used to have a port and the Empire had a great dream of being a big maritime nation. Furthermore, Ethiopian seafarers had the opportunity to pursue their rights through different mechanisms including port state control.¹¹⁶ In spite of existence of regulatory articles, the code

¹¹³ Interview with anonymous crew officer at EMA Addis office, Ethiopia, April 18,2017

¹¹⁴ The date of enactment of Maritime Code of the Empire of Ethiopia (1960) compared with recent enactments on Maritime Administration in Ethiopia, such as Proclamation No. 549/2007- Maritime Sector Administration Proclamation and Directives on Training and Certification of Seafarers No. 2/2015 as amended in 2016 is old. The recent national enactments are exclusively on administrative matters and training and certification issues. Labor issues are not covered under them and the issues covered under the Maritime Code are shallow when compared with the MLC 2006, which is supposed to be adapted in national laws of nations.

¹¹⁵ Maritime Code of The Empire of Ethiopia, Proclamation No 164 of 1960, Title III, Articles

¹¹⁶ Ibid, Preface

does not accommodate the recent phenomena where Ethiopian seafarers are being placed on foreign vessels through manning agencies.

Considering experience of the major maritime labor supplying states such as Philippines and China, agencies engaged in recruitment and placement services of seafarers are highly regulated by national laws of the same. Since these agencies do have significant role in ensuring the realization of labor rights of seafarers, there are often separate national organs mandated to regulate such activities.¹¹⁷

After the historical loss of all its ports the importance of the Maritime Code was frequently questioned and only used in carriage and insurance related issues.¹¹⁸

3.2. Ethiopian Ministry of Labor and Social Affairs (MOLSA)

The other important organ arguably for many labor related matters in Ethiopia is the Ethiopian Ministry of Labor and Social Affairs (MOLSA). The Ministry shall have powers and duties pursuant to Article 20 Proclamation No 41/1995.

The Ethiopian Ministry of Labor and Social Affairs is recently working with a great vision to create enough productive employment, settled decent work situation and secured developmental social welfare for citizens. In doing so the Ministry is engaging in different activities including the encouragement of Ethiopian workers to exercise their rights in forming workers union and collective bargaining.¹¹⁹

With a view to create better work opportunities nationally and abroad and to protect the rights safety and dignity of Ethiopians who are willing to take up overseas employment, the Ministry adopted Proclamation No. 923/2016, Ethiopia's Overseas Employment Proclamation. This Proclamation replaced Proclamation No. 632/2009, Proclamation to Provide for Employment Exchange Services.¹²⁰

The Overseas Employment Proclamation is initiated with the purpose of defining the role of public and private employment agencies in employment exchange and with a view to further protect

¹¹⁷ Zhao and Amante, "Chinese and Filipino Seafarers" Pp. 8

¹¹⁸ Feyissa , *Ethiopian Justice and Legal Maritime Law*, Pp. 15.

¹¹⁹ www.molsa.gov.et/web/guest/powers-and-duties accessed on March 30/2017

¹²⁰ Proclamation No. 923/2016, Ethiopian's Overseas Employment Proclamation, Preamble Par.1

the rights, safety and dignity of Ethiopians going abroad for employment in pursuance to their qualification and ability.¹²¹

Pursuant to the proclamation a private employment agency means ‘any person, other than a government body, which makes a worker available to an overseas employer by concluding a contract of employment with such worker.’¹²²

Once a private employment agency fulfills eligibility requirements of the proclamation it will be given with a license certifying competence. Consequently, it can engage in providing employment exchange services.¹²³

Pursuant to Article 3 Proclamation No. 923/2017, the latter shall apply to overseas employment relation of Ethiopians’ conducted by public employment organs, through Agency or on direct employment (an employment relationship between an employer and a worker without the involvement of a Government organ or Agency. It shall also apply to Ethiopians travelling to abroad to engage in overseas contracts of house maid services for non-profit making purposes.¹²⁴

Consequently, Ethiopian seafarers employed overseas through the Ethiopian Manning Agency are covered by this Proclamation. Article 3 sub article 3 of the proclamation provides that

This Proclamation shall apply to:

- 1. Overseas employment relations of Ethiopians’ conducted by public employment organs, through Agency or on direct employment;*
- 2. Ethiopians traveling to abroad to engage in overseas contracts of house maid services for non-profit making purposes.*

However, a close reading of the article from the replaced Proclamation No. 632/2009 shows that there is no distinction among direct and agency employment and professional and non-professional workers. To be covered by the proclamation, it was enough that the citizen has left the country for employment of any type through a private employment agency.¹²⁵

¹²¹ Proclamation No. 923/2016, Preamble

¹²² Proclamation No. 923/2016, Article 2/1

¹²³ Ibid article 21

¹²⁴ Proclamation No. 923/2016, Article 3

¹²⁵ Proclamation No. 632/2009, Article 3

With this in place, what can pragmatically be assumed is that Ethiopian seafarers employed on foreign vessels through Ethiopian Manning Agency are covered by both the replaced proclamation and Proclamation No 932/2016. And it can be assumed that EMA was operating under this regulation.

The fact on the ground, however, is different. In Ethiopia, more than four hundred employment agencies are registered by MOLSA and Ethiopian Manning Agency, which is working on facilitating international employment for Ethiopian seafarers, is not a registered and licensed agency in Ethiopia.¹²⁶

EMA's Addis Ababa office claims to be a satellite or branch office of the manning agency in Germany, Hamburg. Few seafarers have tried to initiate complaint against this office but the automatic response of the office is that, the latter has no personality in Ethiopia and cannot be sued in Ethiopia. All seafarers have taken this response for granted and have never tried to institute a legal action against EMA's Addis office.¹²⁷ This does have a great implication beyond the simple words used here.

Among others, one of the major consequences is that EMA's Ethiopia office does not have legal personality according to the Ethiopian legal system. Hence, it cannot be part of any court litigation or arbitration. It is only through the Hamburg office that Ethiopian seafarers access the manning agency if there arises any dispute in the process of recruitment and employment.¹²⁸ After selecting German as having adjudicatory jurisdiction, conflict rules of German will determine the applicable law for the specific case on hand. Consequently, German courts will decide which law to apply in adjudicating the case.¹²⁹

On this specific point it would be appropriate to consider the status of an Ethiopian seafarer with low wage trying to access an office in Germany. The problem of geographic distance, visa process, travel and accommodation costs and language constraint would automatically hinder the seafarer from proceeding. As one seafarer, who has already withdrawn from the project, rightly

¹²⁶ <http://www.molsa.gov.et/web/guest/-/agencies-list>, accessed on March 30/2017

¹²⁷ Interview with anonymous crew officer working at EMA, Ethiopian Addis Ababa office, February 21, 2017

¹²⁸ Interview with an Ethiopian Seafarers working as a 4th Engineer

¹²⁹ European Judicial Network in civil and commercial matters, Applicable Law Germany, accessed at <http://www.ec.europa.eu>

said, *'I never thought of accessing the Hamburg office and that is why I left my work after working for four contracts as a cadetI see no future working as a cadet for consecutive two years without promoting to next levels I deserve'*¹³⁰

Assuming that EMA can still be registered and licensed in Ethiopia, it would be very logical to consider the practical implementation Proclamation No. 932/2016. On the coming few paragraphs the research tries to look for the practical constrains in applying this proclamation for manning agencies engaged in recruitment and placement of seafarers.

Considering the scope, to be covered by the proclamation, it is enough that the citizen has left the country for employment of any type through a private employment agency.¹³¹ The implementation problem, however, lies on the wording and technical terms used in the articles of the Proclamation. *This Proclamation shall apply to:*

1. *Overseas employment relations of Ethiopians' conducted by public employment organs, through Agency or on direct employment;*
2. *Ethiopians traveling to abroad to engage in overseas contracts of house maid services for non-profit making purposes.*¹³²

Article 24 of Proclamation No. 932/2016 sets out eligibility criteria and pre-conditions to obtain competency license. Sub article 9/a-c of the same, for example, specifically deals with Ethiopian workers deployed abroad other than seafaring. An employment agency that sends workers abroad shall submit evidence verifying that it has representative in the country where it sends workers and that the appointed person has license to engage in employment exchange activity from the concerned authority. The Ethiopian Embassy or consular office should also verify that representative of the agency do have sufficient office and a facility that provides temporary food and sheltering services.

*Any applicant who is eligible pursuant to Article 22 of this Proclamation
.....submit it with the following documents*

¹³⁰ Interview with anonymous Ethiopian seafarer, March 2, 2017

¹³¹ Proclamation No. 923/2016, Article 3

¹³² Ibid

9. in the country of destination:

a) That the applicant has opened a decent office or has represented a citizen of the receiving country duly licensed to engage in overseas employment...

*c) The applicant has a facility for providing temporary food and sheltering services to the workers and...*¹³³

The above articles which provide with eligibility criteria and preconditions to obtain license require an agency to, for example, to submit an evidence, verified the embassy or consular office in the country to which the agency sends workers, showing the existence of a sufficient office and facility that provides temporary food and sheltering services. This cannot ideally be applicable for agencies engaged in recruitment and placement of seafarers.¹³⁴

The drafters did not consider the special nature of seafaring in relation to working onboard on high seas without any jurisdiction or involvement of many jurisdictions. The way the proclamation was framed also is clear manifestation that employment of Ethiopian seafarers on foreign ships is a very recent phenomenon which needs special treatment by the legislative and executive organs.

It is argued here that different legal framework must regulate manning agencies working on seafaring because employment of seafarers involves several jurisdictions and seafaring by itself is a difficult job that needs special focus.

One of the major aims of Proclamation No. 932/2016 is to protect the rights, safety and dignity of Ethiopians going abroad for employment.¹³⁵ To work for protection of rights of Ethiopian seafarers, it is better if the sector has a separate maritime department with its own experts.

The national labor law of Ethiopia, Proclamation No377/2003, Labor proclamation, does not cover seafaring. Article 3, sub article 2/e provides that the proclamation shall not be applicable to employment relationships governed by special laws. The Article gives examples of such employments which include members of Armed Force and members of the Police Force. With this

¹³³ Proclamation No 932/2016, Article 24/9

¹³⁴ Ibid

¹³⁵ Proclamation No. 932/2016, Preamble, par 2

list, it is argued here that seafarers are deemed to be regulated by the separate maritime Code of Ethiopia and the type of job also shares common feature with the above lists. Hence it can be said that Ethiopian seafarers are excluded from the Labor proclamation.

3.3. Maritime Labor Convention (MLC 2006) under the Ethiopian Legal system

Worth mentioning is the status of the MLC in Ethiopia. This convention is the most comprehensive international instrument, which is considered as Bill of Rights for seafarers.¹³⁶ To date, MLC is under the process of ratification in Ethiopia.¹³⁷

Under the MLC, labor related rights of seafarers are exhaustively dealt and nations and agencies working under national laws are mandated to render services in conformity with the Convention.

The best and comprehensive body of law for Ethiopian seafarers employed abroad is the MLC. The Ministry of Labor and Social Affairs and the Ethiopian Maritime Affairs Authority believes the importance of ratification of the MLC and it is soon to be ratified at national level.¹³⁸

Though ratification is considered as one of the biggest measures of implementation of international documents, the writer believes that national implementation of seafarers' rights must be given much attention. Experience of other maritime nations such as Philippines and China show that separate government organ must be given with the mandate to implement seafarers' rights under the MLC.¹³⁹ For instance in Philippines, the recruitment and placement agencies are under the control Philippines Overseas Employment Administration (POEA). The POEA prescribes a Standard Employment Contract (SEC) which specifies job title, length of employment at sea, hours of work, allowances and pay of the seafarer. The SEC also specifies the procedures for repatriation, and the process for settling grievances and compensation claims.¹⁴⁰

The other major duty of the Ministry of Labor and Social Affairs is also to encourage and support workers and employers to exercise their rights to organize and collective bargaining.

¹³⁶ *A Seafarers' Bill of Rights*, pp. 9

¹³⁷ <http://www.etmaritime.com-Reference/Legaldocuments> Accessed on March 18, 2017

¹³⁸ Interview with Miss. Liyuwork Amare, Director, Maritime Administration Directorate, Ethiopian Maritime Affairs Authority, March 24, 2017

¹³⁹ Zhao and Amante, "Chinese and Filipino Seafarers," Pp. 8

¹⁴⁰ Ibid

Despite this broad duty, seafarers were not covered by the Ministry and most of labor related responsibilities of the Ministry tend to lack room for seafaring, which of course manifests lack of expertise in the maritime field.

3.4. Ethiopian Maritime Affairs Authority (EMAA)

The Ethiopian Maritime Affairs Authority (here after EMAA) is established pursuant to Article 3 of Proclamation No. 549/2007- Maritime Sector Administration Proclamation. The authority is established under the umbrella of Ministry of Transport.

The Preamble of the Proclamation vividly provides that there is need for establishment of a body for follow up and execution of obligations and rights of Ethiopia under international maritime convention. This is also reaffirmed under objectives of the Authority.

EMAA among others is there to implement obligations and rights of Ethiopia under international maritime conventions.¹⁴¹

Ethiopia has ratified Convention on Standards of Training, Certification and Watch keeping for Seafarers (STCW) and its amendments. These are also incorporated in to national laws of Ethiopia by virtue of Proclamation No. 549/2007- Maritime Sector Administration Proclamation and Directives on Training and Certification of Seafarers No. 2/2015 as amended in 2016.

Regarding implementation of STCW and Directives, EMAA conduct biannual audit on the Ethiopian Maritime Training Institute at Bahir Dar. This national audit is part of responsibilities of the Authority pursuant to Article 10 of the Directives.¹⁴²

According to the authority, to date, there are around one thousand seafarers who were trained by EMTI and have passed through the process of assessment and certification of the Authority.

Pursuant to an interview conducted with Maritime experts in the Authority, EMAA is also recently working to fulfill the standards of European Maritime Safety Agency (EMSA). Recent information from the same disclosed that the authority's effort became fruitful and EMTI at Bahirdar accepted by EMSA for the year 2017 and it is waiting for the approval the EU parlia-

¹⁴¹ Proclamation No. 549/2007 Ethiopian Maritime Sector Administration Proclamation, Article 3, Federal Negarit Gazette No. 60 4th September, 2007

¹⁴² Directives on Training and Certification of Seafarers No. 2/2015 as amended in 2016, Article 10, Training and Assessment

ment.¹⁴³ According to EMTI, once this is approved by the EU parliament Ethiopian seafarers can be employed on ships flying European flags.¹⁴⁴

Perhaps EMTI as a new start in Ethiopia is a pioneer one which has various economic and social advantages for seafarers and to the country at large. Ethiopia is recently receiving a good amount foreign currency from the home allotment of seafarers by allowing Ethiopian seafarers to be employed on foreign vessels having International Standard Employment Contracts. However, because of lack of qualified and adequate number of seafarers and lack of attention for the maritime sector, Ethiopia is losing a huge amount of foreign currency it could have gained through overseas employment.¹⁴⁵

According to one of the nautical advisors of EMTI, Ethiopian seafarers are facing different work related and personal challenges mainly because of the poor training they had in Maritime School. According to the experts, seafaring is not only about knowing technical matters but also discipline.¹⁴⁶

Majority of seafarers according to the Authority, lack the discipline aspect and are facing problem for carrier development. After they are recruited through manning agencies they are assigned as Cadets and this is assumed to be on job training. The fact being this, Ethiopian Cadets often start working on board without really understanding the real challenges and status on board. All the instructors at EMTI are foreigners from maritime nations such as India and cultural and contextual differences are barriers for them to transfer the real life and how to live in the multicultural environment on board.¹⁴⁷ *‘They will go onboard without having the strength to defeat their ego’*, as rightly put by one of the experts in the authority.¹⁴⁸

¹⁴³ Interview with anonymous crew officer at EMA, Ethiopia, Addis Ababa office, April 18, 2017

¹⁴⁴ A recent letter from EMTI disclosed that it passed EMSA and the letter also provides the change in the modality of deduction of seafarers’ salary for the fulfillment the tuition fee from EMTI. See annex below.

¹⁴⁵ Chief Teha Ibrahim, “Unsolved problems of the Maritime industry”, interview by Umar Indris Addis Zemen, *newspaper*, March 31,2017, No 202

¹⁴⁶ Interview with Captain Getinet Abay, Nautical Advisor, Ethiopian Maritime Affairs Authority, March 24,2017

¹⁴⁷ Ibid

¹⁴⁸ Interview with Miss. Liyuwork Amare,Director, March 24,2017

According to audits made by the Authority,¹⁴⁹ students at EMTI were not given full-fledged skill and onboard discipline. Most of the courses were technical and were arranged to be covered within the six months training. Because of this most of them will drop out after working for one or two contract and they will either decide to leave the project or dissent. However the training at Bahirdar is now extended to nine months upon recommendation of the Authority.¹⁵⁰

Overall the Authority believes that even if Ethiopia is not a Maritime Nation, EMTI is a pioneer start, which will soon contribute a lot for the economic and social development of Ethiopia. Though it is a very small start, Ethiopia can be a maritime nation by contributing competent seafarers in different capacities for the international maritime market.¹⁵¹

The other focus of discussion with the maritime experts in the authority was on recruitment, placement and the labor related rights of Ethiopian seafarers. Accordingly, manning agencies in Ethiopia, as discussed above, can only operate after being registered and licensed to operate in the country. This process of registration and license is mandate of Ministry of Labor and Social Affairs. The Ministry is mandated to register, give license and conduct follow up and monitoring on manning agencies operating in Ethiopian territory.¹⁵²

As clearly put by the maritime experts at EMTI, their office as is clear from the establishment proclamation is not mandated to work on labor related matters and there is no room to give license for manning agencies despite the fact that the latter is working on the maritime sector.

Conclusion

In summary, the long history of adoption of Maritime Code of Ethiopia shows that Ethiopia, as a nation had great dream to be a maritime Nation. Despite this aspiration the loss of all its ports resulted in the weak and slow growth of the maritime industry. The recent practice of sending Ethiopian seafarers overseas demands strong national maritime laws and regulations.

In Addition a separate state organ to ensure the realization of labor rights of Ethiopian seafarers is also required. As was demonstrated in this chapter, the existing Ethiopian Legal framework

¹⁴⁹ Interview, Captain Getinet Abay, March 24,2017

¹⁵⁰ Ibid

¹⁵¹ Ibid

¹⁵² Interview, Miss Liyuwork Amare, March 24,2017

does not adequately cover all aspects of Ethiopian seafarers. Therefore, a separate body of law and authority should exist to ensure rights of Ethiopian seafarers and to obtain national benefit by overseas employment of Ethiopian seafarers.

Chapter Four

Challenges of Ethiopian Seafarers employed on foreign ships through the Ethiopian Manning Agency (GmbH EMA)

Introduction

This chapter is exclusively set for discussing the practical challenges faced by Ethiopian Seafarers employed on foreign ships through Ethiopian Manning Agency. A primary data is gathered to achieve objectives of the chapter. For purpose of protecting the interest of the respondent seafarers personal details including names are not disclosed and interviews are cited using numbers.

For the purpose of analyzing these practical challenges, the chapter uses a wide array of empirical data gathered through interviews. Accordingly, seafarers were categorized in to three groups. In the first group are those that have been working smoothly following the common promotion stages, in the second category those who are working for their livelihood without getting the promotion they deserve have been interviewed. Finally, interview was conducted with those who have declined or withdrawn from the recruitment and placement service of EMA for different work related and personal reasons. Responses obtained from all the above categories of seafarers are discussed under the different sub sections of this chapter.

In this respect, the first focus of discussion is on the impact of employment of Ethiopian seafarers on Ships sailing under FOC. The second concern of this chapter is on the types of contracts involved in the process of recruitment and employment of Ethiopian seafarers. Related is the issue of some contractual terms included under the employment contract in relation to forum selection clauses and wage payment modalities. The practice followed by EMA in the process of recruitment such as polygraph test is also discussed as a subsection.

Furthermore, the fact that Ethiopia is a land locked country coupled with lack of separate maritime labor law and separate national authority mandated for such affairs is also discussed as another challenge faced by Ethiopian seafarers in getting their rights realized in their habitual residence or domicile.

4.1. Contracts involved in the process of recruitment and placement of Ethiopian seafarers

As has been discussed on chapter three of this paper, EMA is the only private manning agency working on recruitment and employment of Ethiopian seafarers. This manning agency is a sister company of (Ethiopian Maritime Training Institute) EMTI. Both are operating under YCF Group, a private international investment firm based in Washington DC.¹⁵³

In the process of recruitment for training, EMTI will conclude a trainer-trainee contract with male Ethiopians who have Mechanical or Electrical undergraduate degrees. Under this contract EMTI will undertake to give six months, which has recently become nine months, of maritime training and seafarers will be placed on employment through EMA. The seafarers will on their side undertake to pay thirty three thousand six hundred (33,600) USD up on placement on a vessel. The modality of payment of this money is also included under this contract and EMA will facilitate the employment and payment of the agreed money.¹⁵⁴

Seafarers will also be required to have a guarantor for their training commitments. The first three batches of EMTI were allowed to bring a personal guarantor. The guarantor must at least be employee of a certain organization, Public or Private and should sign a contract of guarantee by making by committing to pay the agreed money should the seafarers withdraw from EMA before totally paying off the 33,600 USD. Recently, however, a seafarer cannot be recruited and placed on a vessel unless he brings real guarantee and for that a title deed of an immovable is required. Consequently, a seafarer will be forced to be employed only through EMA or will have to risk losing the immovable, which in most circumstances are owned by parents or close relatives.¹⁵⁵

This practice shows that Ethiopian seafarers are dependent on EMA for their livelihood. As one 4th Engineer¹⁵⁶ has rightly said ‘*despite the fact that I am a qualified seafarer with three years*’

¹⁵³ www.emticorp.com/ycfgroup.html

¹⁵⁴ See annex below for contract of Training concluded between EMTI and Seafarers

¹⁵⁵ Interview with Seafarer No. 3, Ethiopian, March 27 2017

¹⁵⁶ It is only after becoming a fourth engineer that a mariner experiences real responsibility on a ship. A seafarer will work as Engine Cadets for 6-12 months and will become 4th Engineer, where he need to work for 12-18 months and should be promoted to a 3rd Engineer. This normal course of promotion however, is not the practice in the case of Ethiopian seafarers.

experience I cannot leave EMA to look job by myself because I have signed a more or less 'life time' commitment with EMA, I therefore say I am slave of EMA for seafaring'.¹⁵⁷

At this point, the writer argues that the contract of training to pay 33,600 USD is an exaggerated tuition fee compared with other countries. Philippines and China are the world's biggest seafarer supplying nations and tuition fees in the two countries are almost similar. In these two nations a person needs 5000 (five thousand) USD to complete a four-year MET study covering all his expenses. This means 1,250 USD is required for tuition fees and living expenses for one year of study.¹⁵⁸

When we consider the case of students admitted by EMTI, all are holders of Bachelor degrees in Mechanical or Electrical engineering from public universities of the country. Upon their admission to EMTI they will also sign a cost-sharing contract with Bahirdar University (host of EMTI) for dormitory and meal services. This cost is calculated to be three thousand Ethiopian Birr (130 USD) and it will be payable to the University from the salary of seafarers through EMA. Hence, it is clear that the 33,600 thousand USD is only a tuition fee. It is also obvious that a six-month maritime training will not cost this much USD given the circumstance that EMA is using one of the public universities in Ethiopia and seafarers are forced to sign a cost-sharing contract of 130 USD for the meals they will use and dormitory services provided by the same university.¹⁵⁹

It is further argued that EMA, in the process of facilitating repayment of the tuition fee, is charging seafarers for placing them on a vessel, which is against the MLC 2006.¹⁶⁰ The EMA Addis office is a branch of a manning Agency in Germany, Hamburg and it is operating against the right of seafarers not to be charged for employment pursuant to Regulation 1.4 and 5.3 of MLC, to which Germany is party.

The other related contract is between EMA and partner employers of Ethiopian seafarers. According to respondents from EMA, most of their partners/clients are German and Greek companies. Among others, are Peter Dohle (Germany), CSM (Germany), NYK Japanese Company

¹⁵⁷ Interview with Seafarer No 12, Ethiopia, April 5, 2017

¹⁵⁸ Zhao and Amante, "Chinese and Filipino Seafarers," Pp.20.

¹⁵⁹ Interview with anonymous crew officer

¹⁶⁰ MLC2006, Regulation 1.4

based in Singapore, Thomas Schulte Ship Management (Germany), Navios Shipments INC (Germany) and Piraeus (Greece).¹⁶¹

EMA has different contractual agreements with all its partner employers and it will place seafarers up on the interest and demand of employers. It is in the midst of this point that the third contract comes to existence. This contract is the Seafarers Employment Contract.¹⁶²

According to the officers at EMA employers prepare the employment contract and most of them, to the extent their knowledge is concerned, fulfill minimum standards. Hence, it can be said that they are Standard Employment Contracts. EMA will always sign this contract on behalf of the employer. Here a question can be raised on the capacity of EMA in representing employers. Hence all services of recruitment and placements are done on behalf of the principal employer.

In this case, the agency is not employer and the ship owner/operator is the actual employer. Consequently, the agency will not accept any civil claim based on the employment contract or labor related matters. Seafarers should find out other alternatives to access jurisdictions to get their claims resolved.¹⁶³

In addition, conflict of interest may arise because EMA recruits and places seafarers and it will at the same time sign contract of employment on behalf of employers. It would also be difficult to identify and access the real employer. The respondent seafarers claimed that they have never accessed or communicated with their employers and doing so may also have risk of having rough relationship with EMA. However, a seafarer can access his employers bearing risk of losing opportunity of job for next contracts.¹⁶⁴

Among the terms of agreements in all employment contracts signed by Ethiopian seafarers Part 'A' contains a Section which is titled as 'Bank Details of Employee' and the account holder is EMA.¹⁶⁵ This, according to all respondent seafarers, has a negative impact on their interest. The primary concern of the seafarers is that since the account holder is EMA it can make any decision on the amount it will transfer for home remittance. It can also decide when, how and on

¹⁶¹ Interview with anonymous crew officer at EMA's Addis Office , Ethiopian, April 18,2017

¹⁶² Ibid

¹⁶³ Ibid

¹⁶⁴ Interview with Seafarer No.5, Ethiopia, April 20, 2017

¹⁶⁵ Part 'A' , Bank Details of Employee, See below annex for Sample Contract of Employment

which day's exchange rate they will transfer money as a home remittance. This is done according to the wage disbursement instructions form filled and signed by seafarers to fulfill their 33,600 USD commitment with EMTI.¹⁶⁶ This arrangement however, is against regulation 1.4 of the MLC as argued above and the SEC is something which is not bargained for and an adhesive contract which, again is in contraction with regulation 2.1/2 of the MLC. Under this regulation, it is provided that SEC shall be agreed under conditions which ensure that the seafarer has an opportunity to review and seek advice on the terms and conditions of the agreement and has freely accepted them before signing.¹⁶⁷ Hence, it is argued that such wage disbursement instructions, as also said by seafarers, are not freely signed and such agreement is done to secure job and start payment of tuition loan for EMTI.

One of the respondent seafarers said: *'each compliant on board will count against my salary which is transferred through EMA, they have been deducting half of my salary every month to fulfill the 33,600 USD, and they have every power to make any decision on my home remittance. And we don't have freedom to manage our money and they hold more money than they are supposed to take'*.¹⁶⁸

Worth mentioning is the comparison between contracts of Employment of Ethiopian Seafarers and non -Ethiopian seafarers working on a similar position. According to majority of the seafarers the Contract of Employment is standard for both groups and there is also no difference in the amount of wage paid for equal job. Few, however, have complains on deviation of the principle of 'equal pay for equal work' because there are instances where seafarers from developed countries are paid better than seafarers from low income countries. Moreover a challenge in relation to working in multinational crew setup was raised as one of the initial challenges for Ethiopian Cadets. Most of them, however, disclosed that the experience they gained by working with seafarers of different nationalities is interesting.¹⁶⁹

¹⁶⁶ On the wage disbursement instructions (EMA-F20A), the seafarer will instruct the shipping company (employer) to transfer minimum 80% or more of his gross wages to remit to EMA GmbH. This rate is used when the seafarers are cadets and another arrangement exists when seafarers become officers. See annex below for both arrangements.

¹⁶⁷ MLC2006, Regulation 2.1/2

¹⁶⁸ Interview with Seafarer No 2, Ethiopia, March 20,2017

¹⁶⁹ Interview with Seafarer No 4, 7& 12, Ethiopia, April 5 & and March 20 respectively

4.2. Lack of Seafarers Union and Collective Bargaining Agreements

The discussion on section 5 of chapter two showed the importance of seafarers union in working for realization of MLC labor standards. Strong Seafarer Unions will conclude Collective Bargaining Agreements (CBA) with employers. CBAs do have a significant role in providing standards on working and living condition of seafarers.¹⁷⁰

All employment contracts signed by Ethiopian seafarers do have variety of terms making reference to CBAs, which does not actually exist. A crew officer from EMA also disclosed that there are no CBAs which are signed between representatives of Ethiopian seafarers and partner employers. Surprisingly almost all terms of agreements in relation to working and living conditions such as hours of work and rest, overtime payments and so on refer CBAs that may exist prior to the conclusion of employment contracts.¹⁷¹ This has effect with regard to implementation MLC regulation 2.1; paragraph 3, which states that “to the extent compatible with the member’s national law and practice, seafarers employment agreement shall be understood to incorporate any applicable CBA...” Seafarers also claimed that most of their complaints on board are directly related with such matters and they are not sure on what ground to base their claims where there are no CBA and they are from a nation not party to MLC 2006.¹⁷²

The question regarding existence of Seafarers Union in Ethiopian has been raised at different levels including seafarers and it is found that there is no single union that represents Ethiopian seafarers. This problem, as is clear from responses at different level, can be attached with three issues. The first one is that, as provided under section 3 of Chapter three, MOLSA and proclamations adopted by the same do not cover seafarers and seafarers only approach to EMAA which does not actually have mandate in helping seafarers to establish Unions.¹⁷³

The second is related with EMA, who actually sign contracts of employment on behalf of employers. EMA, according to Ethiopian seafarers is always on the side of employers and does not want establishment of Unions. As one seafarer said, ‘*EMA is a problem by itself when it comes to*

¹⁷⁰ Lillie, “Global Collective Bargaining,” Pp. 5.

¹⁷¹ See annex for sample Seafarers Employment Contracts

¹⁷² The responses of all seafarers with respect to questions in relation to CBAs are identical. The writer also found that few seafarers are not aware about the meaning and importance of CBAs.

¹⁷³ Interview with Miss. Liyuwork Amare

seafarers Union, they do not tell us the importance of having it and they don't even want us to personally communicate with the Global seafarers Union, ITF ¹⁷⁴

The last problem for not having Seafarers Union in Ethiopia is the working condition itself. Most of the seafarers will go to different parts of Ethiopia after they sign off from their vessels and it is not easy to organize them on a session and making decision and working to have strong Unions may not work out.¹⁷⁵

4.3. Ethiopia a Labor Supplying State and not Member to the MLC2006

In the global labor market, it is through manning agencies that most of the world's shipping companies employ seafarers. The development of the practice of recruiting and employing seafarers from third world countries is becoming common practice of different manning agencies engaged in recruitment and placement of seafarers.¹⁷⁶

These manning agencies should be directly regulated by Labor Supplying States because different abuses may be committed at times of recruitment and placement of seafarers. This may relate with charging illegal fee for finding job, or prohibiting them from joining trade unions under the threat of dismissal and inclusion of black list, which would in turn exclude them from labor market.¹⁷⁷

As part of this practice, Ethiopia perhaps became one of the recently known Labor Supplying States. What comes next is; what is Ethiopia doing in ensuring the rights of its seafarers? This duty is mainly related with regulating and monitoring the services of manning agencies and ensuring the existence of national mechanism for legal claims regarding recruitment and placement services.¹⁷⁸

On the discussion under Section one of this Chapter, it is found that most of the claims of Ethiopian seafarers are related with recruitment and placement services by the private manning agency, EMA. Responding for questions in relation to this matter all Ethiopian seafarers believe that

¹⁷⁴ Interview with Seafarer No. 11, Ethiopia, March 3, 2017

¹⁷⁵ According to all the respondent seafarers, no governmental or private party including EMA have encouraged and helped them to organize workers Union. After signing off, most of them will depart to their families, often, out of Addis, seat of EMA and EMAA.

¹⁷⁶ Bloor and Sampson, "Regulatory Enforcement," Pp. 3.

¹⁷⁷ Pineiro, *International Maritime Labor Law*, Pp. 53.

¹⁷⁸ MLC 2006, Regulation 5(3)(1)

there is no available national procedure where they can take their legal claims. None of them list Ethiopia as an alternative jurisdiction for their claims and they all believe that EMA does not have legal personality in Ethiopia.¹⁷⁹

What is more is that some have tried to communicate their grievances to Ethiopian Maritime Affairs Authority (EMAA) but they could not succeed because the manning agency is out of the scope of the Authority.¹⁸⁰ One of the seafarers said ‘*in this case even the maritime authority has no fair solution for our claim. They resemble to EMA’s decision even if they know there is something wrong*’. As discussed on other parts of this paper, Ethiopia is not a party to MLC2006, which requires Labor Supplying States to setup system of inspection and monitoring as well as legal proceedings for legal claims in relation to recruitment and placement services.¹⁸¹

4.4. Employment on Ships Sailing under FOC

Recruitment and employment of Ethiopian seafarers on foreign ships is perhaps the result of the global practice of internationalization of maritime employment which is also the result of open registries.¹⁸²

Pursuant to key informants on the survey all Ethiopian seafarers are employed on Ships sailing under flags of Liberia, Panama, Malta, Marshal Islands, Madeira and Cyprus but only few seafarers are employed on the later three. Lion share is held by Liberian flag and majority of Ethiopian seafarers are employed on ships flaying Liberian flag.¹⁸³

Though FOC is a global practice in the maritime industry, its impact on the rights of Ethiopian seafarers could be beyond being employed on low standard ships. Majority of respondents said that they have never been to their Flag States or never got the chance to communicate with Flag State representative while they are on board. However, few said that they had met Flag state supervisors once in three and more years’ experience.¹⁸⁴

¹⁷⁹ Response of all seafarers on this regard was identical and they know no seafarer in instituting a legal claim against EMA.

¹⁸⁰ Interview with Miss Liywork Amare

¹⁸¹ www.etmaritime.com

¹⁸² DeSombre, “Globalization, Competition and Convergence,” pp. 4

¹⁸³ The response of the seafaerers was also the same with the one obtained from the anonymous crew offi cer from EMA’s Addis Office.

¹⁸⁴ Interview with Seafarer No 1, 9 and 13, Ethiopia, March 3,2017

The primary jurisdiction over labor matters is given for Flag states and it is the first resort for seafarers at times of complaint in relation to their work. According to the seafarers, they, except few Cadets, are well aware that Flag States are the primary jurisdictions for labor disputes.

Despite the fact that FOC states are known for their weak regulatory and enforcement system, the working and living condition of Ethiopian seafarers, as respondents claimed, is no different from non-Ethiopian seafarers on board.¹⁸⁵

On their response to questions in relation to the working condition on board, few of them found seafaring very difficult especially in the first contracts. The discipline of work on board is something which they have never expected and never told in school about the tough routines they will face on board. However, since they all are holders of Bachelor Degree of Mechanical or Electrical Engineering, they faced no problem of competence with regard to their work. They however, believe that the promotion system and the manning levels they have passed through were not appropriate. And few think that they have stuck on a certain position. A 3rd engineer from the first batches of EMTI said that he has served this position for the last four years.¹⁸⁶

4.5. Polygraph test as a blacklisting Mechanism

A ‘polygraph’, sometimes called ‘lie detector’, is an instrument used to measure physiological responses in humans when they are questioned in order to determine if their answers are truthful. Its accuracy, however, has been contested at different times because polygraph is merely a device that measures and records electrophysiological activity. It does not directly measure deception or lying. The test is based on the fear of being caught when a question is posed, so it may be similar with a police officer giving evidence that during an interview the accused shuffled, stammered or sweated profusely.¹⁸⁷

When it comes to using a polygraph test, it is commonly used in criminal cases in different legal systems and it may be admissible or not depending on the procedures conducted during the test. It may also be used either for pre-employment screening or during the course of employment in labor market. In the US legal system for example, there is an Employee Polygraph Protection

¹⁸⁵ Ibid

¹⁸⁶ Interview with Seafarer No. 3, Ethiopian, March 27 2017

¹⁸⁷ Jolanta Antasi, “On Lie and Lying,” *European Polygraph*, Vol.2 No 2(4)(2008): PP 2.

Act which is adopted in 1988.¹⁸⁸ The Act generally prevents employers engaged in interstate commerce from using lie detector tests either for pre -employment screening or during the course of employment with certain exemptions. It can however be employed by different institutions with certain restrictions. The Act permits polygraph test for certain job applicants of security service firms and of pharmaceutical manufacturers, distributors and dispensers. The other situations in which such test is permitted is that when an employee is reasonably suspected of involvement in a work place incident, such as theft or embezzlement, that resulted in definite financial loss or injury to the employer.¹⁸⁹ But, the American Psychological Association, after conducting good number of researches, has recommended against the use polygraph test in employee screening.¹⁹⁰

Ethiopia has no specific law regarding Polygraph test and Ethiopian seafarers have been going through this test by EMA. According to the consent form signed by Ethiopian seafarers, if a seafarer fails the predictive assessment twice, he will be automatically dismissed from the recruitment and placement service.¹⁹¹ As said by all the seafarers, the Polygraph test is a recent practice by EMA. It did not exist at the beginning of the recruitment and placement service. Rather, it started lately as a blacklisting mechanism because few seafarers have deserted to foreign countries from their vessels on port.¹⁹²

At this point, it would be appropriate to consider the legitimacy of such test conducted by EMA according to the law of Germany because EMA's head office and place of registration is Hamburg, Germany. Unlike the case of USA, Germany does not have a separate legislation to protect employees from polygraph test. However the practice shows that a lie detector has been used majorly for criminal cases. Their admissibility is still contested and literatures show that it is not common to use polygraph test for pre-employment screening.¹⁹³

¹⁸⁸ <http://www.dol.gov/whd/polygraph>

¹⁸⁹ <http://www.polity.org.za/article/a-failed-polygraph-does-not-justify-dismissal-2013-05-23>

¹⁹⁰ <http://www.vox.com/2014/8/14/5999119/polygraphs-lie-detectors-do-they-work>

¹⁹¹.This form is obtained through informal way because is it absolutely prohibited to take the document out of the examination room. After the seafarer signed the agreement, it will be at EMA to be consumed for further decisions regarding placement of the seafarer. See annex below for sample Consent Form for Polygraph test

¹⁹² Interview with anonymous crew officer, EMA's Addis office

¹⁹³ "Lie Detector Tests and Freedom of the Will in Germany," *Journal of Criminal Law* Vo. 47, Criminology and Police Science(1956-1957):Pp. 3.

4.6. Choice of jurisdiction clause; forum selection and choice applicable law

It is becoming very common to observe forum selection clauses on international contracts. Such inclusion is aimed at promoting stability of international transactions and it also encourages conclusion of international contracts by creating certainty of where a dispute would be resolved.¹⁹⁴

Similarly parties may use employment contracts to preselect the forum for any dispute. Such forum selection clauses in employment contracts, according to the US federal law¹⁹⁵, are presumed to be valid and should be enforced unless proof against enforcement is brought. The contesting party should show that enforcement would be unreasonable or unjust; the agreement was obtained through fraud, undue influence, and overweening bargaining power. It can also be contested by showing that enforcement would violate a strong public policy of the forum or if the chosen forum is seriously inconvenient for the trial of the action.¹⁹⁶

The approach followed by Europe courts is however different. According to the European Council Regulation (EC) 1215/2012, forum selection clauses are matter of statute, and employers may only sue the employees where they are domiciled. And employees can sue employers where so ever the employee is located. Comparing this with US legal system, US employers have better flexibility than Europe employers.¹⁹⁷

The other point of discussion is that under what circumstances would a forum selection clause be unreasonable or unjust? And what should count as a serious inconvenience? A forum selection clause would be invalid if it is not bargained for and if the plaintiff is physically and financially incapable of suing in the chosen forum.¹⁹⁸

Coming to the focus of this section, a forum selection and choice law clause is inserted in all the employment contracts signed by Ethiopian seafarers. According to this clause, the Seafarers Em-

¹⁹⁴ Lars O. LaGerman, "Choice of Forum Clauses in International Contracts: What is Unjust and Unreasonable," *the International Lawyer*, Vol. 12, No. 4 (1978): Pp. 2.

¹⁹⁵ William M. Richman, "Carnival Cruise Lines: Forum Selection Clause in Adhesion Contracts," *The American Journal of Comparative Law* Vol. 40 No. 4, Pp.

¹⁹⁶ W. M. Richman, "Carnival Cruise Lines: Forum Selection Clause in Adhesion Contracts" Pp. 3.

¹⁹⁷ Philip M. Berkowitz, "Cross Border Employment and Forum Selection Clauses," *New York Law Journal*, (2012): Pp. 2.

¹⁹⁸ W. M. Richman, "Carnival Cruise Lines: Forum Selection Clause in Adhesion Contracts" Pp. 4.

ployment Agreement is to be governed by laws of the Flag State.¹⁹⁹ Hence, the discussion here is in relation to the enforceability of this selection clause and its impact on the right of Ethiopian seafarers considering the case of seafarers as plaintiffs.

On this discussion, it must be remembered that Ethiopian seafarers are majorly employed on ships sailing under FOC. Selecting FOC States as forum of jurisdiction has its own challenge because of lack of genuine connection of ship owners and the state. It is common for ship owners to register their ships under FOC and run their business somewhere else, may be far from FOC states.²⁰⁰

At this point, it would be important to evaluate the forum selection clause included under the Employment Contract of Ethiopian Seafarers. A forum selection clause must not be designed as a mechanism of forum shopping and must not in turn be used as denial of access to jurisdiction.²⁰¹

As has been discussed above, a forum selection is different from forum shopping and it can perhaps be made enforceable under different circumstances. The first is related with forum selection clause which is not bargained for and included under an adhesive contract and if the plaintiff is physically and financially incapable of suing in the chosen forum, one of the parties specially a plaintiff seafarer can sue the defendant or employer somewhere else other than the selected forum.²⁰²

The Contracts of Employment of Ethiopian Seafarers can as a matter of fact be considered as an adhesive contract because they are usually organized and framed by employers according to employers' interest. EMA's Addis office will then facilitate the conclusion of the contract by calling seafarers are signing it on behalf of employers.²⁰³ Accordingly, a single term cannot be modified by the interest and negotiation of seafarers, the only two options available for the seafarer is either to sign the contract or decline and refuse to undertake the contract totally, which a seafarer

¹⁹⁹ Article 23 of SEA, "Jurisdiction and applicable CBA"

²⁰⁰ Alderton *et al*, *The global seafare* , Pp. 34.

²⁰¹ LaGerman, "Choice of Forum Clauses," Pp. 2.

²⁰² Richman, "Carnival Cruise Lines: Forum Selection Clause in Adhesion Contracts,"Pp. 4.

²⁰³ Interview with anonymous crew officer, EMA's Addis office

will not likely do.²⁰⁴ Hence, it can be said that this forum selection clause is not what is bargained for. However, the enforceability of such clause depend on the laws of the Flag state because as said above, the seafarers employment contract shall be governed by laws of the flag state.²⁰⁵

What is more is making such choice of forum effective can be said to be seriously inconvenient for Ethiopian seafarers. Considering the geographical distance of most of the Flag states and the financial capacity of majority of the seafarers, the latter are physically and financially incapable to sue their employers at Flag states. In addition, there is the issue lack of genuine connection and lack of asset in forum states coupled with weak regulatory system in FOC sates will discourage suing employers in such forums.

Yet, another head of jurisdiction for Ethiopian seafarers, perhaps for those employed by companies who are engaged on business in EU states, is arranged by the Brussels I Regulation is, seafarers can sue their employers wherever the employer is located or where the seafarers worked, notwithstanding any contractual forum selection clause.²⁰⁶

The information gathered from the seafarers show that majority of them believe that it is not easy to directly access their employers and they never had direct communication with employers. And the same challenge of physical and financial incapability may be faced by seafarers to access jurisdiction at the location employer, which would probably be Europe or Asia.²⁰⁷

The other head of jurisdiction available is what is provided under Article 7 sub article 5 of the Brussels I Regulation. This Article offers workers, as long as their claims arises from the corresponding, branch, agency establishment's activity, if an employer is domiciled in 3rd state has establishments in different member state, workers can choose where to sue their employer depending on the place with which they are associated.²⁰⁸

²⁰⁴ Reponse of all the respondent seafarers with regard to the process of conclusion of their Employment Contract was identical.

²⁰⁵ Article 23 of SEA, "Jurisdiction and applicable CBA"

²⁰⁶ European Council Regulation 44/2001, on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters

²⁰⁷ Response of all seafarers with respect to the question on directly accessing employers was identical.

²⁰⁸ Ibid Article 7/5

From the trend here, EMA can be considered as one of the establishments of ship-owners because the former is acting on behalf of ship owners or operators. EMA also facilitates the recruitment and placement of seafarers and it will also work on checking for the professional qualification of seafarers, providing instructions and tickets for the journey to the ship and back, paying salaries and managing complaints. Hence it is through EMA that seafarers communicate with their employers.²⁰⁹

Close looking of this fact will still take us to EMA, Hamburg office to access jurisdiction. It can similarly be argued that it would be seriously difficult for a seafarer to choose this head of jurisdiction given the physical distance of Germany, financial, language and legal knowledge constraints to access a court in Hamburg.

Conclusion

In summary, Ethiopian seafarers' qualification with regard to their professional work has never been questioned but the recruitment and placement procedures they are passing through don't seem fair and legitimate. The short term employment agreement, not exceeding six months, coupled with the challenges of accessing jurisdiction to deal with employers made seafarers to continue working with number of complains. This in turn made them to reconsider their decision and some of them end up withdrawing and disserted to foreign countries. In conclusion it can be said that Ethiopian Seafarers are crews of convenience who are not members to national or global workers union.

²⁰⁹ Interview with anonymous crew officer at EMA's Addis office

Chapter Five

Conclusion

In conclusion, the nature of work involved and life on board for long time without communication with family, made seafaring a special and dangerous area of work. Despite the fact of having a most comprehensive and separate international legal document, MLC, different national and global factors such as registering ships under FOC states without having genuine link and recruiting seafarers from third world countries have been significantly affecting rights of seafarers.

The practice of employing Ethiopian seafarers on foreign ship is a recent practice which could be the result of the global practice of open registries and the consequent trend of employing crews from anywhere in the world. It is discussed that rights of seafarers start from the recruitment, training and placement stages. Hence, many organs including Maritime Training Institutes and Manning Agencies have significant role in protecting seafarers' rights.

EMA's Addis office is working on recruitment and placement of Ethiopian seafarers trained by its sister company EMTI. In this process, EMA has been working as agent of employers and it is acting on behalf of them. What is more is: this agency is not a registered and licensed agent in Ethiopia, which in turn make it difficult to institute legal claim against the services given by EMA.

The research further discussed that the regulatory system at national level in monitoring and auditing training, recruitment and placement services is of a big importance to realize the rights of Ethiopian seafarers. However, the recent situation in Ethiopia shows that the normative and the institutional framework on maritime labor, especially in relation to seafarers employed on foreign ships is very weak. The Ethiopian Maritime Code, which was supposed to be one of the important documents in relation to maritime labor, is very old and outdated with little concern for labor related rights of seafarers.

The MLC2006, which is the most comprehensive international instrument, tries to include different international labor laws, such as freedom of association, freedom from forced labor and discrimination. It starts by listing the requirements to work on board and discuss the rights of seafarers including training, right to fair recruitment and placement services. It also requires member states to ensure that employment contracts of seafarers are in conformity

with the MLC. Ethiopian seafarers, however, may not benefit and be protected by their nation because Ethiopia is not party to MLC2006.

The only national authority working on maritime matters in Ethiopia is the Ethiopian Maritime Affairs Authority, but not mandated to deal with labor rights of seafarers. This authority is basically working in verifying the qualification of seafarers who have been trained by EMTI.

Ethiopian seafarers who are trained and recruited by German Company working in Ethiopia, employed on a ship owned by German company, sailing under flag of Liberia, carrying cargo of an American citizen and sailing through ports of Asia, probably need to figure out different issues including jurisdiction, to invoke any legal claim against EMA or their employers.

Contract between EMTI and seafarer, where the seafarer undertakes to pay 33,600 USD and the modalities of payment arranged by EMA, the former's sister company, also seems to be unfair and illegal. EMA, as a manning agency cannot charge seafarers for placing them on a vessel but this is technically and practically happening. It is obvious that a six months maritime training will not cost this much USD given the circumstance that EMA is using one of the public Universities in Ethiopia and seafarers are forced to sign a cost sharing contract of 3000 Ethiopian birr for the meal they use and dormitory service provided by the same university.²¹⁰ The amount of money that seafarers are forced to pay is also extremely exaggerated compared with other countries experience such as Philippines and China.

This research also argued that Ethiopian seafarers are crews of convenience because their right to access jurisdiction seems to be purposely compromised by contractual terms they signed and not bargained for. The forum selection clause included under their employment contract must not be implemented because giving effect to such clause would probably jeopardize the right to access jurisdiction because of the physical and financial incapability of seafarers to sue in the chosen forum which is the Flag state and perhaps FOC state. It is further argued that even if a seafarer decided to access the Flag State, most of FOC states are known for their weak regulatory and enforcement systems and the seafarer may not succeed in having his claims settled on his favor.

Lack of national seafarers union and weakness of Ethiopian seafarers in being member to global seafarer unions like ITF can also be presented as one of the factors that brought about

²¹⁰ See above the discussion on chapter four section 4.1, Paragraph 5

the conclusion that Ethiopian seafarers are crews of convenience. It can in conclusion be said that Ethiopia is a recent Maritime Labor Supplying state with no legal and institutional framework for protection of rights of its seafarers.

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Annex

WAGES DISBURSEMENT INSTRUCTIONS (EMA-F20 A)

<input type="text"/>	instruct the company
(Seafarer)	
<input type="text"/>	As employer
(Shipping Company)	

To transfer minimum 80% or more of my gross wages to remit to EMA GmbH to:

Bank details:
Ethiopian Manning Agency (EMA) GmbH - Neuer Wall 63 - 20354 Hamburg - Germany
Account/IBAN: 645 678 400 / DE76 2004 0050 0645 6784 00
Bank: Commerzbank AG, Ness 7-9, 20354 Hamburg – Germany
National code/Swift-BIC: 200 400 50 / COBADEFFXXX
Purpose: <name of seafarer>, <payment month>

Signature

Date

RECEIVED AND ACKNOWLEDGED BY:

EMA GmbH



By: Gateno Negus

Date

ETHIOPIAN MARITIME TRAINING INSTITUTE S.C.

Enrollment Agreement for Maritime Training

This Agreement is made by and between

Ethiopian Maritime Training Institute Share Company hereinafter referred to as EMTI,
Represented by Mr. Pini Shwartz CEO, or his delegate _____
Mr. /Mrs. Full Name

AND

The student hereinafter referred to as Seafarer _____ is
Ethiopian National _____
Seafarer Full Name including grandfather

ARTICLE - ONE
Purpose of Agreement

This Agreement will establish the conditions for the Seafarer's enrollment in EMTI S.C. (or "EMTI"), including his responsibilities, academic requirements, commitment to the program and payment obligation.

Whereas, Although EMTI and Seafarer recognize that this Agreement does not create any actual or apparent agency, partnership, franchise, or relationship of employer and employee between the parties, nonetheless EMTI will facilitate the Seafarer's training and academic experience to comply with international standards and facilitate Career Placement Services in the shipping industry for the benefit of the Seafarer;

Whereas, the Seafarer understands that the Maritime Education provided by EMTI and EMTI's promotion of Ethiopian skilled labor to the international marine industry is of national importance to Ethiopia;

Whereas, Seafarer understands EMTI commits significant resources to establish the training institute providing Maritime Education and establishing professional relationships with international shipping companies; and

Whereas, EMTI and Seafarer recognize that this Agreement does not create any actual or apparent partnership, franchise, or relationship of employer and employee between the parties Seafarer is committed to only use EMTI or its affiliates as his placement agent for employment in the shipping industry and to fulfill all of the conditions of this Agreement;

Now therefore; for and in consideration of the foregoing and of the mutual promises, covenants and undertakings herein stipulated, the parties herein have agreed as follows:

ARTICLE - TWO

Definitions

"Active Months" shall mean months that Seafarer actively employed aboard a ship.

"Agreement" shall mean Enrollment Agreement for Maritime Training.

"Cadet Sea Time" shall mean a period twelve (12) Active Months of sea time completed by Seafarer after successful completion of EMTI academic training. Completion of Cadet Sea Time is required prior to taking final examination to qualify as a Junior Officer.

"Career Placement Services" shall mean services provided by EMTI or its affiliates that utilize its relationships with Shipping Companies to provide career opportunities to Qualified Marine Graduate.

"Employer" shall mean the independent commercial shipping company that employs the Seafarer after Seafarer has completed his EMTI academic training. The term Employer shall never be defined as or refer to EMTI or any of its affiliates.

"Gross Monthly Seafaring Compensation" shall mean the total monthly remuneration given to the Seafarer during his employment in the shipping industry.

"IMO" shall mean the International Maritime Organization, the United Nations specialized agency which develops and maintains a comprehensive regulatory framework for shipping including training and certification of seafarers

"Junior Officer" Seafarer receives the title of Junior Officer following successful completion of EMTI training, Cadet Sea Time and final examination as required by the IMO and/or STCW.

"Maritime Education" shall mean marine training provided by EMTI.

"Qualified Marine Graduate" shall mean Seafarer that successfully fulfill EMTI's standards and academic performance requirements, including obtaining passing scores on examinations administered by EMTI and required by STCW 1978 as amended in 2010 and the international standards.

"Seafarer" shall mean the student whose name appears on the first page of this Agreement.

"Seafarer Colleague" shall mean any person other than Seafarer previously and/or presently enrolled in EMTI pursuant to a fully executed Enrollment Agreement for Maritime Training such as this Agreement.

"Tuition Loan" shall mean the amount of \$33,600 USD disbursed to Seafarer for tuition as a non-interest loan to be paid to EMTI and repaid by the Seafarer according to the terms hereof. This obligation is incurred upon the signing of this Agreement and survives this Agreement.

"Tuition Loan Deposit" shall mean the amount of money paid by Seafarer pursuant to Section 5.2.3 during Cadet Sea Time, which shall be refundable pursuant to the terms hereof.

ARTICLE - THREE
Period of Training

Seafarer shall receive Maritime Education by EMTI for a period of _____ starting from _____.

ARTICLE - FOUR
Duties and Responsibilities of EMTI

During the period of training EMTI shall have responsibility for the following:

- 4.1. Facilitating Marine Education training and accommodations;
- 4.2. Providing maritime training to the Seafarer in accordance with the standards of standards of the IMO and STCW;
- 4.3. Facilitating Career Placement Services to Qualified Marine Graduate; and
- 4.4. Coordinating and cooperating with EMA (an affiliate of EMTI) to help the Seafarer obtain his required licenses and certificates, provided that it is understood that the Seafarer shall be responsible for the payment of all fees associated with such licenses and certificates.
- 4.5 Pursuant to the instruction from Seafarer as evidenced by and in accordance with Seafarer's entering into this Agreement, to instruct EMA or other affiliate of EMTI to collect the Net Compensation (as defined in Section 5.2) and distribute same to Seafarer's bank account in Ethiopia after the payment of the Seafarer's Costs.

ARTICLE - FIVE
Duties and Responsibilities of Seafarer

Seafarer agrees to the following:

- 5.1. Exclusively use EMTI, or its affiliates, as the placement agent for employment in the shipping industry.
- 5.2. To provide a fully executed letter to Seafarer's Employer, the terms of which Seafarer agrees with and hereby affirms, with a copy to the senior supervisor of the ship on which the Seafarer will work, which instructs Seafarer's Employer to send an amount equal to no less than eighty percent (80%) of the Seafarer's Gross Monthly Seafaring Compensation (the "Net Compensation") directly to EMTI, its affiliates, or to such account as EMTI may direct in writing (it being understood by Seafarer that the entire Net Compensation shall be sent to Seafarer as per the instruction in Section 4.5 including transfer to Seafarer's account and payment of Seafarer Costs).

The following costs must be paid by Seafarer ("Seafarer's Costs"):

- 5.2.1 The Tuition Loan equal to \$33,600 USD, which shall be paid in equal monthly installments over twenty-four (24) Active Months, beginning from Seafarer's first month of active employment as a Junior Officer.
- 5.2.2 EMTI Social Benefit Fund, which shall be up to, but no greater than, five percent (5%) of the Gross Monthly Seafaring Compensation which shall be paid beginning after the Seafarer has completed twenty-four (24) Active Months as a Junior Officer.
- 5.2.3 Seafarer shall pay \$250 per Active Month as the Tuition Loan Deposit during Cadet Sea Time. The amount so withheld will be fully transferred to the Seafarer bank account in Ethiopia immediately after four (4) Active Months of employment of the Seafarer as a Junior Officer or Rating.
- 5.2.4 Any additional loan to Seafarer by EMTI, must be fully repaid by Seafarer within six (6) months of commencement of employment on terms to be agreed upon by Seafarer and EMTI.

For the avoidance of doubt, Seafarer hereby states that it is in full agreement that (i) at least eighty percent (80%) of Seafarer's Gross Monthly Seafaring Compensation should first be paid directly to EMTI or its affiliates, which is also known as the Net Compensation; (ii) the Seafarer's Costs will be paid by EMTI or its affiliates from the Net Compensation; (iii) after the Seafarer's Costs have been paid the remainder will be deposited to Seafarer's bank account in Ethiopia.

- 5.3. Complete Cadet Sea Time following completion of academic training. At the commencement of and during Cadet Sea Time, the Seafarer may be required to have available for use certain basic gear, uniforms, work boots, etc. (the "Required Gear"). All costs of providing the Required Gear shall be borne by the Seafarer.
- 5.4. The Seafarer is obliged to report back to Ethiopia after completion of Sea Time to complete Junior Officer Examination.

ARTICLE - SIX GENERAL TERMS AND CONDITIONS

- 6.1. Seafarer has the duty to abide by EMTI's Company Policy and Code of Conduct, as well as the terms and conditions of this contract. EMTI maintains right to terminate Seafarer's enrollment for failure to meet academic performance standards, failure to fulfill training within the time period specified in the Agreement, for disciplinary problems, use of illegal substances, alcohol consumption, medical fitness resulting in Seafarer being unfit to sail, or non-compliance with the Enrollment Agreement.

- 6.2. Seafarer is required to provide complete and accurate information to the best of his knowledge in interviews with EMTI or in connection with any questionnaires, applications or other information submitted to EMTI.

Prior to Enrollment, Seafarer must fully disclose any contractual or legal obligations which obligate Seafarer to work for other companies or organizations. Failure to provide accurate information may result in the dismissal of Seafarer. Seafarer shall indemnify and hold harmless EMTI and its affiliates, successors and assigns from any loss which may be suffered due to Seafarer's negligence in providing complete and accurate information pursuant to this Agreement.

- 6.3. Seafarer shall be responsible for passing examinations with a satisfactory rate set by EMTI and IMO requirements.
- 6.4. If the Seafarer terminates the (education) training without completion of Marine Education or respective commitments stated above he will be bound by general provisions of Ethiopian law of Contract and the terms of this Agreement in refunding all the expenses and loans covered by EMTI, including but not limited to the Tuition Loan, in addition to compensation that may be claimed.
- 6.5. If the Seafarer's employment is terminated by Seafarer's Employer for cause, including but not limited to poor performance; violations of the Employer's rules, regulations or policies; violations of law; disciplinary problems; use of illegal substances; and alcohol consumption, then Seafarer shall be responsible for all repatriation costs and for all costs as specified in Section 6.4.
- 6.6. Seafarer shall be responsible for remitting payments according to Article Five and shall properly represent the Seafarer obligations in Article Five to Senior Officers aboard the vessel. Failure to comply with the Duties and Responsibilities of Seafarer as stated in Article Five is a violation of this Agreement and may result in termination of employment.
- 6.7. This Agreement shall be governed by the laws of the Federal Democratic Republic of Ethiopia. For violations of this Agreement, legal actions may be taken, as found necessary, against the Seafarer and Seafarer's Guarantors according to the laws of the Federal Democratic Republic of Ethiopia.
- 6.8. Seafarer shall be required to have three (3) guarantors (the "Guarantors") who join this Agreement for purposes of agreeing to be financially responsible up to full amount of the unpaid Tuition Loan should the Seafarer be in breach of his financial obligations under this Agreement. One of the three Guarantors must be a direct relative of the Seafarer. Each of the remaining two Guarantors must be a Seafarer Colleague who has been in the past or currently is enrolled with EMTI pursuant to an agreement such as this Agreement.
- 6.9. EMTI and Seafarer recognize that this Agreement does not create any actual or apparent partnership, franchise, or relationship of employer and employee between the parties. Although EMTI shall cooperate with EMA to facilitate an employment relationship between

the Seafarer and Employer, any and all employment salaries and benefits that Seafarer might earn shall be determined and established pursuant to an employment agreement by and between Seafarer the Employer. The Employer shall have the full responsibility to provide whatever salaries and benefits might be owed to Seafarer pursuant to its employment agreement with Seafarer and EMTI does not guaranty the performance of the Employer under such agreement and shall have no financial or other responsibilities, obligations, or duties whatsoever to Seafarer under such employment agreement.

SIGNATURES

This Agreement is signed on _____
[DAY / MONTH / YEAR]

AUTHORIZED EMTI SIGNATORY

FOR SEAFARER: I hereby certify with my signature that I have read, understand and accept the terms and conditions of enrollment as stated above.

SEAFARER NAME (PRINT)

SEAFARER SIGNATURE

SIGNATURE DATE [DAY / MONTH / YEAR]

SEAFARER OFFICIAL DETAILS:

Residential Address: _____

Telephone No.: _____

Email: _____

Name/Type of Identification Document: _____

Identification Document No: _____

WITNESSES

SEAFARER SIGNATURES

PRINTED NAME

SIGNATURE

1. _____
2. _____

I hereby give agreement for the purchase of the parcel(s) stated in paragraph 2.1 above and that I am not a seafarer on board.

I understand and agree to some of the above described financial obligations.

WITNESSES

Witness Name (Print)

Witness Signature

SEAFARER CERTICAL DETAILS

Seafarer Name (Print) _____ (MR/MRS/MISS)

Home Address _____ Phone No. _____

Telephone Land No. _____ Mobile _____

E-mail _____

Name / Type of Identification Document _____

Identification Document No. _____

Witness

Witness Name (Print)

Witness Signature

Page 2 of 10

Seafarer Initials _____

GUARANTOR SIGNATURES

GUARANTOR#1

I hereby join agreement for the purposes stated in paragraph 6.8 above and state that I guaranty payment for _____

Seafarer Name (print)

Of up to the full amount of the tuition loan to EMTI should seafarer fail to uphold his financial obligation to EMTI under this agreement.

I understand and agree to terms of the above described financial obligations.

GUARANTOR

Guarantor Name (Print)

Guarantor Signature

GUARANTOR OFFICAL DETAILS:

Residential Address: City _____ Sub City(Woreda) _____

Kebele _____ House No. _____

Telephone: Land line _____ Mobil _____

E-mail _____

Name /Type of Identification Document: _____

Identification Document No: _____

Witness

Witness Name (print)

Witness Signature

Seafarer Initials _____

GUARANTOR#2

I hereby join agreement for the purposes stated in paragraph 6.8 above and state that I guaranty payment for _____

Seafarer Name (print)

Of up to the full amount of the tuition loan to EMTI should seafarer fail to uphold his financial obligation to EMTI under this agreement.

I understand and agree to terms of the above described financial obligations.

GUARANTOR

Guarantor Name (Print)

Guarantor Signature

GUARANTOR OFFICAL DETAILS:

Residential Address: City _____ Sub City(Woreda) _____

Kebele _____ House No. _____

Telephone: Land line _____ Mobil _____

E-mail _____

Name /Type of Identification Document: _____

Identification Document No: _____

Witness

Witness Name (print)

Witness Signature

Page 9 to 10

Seafarer Initials _____

GUARANTOR#3

I hereby join agreement for the purposes stated in paragraph 6.8 above and state that I guaranty payment for _____

Seafarer Name (print)

Of up to the full amount of the tuition loan to EMTI should seafarer fail to uphold his financial obligation to EMTI under this agreement.

I understand and agree to terms of the above described financial obligations.

GUARANTOR

Guarantor Name (Print)

Guarantor Signature

GUARANTOR OFFICAL DETAILS:

Residential Address: City _____ Sub City(Woreda) _____

Kebele _____ House No. _____

Telephone: Land line _____ Mobil _____

E-mail _____

Name /Type of Identification Document: _____

Identification Document No: _____

Witness

Witness Name (print)

Witness Signature

SEAFARERS EMPLOYMENT AGREEMENT

This Seafarers Employment Agreement (hereinafter referred to as the "Contract") is entered into between the Employee and the Employer as defined hereinafter.

Part A: Employment Details

The Employee:

Surname:	First Name(s):
Date of Birth:	Place of Birth:
Full Home Address:	Yaba, Ethiopia
Telephone No.:	Seafarer ID:
Nationality:	Valid until:
Passport No.:	Valid until:
Nat. Seaman's book No.:	Valid until:
Flag Seaman's book No.:	
Next of Kin (name and address):	

The Employer:

Business Name:	Peter Doble Schifffahrts-KG
Address:	Elbechaussee 370, 22669 Hamburg, Germany

The Shipowner (if not identical with the Employer):

Business Name:	
Address:	

I. Terms of Employment

The Employee is employed by the Employer as a seafarer in the position/rank and on the Vessel as shown below:

Position/Rank:	
Commencement of Employment:	
Embarkation:	
Termination:	
Duration of Employment:	6 Months with the option as stipulated in Part B, Clause 5.3 or in the applicable CBA (Collective Bargaining Agreement)
Probation Period:	As stipulated in Part B, Clause 1.2 or in the applicable CBA
Working Hours:	As stipulated in Part B, Clause 9 or in the applicable CBA
Leave Days:	8 days per month
Vessel:	
Vessel's Flag:	Liberia
Vessel's IMO No.:	
Shipping Area:	Worldwide
Vessel's P&I Club No.:	

II. Wages and Payment

Regular Wages:

Monthly Basic	272.00 USD
Fixed Overtime (for officers and cadets)	170.00 USD as set out in Part B, Clause 9 or in the applicable CBA
Guaranteed Overtime (for ratings)	N/A
Hourly Overtime Rate (for ratings)	N/A
Leave Pay	73.00 USD as set out in Part B, Clause 6 or in the applicable CBA
Subsistence Allowance	0.00 USD
Total Regular Wages:	515.00 USD

Wage Adjustment, valid only under the conditions as set out in Part B Clause 8 or in case of conflict as set out in the applicable CBA:

Wage Supplement:	85.00 USD
Owners Bonus:	N/A
Fleet Premium:	N/A
Loyalty Premium:	N/A
Seniority Premium:	N/A
Total Wage Adjustments:	85.00 USD
TOTAL (Regular Wages plus Wage Adjustments):	600.00 USD

Home Allotment (as set out in Part B, Clause 7.5 or in case of conflict as set out in the applicable CBA):

Begin of payment:	03/2015
Monthly Allotment Amount:	480.00 USD

Bank Details of Employee:

Bank's Name and Branch:	COMMERZBANK Hamburg Hamburg, Germany
Account No. / IBAN:	DE76200400500645678400
Account Holder:	Ethiopian Manning Agency EMA GmbH
BIC / SWIFT:	COBADEFF208
Additional Information:	

III. Insurance Details for cover whilst serving on board of the Vessel or travelling to/from the Vessel:

Sick Pay:	As stipulated in Part B, Clause 11 and Clause 12 or in the applicable CBA
Permanent Disability Cover (max.):	40,000 USD, subject to the terms and conditions as stipulated in Part B, Clause 13 or in the applicable CBA
Personal Effect Cover (max.):	2,000 USD, subject to the terms and conditions as stipulated in Part B, Clause 15 or in the applicable CBA
Death Compensation Cover:	30,000 USD, subject to the terms and conditions as stipulated in Part B, Clause 14 or in the applicable CBA
Beneficiary (name and address):	

Part B: Terms & Conditions

The parties to this Contract further agree as follows:

1. General Terms of Employment

1.1 The Employee shall be employed in the capacity on the vessel as designated and agreed in Part A (hereinafter referred to as the "Vessel"), and the employment shall be for the period specified in Part A.

1.2 In the event the Employee serves for the first time on a vessel of the Employer, the first three months of service shall be regarded as probationary period and both the Employee and the Employer shall be entitled to terminate this Contract in writing during this period by giving one weeks notice to the other party.

1.3 For the period of this Contract, the Employer agrees to employ the Employee, and the Employee agrees to work on board any vessel of the Employer as designated. The Employer has the right to assign and transfer the Employee or to request him/her to join at any time and/or port any vessel owned or operated, manned or managed by the Employer (hereinafter also referred to as the "Vessel").

2. Duties of the Employer

2.1 The Employer agrees to faithfully comply with the terms and conditions stipulated by this Contract and imposed by law, to pay the agreed wages and to settle valid claims of the Employee in a timely manner.

2.2 The Employer agrees to make and pay for all the necessary travel arrangements for the Employee's joining and repatriation to and from his/her country of residence, however, only with regard to the exceptions as defined in Clauses 15 to 17 of this Contract.

3. Duties of the Employee

3.1 The Employee agrees to render diligently all duties and responsibilities expected for his/her rank/position as provided by applicable laws and regulations, both, locally (flag state) and internationally, and to observe ordinary practice expected from a seafarer in his/her position.

3.2 In the event of an emergency, or in order to save life and/or property at sea, the Employee agrees to readily render assistance upon instruction of the master, without compensation.

3.3 The Employee is obliged to keep absolutely secret all details of the business of the Employer, which might come to his knowledge during his service with the Employer. This obligation rests upon the Employee even after the termination of this Contract.

4. Pre-Employment

4.1 Unless the Employee is already in possession of a valid medical certificate, before being enrolled, the Employee will have to undergo a medical check-up at the Employer's expense, conducted by a physician by the STCW Convention. Only Employees in possession of a "Fit For Duty" certificate signed by an approved physician will be considered suitable for employment.

4.2 If the Employee knowingly conceals and/or does not disclose past medical conditions, disability and history of employment medical examinations, this shall constitute fraudulent misrepresentation and shall disqualify him/her from any compensation or benefits.

5. Period of Employment

5.1 The employment will commence on the date the Employee departs from his/her country of residence to join the Vessel, and it will cease on the date of arrival of the Employee in his/her country of residence after repatriation from the Vessel, subject to other provisions in this Contract.

5.2 The period of employment is defined in Part A (hereinafter referred to as the "Employment Period"). The Employment Period is divided in following parts:

5.2.1 Travel Days: Being the number of days from the day on which the Employee departs from his/her country of residence until the day before the Employee joins the Vessel plus the number of days from the day after the Employee has left the Vessel until the day on which the Employee arrives in his/her country of residence (hereinafter referred to as the "Travel Days").

5.2.2 Working Days: Being the number of days from the day on which the Employee joins the Vessel until the day the Employee leaves the Vessel (hereinafter referred to as the "Working Days").

5.3 Should the Employment Period expire at a time when the Vessel on which the Employee is serving, is at sea or in an inconvenient port (i.e. repatriation by public transportation is not possible), the Employer shall be entitled to extend the Employment Period to arrange the Employee's repatriation in the next convenient port.

6. Leave Days and Leave Pay

The Employee shall receive leave pay as stipulated in Part A (hereinafter referred to as the "Leave Pay"). Leave Pay is calculated on the basis of the number of Leave Days as stipulated in Part A. With the payment of the respective Leave Pay the Employee's claim for Leave Days is compensated accordingly. Leave Pay is payable in accordance with Clause 7 upon completion of the employment, subject to contrary agreement.

7. Wages and Payment, Home Allotment

7.1 The Employee agrees to receive the following wages. All Wages as stipulated in Part A are calculated on a 30-day basis. For the Travel Days (if any) the Employee is entitled to receive on a pro rata basis Monthly Basic, Leave Pay and Subsistence Allowance (where applicable) as stipulated in Part A. For the Working Days the Employee is entitled to receive on a pro rata basis the Total Regular Wages as a stipulated in Part A.

7.2 In the event the Employee receives a cash advance on board, the Employer is entitled to deduct from the Employee's wages any cash taken whilst on board. Such advances shall not exceed the amount of wage balance accrued at the date of request, at the rate of exchange as stipulated by the Employer. The cash amount on board might be limited due to security reasons.

7.3 The Employee is entitled to receive any outstanding monies on a nominated account upon completion of his/her Employment or when commencing his/her leave.

7.4 If the Employer terminates this Contract more than four weeks prior to the end of the agreed Employment Period, the Employer is obliged to find further employment within four weeks for the Employee to complete his/her Contract, otherwise the Employee will be entitled to one month basic wages as compensation, subject to further provisions of this Contract.

7.5 Home Allotment: Whilst serving on board the Vessel the

Employee may request the Employer to remit a fixed monthly allotment in accordance with the Employer's company policy into a designated bank account. Such allotments will be paid monthly after the end of each working month.

7.6 Special Allotment: The Employee may at any time request the Employer to remit a special allotment amount (hereinafter referred to as the "Special Allotment") to any bank account, as long as the Special Allotment does not exceed the wages earned. The administration cost of the special allotment in the amount of EUR 20,- / USD 25,- will be borne by the Employer and will be deducted from his/her wage.

8. Wage Adjustment

It is known to the Employee that the Wage Supplement, the Owners Bonus, the Fleet Premium, the Loyalty Premium and the Seniority Premium (hereinafter collectively referred to as the "Wage Adjustment") are granted to the Employee on a voluntary basis without entitlement and therefore do not form an integral part of the Wage, i.e. the Monthly Basic, the Fixed Overtime, the Leave Pay, and the Subsistence Allowance (if any) as being defined above. Furthermore, the Wage Adjustment is only granted with regard to the respective Employee's assignment on the Vessel as being defined above. If the Employer exercises its right to assign and transfer the Employee on any other vessel owned or operated, manned or managed by the Employer, the Employer is entitled to change or delete the Wage Adjustment. Notwithstanding the foregoing, in any case of Extended Overtime the payment of the part of the Wage Supplement, as described in Part B, Clause 9.4, is obligatory.

9. Working Hours and Overtime

9.1 The basic working week for all seafarers shall be 48 hours Monday through Saturday. For ratings 2 hours for cabin cleaning are included.

9.2 Overtime means time worked by the seaman in excess of its normal hours of work (hereinafter referred to as "Overtime"). Overtime in excess of the maximum Overtime hours as allowed by the applicable laws is not permitted.

9.3 Overtime shall be compensated at the overtime rate as defined hereinafter. The hourly overtime rate is based on following formula as per ILO (Monthly Basic/208 hours) x 1,25 (hereinafter referred to as the "Overtime Rate").

9.4 Overtime Officers: All Overtime of the officers and cadets up to 100 hours shall be compensated by payment of the Fixed Overtime as set out in Part A. Any further Overtime up to the maximum allowed Overtime of 184 hours (hereinafter referred to as "Extended Overtime") shall be compensated by the payment of the Wage Supplement. In case of Extended Overtime the payment of the Wage Supplement up to the amount covering the hours of Extended Overtime under application of the Overtime Rate shall be obligatory.

9.5 Overtime Ratings: The Overtime of the ratings up to 100 Overtime Hours shall be compensated by the payment of the Guaranteed Overtime as set out in Part A. Each further Overtime shall be compensated with the Overtime Rate as set out in this Clause.

9.6 For emergency duties and work carried out by the Employee in cases affecting the safety of the Vessel, passengers, crew and/or cargo or work required to give assistance to other vessel/s or person/s in immediate peril, the master is the sole judge.

10. P & I Insurance

During the period of employment the Employee shall be entitled to immediate medical attention if required at the Employer's discretion and expense. For this purpose, the Employer shall make arrangements to ensure there is appropriate insurance in place to cover the Employer fully against any legal claim the Employee may have by reason of work related injury or death and against possible contingencies arising from this Contract.

11. Benefits in case of Sickness

In the event the Employee is repatriated to his/her country of residence, due to being unfit as a result of any illness or injury, all medical expenses shall be borne by the Employer until the Employee has fully recovered, or for a maximum of 112 days duration from the day he/she was declared

unfit for duty, whichever is the shorter period. In order for the Employee to continue receiving medical support he/she must present him/herself for medical examinations as instructed by the Employer's designated physician or at least once a month, and must provide evidence that he/she is still unfit for duty.

12. Sick Pay

12.1 If the Employee is repatriated to his/her country of residence due to illness or injury suffered whilst on board, payment of basic wages shall continue until declared fit for duty by the Employer's designated physician or at least once a month, and must provide evidence that he/she is still unfit for duty, whichever is the shorter period.

12.2 The Employee is only entitled to sick pay if he/she submits him/herself to a post-employment medical examination by a physician within three (3) working days of his/her return to his/her country of residence.

12.3 In order for the Employee to continue receiving sick payments he/she must present him/herself for further medical examinations as instructed by the Employer's designated physician or at least once a month, and must provide evidence that he/she is still incapacitated and unable to work.

13. Compensation in case of Permanent Disability

13.1 If the Employee suffers a work-related illness or injury or an injury due to an accident whilst on board through no fault of his/her own, including accidents occurring whilst travelling to or from the Vessel at the request of the Employer or as a result of marine peril, and his/her ability to work is permanently reduced as a result thereof, he/she shall receive from the Employer a lump sum compensation according to his/her grade of disability.

13.2 The Employer's designated physician shall determine the grade of disability suffered by the Employee. If a physician being designated by the Employee disagrees with the assessment of the Employer's designated physician, a third physician may be nominated jointly between the parties, and the decision of this third physician shall be final and binding.

13.3 The compensation shall be a percentage of the maximum disability compensation as stipulated in Part A equal to the percentage disability suffered by the Employee as determined by the Employer's designated physician.

14. Compensation in Case of Death and Burial Expenses

14.1 In case of work related death of the Employee, the Employer shall furthermore be liable to pay death compensation as stipulated in Part A to his immediate designated Beneficiary/ies as stipulated in Part A.

14.2 Any compensation shall be in full and final settlement of all claims/demands of whatsoever nature, howsoever and wheresoever arising, which the Beneficiary/ies have, or may have thereafter, whether arising in tort, contract, statutory law or any other basis of recovery, on account of death suffered by the deceased.

14.3 Further liabilities of the Employer if the Employee dies as a result of work-related death whilst on board.

14.3.1 The Employer shall pay the Employee's Beneficiary/ies all outstanding obligations due to the Employee under this Contract.

14.3.2 The Employer shall transport the remains and personal effects of the Employee to his/her home at the Employer's expense.

14.4 In any case of death occurring on board or ashore during the period of engagement the Employer shall be liable to pay the cost of burial expenses. In the case that the Death Compensation Cover as set out in this Clause is paid to the Employee's Beneficiary, it is herewith agreed that Burial Expenses are included in the Death Compensation Cover.

14.5 No compensation shall be payable in respect of death of the Employee resulting from his/her wilful or any criminal act or intentional breach of his duties, including suicide.

15. Compensation in case of Loss or Damage of Crew Effects by Marine Perils

15.1 If the Employee suffers total or partial loss or damage to his/her personal effects as a result of wreck or loss or stranding or abandonment of the vessel, or as a result of fire or flooding or collision, he/she shall be entitled to recover from the Employer, maximum compensation for personal effects as shown in Part A ("Personal Effect Cover").

15.2 The Employee shall certify that any information provided with regard to lost property is true to the best of his/her knowledge.

16. Drug & Alcohol

16.1 The Employee is obliged to follow the drug and alcohol policy of the Shipowner as attached hereto.

16.2 The Employee hereby confirms to participate in drug and alcohol test when requested by the Employer. These may be on a random basis or in response to a specific set of circumstances.

16.3 The Employee hereby also confirms to agree to a search being held in his/her cabin or among his/her personal effects when required by the master, a representative of the Employer or port state authorities.

17. Repatriation

17.1 The Employee is entitled to repatriation at the Employer's expense

- 17.1.1 upon expiry of the agreed employment period,
- 17.1.2 upon termination of the Contract by the Employee during the probation period for justified reasons;
- 17.1.3 when signing off owing to sickness, injury or illness after medical examination,
- 17.1.4 due to discharge by the Employer for reasons other than any fault of the Employee, and

17.1.5 upon the loss, laying-up or sale of the Vessel.

17.2 In case the Employee's presence at home is required on account of serious illness, death or similar circumstances of next of kin, the Employer will make every effort to arrange emergency relief as soon as possible, subject to mutual agreement. In such an event, repatriation expenses and further costs shall be borne by the Employee, subject to the Employer's discretion.

17.3 In the event of termination of this Contract by the Employee or by the Employer, all costs and expenses related to the repatriation of the Employee as well as any costs and expenses for his/her reliever shall be borne by the party who terminated this Contract, subject to other agreements. This also includes during Probationary Period.

17.4 If the Employee delays or desires a detour and/or other destination other than the most direct to the point of hire, all additional expenses shall be borne by the Employee. All deviation shall be taken at the Employee's own risk and responsibility and the Employer shall not be liable for any costs or expenses whatsoever incurred as a result of such deviation. In such an event, the Employer shall not be liable to pay compensation for any accident, illness or death caused while on deviation howsoever caused or arisen.

17.5 The maximum period of service on board shall always be less than 12 months.

18. Complaint, Conduct and Disciplinary Procedures

18.1 This Contract may be terminated from either side subject to the regulations made in Clause 17. The master on board is entitled by his capacity to act on behalf of the Employer for disciplinary procedures according to the applicable company procedure.

18.2 If the Employee has a complaint regarding his/her employment the Employee should follow the shipowner's seafarer's complaint procedure as set out in Annex [...] in this Contract. The procedure will be made available to the Employee, if so requested, before signing this Contract.

19. Termination

19.1 Either party may terminate this Contract by giving 4 weeks notice in writing to the other party. Such termination shall have effect after the termination period has lapsed, although the Employee is entitled to his/her salary until he/she has arrived in his/her country of residence.

19.2 The minimum notice to be given by the employer or employee for the early termination of the SEA shall not be shorter than 7 days under following circumstances:

- 19.2.1 On compassionate grounds;
- 19.2.2 If the ship is detained/arrested for 30 days or more;
- 19.2.3 In the case of a serious breach of conditions of employment.

19.3 The Employer may terminate this Contract with immediate effect in writing in the following events:

- 19.3.1 Assault by the Employee towards other seafarers or any representative of the Employer;
 - 19.3.2 Wilful damage to the Vessel or any other property on board;
 - 19.3.3 Theft or possession of stolen property;
 - 19.3.4 Possession of offensive weapons;
 - 19.3.5 Persistent and wilful failure to perform duty;
 - 19.3.6 Unlawful possession or distribution of drugs or illicit substances;
 - 19.3.7 Conduct endangering the Vessel or persons on board;
 - 19.3.8 Collusion with others to impede the progress of the voyage or navigation of the Vessel;
 - 19.3.9 Disobedience of orders relating to safety of the Vessel or any person on board;
 - 19.3.10 Insubordination;
 - 19.3.11 Being asleep whilst on duty or in such condition as to be unable to remain on duty if such conduct would prejudice the safety of the Vessel or of any person on board;
 - 19.3.12 Incapacity through the influence of alcohol or drugs or any similar substances to carry out his/her duty to the prejudice of the safety of the Vessel or of any person on board;
 - 19.3.13 To smoke or to use fire or non-approved apparatus in any part of the Vessel carrying dangerous cargo or stores, or where smoking or the use of non-approved apparatus is prohibited;
 - 19.3.14 Intimidation, coercion and interference with the work of other seafarers;
 - 19.3.15 Behaviour, which seriously detracts from the social well being of others on board;
 - 19.3.16 Behaviour outside the Vessel in breach of government or terminal regulations;
 - 19.3.17 Engagement in any illegal activity including but not limited to gambling/smuggling;
 - 19.3.18 Wilful deceit, misdeclaration or false statement leading to seizure, detention, delay and/or fine to the vessel;
 - 19.3.19 Desertion or attempt to desert;
 - 19.3.20 Grave abuse of authority;
 - 19.3.21 Wilful violation of Company policies and regulations;
 - 19.3.22 Misconduct or misbehaviour of the Employee if the safety of the crew or the Vessel is concerned;
 - 19.3.23 Inefficiency of the Employee or if the Employee is unable to perform his/her duties according to this Contract by reason of inadequate skills, physical or mental incapacity to carry out the tasks for which he/she was engaged, or if he/she is unwilling to exercise his/her skills or energies to a sufficient degree to carry out his/her tasks to acceptable standards if the safety of the crew or the safety of the Vessel is concerned;
 - 19.3.24 The master has furnished the Employee with at least two written warnings prior to termination;
 - 19.3.25 The Vessel is sold or the Vessel is damaged and/or laid-up for either commercial or technical reasons, or in the event of extensive dry docking repairs.
- 19.4 Any such termination except for the reason pursuant to Clause 19.3.25 shall have effect from the date on which the termination notice is issued and the Employee will be responsible to pay his/her full repatriation costs.

19.5 This Contract shall be deemed terminated in the event the Employee is repatriated for medical reasons which render him/her being unfit for duty.

19.6 Without prejudice to the terms and condition above, this Contract is deemed terminated by the Employer if he/she is absent from his/her work place or duties unless such absence is known and approved by the Employer or the master.

20. Luggage Allowance

The Employee travelling by air or sea to join a vessel or on repatriation is entitled to 30 kg free baggage allowance. The costs of any excess baggage shall be borne by the Employee.

21. Tax and Social Security

21.1 The Employee is solely and entirely responsible for his/her own local tax obligations and must register with the relevant tax authorities and pay his/her income tax to the applicable authorities.

21.2 The seafarer is responsible for social security contributions which are obligatory in his/her home country.

22. Vessel's Trading Area

The Employee agrees to the Vessel's lawful employment in worldwide trade. Should the Vessel on which he/she is serving be directed to enter a declared war zone area, the Employee, if he/she chooses to remain on board and continue his/her services on the vessel under this Contract, shall be entitled to a bonus as being separately agreed between the Employee and the Employer. The Employer shall undertake appropriate war zone insurance coverage for this purpose.

23. Jurisdiction and applicable CBA

23.1 Unless otherwise agreed, this Contract is governed by the laws of the Vessel's country of flag as defined in Part A and the applicable CBA if any. None.

23.2 In case that a condition in the applicable CBA is more advantageous for the Employee as a corresponding condition herein, the condition of the applicable CBA shall apply.

24. Alteration

Alterations and/or amendments to this Contract are not permitted without the consent of the Employer and will render the P&I Insurance cover invalid.



EMTI S.C.

ETHIOPIAN MARITIME TRAINING INSTITUTE

Ref:- EMTI/1544/17

Date: 08-May-2017

Dear all,

We hope that this letter gets you in good health and spirit.

It is our aim to continuously strive towards providing the best standards and favourable opportunities for you, our graduates. To do so, we must also ensure that the business is operating in an efficient and profitable manner. Please note various actions and policy changes that will be implemented to keep making efforts that will contribute towards our mutual long-term success and advancement.

1. Working to improve the income of our seafarers: EMTI is working rigorously on the marketing front and beginning to show signs of success in getting salaries of all ranks, from cadetship to a 3rd engineer level increased.
2. Encourage regular promotion: As many of you know, we have managed to facilitate promotions for a considerable number of our seafarers working for companies that were refraining from promoting Ethiopians.
3. Work on the EMSA approval process: Our flag state, EMEA, has informed us that EMSA has accepted the corrective actions taken so that our academy shall be accepted by European Union countries. We are now approximately one month away from getting the approval of the Parliament of European Union. The approval paves the way for all our seafarers to be able to work on ships that fly flags of countries of the European Union. This, in turn, reduces the long vacation time and improvement of our seafarer salaries.
4. Improve our process so that more are admitted to the academy to take their JOE exams: It is not proper that so many that could have been having their COCs by now not yet having them, just to shy away paying their dues in tuition fee.
5. Administrative Improvements: EMTI has also taken important actions to ensure that we develop a sustained business, streamline seafarers' placement and ensure continuous enrollment into the academy. The following revisions will be applied to the tuition payment policy effective immediately:
 - A. All seafarers earning less than USD1000/month shall have 30% of their income deducted to service their tuition and other loans,
 - B. All seafarers earning USD1000/month and more shall have 50% of their income deducted towards servicing their tuition loan,
 - C. All paid security deposits shall be used to paying respective tuition dues,
 - D. No other deduction shall be made apart from those mentioned in item A and B above applicable to tuition loan.

EMTI S.C

Churchil Road, Tracon Tower, 9th floor
Telephone: (251-11)1 262014, 262030
Fax: (251-11)1 262040
P.O.Box: 5520 Addis Ababa Ethiopia
E-mail: emtiaddis@emticorp.com



EMTI S.C.

ETHIOPIAN MARITIME TRAINING INSTITUTE

As part of EMTI family, we thank you for your continuous support, understanding and dedication to our development and growth.

Let us also take this opportunity to inform you that EMTI has noted that the current agreement with Bank Of Abyssinia has too high an interest rate to encourage you to take loans. We have listened to your colleagues who happen to shop around for better interest rates. Based on this we have now floated an official bid to all 17 commercial banks operating in the country to come up with their best loan terms. We expect to get an interest rate of less than 10% which we shall announce towards the end of this month.

We are also working on the best way that those who have satisfied the requirement of Second Engineer management level courses to start towards their COC. This is now tightly coupled with the bank loan (in the form of tuition fee), and we shall announce the result for this along with the bank loan terms.

In all the cases mentioned above, whether the tuition policy change, the bank loan terms or the Marine Engineers Management Level courses, if you happen to require additional clarification or express your opinions CE Admasu Yitagesu, the Development and Compliance Manager of EMTI, shall be available 24/7 to assist you. Please use his email ID (AYWeldeyes@emacrew.com) or his mobile number, +251911501258, for VOIP and social media calls.

Wishing you fair seas and following winds, please have our,

Best Regards



Netsanet Mazengia
EMTI Development and Compliance Manager



EMTI S.C.
ETHIOPIAN MARITIME TRAINING INSTITUTE

Predictive Assessment Declaration Form / የቅድመ ትንበያ ምርመራ ለመውሰድ የተሰጠ የፍቃድ ማረጋገጫ

Before the test:
ከምርመራ በፊት

1. I hereby declare that I am undergoing this polygraph test (hereinafter: "Assessment") out of my own free will and in full agreement.
ይህንን ቅድመ ትንበያ ምርመራ ሳይኮሎጂካል ምርመራ (ከዚህ በሁለት ምርመራ በሚል የሚጠቀስ) በሙሉ ፍቃድና ስምምነት እንደምወሰድ አረጋግጣለሁ።
2. I hereby declare that I received and reviewed the questions that will be asked during the Assessment and they are acceptable to me and I have no objection to respond to them.
በምርመራው ሂደት የምጠየቃቸውን ጥያቄዎች ከምርመራው በፊት ተተብኜ ያየኝቸው መሆኑን እና በእነ ዘንድ ተቀባይነት እንዳላቸው እንዲሁም ጥያቄዎችን ለመመለስ ምንም እይነት ተቃውሞ እንደሌለኝ አረጋግጣለሁ።
3. I hereby declare that I am fully cognizant of the fact that my placement in the shipping industry is dependent upon my satisfactory psychological fitness, as evidenced by the Assessment results. I understand that if I fail the predictive assessment twice, I will be released from the Program.
በመርከብ እንደሰትሪ ውስጥ ለመመደብ ብቁ መሆን እንዳለብኝ እና ይህንን የቅድመ ትንበያ ምርመራ/ ሳይኮሎጂካል ምርመራ ውጤት በአጥጋቢ ሁኔታ ማለፍ የብቁነቴ ማረጋገጫ እንደሆነ መገንዘቤን አረጋግጣለሁ። ይህንን ምርመራ ሁለት ጊዜ በላላፍ ኮፐርግራም እንደምሰናበት ተረድቻለሁ።