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17 June 2016

Mr Daniel Sin  
Council Business Division 4  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Mr Sin,

**Subcommittee on Subsidiary Legislation to Give Effect to the  
2006 Maritime Labour Convention**

**List of follow-up actions arising from  
the discussion at the meeting on 7 June 2016**

At the meeting of the Subcommittee on subsidiary legislation to give effect to the 2006 Maritime Labour Convention (MLC), a member suggested incorporating the requirement under section 12(2)(a) of the proposed Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation (the Regulation) into section 18(2)(d)(iii), so that a seafarer recruited and placed by an agent to work on board of a ship would also be given an opportunity to examine and seek advice on the agreement before entering into it.

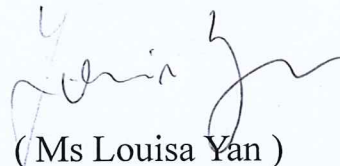
Section 12 of the Regulation concerns seafarers' employment agreements. A duty is imposed on the shipowner to ensure that the seafarer must be given an opportunity to examine and seek advice on the employment agreement before entering into it. Section 18 provides that a shipowner who engages a recruitment agent operating in a country which has not ratified the MLC is required to ensure that the agent complies with certain requirements specified in that section. Section 12 is based on Standard A2.1 of the MLC, while section 18 on Standard A1.4.

The focuses and intentions of the two sections are different, and therefore the provisions of the two sections are not directly comparable to each other.

Notwithstanding that section 18(2)(d)(iii) does not require a recruitment agent to put in place measures to ensure that a seafarer can seek advice on the employment agreement before entering into it, the shipowner, being the employer, has the responsibility to ensure that the requirements in section 12 in relation to the seafarer's employment agreement are complied with. In other words, a seafarer's right to seek advice on the employment agreement before entering into it is protected in the proposed Regulation without having to repeat such requirement in section 18(2)(d)(iii).

That said, noting Members' views to incorporate the provision in section 18(2)(d)(iii) to put the protection beyond doubt, we will add the requirement that a recruitment agent must have measures in place to ensure that a seafarer may seek advice on the employment agreement before entering into it. We will amend the Regulation before its commencement.

Yours sincerely,



(Ms Louisa Yan)

for Secretary for Transport and Housing

c.c.

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