

**45th Annual
Conference on Oceans Law & Policy
UNCLOS at 40
Zoom Webinar**

Kuala Lumpur, March 16-18, 2022, 6:00 pm (GMT+8)





U.S. NAVAL WAR COLLEGE
Stockton Center
for International Law



Crew Changes during a Global Health Pandemic: Lessons Learned from COVID-19

Dr Dawoon Jung, Research Fellow,
NUS Centre for International Law
cildj@nus.edu.sg





Overview

- 1. Introduction: Seafarers' Crisis**
- 2. International Regulatory Framework for Health Emergency Preparedness and Seafarers' rights**
- 3. COVID-19 and Challenges of Crew changes**
- 4. Responses of International Organisations and Industry**
 - (1) Crew Changes and the IMO**
 - (2) Crew Changes and the ILO**
 - (3) Joint Efforts: Designation of 'Key workers'**
 - (4) The Neptune Declaration on Seafarer Wellbeing and Crew Change**
- 5. Conclusion: How to facilitate Crew Changes during Next Global Health Emergencies**



1. Introduction: Seafarers' Crisis

- Crew changes are vital to prevent fatigue and protect seafarers' health, safety and wellbeing and to ensure the safety of shipping.
- On 11 March 2020, WHO declared COVID-19 as a pandemic.
- Many countries have closed or restricted their ports to foreign nationals, including seafarers.
- As a result, seafarers are unable to disembark and go home at the end of their contracts.
- Based on industry analysis, the numbers of seafarers requiring repatriation after finishing their contracts- from a high of around 400,000 in September 2020 - to around 200,000 as of March 2021.



2. International Regulatory Framework for Health Emergency Preparedness and Seafarers' rights

(a) World Health Organization

- the 2005 International Health Regulations (IHR 2005): 'the key global instrument for protection against the international spread of disease'
- the IHR 2005 provides the right of *free pratique*, which is the general rule governing the right of entry of ships into ports. Free pratique means 'permission for a ship to enter a port, embark or disembark, discharge or load cargo or stores'.
- Article 28(2) : 'subject to Article 43 or as provided in applicable international agreements, ships shall not be refused free pratique by States Parties for public health reasons'.
- Article 43: exceptions in the event of a PHEIC. However, such measures should 'not be more restrictive of international traffic'.



2. International Regulatory Framework for Health Emergency Preparedness and Seafarers' rights

(b) International Maritime Organization

- The 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (“STCW 1978”): minimum standards relating to training, certification and watchkeeping for seafarers.

(c) International Labour Organization

- Maritime Labour Convention, 2006 (MLC 2006) establishes minimum working and living standards for all seafarers working on ships
- Regulation 2.4 (Entitlement to leave); Regulation 2.5 (Repatriation):

Labour Supply States

1. Point of Hire - **Manning Agencies ensure proper documentation of seafarers**

2. COVID-19 Testing

3. Facility-based quarantine

4. Philippine Airport - **Manning Agencies arrange for Point-to-Point Transportation**

5. Country of Destination

CREW CHANGES - COVID19

Port States

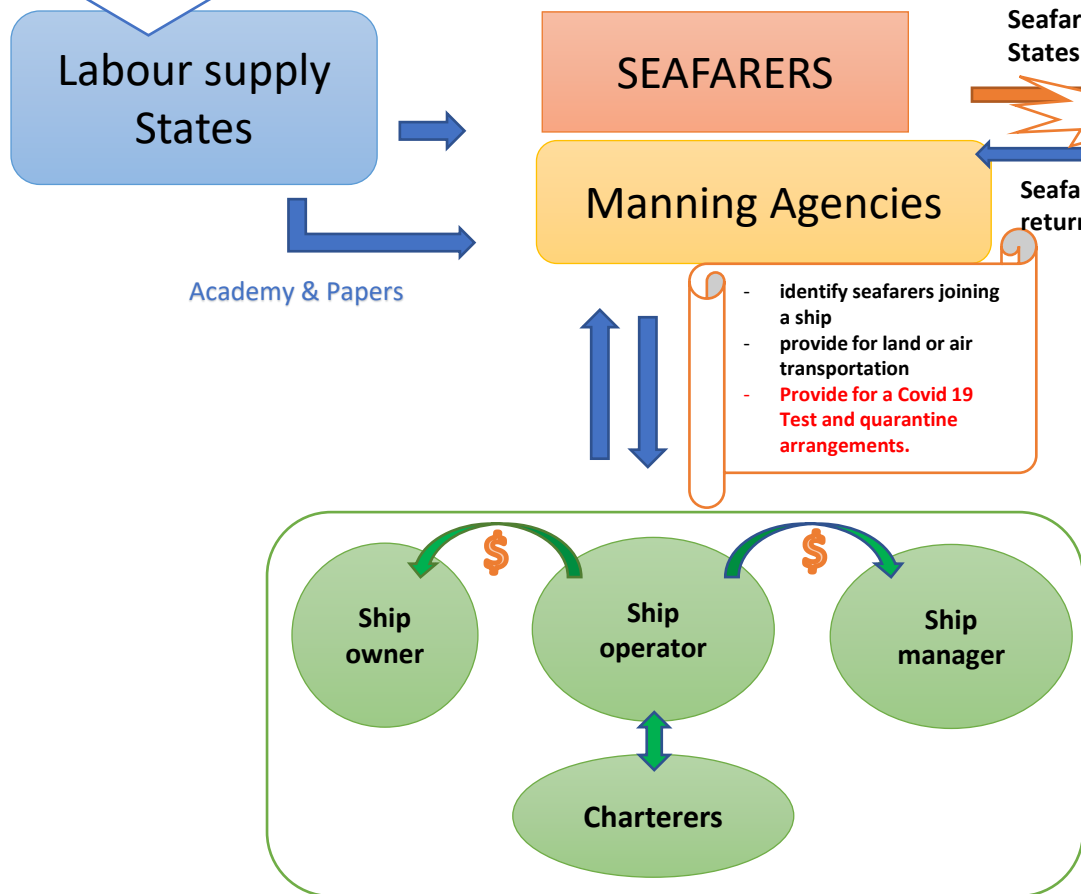
1. Country of origin - **Serving SHN / Covid19 Test report & Medical Certificate**

2. Airport - **Immigration / Mandatory Temperature screening**

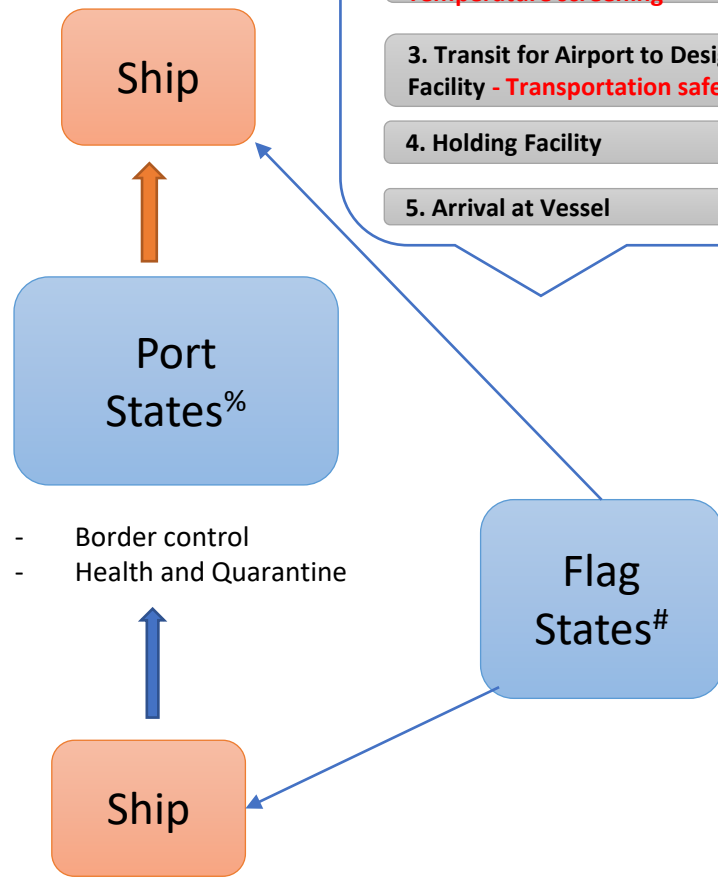
3. Transit for Airport to Designated Holding Facility - **Transportation safety measure**

4. Holding Facility

5. Arrival at Vessel



Mass Air Travel - DELAYED / IMPOSSIBLE



%Port States regulate ship arrivals, departures, and movements within their ports, cargo operations and passengers embarking and disembarking, and random port state control inspections, among others.

#Flag States regulate among others, inspections of their ships under IMO Conventions and the MLC 2006 and extensions of seafarers' employment agreements.



4. Responses of International Organisations and Industry

(1) Crew Changes and the IMO

- **On 27 March 2020:** IMO Circular Letter No. 4204/Add.6 – Coronavirus (COVID-19) – Preliminary list of recommendations for Governments and relevant national authorities on the facilitation of maritime trade during the COVID-19 pandemic.
- **On 5 May 2020:** a Circular Letter entitled **Recommended Framework of Protocols for ensuring safe ship crew changes and travel during the coronavirus (COVID-19) pandemic** (supersedes Circular Letter No.4204/Add.14/Rev.1 of 5 October 2020)
- **On 21 September 2020:** the Maritime Safety Committee adopted a resolution MSC.473(ES.2)
 - urged States to consider temporary measures, including (where possible under relevant law) ‘waivers, exemptions or other relaxations from any visa or documentary requirements that might normally apply to seafarers’.
 - invited States ‘to designate a National Focal Point on Crew Change and Repatriation of Seafarers, to coordinate action at the national level; and to inform the Secretary-General accordingly so that the Member States could be advised for the purpose of coordination’.



Recommended Framework of Protocols for ensuring safe ship crew changes and travel during the coronavirus (COVID-19) pandemic

- These protocols focus on “ship crew changes involving international travel via aircraft”
- These Protocols consist of two parts
 - Protocols for joining a ship;
 - Protocols for leaving a ship and repatriation
- Developed by Shipping Industry.

PROTOCOLS FOR JOINING A SHIP (P1 – P6)

From a seafarer's place of ordinary residence in one country via aircraft to join a ship in a seaport in another country

Location 1 Place of ordinary residence

Period: Time spent at place of ordinary residence before departure
Period: Time (potentially) spent at any hotel, temporary accommodation, etc.
Period: Travel to airport

Location 2 Airport of departure

Period: Time spent in airport of departure

Location 3 Aircraft

Period: Time during flight

Location 4 Airport of arrival

Period: Time spent in airport of arrival
Period: Transfer (potentially) to any hotel, temporary accommodation, etc.
Period: Time (potentially) spent at any hotel, temporary accommodation, etc.
Period: Travel to seaport

Location 5 Seaport

Period: Movement in port to ship
Period: Embarkation onto ship

Location 6 Ship

Period: Time spent on ship following embarkation



IMO Secretary-General statements

- September 2020: Allow crew changes to resolve humanitarian crisis
“Seafarers cannot remain at sea indefinitely,” “If the crew change crisis is not resolved soon, ships will no longer be able to operate safely pursuant to the Organization’s regulations and guidelines, further exacerbating the economic impacts of the COVID-19 pandemic,”
- March 2021: Crew change crisis still a challenge



4. Responses of International Organisations and Industry

(2) Crew Changes and the ILO

- **On 8 December 2020**, the ILO adopted a Resolution GB.340/Resolution concerning maritime labour issues and the COVID-19 pandemic, urging Member States to establish and implement plans regarding crew changes, taking into account the IMO Recommended Framework of Protocols and to consider temporary measures including waivers, exemption or other changes to visa or documentary requirements.
- **On 15 December 2020**, the Special Tripartite Committee made a statement regarding increased collaboration between shipowners and charterers to facilitate crew changes.
- **On 3 February 2021**, the ILO's Informative notes on maritime labour issues and coronavirus request all States, including flag States, port States or labour supply States, to adopt necessary measures to facilitate crew changes



4. Responses of International Organisations and Industry

(3) Joint Efforts between International Organisations: Designation of ‘Key workers’

- On 11 September 2020, international organisations issued a joint statement on Coronavirus (COVID-19) – **Joint Statement calling on all Governments to immediately recognize seafarers as key workers, and to take swift and effective action to eliminate obstacles to crew changes, so as to address the humanitarian crisis faced by the shipping sector, ensure maritime safety and facilitate economic recovery from the COVID-19 pandemic.**
- requested all UN Member States to undertake several actions, such as ‘consult[ing] with representative shipowners’ and seafarers’ organisations when developing and implementing measures related to, or that have an impact upon, crew changes of seafarers’.
- Lack of Practical Effects of ‘Key Workers’ Designation



4. Responses of International Organisations and Industry

(4) The Neptune Declaration on Seafarer Wellbeing and Crew Change

: signed by more than 850 organizations, outlines the main actions that need to be taken to resolve the crew change crisis.

- Recognize seafarers as key workers and give them priority access to Covid-19 vaccines
- Establish and implement gold standard health protocols based on existing best practice
- Increase collaboration between ship operators and charterers to facilitate crew changes
- Ensure air connectivity between key maritime hubs for seafarers



5. Conclusion: How to facilitate Crew Changes during Next Global Health Emergencies

- **Importance of Inter-Agency Cooperation at Global and National Levels**

February 2022: Joint ILO/IMO/UNCTAD/WHO statement urging continued collaboration on seafarer issues

“Governments and industry, in collaboration with international organizations, need to scale up their common efforts to limit the effects of emerging variants on crew changes while safeguarding the health and wellbeing of seafarers and global communities”

- **Establishment of best practices in cooperation with the shipping industry**



Thank you