

## DGS Order No. 5 of 2008

No:MSL-24(1)/2008

Dated: 15th July, 2008

**Sub: Permission to foreign seafarers to be employed on Indian flag vessels**

### **Background:**

1. Shipping industry is one of the most globalized industries operating in a highly competitive business environment that is far more liberalized than most of the other industries and is, thus, intricately linked to the world economy and trade. This peculiar structure of the industry throws both opportunities as well as challenges as it opens the global markets for Indian shipping companies, while at the same time exposing them to global competition even on their home turf. In view of the continued liberalization and increasing globalization of the Indian economy, India's overseas trade has been growing at a rapid pace.
2. As a conscious policy, it has been the endeavour of the Directorate to promote the employment of Indian seafarers worldwide. At the same time, it is the responsibility of the Indian Administration to foster the development and ensure the efficient maintenance of an Indian mercantile marine in a manner best suited to serve the national interest. With the growing tonnage to meet expanding Indian international trade, it has become necessary to ensure that adequate and quality seafarers are made available to Indian shipowners.
3. In view of the importance of marine safety and pollution as well as maritime security to the international community, the Maritime Administrations world over have become very active and less tolerant to any shortcomings in compliance with the mandatory codes. The task of maintaining

compliance with the international and national regulations is an onerous one and depends upon the quality of seafarers manning ships.

4. Indian National Shipowners Association (INSA) has been making repeated representations for quite sometime about shortage of Indian officers. The issue has been formally raised in more than one interactive meeting with industry and INSA has given detailed presentations contending that despite all steps taken to recruit and retain Indian seafarers, they are unable to get regular and quality Indian seafarers to work on Indian vessels resulting in adverse implications such as increased accidents / incidents, higher detention and oil major approval failures. Indian Shipowners have also represented that they have to trade in the international arena facing international competition but they do not have flexibility to recruit seafarers from other nations, while foreign shipping companies can recruit manpower from India. It has been also brought out that in the early days after independence, foreign nationals were permitted on Indian ships even as late as the 70's.

#### **Indian Legal Framework;**

5. Section 76 of M.S. Act, 1958 states that "Every Indian ship when going to sea from any port or place shall be provided with officers duly certified under this Act, in accordance with such manning scale as may be prescribed." Section 86 of Merchant Shipping Act provides for recognition of Certificate of Competency granted in other countries subject to certain conditions. Therefore, under section 86 of MS Act, seafarers who hold certificates granted by a country whose certificates are recognized as equivalent to the corresponding Certificates of Competency granted under this act, may be employed on Indian vessels to meet the mandatory requirements of Section 76. Section 99 prohibits engagement of seaman on Indian ships without discharge certificate except on a Home Trade Ship of less than 200 Tons Gross.

#### **Exemption under Section 456(1) of M.S. Act, 1958**

6. In the light of the foregoing, taking into careful consideration the circumstances of the case, the Directorate General of Shipping is convinced that there is a serious shortage of qualified seafarers which is proving to be detrimental to the growth of Indian tonnage and adversely affecting the smooth operation of the Indian fleet and that the demand of Indian shipowners to allow them to recruit a limited number of foreign nationals to work on board Indian Ships in both nautical and engineering discipline is a reasonable one and in the larger national interest.

7. Having being satisfied, in exercise of the powers conferred by clause (1) of Section 456 of the Merchant Shipping Act, 1958 read with notification issued by the Government of India vide S.O. No.3144 dated 17th December, 1960, the Director General of Shipping and Ex-officio Additional Secretary to the Govt. of India ( DGS) is pleased to grant, with effect from the date of issue of this Circular and till further orders, a relaxation to all Indian ships from compliance with the requirements of Section 76 and 99 of the Merchant Shipping Act, 1958, subject to the following conditions:

- I. The manning shall be in accordance with the prescribed "Safe Manning Document";
- II. Not more than two foreign national seafarers shall be engaged in a ship at a time, and the Master of the Indian Flag ship must be of Indian Nationality.
- III. In case of emergency / SOS /death of Master at Sea / on board ship, responsibility to handle and maintain safe custody of classified publications should be given to the next in command as per hierarchy who is of Indian National.
- IV. Foreign national seafarers employed on Indian vessels, as provided under this notification, shall belong to any of the following countries:

- Bulgaria
- Croatia
- Estonia
- Georgia

- Latvia
- Lithuania
- Italy
- Malaysia
- Romania
- Russia
- United Kingdom
- Ukraine

- V. Such foreign national seafarers holding Certificates of Competency issued by or under the authority of maritime administrations other than India should have in their possession a Continuous Discharge Certificate (CDC) or a Certificate of Discharge issued to them by the national administration of the seafarer. In addition they should have the knowledge of legislation of Indian administration relevant to the functions they are to perform on Indian ships subject to satisfactory assessment by this Directorate, or they should have undergone 3 (three) days' approved course on National Maritime Law conducted by the Lal Bahadur Shastri College of Advanced Maritime Studies & Research (LBSCAMSAR), Mumbai;
- VI. Such foreign national ought to have obtained an endorsement from the Indian Maritime Administration under Regulation 1/10 of the STCW 1995.
- VII. The permission for employment of foreign Nationals on board Indian Flag Vessals shall be taken on a case to case basis. When applying for permission, the shipping company shall also show proof of having the necessary clearances from the Ministries of Home Affairs and External Affairs.
8. This Order and exemption shall apply only for the category of seafarers who are certified as Officers and not seamen, who do not belong to the category of seamen certified as Officers.

**Sd/-**

**(Samuel Darse)**

**Dy. Director General of Shipping**