

論新冠肺炎對海員權益之影響與國際海事組織之因應

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摘要

各國因應新冠肺炎所採取之防疫措施，已使得海運界持續面對船員更換和海員遣返之挑戰。國家縱然可以採用《國際衛生條例》所容許之檢疫措施，卻可能導致對於《海事勞工公約》義務之違反。此間可能牽涉國際條約義務間之衝突與調和。透過《國家責任條款草案》之解釋與適用，部分國家不法行為可透過不可抗力和危急情況作為解除違反《海事勞工公約》不法性之事由。為實際保障海員權利，促進國際貿易和交通，國際海事組織不論透過自身作為國際合作平台或與其他國際組織合作，藉由一系列建議的提出，嘗試解決問題。此過程中，除船旗國和港口國外，海運公司本身亦被賦予高度期待，以落實其企業應負擔之人權保障責任。

關鍵字：《國際衛生條例》、《海事勞工公約》、船員更換與海員遣返、國際海事組織、世界衛生組織

Abstract

Containment measures taken by States to fight the Covid-19 pandemic have brought challenges to the shipping industries regarding crew exchanges and repatriation of seafarers. Certain quarantine measures allowed by the International Health Regulations may breach States' obligations under the Maritime Labour Convention. This may relate to conflicts and reconciliation of different obligations under international treaties. Via the interpretation and application of the Draft Articles on Responsibility of States for Internationally Wrongful Acts, certain circumstances, such as *force majeure* and necessity, may preclude wrongfulness of breaching the obligations under the Maritime Labour Convention. In order to protect the rights of seafarers as well as facilitate international trade and traffic, the International Maritime Organization

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via either acting as a platform or cooperating with other organizations has adopted a series of suggestions to solve this problem. In addition to the roles played by the flag-States and port-States, private sectors such as the shipping cooperates are also expected to carry out its social and cooperate responsibilities to ensure the rights of seafarers.

Keywords: International Health Regulations, Maritime Labour Convention, crew exchanges and repatriation of seafarers, International Maritime Organization, World Health Organization

