

The Maritime Labour Convention, 2006

Introduction and Overview

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*Hemispheric Conference on Rapid & Widespread
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The Action Plan and the Process of achieving effective Implementation

- a marriage of the old and the new
- the ILO supervisory system – a firm foundation for the MLC, 2006
- and
- a tool to help with implementation
- Art 19 and Art 22 reports

The MLC,2006 Action Plan

- September 2006 the Office adopted a five – year *Action Plan to achieve rapid and widespread ratification and effective implementation of the Maritime Labour Convention, 2006*
- The *Action Plan* has two primary goals:
 - to promote the rapid ratification of the MLC, 2006, especially in countries that did not play an active part in its preparation, in order to bring it into force; and
 - to arrange for countries that are not yet in a position to implement the MLC,2006 to have the necessary legal or technical assistance to move forward.

The MLC, 2006 Action Plan: Moving forward - Meeting targets

- The 94th ILC also adopted 17 Resolutions to help countries move forward. The Action Plan also includes activities to respond to these Resolutions.
- Two key Resolutions called for International Tripartite Experts meetings (held in September 2008) to adopt:
 - *Guidelines for Flag State Inspections Under the Maritime Labour Convention, 2006*
 - *Guidelines for Port State Control Officers Carrying Out Inspections Under the Maritime Labour Convention, 2006*

The MLC,2006 Action Plan: Moving forward - Meeting targets

- ILO Training Centre (Turin Italy)- "Train the Trainers" "(Training of trainers"" and maritime inspectors on the application of the Maritime Labour Convention, 2006) course has been developed and a pilot course has taken place.
- The first two week course will take place September 14 to 25, 2009.
- A second course is scheduled for December 2009

The MLC,2006 Action Plan: Moving forward - Meeting targets- 2009

- August 2009 –Tonnage element for entry into force is already achieved with ratification by 5 major maritime countries (Liberia, the Republic of Marshall Islands, Bahamas, the Republic of Panama and Norway). Together these flag States have international jurisdiction with respect to standards for working and living conditions for seafarers on 44% (based on gross tonnage) of the world's shipping fleet.

The MLC,2006 Action Plan: Moving forward - Meeting targets

- 25 more ratifications (at least 30 needed) must be obtained to bring the MLC,2006 into force by 2011. This also seems likely with the decisions taken in the EU.
- It is essential to achieving the objectives of the Convention that countries from **all regions**, particularly key port States and countries from whom the majority of the worlds seafarers are drawn, also ratify.
- Even more importantly all countries that have ratified, particularly flag States, need to effectively implement their responsibilities under the MLC,2006.

Moving Forward...National Action as the next step

- National action is the essential next step to move forward
- Efforts are underway in all regions and in cooperation with DWCP through
 - regional cooperation seminars to help develop national level Action Plans,
 - national level technical cooperation activities (for example to assist with Legislative Reviews/Gap Analysis)

Introduction & Overview

The ILO - 89 years of working with the maritime sector

Seafarers have always been of special concern to the International Labour Organization.

- One of the first legal instruments that the ILO adopted was the National Seamen's Codes Recommendation, 1920 (No.9)), a year after the ILO was created.
- At its 94th Session (the 10th Maritime Session), 7- 23 February 2006, the International Labour Conference adopted an important new legal ILO instrument, the *Maritime Labour Convention, 2006*.
- The Maritime Labour Convention, 2006 has been described as "historic" and "a way forward", using international labour standards, to establish *decent work* and *fair competition* and to help to achieve "*fair globalization*".

The ILO - adoption of the *Maritime Labour Convention, 2006*

- The Maritime Labour Convention, 2006 has two primary purposes:
 - to bring the system of protection contained in existing labour standards closer to the workers concerned, in a form consistent with the rapidly developing, globalized sector (ensuring “decent work”);
 - to improve the applicability of the system so that shipowners and governments interested in providing decent conditions of work do not have to bear an unequal burden in ensuring protection (“level-playing field” - fair competition)
- It is often called the “fourth pillar” of international maritime regulatory regime, because it will, when it enters into force, stand beside the key IMO Conventions (SOLAS, MARPOL & STCW) that support quality shipping and help to eliminate substandard shipping.

The ILO – Overview of the *Maritime Labour Convention, 2006* and the existing maritime labor instruments

- The substance of most*, of the existing 70 maritime labour instruments (Conventions and related recommendations) adopted by the ILO since 1920 have been updated and are now included - "consolidated" - in the new Convention.
(The ILO Conventions on seafarers' identity documents (Nos. 108, 185), and on seafarers pensions (No. 71) and one already shelved Convention (No. 15) are not included in the new Convention.)*
- The 37 maritime labour Conventions that are now consolidated (revised) by the MLC, 2006 will be gradually phased out as States that are now party to these Conventions ratify the new Convention.

Why did the ILO decide to develop a new Convention?

- In response to phenomenon of “globalization” the ILO began, in the late 1990s, to review all of its standard setting and supervisory activity to better ensure that its Conventions are designed to achieve *universal acceptance* and that issues such as *effective enforcement* and *compliance* are better addressed.
- In 2001 the Shipowners and Seafarers in the Joint Maritime Commission (JMC), jointly proposed a new approach and preferred solutions (the “Geneva Accord”) to the existing maritime labour instruments in order to better provide:
 - comprehensive and effective protection of the seafarers' rights to decent work;
 - a level playing field for Governments and Shipowners, with flexibility as to the means of delivering this protection and accommodating diversity.

Overview & innovative features of the Maritime Labour Convention, 2006

- the new Convention is seen as combining the “best of the old with the new”
- it combines the core standards found in the existing maritime Labour Conventions with an innovative format aimed at achieving universal acceptance and a new approach to securing ongoing compliance and allowing for more rapid updating the technical provisions
- it builds upon and incorporates many of the well-established approaches developed in other major conventions in the maritime sector such as STCW and SOLAS
- unlike other ILO Conventions it does not have a Convention number assigned to it because its text will be amended in the future (rather than being revised by another subsequent Convention)

Overview & innovative features of the Maritime Labour Convention, 2006 - Format

- The Convention adopts an approach similar to the IMO's STCW Convention with three different but related parts,
 - Articles,
 - Regulations
 - a two- part Code (Part A mandatory Standards, Part B non-mandatory Guidelines)
- There is an important "Explanatory Note" found after the Articles which is intended to provide further information and assistance, especially to Governments about the relationship between the parts of the Code.

Overview & innovative features of the Maritime Labour Convention, 2006 – Format & Content – Explanatory Note

- **Explanatory Note**

- is not part of the Convention and its obligations
- it is intended to assist governments to undertake the application of the Convention
- it explains, in a practical way, with an example, the relationship between the Regulations and Part A (mandatory Standards) and Part B (Guidelines) of the Code
- this relationship is also stated as a legal obligation in Article IV, paragraphs 1 and 2, of the Convention

Overview & innovative features of the Maritime Labour Convention, 2006 - Format

- “vertically integrated” in presentation with the Regulations and Code (Parts A and B) provisions organised under 5 Titles with a numbering system that links the related Regulations, Standards and Guidelines.

Title 1: Minimum requirements for seafarers to work on a ship

Title 2: Conditions of employment

Title 3: Accommodation, recreational facilities, food and catering

Title 4: Health protection, medical care, welfare and social protection

Title 5: Compliance and enforcement

Maritime Labour Convention, 2006

Overview - Format

Example of vertical integration (extracts)

Regulation 1.2 – Medical certificate

Purpose: To ensure that all seafarers are medically fit to perform their duties at sea

1. Seafarers shall not work on a ship unless they are certified as medically fit to perform their duties.

...

Standard A1.2 – Medical certificate

1. The competent authority shall require that, prior to beginning work on a ship, seafarers hold a valid medical certificate attesting that they are medically fit to perform the duties they are to carry out at sea.

...

Guideline B1.2 – Medical certificate

Guideline B1.2.1 – International Guidelines

...

Overview & Innovative Features of the Maritime Labour Convention, 2006 – Format & Content

- Each **Title** comprises a number of Regulations, Standards and Guidelines relating to various topics

Title 1. Minimum requirements for seafarers to work on a ship

Regulation 1.1 – Minimum age

Regulation 1.2 – Medical certificate

Regulation 1.3 – Training and qualifications

Regulation 1.4 – Recruitment and placement

Overview & innovative features of the Maritime Labour Convention, 2006 – Format & Content

Title 2 Conditions of employment

Regulation 2.1 - Seafarers' employment agreements

Regulation 2.2 - Wages

Regulation 2.3 - Hours of work and hours of rest

Regulation 2.4 - Entitlement to leave

Regulation 2.5 - Repatriation

Regulation 2.6 - Seafarers' compensation for the ship's loss or foundering

Regulation 2.7 - Manning levels

Regulation 2.8 - Career and skill development and employment opportunities for seafarers

Overview & innovative features of the Maritime Labour Convention, 2006 – Format & Content

Title 3 Accommodation, recreational facilities, food and catering

Regulation 3.1 - Accommodation and recreational facilities

Regulation 3.2 - Food and Catering

Title 4 Health protection, medical care and social security protection

Regulation 4.1 - Medical care on board ship and ashore

Regulation 4.2 - Shipowners' liability

Regulation 4.3 - Health and safety protection and accident prevention

Regulation 4.4 - Access to shore-based welfare facilities

Regulation 4.5 - Social security

Overview & innovative features of the Maritime Labour Convention, 2006 – Format & Content

Title 5 Compliance and Enforcement

Introductory paragraphs

Regulation 5.1- Flag State responsibilities

Regulation 5.2 - Port State responsibilities

Regulation 5.3 - Labour-supplying responsibilities

In addition, Title 5, Part A of the Code has three Appendices and Part B has one appendix.

Overview & innovative features of the Maritime Labour Convention, 2006 – Format & Content

- **Appendix A5-1**, List of matters for flag State inspection
- **Appendix A5-III**, List of areas subject to detailed inspection in a port State
- **Appendix A5-II** “model” documents relating to the inspection and certification system established in Title 5:
 - ❖ **a Maritime Labour Certificate**
 - ❖ **a Declaration of Maritime Labour Compliance**
- **Appendix B5-I** – an Example, to provide guidance as to the way a Declaration might be filled out.

Overview & innovative features of the Maritime Labour Convention, 2006 – Format & Content

- **Appendix A5-I & Appendix A5-III lists**
 - Minimum age
 - Medical certification
 - Qualifications of seafarers
 - Seafarer employment agreements
 - Use of any licensed or certified or regulated private recruitment and placement service
 - Hours of work or rest
 - Manning levels for the ship
 - Accommodation
 - On-board recreational facilities
 - Food and catering
 - Health and safety and accident prevention
 - On-board medical care
 - On-board complaint procedures
 - Payment of wages

Overview: innovative features of the Maritime Labour Convention, 2006

***Innovative features* of the new Convention include:-**

- a new system for effective enforcement and compliance - a *certification system* for conditions of "decent work"
- a "no more favourable treatment" provision to help ensure a level-playing field (in the context of port State control measures)
- other specific areas of national flexibility as established in the Articles

Maritime Labour Convention, 2006

What responsibilities do ratifying Governments have under the Maritime Labour Convention, 2006?

- obligations and responsibilities under the Convention are directed to countries that are Members of the ILO and that ratify the Convention
- as with other Conventions in the maritime sector such the IMO Conventions, SOLAS and MARPOL, the Convention is primarily directed to flag States and to competent authorities in a flag State
- flag States have a responsibility under the international law of the sea and under this Convention to regulate ships, and the owners of ships flying their flags, in a number of areas including labour and social conditions on board those ships

Overview & innovative features of the Maritime Labour Convention, 2006

- some other areas of responsibility for ratifying Members include adopting laws and/or regulations and/or other measures to require that:
 - owners of ships that fly their flags
 - seafarer recruitment and placement services in their jurisdiction
 - their national systems, in the case of social security,meet the requirements set out in Titles 1-5 of the Convention

Maritime Labour Convention, 2006 - Summary - Implementation

- is an easy to ratify and implement Convention
- is an "*implementable*" Convention
- has innovative features that help to encourage ratification and implementation

Maritime Labour Convention, 2006 - Summary - Implementation

Key features are:

- format
- combining firmness on rights and flexibility on methods
- effective enforcement and compliance – stimulating regional cooperation
- builds upon existing standards and practices
- builds in and encourages tripartite consultation in national implementation
- no more favourable treatment of ships of non-ratifying countries

Maritime Labour Convention, 2006

- Implementation Approaches

- implementation experiences for States
 - ❖ some are primarily flag States with international fleets
 - ❖ others are primarily port States
 - ❖ others have large domestic fleets with small ships
 - ❖ others are primarily concerned with maritime labour supply issues
- in most cases all of these interests co-exist however, in every case, there are at least one or two aspects or interests that are strongest
- focus of efforts and assistance in implementation must be tailored to the specific interests of the country concerned

Moving Forward - Tools

- the ILO has also been involved in the development of promotional resources and knowledge tools such as the trilingual website

[http://www.ilo.org/global/What we do/InternationalLabourStandards/MaritimeLabourConvention/lang--en/index.htm](http://www.ilo.org/global/What_we_do/InternationalLabourStandards/MaritimeLabourConvention/lang--en/index.htm)

Site sur la Convention du travail maritime (2006)

[http://www.ilo.org/global/What we do/InternationalLabourStandards/MaritimeLabourConvention/lang--fr/index.htm](http://www.ilo.org/global/What_we_do/InternationalLabourStandards/MaritimeLabourConvention/lang--fr/index.htm)

Sitio sobre el Convenio sobre el trabajo marítimo (2006)

[http://www.ilo.org/global/What we do/InternationalLabourStandards/MaritimeLabourConvention/lang--es/index.htm](http://www.ilo.org/global/What_we_do/InternationalLabourStandards/MaritimeLabourConvention/lang--es/index.htm)



For more information
visit the ILO website
<<http://www.ilo.org>>

Conclusion

The *Maritime Labour Convention, 2006* will:-

- provide a modern system for improved and enforceable conditions for decent work in the maritime sector
- create, as much as possible, a level playing field in a globalized industry by ensuring that competition is not based on unjust, exploitive and unfair labor practices.