

The ILO's Maritime Labour Convention, 2006: Towards ratification

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Outline of presentation

- The ILO and its shipping activities?
- Why the MLC 2006?
- Present situation
- Challenges in the implementation of the MLC
- Conclusions



The International Labour Organization



Background

The International Labour Organisation (ILO):

- Founded - 1919 Treaty of Versailles
- 1946 first "Specialised Agency"

ILO Structure:



Output: working and living standards -
Conventions & Recommendations
for seafarers: health & welfare, ship's
articles, repatriation, food & catering,
working hours, etc .



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What is the ILO?



ILO's Constitution sets out:

structure, aims, objectives, procedures &
creation of "organs" .

"Tripartism" :

Governments, Employers and Trade Unions
working to a common goal

-Now 183 members !

-Marshall Islands and the Maldives joined so as to be able to ratify the MLC 2006



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What is the ILO?



"- labour is not a
commodity;
- freedom of expression
and of association are
essential to sustained
progress;
- poverty anywhere
constitutes a danger to
prosperity everywhere;

Declaration
of
Philadelphia

- all human beings, irrespective of race, creed or sex,
have the right to pursue both their material well-being
and their spiritual development in conditions of
freedom and dignity, economic security and equal
opportunity..."



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What is the ILO?



Human Rights?

> *Universal Declaration of Human Rights*,
adopted by UN in 1948, Articles 23 to 25

> *International Covenant
on
Civil & Political Rights*
adopted in 1966, entered force

1976
> *ILO represented in the
Commission on Human Rights of
the UN*



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The ILO - 90 years of work for quality shipping/decent work

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.
- It called for the establishment of an international seafarers' code, which would clearly set out the rights and obligations relevant to this sector.
- ILO maritime Conventions and Recommendations adopted since then have covered many subjects relevant to the conditions of work and life of seafarers

Existing maritime labour standards

- 60 instruments (30 Conventions, 29 Recommendations, 1 Protocol) on issues such as:
 - conditions for admission to employment, for example, minimum age;
 - compulsory medical examination prior to employment;
 - repatriation of seafarers at the end of employment;
 - entitlement to social security benefits;
 - standards for vocational training and welfare facilities;
 - measures to prevent occupational accidents on board, and investigation procedures for such accidents;
 - minimum standards for food, catering and accommodation.

Why did the ILO decide to develop a new Convention?

- Greater awareness of the unacceptable impact of sub-standard shipping
- Australia's Ships of Shame report (1992)
- Sinking ships and loss of human life
- In 1990, 149 ships with 807 lost lives
- In 1994, 118 ships with 1478 lost lives
- Marine pollution
- Ships are sub-standard when living conditions on board are hazardous to health and safety of the crew (even if the vessel is otherwise seaworthy)

Why did the ILO decide to develop a new Convention?

- In response to "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 Ship-owners 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 Ship-owners with flexibility as to the means of delivering this protection and accommodating diversity.

Quality shipping=Decent work

Quality shipping includes the ship, its operator, its flag and the SEAFARERS working and living aboard ship

- A happy crew is safer and more efficient
- Quality of working and living conditions essential element of quality shipping
- Savings on social and labour issues is unfair advantage for substandard shipping
- Distress for seafarers
- Unfair competition for ship-owners and flags

Reasons for change

- many of the existing ILO instruments needed to be updated to reflect the working conditions in the industry
- changes in ownership, financing and the rise of ship management companies resulting in significant shifts in the labour market for seafarers.
- development of consciously composed mixed nationality crews in highly organized global network linking ship-owners, ship managers, crew managers, labour supplying agencies



Reasons for change

- increased internationalization of ship registries and “flags of convenience” led to competition between flags and reluctance to ratify ILO Conventions
- a need to provide a “level playing field” and avoid exploitation of workers
- increased stress and complexity in the maritime work place that has an impact on the health and social security of workers
- the high level of detail combined with the large number of Conventions led to problems for compliance and enforcement and a relatively low ratification level for key ILO Conventions



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



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



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



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.



Innovative features to improve efficiency of labour standards

- a new system for effective enforcement and compliance - a certification system for “decent work”
 - a Maritime Labour Certificate & a Declaration of Maritime Labour Compliance
 - applies only to ships above 500 GT engaged in international voyages or voyages between foreign ports, however the certificate system is available, on request by ship-owners, to other ships
 - prima facie evidence of compliance with the requirements of this Convention (Articles, Regulations and the Code, Part A)
- “no more favourable treatment” provision to help ensure a level-playing field (in the context of port State control measures)



Summary of current situation

- MLC 2006 adopted in February 2006
- Action programme began September 2006
- Ratifications: Liberia, Marshall Islands, Bahamas, Panama and Norway
- 5 major flag states with 44 per cent of world fleet
- Entry into force: 30 member states with 33 per cent of world fleet



Strategic goals of Action plan for MLC 2006

- End 2007: 10 ratifications or at least 15 per cent of fleet
- Early 2008: development and adoption of guidelines on port state control
- End 2008 development and adoption of guidelines for flag states inspections
- 2009: 24 ratifications or 24 percent of fleet
- 2010: 30 ratifications and 33 percent of fleet
- 2011: entry into force



Are we on target for 2011 entry into force?

- adoption of both guidelines (flag and port states) by end of 2008
- Many countries in middle of ratification procedures especially EU states expected to ratify before end of 2010
- Exceeded target to date for fleet percentage (44% v/s 33%)
- Should reach 30 ratifications by end 2010



Implementation Challenges

- Establishment of institutions: e.g. machinery for consultations, complaint handling, flag state inspections system, port state control
- Training of staff
- Supervision of recruitment agencies
- Social security schemes



Challenges faced by the industry: Social dialogue

- Derogations, exemptions and flexible applications require consultations with representative organizations of ship-owners and seafarers at national level
- Need to reinforce social dialogue at the national level in the maritime sector
- Permanent machinery desirable
- In absence of relevant social partners at national level, consultations through Special Tripartite Committee



Challenges faced by the industry: Compliance of law and practice

- Law and practice must comply with the Convention
- Necessary amendments or adaptations need to be made
- Example: Annual leave for all workers regulated by law in one country- minimum 26 days per year
- State changed law to make exception for seafarers- minimum 30 days leave per year



Challenges faced by States: Inspection of national vessels

- Need to inspect and certify all ships
- Most ships do not return to flag states
- World-wide inspections
- Role for classification societies
- Making delegation agreements
- Classification societies preparing themselves



Challenges faced by States: Human and financial resources

- MLC applies to all ships as defined by the Convention
- Flag state needs a competent authority/administration
- Properly staffed with qualified persons
- Inspection and certification
- Legislation/regulation/other measures
- Exercise jurisdiction and control
- Enforcement
- Complaint procedures



Conclusions

- The MLC 2006 presents an opportunity for the shipping industry
- Objective to improve working and living conditions for seafarers and should help attract them to the industry
- Shipping may be currently in crisis but in the long term it is facing a shortage of competent labour
- The MLC should improve the quality of work at sea for many seafarers
- Bring more qualified young people to the sea
- Keep crews at sea for long careers



Conclusions

- The MLC needs to be acted upon NOW
- States, ship-owners and ships should be ready for entry into force
- Major role for flag states, port states, ship-owners' organizations, seafarers' unions, classification societies
- Human resources important: training



Conclusions

- Surveyors/inspectors must be motivated
- Training materials now available
- The ILO providing technical advice
- Action at the time of entry into force may be late and pose problems for the vessels concerned



Info and Contacts

- ILO website: www.ilo.org
- ILO maritime information
webpages: <http://www.ilo.org/public/english/dialogue/sector/sectors/mariti.htm>
- Maritime Labour Convention info on ILO website
- Email: marit@ilo.org or appave@ilo.org

