



Maritime  
Labour  
Convention  
2006

# Government Responsibilities Overview

## The ILO - 86 years of working with the maritime sector

### **Seafarers and the ensuring uniform standards for labour and social conditions on board ships 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) that called for the establishment of an international seafarers' code, clearly setting out the rights and obligations relevant to this sector
- since 1920 the ILO has adopted 70 legal instruments (Conventions and Recommendations), which, taken together, comprehensively address all aspects of working conditions for seafarers (e.g., the minimum age for work onboard ships, seafarers' identification documents, training, wages, leave, hours of work, accommodation & catering, medical care, repatriation, labour inspections and social security)
- matters relating to the situation of Seafarers have also, from the beginning, normally, been considered at a special session, a maritime session, of the International Labour Conference

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

- At its 94th Session (the 10th Maritime Session), 23 February 2006, the International Labour Conference adopted an important new legal ILO instrument, the Maritime Labour Convention, 2006.
- It was adopted by a record vote of 314 in favour/none against, involving 106 ILO Member States\* and Shipowners and Seafarers drawn from these countries. (\*2 countries abstained for reasons unrelated to the substance of the Convention).
- 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

- 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
- In 2001 the ILO Governing Body took a decision, based on the “Geneva Accord”, to develop a new instrument that would:
  - consolidate nearly all existing maritime labour standards
  - meet current and future needs
  - address barriers to achieving universality in the acceptance of the standards
  - ensure better and more effective implementation of the standards.

## The ILO – tripartite consultation and the adoption of the Maritime Labour Convention, 2006



- An extensive international consultation exercise, including a Preparatory Technical Maritime Conference (2004), involving up to as many 88 countries and Shipowners' and Seafarers' organizations, and stretching over more than four years developed a proposed Convention text.
- The proposed Convention text was then scrutinized and further refined by the more 1000 participants drawn from the 106 ILO Member countries attending the February 2006 Conference, before it was finally adopted.

## 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

## Reasons for change

- many of the existing ILO instruments need 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 labor market for seafarers
- development of consciously composed mixed nationality crews in highly organized global network linking shipowners, ship managers, crew managers, labour supplying agencies
- increased internationalization of ship registries and “flags of convenience”
- a need to provide a “level playing field” among shipowners 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 some key Conventions

## Maritime Labour Convention, 2006 - the impact on industry

- the Convention requirements are based on existing ILO Conventions and were adopted on a tripartite basis with extensive involvement from the Shipowners' and Seafarers' organizations
- the requirements in the new Convention are minimum standards and well within current industry practice, at least at the international level and should be easily met by most shipowners
- for shipowners not involved in international voyages and operating smaller ships the Convention has enough flexibility to meet most national situations and will help to ensure the gradual improvement of conditions for all seafarers



## Maritime Labour Convention, 2006 - the impact on industry

- shipowners involved in the development of the Convention understood that, with its new effective enforcement system, the Convention will help to prevent unfair competition from operators that are able to operate cheaply because of substandard labour and other conditions
- modern shipowners that are committed to quality shipping operations understand the importance of ensuring good working conditions for the seafarers working on board their ships
- quality shipowners and operators also know that good working conditions will help to ensure that their ships are operated safely and securely with few problems and few delays in ports

## The Maritime Labour Convention, 2006 and the existing maritime labor instruments



- The substance of most\*, of the existing 70 maritime labour instruments (Conventions and 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) will be gradually phased out as States that are now party to these Conventions ratify the new Convention

### 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

# Maritime Labour Convention, 2006

## Government Responsibilities



- the Convention sets out the minimum requirements that a flag State ratifying the Convention must address and verify with respect to the ships that fly its flag
- the Convention also establishes some responsibilities in connection with regulation of any seafarer recruitment and placement services operating in a ratifying Member's territory
- the primary obligations of Governments are set out in the Articles in the first part of the Convention with the details of how these are to be implemented set out in the 5 titles that contain the Regulations and the two-part Code: Part A (mandatory Standards) and Part B (non mandatory Guidelines)

### Overview of the main obligations

- Article I General obligations
  - the general obligations of “Each Member” that has ratified the Convention to give effect to the Convention and to cooperate
  
- Article III Fundamental rights and principles
  - freedom of association
  - elimination of forced labour
  - elimination of child labour
  - elimination of discrimination
  
- the obligation of a ratifying Member under Article III is to “satisfy itself” that those fundamental rights are reflected in the relevant legislation.
  
- Article III does not, however, require that a Member apply the provisions of the Conventions embodying those fundamental rights (which are referenced in the *Preamble*)

# Maritime Labour Convention, 2006

## Government Responsibilities



- Article IV Seafarers' employment and social rights
  - Article IV the “seafarers’ bill of rights;” provision -states that all seafarers are entitled to
    - a safe and secure workplace that complies with safety standards
    - fair terms of employment
    - decent working and living conditions on board ship
    - health protection, medical care, welfare measures and other forms of social protection
  - these general rights are then set out in detail in the Titles (in the Regulations and Code provisions) of the Convention

# Maritime Labour Convention, 2006

## Government Responsibilities



- Article IV Seafarers' employment and social rights
  - paragraph 5 makes it clear that the “seafarers employment and social rights” set out in paragraphs 1-4, are to be fully implemented, “in accordance with the requirements of this Convention” - that is - in accordance with the relevant provisions of the Articles, Regulations and Part A of the Code.
  - “unless specified otherwise in the Convention” implementation may be achieved through
    - national laws or regulations,
    - applicable collective bargaining agreements
    - other measures
    - or in practice

# Maritime Labour Convention, 2006

## Government Responsibilities



- Article V Implementation and enforcement responsibilities
  - provides the legal foundation for the provisions on compliance and enforcement in Title 5 of the Convention
  - obligations are drawn from the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), and the Labour Inspection Seafarers) Convention, 1996 (No. 178), both of which are consolidated by this Convention
  - paragraphs 2 and 6 require each Member to effectively exercise its jurisdiction and encourage the adoption of a systematic approach to compliance and enforcement of the legal standards



# Maritime Labour Convention, 2006

## Government Responsibilities



- paragraph 4, based on Article 4, Convention No. 147, provides the foundation for voluntary (“may”) inspections of a ship flying a Member’s flag when that ship is in another Member’s port (port state control measures) to help ensure ongoing compliance with the requirements of the Convention
- paragraph 5 draws upon Convention No. 179 and sets out the complementary responsibilities of Members from which the world’s seafaring workforce are drawn
- requires Members to “effectively exercise ... jurisdiction and control” over seafarer recruitment and placement services, if these are established in its territory and lays the foundation for the requirements in Title 1 of the Convention) that private sector services must be licensed or certified or regulated in some way and for the obligations under Title 5, Regulation 5.3
- paragraph 6 sets out a requirement that each Member enforce its laws with sufficient sanctions or other corrective measures, consistent with international law, to discourage violations of the requirements of the Convention

# Maritime Labour Convention, 2006

## Government Responsibilities



- Article VI Regulations and Parts A and B of the Code
  - during the development of the Convention an important tripartite agreement was reached on the treatment to be given to Part B of the Code (the non mandatory Guidelines), paving the way for the shift of many of the detailed requirements in existing Conventions from the Standards in Part A of the Code to the Guidelines in Part B of the Code.
  - *paragraphs 3 and 4* set out the other main element of flexibility which is the concept of “substantially equivalent” national implementation of the Convention requirements -a concept is already found in the Merchant Shipping (Minimum Standards) Convention, 1976(No. 147)

- Article VI Regulations and Parts A and B of the Code
  - paragraph 4, which reflects extensive discussion, provides a definition of the term “substantially equivalent”
  - national provision implementing the rights and principles of the Convention in a manner different from that set out in Part A of the Code would be considered as “substantially equivalent” if the Member concerned “satisfies itself” that the relevant legislation or other implementing measure “is conducive to the full achievement of the general object and purpose of the provision or provisions of Part A of the Code concerned” and “gives effect to the provision or provisions of Part A of the Code concerned”
  - under paragraph 3, the concept of substantial equivalence may be resorted to “unless expressly provided otherwise in this Convention”; its application has been excluded with respect to the Standards in Title 5 .

# Maritime Labour Convention, 2006

## Government Responsibilities



- national flexibility in implementation and the relationship between Parts A and B of the Code are also related to the term “requirements of the Convention “ and to the Explanatory note found after the Articles
- Article II, paragraph 1 (e) defines the term “requirements of this Convention”
  - makes it clear that this term, when used in the Convention, only refers to the mandatory provisions of the Convention, i.e., those found in the Articles, Regulations and Part A of the Code.
  - reflects the “understanding” set out in the Explanatory Note and in Article VI.
  - Article VI requires that Members give “**due consideration**” to implementing their responsibilities in the manner provided for in Part B of the Code.
  - is linked to Regulation 5.1.2, paragraph 3 (port State control inspections).

# Maritime Labour Convention, 2006

## Government Responsibilities



- Other areas for national flexibility relate to the scope of application of the Convention
  - Article II has inclusive definitions of seafarers, ships and shipowners however, under Article II there is national flexibility “in cases of doubt” to exclude categories of workers and individual ships and categories of ships from the Convention
  - in addition a determination can be made by a ratifying Member, after consultation with shipowners’ and seafarers’ organizations concerned, that some details of the Code may not apply to ships 200 GT and below no engaged in international voyages
  - provisions affecting ship construction and equipment (Title 3) will not apply to ships constructed before the Convention comes into force for the country concerned
  - the ships certification system is only mandatory for ships 500GT and above on international voyages and can be carried out by a recognized organization on behalf of the ratifying Member

# Maritime Labour Convention, 2006

## Government Responsibilities



- Title 5 **Compliance and enforcement** has some important obligations for Governments
- a new system for effective enforcement and compliance, a *certification system* for conditions of “decent work”
  - flag States must develop an effective inspection system including trained independent inspectors to carry out flag State inspection and certification functions and also to inspect foreign ships entering their ports
  - Members can use Recognized Organizations to carry out these functions but will need to formally delegate this authority and file a report with the ILO regarding this delegation
  - a Maritime Labour Certificate & a Declaration of Maritime Labour Compliance will issued by the flag State or a Recognized Organization on behalf of the flag State

# Maritime Labour Convention, 2006

## Government Responsibilities



- the flag State certification and port State inspection system 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 shipowners, to other ships
- the Certificate and Declaration will provide *prima facie* evidence of compliance with the requirements of this Convention (Articles, Regulations and the Code, Part A) and 14 areas in particular
- except in specific situations where a detailed inspection is warranted, any inspections in a foreign port ( port State control) will be limited to a review of the Certificate and Declaration
- the Convention also has a "no more favourable treatment" provision to help ensure a level-playing field ( in the context of port State control measures)

- the 14 Areas for flag State certification and possible port State detailed inspection

**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**



# Maritime Labour Convention, 2006

## Government Responsibilities



- the other areas of responsibility for ratifying Members involves adopting laws or regulations or other measures to require that owners of ships that fly their flags or recruitment and placement services or their national systems, in the case of social security, meet the requirements set out in Titles 1-4 of the Convention

### **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

### **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

### **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

## Government Responsibilities



### **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

# Maritime Labour Convention, 2006

## Government Responsibilities



- The Convention will enter into force

“12 months after the date on which there have been registered ratifications by at least 30 Members with a total share in the world gross tonnage of ships of 33 percent. “

- This is a much higher than usual ratification level (for ILO Conventions) and is intended to assure greater actual impact
- a **Resolution** was adopted at the Conference (largely for national administrative reasons), which, in the case of specific ships, would allow the first 30 ratifying ILO Member States extra time, after the initial entry into force of the Convention, to issue Maritime Labour Certificates to their ships. It also relaxes the port State control measures established by Convention on this matter.

## Maritime Labour Convention, 2006 Government Responsibilities



The Maritime Labour Convention, 2006 should be widely ratified and enter into force as soon as possible because it:

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



Maritime  
Labour  
Convention  
2006

For more informations  
Visit the ILO website  
**[www.ilo.org](http://www.ilo.org)**