



Maritime
Labour
Convention
2006

Overview

The ILO - 86 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.
- It called for the establishment of an international seafarers' code, which would clearly set out the rights and obligations relevant to this sector.

The ILO - adoption of the Maritime Labour Convention, 2006



- At its 94th Session (10th Maritime Session), 7- 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 help 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).
- The Convention, often called the “fourth pillar” of international maritime regulatory regime, will, when it enters into force, stand beside the key IMO Conventions (SOLAS, MARPOL & STCW) to support quality shipping and help to eliminate substandard shipping.

The ILO – Overview of the Maritime Labour Convention, 2006 and maritime labor standards



- The substance of most,* of the existing 68 maritime labour instruments 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 existing maritime labour Conventions will be gradually phased out as States that are now party to the existing 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 standards 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 maritime labour standards in order to better provide:
 - a level playing field for Governments and Shipowners, with flexibility as to the means of delivering this protection and accommodating diversity.
 - comprehensive and effective protection of the seafarers' rights to decent work;

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” 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

Tripartite consultation and the development of the Maritime Labour Convention 2006



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

Overview & innovative features of 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 to more rapidly updating of the technical provisions.
- It also 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 will 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 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 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

- 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

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

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 Maritime Labour Convention 2006 - Format



- **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.

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 Maritime Labour Convention 2006 – Features



Innovative features of the new Convention include:-

- a new system for **effective** enforcement and compliance - a certification system for conditions of “decent work”
- a **Maritime Labour Certificate & a Declaration of Maritime Labour Compliance** issued by the flag State or a Recognized Organization on behalf of the flag State
- the flag State certification and port State inspection system applies 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)
- 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
- a “no more favourable treatment” provision to help ensure a level-playing field (in the context of port State control measures)

Other *innovative features* include:

- Specific areas for national *flexibility*
 - the detailed provision of Part B of the Code are not mandatory however Governments are required to give “due consideration” to their content when implementing their obligations
 - the “Seafarers Employment and Social Rights” set out in Article IV are to be fully implemented, “in accordance with the requirements of this Convention” (in accordance with the relevant provisions of the Articles, Regulations and Part A of the Code), however,
 - “.. unless specified otherwise in the Convention” national implementation may be achieved through national laws or regulations, through applicable collective bargaining agreements or through other measures or in practice.”
 - implementation of Part A of the Code (other than Title 5) may also be achieved through measures which are “substantially equivalent”

Overview & innovative features of Maritime Labour Convention 2006 – Features



Other *innovative features* include:

- Specific areas for national *flexibility* (con't)
 - the requirements of the Convention, other than the certification system, will apply to most other ships (it does not apply fishing vessels, ships of traditional build or warships)
 - however the application of details in the Code may be relaxed for some smaller ships - 200 GT and below that do not go on international voyages. This determination would be made in consultation with shipowners and seafarers organizations concerned
 - provisions affecting ship construction and equipment (Title 3) will not apply to ships constructed before the Convention comes into force for the country concerned.

Overview & innovative features of Maritime Labour Convention 2006 – Features



Other *innovative features* include:

- onboard and onshore complaint procedures to encourage rapid resolution of problems, if possible
- a complaint and inspection system that is linked to with the ILO supervisory system
- provisions setting international standards for flag State delegation of some functions to a Recognized Organization
- a modernized management based approach to occupational safety and health
- accelerated amendment procedures to update Code provisions more rapidly and with less cost to address changes in the sector

Overview & innovative features of Maritime Labour Convention 2006 – Features



- Inclusive definition of a “shipowner”
 - based on the definition in Convention No. 179 and is similar to the definition of a “company” adopted by the IMO in SOLAS (in the ISM Code) and in the STCW
 - reflects the principle that shipowners are the responsible employers under the Convention with respect to all seafarers on board their ships, irrespective of employment or ship management contractual arrangements
 - shipowners would still have the right to recover the costs involved from others who may also have responsibility for the employment of a particular seafarer.

Overview & innovative features of Maritime Labour Convention 2006 – Features



- Comprehensive definition of “seafarers”
 - to reflect the greater awareness of the range of people employed at sea.
 - some national flexibility is provided for (in the “event of doubt as to categories”) which would relate to exclusion from the entire convention. A Resolution, was adopted by the Conference to provide guidance to national authorities on this matter.

The Maritime Labour Convention 2006

When will it begin to apply?



- 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.

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.



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