



Maritime  
Labour  
Convention  
2006

# Shipowners' Benefits & 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.
- It called for the establishment of an international seafarers' code, which would clearly set out the rights and obligations relevant to this sector.
- Matters relating particularly 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), 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 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 - adoption of the Maritime Labour Convention, 2006

- Shipowners have been involved with the development and negotiation of the requirements of this new Convention, since the beginning.
- 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

## 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

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

- the Shipowners' organizations involved in developing the Convention understood that the Convention, with an effective enforcement system, could provide a way to help ensure fair competition and to marginalize substandard shipping operations
- 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 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 Convention will help to prevent unfair competition from operators that are able to operate cheaply because of substandard labour and other conditions

## 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 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.



# Maritime Labour Convention, 2006

## Shipowners' Benefits & Responsibilities



### What are the benefits & responsibilities for shipowners under the Maritime Labour Convention, 2006?

- the Convention is an international legal instrument and does *not* directly bind or regulate any shipowner or operator
- obligations and responsibilities under the Convention are directed to Governments, in particular, as with other Conventions in the maritime sector such SOLAS and MARPOL, the Government concerned is primarily the flag State
- Governments also have some responsibilities in connection with regulation of any seafarer recruitment and placement services operating in their territories
- 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

## Shipowners' Benefits & 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
- flag States can implement the Convention requirements "unless provided otherwise in the Convention" through
  - national laws or regulations
  - applicable collective bargaining agreements
  - other measures
  - or in practice

# Maritime Labour Convention, 2006

## Shipowners' Benefits & Responsibilities



- shipowners, particularly those operating ships 500GT and above engaging in international voyages, will directly benefit if their flag State ratifies the Convention because:
  - they will have the right, after a flag State inspection, to carry on board a Maritime Labour Certificate and a Declaration of Maritime Labour Compliance that provides *prima facie* evidence in foreign ports that condition on board the ship comply with the national requirements implementing the Convention
  - they will have a right to require coverage by the certification system even if their ship is below 500GT
  - the Convention has a "no more favourable treatment" provision to help ensure a level-playing field ( in the context of port State control measures) between ships of countries that have ratified the Convention and ships of countries that have not ratified the Convention. Ships that do not have a certificate are subject to port State control inspections

# Maritime Labour Convention, 2006

## Shipowners' Benefits & Responsibilities



- Article IV of the Convention 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
  
- Article III of the Convention will help to ensure that seafarers are also provided with the ILO fundamental rights relating to:
  - freedom of association
  - elimination of forced labour
  - elimination of child labour
  - elimination of discrimination

# Maritime Labour Convention, 2006

## Shipowners' Benefits & Responsibilities



- the employment and social rights and the are addressed in more detail in Regulation and the two-part Code
- to give effect to these rights flag States will need to ensure that conditions on ships meet these minimum requirements in a numbers of areas and that owners of ships over 500 GT, which are engaged on international voyages, have developed a plan, which is recorded on the Declaration of Maritime Labour Compliance, to ensure compliance between inspections in 14 specified areas

# Maritime Labour Convention, 2006

## Shipowners' Benefits & Responsibilities



- **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

## Shipowners' Benefits & Responsibilities



- the Convention has 5 Titles which taken together set out flag State obligations under the Convention that would result in minimum requirements for conditions on ships that fly their flags

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

## Shipowners' Benefits & Responsibilities



### **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

## Shipowners' Benefits & Responsibilities



### **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

## Shipowners' Benefits & Responsibilities



### **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

## Shipowners' Benefits & 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

## Shipowners' Benefits & Responsibilities



- The four appendices to the Convention all relate to the certification system under Title 5
- **Appendix A5-I** and **A5-III** lists the 14 matters that **must be inspected** by flag States ( or recognized organizations on their behalf) and that are subject to a detailed inspection, *when* such an inspection of a foreign ship is carried out by a ratifying Member (port State control)
- **Appendix A5-II** comprises 3 model documents required under *paragraph 9*, Standard A5.1.3:
  - the maritime labour certificate
  - the declaration of maritime labour compliance, attached to the maritime labour certificate
  - an interim maritime labour certificate
- **Appendix B5-I** provides an **Example** of a national declaration of maritime labour compliance (not a mandatory model) of the kind of information that might be contained in a declaration of maritime labour compliance

# Maritime Labour Convention, 2006

## Shipowners' Benefits & Responsibilities



- The term “shipowner” is defined in Article II as:

“1(j) shipowner means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organization or persons fulfil certain of the duties or responsibilities on behalf of the shipowner.”

- based on the definition in ILO Convention No. 179 and is similar to the definition of a “company” adopted by the IMO in SOLAS (in the ISM Code) and under the STCW Convention
- reflects the principle that shipowners are the responsible employers under the Convention with respect to all seafarers on board their ships
- 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

# Maritime Labour Convention, 2006

## Shipowners' Benefits & 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.



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