



Maritime
Labour
Convention
2006

Seafarers' Rights 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.
- 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

- Seafarers 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

- The existing labor Conventions were not working well to protect the world's seafarers because many seafarers were not covered by these Conventions or did not have an effective system to respond when rights were not respected
- The reasons for this situation and the reasons for change included:
 - 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"
 - 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 – 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

& Achieving Decent Work for the World's Seafarers



What are Seafarers' rights under the Maritime Labour Convention, 2006?

- 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

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How are these Seafarers' rights to be provided ?

- the “Seafarers Employment and Social Rights” set out in the Convention are to be fully implemented by the flag State and its shipowners, “in accordance with the requirements of this Convention” (in accordance with the relevant provisions of the Articles, Regulations and Part A of the Code),
- unless specified otherwise in the Convention, implementation of Seafarers' may be achieved through
 - national laws or regulations
 - through applicable collective bargaining agreements
 - or through other measures
 - or in practice.

Maritime Labour Convention, 2006

& Achieving Decent Work for the World's Seafarers



- The Convention establishes in a new system for effective enforcement and compliance of the requirements of the convention (including seafarers' rights) - a *certification system* for conditions of "decent work"
 - a Maritime Labour Certificate & a Declaration of Maritime Labour Compliance will be issued by the flag State (or a Recognized Organization authorized to act on behalf of the flag State) to ships flying its flag
 - the Certificate and Declaration will provide *prima facie* evidence of compliance with the requirements of this Convention (Articles, Regulations and the Code, Part A) with respect to 14 listed matters
 - in specific situations a detailed inspection, and even the detention of a ship, in a foreign port to correct the conditions on the ship may be warranted

Maritime Labour Convention, 2006

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■ 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

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- 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) between ships of countries that have ratified the Convention and ships of countries that have not ratified the Convention
- the flag State certification and port State inspection system applies to ships 500 GT and above engaged in international voyages or voyages between foreign ports, however the certificate system is available, on request by shipowners, to other ships
- the requirements of the Convention, other than the certification system, will apply to most other privately or publicly owned ships that are ordinarily engaged in commercial activities, other than ones which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply
- it does not apply to vessels engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks or warships or naval auxiliaries

Maritime Labour Convention, 2006

& Achieving Decent Work for the World's Seafarers



- 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

Maritime Labour Convention, 2006

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- the Convention has 5 Titles which taken together set out governmental (and the owners of ships that fly their flags) obligations under the Convention

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 & Achieving Decent Work for the World's Seafarers



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 & Achieving Decent Work for the World's Seafarers



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

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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

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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

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- Who is a “seafarer”?
 - The word “seafarer” is defined in Article II as:
 - “1. (f) *seafarer* means any person who is employed or engaged or works in any capacity on a ship to which this Convention applies;
 - ...
 - 2. Except as expressly provided otherwise, this Convention applies to all seafarers”.
 - reflects the greater awareness of the full range of people employed at sea (especially, for example, workers on passenger ships)

Maritime Labour Convention, 2006

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- some national flexibility is provided for in paragraph 3 (“in the event of doubt “ as to categories of persons to be regard as seafarers) which would allow exclusion of some people from the entire Convention: A Resolution was adopted by the Conference to provide guidance to national authorities when making decisions on this matter.
- national flexibility for full and partial exclusions of ships (and, therefore, the seafarers on them) from the requirements of the Convention is also provided, based on the determinations made in connection with particular “ships” Article II, paragraphs 1(i),(4) (5) (6)
- For example, as noted earlier, a determination may be made that some aspects of the Code do not apply to seafarers working on ships 200GT and below that are not engaged in international trade

Maritime Labour Convention, 2006

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- **How will Seafarers' know about their rights?**
 - under the Convention Seafarers' are entitled to read and sign and have a copy of their Seafarers' Employment Agreement (SEA) (which could include a collective agreement) setting out the main conditions for their employment and the name of the shipowner that is responsible for conditions on board
 - a copy of the Convention must be on board ships and must be available for seafarers to read.
 - Shipowners must have an up-to- date Maritime Labour Certificate and a Declaration of Maritime Labour Compliance on board a ship if it is 500GT and above and engaged in international voyages

Maritime Labour Convention, 2006

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- the Convention provides that complaints regarding failures to meet the requirements of the Convention can be made to:
 - a flag State inspector (or recognized organization on behalf of the flag State)
 - on board ship through the process for complaints established by the shipowner
 - to an authorized Officer in the port of a country that has ratified the Convention
- these are in addition to any other existing avenues for complaints that a seafarer may have

Maritime Labour Convention, 2006 & Achieving Decent Work for the World's Seafarers



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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