



BUILDING THE MOMENTUM FOR THE ILO'S MARITIME LABOUR CONVENTION, 2006 (1)

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Building the momentum for the ILO's Maritime Labour Convention, 2006 (1) The Maritime Labour Convention, 2006, (MLC, 2006), the result of a seafarer and shipowner initiative (1), was developed through six years of intensive international tripartite consultation involving more than 100 ILO Members. The convention is specifically designed to help achieve the twin goals of ensuring a "level playing-field" for quality shipowners and at the same time providing concrete measures that would secure "Decent Work" for the world's more than 1.2 million seafarers.

The MLC, 2006, sets out a seafarers' "bill of rights" and is intended to be the "fourth pillar" in the international shipping regulation complementing major maritime conventions of the International Maritime Organization (IMO) on environmental protection and ship safety and security. It establishes a strong compliance and enforcement mechanism based on flag-state inspection and certification of seafarers' working and living conditions. This is supported by port state inspection of ships to ensure ongoing compliance.

Since 2006, the need to secure decent work for seafarers has become even more urgent with a forecast shortage of trained workers in this sector in the next 10 years. Since nearly 90% of the world trade is carried by sea, this shortage will be a major impediment to international trade and economic development of all countries. In November 2008 the IMO, in partnership with ILO and the international shipowners and seafarers organizations, launched a campaign, the "Go to Sea" campaign. The campaign called upon governments and the industry to make every effort to attract and encourage young people to consider a career as a seafarer and to find ways to retain workers in the sector. A key element in attracting workers is providing decent working conditions for seafarers.

The ILO Global Jobs Pact, adopted by the International Labour Conference in June 2009 (2), identified increasing equal access and opportunities for skills development, quality training and education as one of the principles for promoting recovery from the current global economic crisis. It also called for a strengthened respect for international labor standards and investment in training.

It is simply common sense that decent working conditions are essential to attracting

and retaining workers in any sector. This perhaps is even more true in the case of seafaring, where the working and living conditions are one and the same on voyages. By decent work, I am referring to the many facets of work life that are addressed in the ILO's 188 International Labour Conventions on basic concerns such as minimum age, employment promotion, social protection, social security coverage, hours of work, annual leave, wages, occupational health and safety, recruitment and placement and a non-discriminatory work place. All of these and many more issues are the daily factors that are important for workers. But the maritime sector has an advantage. It has the MLC, 2006 which is a comprehensive convention bringing together about 70 instruments on almost every aspect of seafarers' decent working and living conditions. In this regard, it consolidates 86 years of ILO standard setting for seafarers working conditions. The MLC 2006 covers minimum age, repatriation, social security protection, employer liability for healthcare and costs of illness, occupational health and safety, and, importantly, on board accommodation, recreational facilities and catering and food, wages, leave and the maximum hours of work combined with strong inspection and certification requirements for ships on international voyages. It provides one-stop shopping for improved work conditions in the industry. In addition, many aspects of the ILO maritime Conventions were "modernized" in the MLC 2006 with a view to attracting more women to the workforce and enabling the convention to keep pace with technological and other developments. The MLC, 2006 sets out basic rights of seafarers to decent work in firm statements, but leaves a large measure of flexibility for ratifying countries as to how they will implement these standards for decent work under their national laws.

It also introduces for the first time certification by a country (flag state) of labour conditions for seafarers on its ships that travel internationally. This certificate, and where required by the convention, the conditions on the ships, are the subject of port state control inspections. In addition, the convention requires that ratifying countries adopt a "no more favorable treatment" when dealing with ships entering their ports flying the flags of countries that have not ratified the convention. In other words, once the MLC 2006 enters into force it will affect labor conditions on ships of all countries. This will help to assure the

level-playing field for shipowners and decent work for all seafarers. The MLC 2006, is thus a very good example of an approach predicated on achieving decent working conditions for seafarers in the context of a globalized industry. The International Labour Office adopted in September 2006 a five-year action plan to achieve rapid and widespread ratification and effective implementation of the Maritime Labour Convention 2006. It is an experiment because as its title suggests it recognizes the clear connection between ratification and effective implementation and seeks to establish the conditions to ensure both. This plan was needed because the requirements for entry into force of the MLC 2006 are ambitious: at least 30 members with a total share of the world gross tonnage of ships of at least 33% are needed to ratify the plan.

This formula reflects the importance that the nearly 1000 participants, at the International Labour Conference in February 2006, placed on the need for widespread and effective implementation.

It means that, in order to come into force, the Convention must be ratified by a significant number of maritime countries - the flag states, that have the majority of the responsibilities under the convention. This formula also reflects the importance of supporting ongoing compliance on ships through port state control. As of July 2, 2009, the convention has been ratified by five countries: the Bahamas, Liberia, the Republic of Marshall Islands, Norway, and Panama. These major flag states together represent more than 40% (by gross tonnage) of the world's fleet. The MLC 2006 is expected to enter into force in 2011 and it is hoped that when it does, it will cover seafarers working on more than 60% of the world merchant fleet. This will be a key step forward towards making seafaring a more attractive industry. In the area of strengthening national enforcement capacity, progress has been made on two key Resolutions of the 94th International Labour Conference (which adopted the MLC 2006) regarding the development of international guidelines for flag state inspection and port state control officers. International tripartite meetings of experts reviewed and adopted these guidelines in September 2008. They were submitted to the ILO Governing Body in November 2008 and have now been published (3). Over 300 people participated in the expert meetings. The aim

of this international guidance goes beyond helping to strengthen national infrastructures; it will also help to coordinate the proper and uniform enforcement of the convention. Parallel to its work, the International Labour Office and the International Training Centre of the ILO in Turin and interested governments developed a "train the trainers" program that was launched in February 2009. The next courses are scheduled for September and December of this year (4).

Finally, 2009 is a historic date for the ILO. It marks its 90th birthday. The year 2010 is also the 90th anniversary of the adoption by the ILO of the National Seamen's Code Recommendation 1920. That instrument called on the ILO member states to embody a seamen's code in their national laws and regulations so that all seafarers of the world, whether they are engaged on their own or foreign ships, would have a better comprehension of their rights and obligations. 2009 and 2010 will thus mark important dates in which to work to achieve the entry into force of the MLC, 2006. Now that ratification has begun, much progress is being made and the national movement to bring the Maritime Labour Convention, 2006 into force is growing and is indeed, truly gaining momentum. My wish is that your members and readers join this momentum to make the MLC, 2006 a reality in the shipping industry and takes its rightly place as the fourth pillar of the international maritime regulatory regime.

1. ILO: Final report, High-level Tripartite Working Group on Maritime Labour Standards, TWGMLS/2001/10 (Geneva, 2001), para. 48, and appendix (pp. 26-27); ILO: Briefing for discussion at the High-level Tripartite Working Group on Maritime Labour Standards, TWGMLS/2001/1 (Geneva, 2001), para. 3.23.

2. See, http://www.ilo.org/global/What_we_do/Officialmeetings/ilc/ILCSessions/98thSession/pr/lang--en/docName--WCMS_108456/index.htm

3. Guidelines for Flag-State Inspections under the Maritime Labour Convention, 2006, and Guidelines for port State control officers carrying out inspections under the Maritime Labour Convention, 2006 both published in 2009. See,

http://www.ilo.org/global/What_we_do/Publications/ILOBookstore/Orderonline/Books/lang--en/docName--WCMS_104723/index.htm

4. See for the MLC, 2006 courses, <http://mlc-training.itcilo.org/> ■