



# Origins, Adoption, Implementation, Impact of the Maritime Labour Convention, 2006 (MLC, 2006) as revised

by

Dr. Cleopatra Doumbia-Henry

President

World Maritime University

# The ILO Maritime Labour Convention, 2006

*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
- 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 (MLC, 2006)*
- The MLC, 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 *MLC, 2006*

- The *MLC, 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 MLC is billed as the “fourth pillar” of the international maritime regulatory regime, because with its entry into force in 2013, it stands beside the key IMO Conventions (SOLAS, MARPOL & STCW) which support quality shipping and help to eliminate substandard shipping

# The ILO – *MLC, 2006*

- The substance of most\*, of the existing maritime labour instruments (37 Conventions and related 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) by the MLC, 2006 will be gradually phased out as States that are now party to these Conventions ratify the MLC, 2006

# The formulation of the MLC, 2006 – Why?

- 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 Conventions 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 existing maritime labour instruments in order to better provide:
  - comprehensive and effective protection of 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

# The formulation of the MLC, 2006 - key roles of the shipowners' and the seafarers' organizations

- **Shipowners' and Seafarers' organizations participated in five years of international tripartite meetings 2001- 2006 to develop and adopt the Convention**
- **They also formulated the key elements of the structure, especially the compliance and enforcement and other innovative features of the MLC, 2006**
- **Shipowners' and Seafarers' organizations and related organizations have been a key force since 2006 to encourage and support ratification and implementation efforts**

# Overview: Innovative features of the MLC, 2006

Innovative features of the MLC, 2006 **include:-**

- a new system for effective enforcement and compliance - a *certification system* for conditions of “decent work”
- a “no more favourable treatment” provision to help ensure a level-playing field ( in the context of port State control measures)
- specific areas of national flexibility including approaches to national implementation based on tripartism, e.g., national consultations and recognition of the role of collective bargaining agreements

## Overview: Innovative features of the MLC,2006

- MLC, 2006 is seen as combining elements of “best of the old with the new” including:
  - establishing comprehensive global minimum standards-combined with national flexibility through tripartism in implementation
  - recognizing the role that collective bargaining agreements can play in national implementation
  - recognizing the role seafarers and shipowners and other organizations play to help enforce requirements at the ship-board level through complaint systems and reports in flag States, onboard ship and in port States
  - recognizing the role and responsibilities of countries that are the source of world’s seafarers (labour-supplying responsibilities)
- Backed up by ILO’s supervisory system - a firm foundation for the MLC, 2006 & a tool to help with implementation (Art 19 and Art 22 reports)

# Overview: Innovative features of the MLC, 2006

- MLC, 2006 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 and a new approach to securing ongoing compliance including:
  - certification of seafarers' working and living conditions,
  - role of shipowners in designing and monitoring on board implementation systems for national MLC,2006 requirements through the DMLC Part II
  - enhanced emphasis on the role of flag State inspection systems and PSC and on maritime labour inspectors and regional cooperation ( e.g., PSC MOUs)
  - recognition of the role of Recognized Organizations ( ROs) combined with flag State oversight
  - structured to allow for rapid updating/amendment of the more technical provisions

# Overview of the MLC, 2006 – Structure & Content

- **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 of the MLC, 2006 – Structure & Content

- **The MLC is “vertically integrated” with the Regulations and Code ( Parts A and B). Provisions are organised with 5 Titles and 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**

# Overview of the MLC, 2006 – Structure & Content

- 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

# Overview of the MLC, 2006 – Structure & Content

## ***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**

# Overview of the MLC, 2006 – Structure & Content

## *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**

# Overview of the MLC, 2006 – Structure & Content

## *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 of the MLC, 2006 – Structure & Content

- **Appendix A5-1**, List of matters for flag State inspection before certification
- **Appendix A5-III**, List of general 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, provides guidance as to the way a Declaration might be filled out.

# Overview of the MLC, 2006 – Structure & Content

- **Appendix A5-I & Appendix A5-III ( matters for certification – PSC)**  
**14 items**
  - 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**

# The MLC, 2006- Where it stands- Entry into force

- Article VIII, paragraph 3

*This Convention shall come 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 at least 33 per cent.*

- 30/33 – aimed at preventing a “paper tiger” – a higher than usual ratification level (for ILO Conventions)

# The MLC, 2006- Entry into force

- *20 August 2012* –Tonnage requirement met with nearly double the minimum (almost 60 percent of world GT) and the 30 ratifications required for entry into force.
- MLC, 2006 entered into force on 20 August 2013

# The MLC,2006- Ratification Status

- 101 Countries to date
- 96.6 percent of World Gross Tonnage of ships
- Most three recent ratifications: Oman, San Marino and Sierra Leone (2022)

# MLC, 2006 : some implementation & enforcement challenges

- MLC,2006 goals - Shipowners and Seafarers ( and Governments) wanted an instrument that results in real change: decent work for seafarers and a level playing field for shipowners. They also wanted it to be effectively implemented and enforced as stated in the MLC, 2006 *Preamble*

*“Determined that this new instrument should be designed to secure the widest possible acceptability among governments, shipowners and seafarers committed to the principles of decent work, that it should be readily updateable and that it should lend itself to effective implementation and enforcement”*

# MLC, 2006 : some implementation & enforcement challenges

*Comprehensiveness* – a strength but also provides challenges for ratification and implementation

- *comprehensive in the topics covered*
  - 37 ILO Conventions & Related Recommendations deal with almost every possible topic - i.e., accommodation, social security, ship inspection/certifications, regulation of private seafarer recruitment and placement services - and overlap with IMO Conventions such as recent STCW amendments on medical examinations/certificates, hours of rest, training etc.
  - a challenge for some countries to establish institutional coordination; tensions between departments have presented barriers to legal steps to implement and ratify
  - a strength - encourages coordination and cooperation to avoid gaps in the maritime labour regulatory system; promotes a level-playing field for well run “quality” operations - shipowners and private seafarer recruitment and placement services

# MLC, 2006 : some implementation & enforcement challenges

- *comprehensive in its scope of coverage*
  - now clearly covers a much wider group of workers as seafarers, with very few exclusions for categories of ships
  - no general tonnage limitation (but some flexibility for some matters based on specified tonnage especially those of less than 200GT)
  - covers both the international and domestic shipping sectors
  - breadth of coverage has provided challenges for some sectors. For e.g., the cruise ship sector which has many seafarers on board in positions often described as hotel or catering, or in connection with accommodation arrangements on commercial yachts

# MLC, 2006 : some implementation & enforcement challenges

- **Building national capacity**
- ***For legal implementation/drafting* – a challenge for some countries**
  - MLC,2006 is complex but allows flexibility in a some areas through use of various implementing measures including through CBAs ( Article IV para. 5) – for e.g., in connection with flexibility on hours of work/rest, Seafarers employment agreements, social security
  - need for careful national gap analysis to assess approach to implementation

# MLC, 2006 : some implementation & enforcement challenges

## Building national capacity

- *For national social dialogue*
  - many areas of the MLC,2006 enable flexibility based on national social dialogue - an important strength of the Convention
  - however there have been some difficulties for implementation in countries that may not yet have organizations representing seafarers or shipowners and wish to exercise flexibility on some matters

# MLC, 2006 : some implementation & enforcement challenges

## Building national capacity

- *For ship inspection, certification system and PSC*
  - MLC, 2006 was designed to work within the international maritime regulatory system to achieve effective enforcement and compliance
  - seafarers' working and living conditions must be certified and all ships have to be inspected. This includes ships of 500 GT and above that go on international voyages or 500GT and above operating from or between ports in another country.
  - An expanded role for port State control and the possibility for seafarers to make complaints

# MLC, 2006 : some implementation & enforcement challenges

## Building national capacity

- *For ship inspection and certification system and PSC.*
  - it is essential that national implementation of this system - through training of inspectors and others - be undertaken. Otherwise it would simply be impossible to inspect and certify all the ships involved, a fact that could have implications for international trade if ships are held up in ports because they lack the required documents
  - 94th ILC saw this possible problem, especially with respect to the initial entry into force
  - Resolution XVII (17) “Resolution concerning the practical implementation of the issue of certificates on entry into force” was adopted

# Amendments of 2014 to MLC, 2006

- Amendments concerning financial security in respect of:
  - Regulation 2.5 (repatriation & abandonment) and
  - Regulations 4.2 (shipowners' liability re claims for death and injury)
  - adopted by STC in April 2014, approved by the ILC in June 2015 and entered into force on 17 January 2017

# Amendments of 2016

- Amendment Regulation 4.3  
(health and safety protection and accident prevention, particularly to address harassment and bullying)
- Amendments to Regulation 5.1 (maritime labour certificate and declaration of maritime labour compliance)

# Amendment Regulation 4.3

(health and safety protection and accident prevention)

- To address harassment and bullying on board ship which can have serious consequences for the physical and emotional health of seafarers, lead to decreased motivation and increased sickness and can compromise teamwork. It can also have negative effects for companies, resulting in a deterioration of working conditions and potential organizational, economic and legal consequences

# Amendments to Reg.4.3

- Objective:
  - To eliminate shipboard harassment and bullying
  - To ensure that these issues are covered by the health and safety policies and measures required by the Code
  - Make applicable the Guidance on eliminating shipboard harassment and bullying jointly developed by the International Chamber of Shipping and the International Transport Workers' Federation

# Amendment to Regulation 5.1

- Allowed for an extension of not more than five months of the validity of the maritime labour certificate issued for ships in cases where the renewal inspection required by paragraph 2 of Standard A5.1.3 has been successfully completed, but a new certificate cannot immediately be issued to that ship
- The alignment of the procedure for the renewal of the maritime labour certificate in line with IMO Conventions

# Amendments of 2016 to the MLC, 2006

- Both were adopted by the STC in February 2016 and approved by the ILC in June 2016
- Entered into force in January 2019

# Amendments of 2018 to the MLC, 2006

- **Amendments to Standard A 2.1 and A 2.2 - Seafarers' employment agreements and wages relating to:**
  - Piracy and armed robbery in the event of piracy or armed robbery against ships
  - Seafarer's employment agreement continues to have effect while a seafarer is held captive irrespective of whether the contract of employment has expired or not

# Amendment to Standard A2.1 – Seafarers' Employment Agreement

- Seafarer's employment agreement continues to have effect while a seafarer is held captive irrespective of whether the contract of employment has expired or not.

# Amendment to Standard A2.2 relating to wages

- Seafarer's wages and other entitlements under the seafarers' employment agreement, relevant collective bargaining agreement or applicable national laws, including the remittance of any allotments as provided for in paragraph 4 of this Standard, shall continue to be paid during the entire period of captivity and until the seafarer is released and duly repatriated.

# Amendments of 2018 to the MLC, 2006

- Adopted by the STC in April 2018 and entered into force on 26 December 2020.
- To date, **101 Countries signified acceptance of the amendment**

# Amendments of 2022 to the MLC, 2006 (deadline for formal disagreement 23 June 2024)

- Regulation 1.4 - Recruitment and placement
- Regulation 2.5 - Repatriation
- Regulation 3.1 - Accommodation and recreational facilities
- Regulation 3.2 – Food and catering
- Regulation 4.1 – Medical care on board ship and ashore
- Regulation 4.3 – Health and Safety Protection and accident prevention

# CEACR view of CIC on the MLC, 2006

- CEACR General Observation 2014 noted that shipboard level system involving flag State inspection and port State inspection by ratifying members is important and supports, on an on-going basis, and in a concrete manner, the cyclical national level examination of application by the ILO CEACR

# Monitoring of Implementation: ILO Committee of Experts(First Reports)

- First examination found that:
  - there was a significant level of implementation in practice, well beyond adoption of legislation in many cases
  - High level of engagement by relevant actors in the industry
  - questions re consistency of application of significant concern to Gov'ts, shipowners & seafarers

# Monitoring of Implementation: ILO Committee of Experts(First Reports)

- First examination raised the following issues:
  - Implementation and national tripartite consultation
  - The function and importance of the DMLC, Parts I & II
  - Definition & scope of application
  - Fundamental principles and rights
  - Recruitment and placement
  - SEA, Hours of work and rest, social security

# Monitoring of Implementation: ILO Committee of Experts

- ◆ First review by the ILO Committee of Experts was undertaken in 2014
- ◆ Of the 101 countries that have ratified the MLC, 2006, at least 70 Countries have been reviewed to date by the ILO Committee of Experts. Direct Requests have been published for all of these countries seeking additional information on compliance to date.

# Paris MOU CIC the MLC, 2006

- Paris MOU 2<sup>nd</sup> CIC Campaign for 2016 on the MLC, 2016 from 1 September to 30 November to verify compliance with MLC, 2006 (1<sup>st</sup> CIC campaign took place in 2014)
- CIC demonstrates importance of decent working and living conditions onboard ships, as well as ensuring that seafarers' rights are respected

# Paris MOU CIC the MLC, 2006

- MLC, 2006 has widespread effect because of its "*no more favourable treatment*" clause which ensures that no advantage is to be gained from registering a ship in a state that is not a party to the Convention

Thank you!