

**MLAUS
Fall Meeting
Bermuda
2015**

The Seamen's Church Institute • Center for Seafarers' Rights • seamenschurch.org



The Seamen's Church Institute

Center for Seafarers' Rights
118 Export Street
Port Newark, NJ 07114
TEL +1-973-589-5828 • FAX +1-973-817-8565
dstevenson@seamenschurch.org
seamenschurch.org

INTRODUCTION TO THE MARITIME LABOUR CONVENTION, 2006

The Maritime Labour Convention, 2006 (MLC, 2006) is the most significant development in the long history of seafarers' rights law. It provides in one convention a comprehensive statement of seafarers' rights that reflect both seafarers' rights that have withstood the test of time as well as modern shipping realities. The Convention is easy to understand, is capable of ratification, and it is enforceable. The most important aspect of the Convention is its underlying principle of respecting and honoring merchant mariners.

The MLC, 2006 sets international standards for seafarers' working and living conditions. The Convention consolidates more than 65 international labor conventions and recommendations that have been adopted by the International Labour Organization since 1920. The Convention has been designed to be acceptable for ratification internationally, easily understandable, and enforceable.

SOURCES OF SEAFARERS' RIGHTS LAWS

Seafarers are the most regulated of all workers. Virtually every aspect of their shipboard being: their work, their sleep, their food, their recreation, their hiring, their dismissal, their health, their sickness, and even their death are regulated.

The laws regulating seafarers and protecting their rights are derived from the general maritime law and in statutes enacted by maritime nations. The statutes are often influenced by the general maritime law and by international conventions.

The general maritime law is customary international maritime law that developed out of commercial customs and practices that were followed in ancient times. The protections for seafarers were therefore also based upon commercial interests. In other words, protecting seafarers was in the best interests of promoting commerce. It is because of their vulnerability as well as their importance to commerce that the general maritime law has for centuries provided seafarers extraordinary protections.

The first written maritime codes that appeared in the 11th to 13th centuries provided remarkable protections for ship's crews, even by current standards. These codes followed commercial practices that had developed in Mediterranean shipping in the pre-Christian era. For example, the ancient codes' provisions for seafarers' medical care are still superior to modern land workers' compensation rights. The codes guaranteed that ship's crews would be repatriated to their home at the end of their voyage. The codes also required that ship's crews be provided decent lodging and sustenance.

Enlightened lawmakers did not enact these ancient seafarers' protections for charitable or human-rights reasons. Seafarers' protections developed out of the self-interest of maritime commercial enterprises. In simple terms, if you wanted your ship and its cargo to get to its destination, you needed to attract and retain skilled and reliable ships' crews.

By the beginning of the 20th Century, workers unrest about labor conditions grew in industrialized countries, and trade unions gained increasing influence. Their demands for social justice and higher living standards for workers were heard at the end of the First World War, where the participants in the Paris Peace Conference recognized workers' significant contributions to the war efforts, both on the battlefield and in industry. In 1919, the Treaty of Versailles created the International Labor Organization. The principal reason for creating the ILO was humanitarian: international standards were needed to improve labor conditions. Political and economic reasons also inspired the creation of the ILO: without improvements in working conditions, social unrest was inevitable, but without international standards, countries initiating social reforms could be at a competitive disadvantage with those which did not.

The ILO was mandated to establish international labor standards in a variety of industries. From its very beginning in 1919, the ILO focused its attention on seafarers. From 1920 to 2005, ten International Labor Conferences adopted 68 distinctly maritime conventions and recommendations.

The January 2001 agreement between shipowners and trade unions, later known as the "Geneva Accord", called upon the ILO to consolidate and update existing ILO Conventions and Recommendations into a new, single "framework Convention" on maritime labor standards. The Geneva Accord was unprecedented in the scope of the work it recommended, the extent of its collaboration between the social partners on such a major initiative, and in its ambitions to make shipping safer and more humane by creating a "super convention" to serve as the "fourth pillar" of international law. It proposed to go beyond the International Convention for the Safety of Life at Sea (SOLAS), the International Convention for the Prevention from Ships (MARPOL) and the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (STCW) by comprehensively addressing the human factors of life and work on commercial vessels.

On February 23, 2006 the Tenth Maritime Session of the International Labor Conference, adopted the Maritime Labor Convention. There were no votes against the Convention. One hundred and six countries participated in the Conference, including over eleven hundred accredited participants. The MLC, 2006, consolidates thirty-seven of the forty ILO maritime Conventions, as well as thirty ILO Recommendations. It is the first ILO convention to consolidate nearly an entire sector of older ILO conventions.

The MLC, 2006 represents the most significant development in the long history of seafarers' rights law. In one hundred pages, it provides a comprehensive statement of seafarers' rights that reflect both seafarers' rights that have withstood the test of time, as well as modern shipping realities. The MLC, 2006 includes standards for conditions of employment, hours of work and rest, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection for seafarers, regulating recruitment and placement services, and flag State inspection systems. For the first time in any ILO Convention, the MLC, 2006 includes seafarers' rights to shore leave. The Convention provides seafarers with the right to make complaints both on board and ashore.

MLC, 2006 FORMAT

The Maritime Labour Convention, 2006 is organized by Articles, Regulations, and a two-part Code. The two parts of the Code are Standards (Part A) and Guidelines (Part B).

The Articles are broad mandatory principles. They are followed by more detailed Regulations, which are also mandatory. The Code provides even more detailed mandatory Standards (Part A) and recommendatory Guidelines (Part B). The Standards and Guidelines are interrelated. The Guidelines, while not mandatory, are helpful and sometimes essential for a proper understanding of the Regulations and the mandatory Standards. In some cases, the mandatory Standards are so generally worded it may be difficult to implement them without the guidance in the corresponding provisions of the Guidelines.

The Regulations and the Code are divided into five Titles:

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 security protection

Title 5: Compliance and enforcement

The MLC, 2006 also contains an Explanatory note. This note is not a mandatory part of the Convention. It has been included to help countries implement the MLC, 2006.

The Convention also uses a vertically integrated format with a numbering system that links the Regulations, Standards and Guidelines. Each Regulation also has a "plain language" purpose clause.

For example:

Regulation 1.2 – Medical certificate

Purpose: To ensure that all seafarers are medically fit to perform their duties at sea

I. Seafarers shall not work on a ship unless they are certified as medically fit to perform their duties. ...

Standard A1.2 – Medical certificate

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...

MLC, 2006 APPLICATION

The MLC, 2006 is intended to provide international labor standards for most of the world's seafarers. Except for a few specific exclusions and areas where flexibility is provided for national authorities to exempt smaller ships (200 gross tonnage and below) that do not go on international voyages from some aspects of the Convention, the Convention applies to all ships (and to the seafarers on those ships) whether publicly or privately owned that are ordinarily engaged in commercial activities.

The MLC, 2006's definition of seafarers protected by the convention is very broad. It includes all persons employed or engaged or working in any capacity on ship covered by the convention. The MLC, 2006 provides some national flexibility allowing Member nations to exclude some categories of persons from the MLC, 2006's application.

The MLC, 2006's definition of ship makes the Convention applicable to all commercial ships, both publicly and privately owned with few exceptions. The MLC, 2006 allows Flag States to exempt from the some of the MLC, 2006's standards on smaller ships (200 gross tons and below) that do not make international voyages. The Convention does not apply to:

- ships which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;
- ships engaged in fishing; ships of traditional build such as dhows and junks;
- warships or naval auxiliaries.

The MLC, 2006's definition of shipowner is intended to extend the MLC, 2006's requirements to all persons and organizations that have or have assumed responsibilities for seafarers on ships. The definition includes owners, managers, agents, and bareboat charterers.

ENTRY INTO FORCE

The Convention entered into force on August 20, 2013, twelve months after it was ratified by 30 ILO member nations with at least 33 per cent of the world's gross tonnage of ships.

EFFECT ON EXISTING ILO CONVENTIONS

When an ILO member nation ratifies the MLC, 2006 it updates all of the existing ILO maritime labor conventions that have been consolidated into the MLC, 2006. Countries that ratify the MLC, 2006 are not bound by the ILO maritime conventions that existed when the MLC, 2006 entered into force. Countries that have not ratified the MLC, 2006 remain bound by the ILO conventions they have ratified, but those conventions will be closed to further ratification. Seafarers' Identity Document Conventions (ILO-108 and ILO-185) are not included in the MLC, 2006.

UPDATING THE MLC, 2006

The MLC, 2006 establishes procedures for updating the Convention that allow technical parts of the Convention to be amended by a simplified, accelerated process that does not require the entire Convention to be revised. The Special Tripartite Committee keeps the Convention under continuous

review. The Special Tripartite Committee is comprised of Governments that have ratified the Convention and Shipowner and Seafarer representatives chosen by the ILO Governing Body. Non-ratifying nations and non-governmental organizations can also participate in the Special Tripartite Committee, but without a vote. In 2014, the Special Tripartite Committee adopted two amendments to the Convention relating to abandonment and seafarers' claims for death and long-term disability that will shipowners to have financial security to cover abandonment, seafarers' death and long-term disability entitlements. The amendments are expected to come into force in 2017.

MINIMUM REQUIREMENTS FOR SEAFARERS TO WORK ON A SHIP

Minimum Age 1.1

Purpose: To ensure that no under-age persons work on a ship

The minimum age for working on a ship is 16. Special attention should be given to the needs of young persons under the age of 18. For example, seafarers under the age of 18 should not work at night. Nightwork is defined by national law or practice covering a period of at least nine hours starting no later than midnight and ending no earlier than 0500. Exceptions to the night work requirements can be made by national authorities for training and other purposes.

Medical Certificates 1.2

Purpose: To ensure that all seafarers are medically fit to perform their duties at sea.

Seafarers must have a valid medical certificate to work on a ship. The medical certificate attests a seafarer's medical fitness to perform his or her duties. The medical fitness standards are established by national authorities in consultation with shipowners' and seafarers' organizations. The standards set by the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) are also valid. Medical certificates must be issued by qualified medical practitioners and are valid for no more than two years. Medical Certificates for seafarers under the age of 18 are valid for up to one year. Color vision certificates can be valid for up to six years.

Training and Qualifications 1.3

Purpose: To ensure that seafarers are trained or qualified to carry out their duties on board ship

The MLC, 2006 confirms the principle that all seafarers must be trained and qualified for their duties aboard ship, but it defers to the IMO's STCW to set training and qualification requirements. For those occupations not covered by STCW standards, the ILO standards previously adopted by an ILO Member nation will continue until standards are established by IMO or until five years after the MLC, 2006 enters into force, whichever is earlier.

Recruitment and Placement 1.4

Purpose: To ensure that seafarers have access to an efficient and well-regulated seafarer recruitment and placement system

Recruiting and placement agencies for seafarers must be regulated by countries in which they operate. Flag states cannot regulate placement agencies outside of their territory, but they must require shipowners of ships flying their flag that use placement agencies to use only placement agencies that conform to the requirements of the MLC, 2006.

Standards for placement services include:

- Placement services are prohibited from charging fees to seafarers. Seafarers can be required to pay the costs of obtaining a national medical certificate, national seafarers' book, passport and other travel documents. The costs of visas, however, must be borne by shipowners.
- Placement services are prohibited from black-listing seafarers.
- Placement services must ensure that seafarer's contracts are explained to them and that they receive a copy of their contract.
- Placement services must maintain insurance or other system to compensate seafarers' monetary losses suffered because of the placement service's or shipowner's contractual defaults.

Nations must maintain a system for investigating complaints about seafarers' placement services.

CONDITIONS OF EMPLOYMENT

Seafarers' Employment Agreements - Regulation 2.1

Purpose: To ensure that seafarers have a fair employment agreement

Flag states must implement the MLC, 2006 requirements for seafarers' employment agreements for seafarers working on its ships through its laws or regulation. Seafarers must be provided written seafarers' employment agreements that are clearly written and enforceable. They must be given an opportunity to review the seafarers' employment agreements and to get advice on their terms and conditions before signing them. Collective agreements can be incorporated into seafarers' employment contracts.

Some of the requirements for seafarers' employment agreements include:

- Agreements must be signed by both the seafarer and the shipowner;
- Seafarers must be given the opportunity to examine the agreement and get advice on its terms and conditions before signing it;
- Seafarers and shipowners shall receive signed original agreements;
- Seafarers must be provided with a record of employment on the ship;
- Agreements must be available in the English language, except for vessels on domestic voyages;
- Agreements must contain the information specified in the MLC, 2006.

Wages - Regulation 2.2

Purpose: To ensure that seafarers are paid for their services

Flag states must adopt laws or regulations that ensure seafarers are paid their wages according to the requirements of the MLC, 2006. The MLC, 2006 sets out basic requirements for paying wages to seafarers, but it does not specify the amount of wages that must be paid. Wages must be paid at least once a month. The MLC, 2006 also requires flag states to require shipowners to provide seafarers with a way to make allotments to their families, dependents or legal beneficiaries.

Hours of Work and Hours of Rest – Regulation 2.3

Purpose: To ensure that seafarers have regulated hours of work or hours of rest

Hours of work and hours of rest for seafarers must be regulated. The limits apply to all seafarers, not only watchstanders. Records of seafarers' daily hours of work or rest must be maintained and be available to seafarers and enforcement authorities. The limits can be exceeded if work is required for immediate safety of the ship, persons or cargo on board, or to give assistance to other ships or persons in distress at sea.

The limits on hours of work or rest are:

- Maximum hours of work cannot exceed 14 hours in any 24-hour period; and 72 hours in any seven-day period
- Minimum hours of rest cannot be less than 10 hours in any 24-hour period; and 77 hours in any seven-day period. (using hours of rest requirements will allow 91 hours of work in a seven-day period)

Entitlement to Leave - Regulation 2.4

Purpose: To ensure that seafarers have adequate leave

In addition to requiring annual leave for seafarers, the MLC, 2006 establishes seafarers' right to shore leave. Annual leave with pay shall be calculated on the basis of at least 2.5 calendar days per month of employment. The rights to shore leave are not explained in the Standards or Guidelines. The Regulation simply requires that "Seafarers shall be granted shore leave to benefit their health and well-being and with the operational requirements of their positions.

Repatriation – Regulation 2.5

Purpose: To ensure that seafarers are able to return home

In most circumstances, seafarers are entitled to be repatriated at the shipowner's expense. Shipowners should be required to provide financial security to ensure that their repatriation obligations are fulfilled. If shipowners fail to meet their repatriation obligations the flag state should make arrangements for repatriation. If the flag state fails to repatriate seafarers, then the port state or the seafarer's state of nationality can repatriate the seafarer and collect its expenses from the flag state. The MLC, 2006 establishes the standards for seafarers' rights to repatriation. Shipowners are prohibited from requiring seafarers to make an advance payment towards repatriation expenses and also from recovering repatriation expenses from seafarers' wages. Seafarers can be required to pay repatriation expenses and have the expenses deducted from earned wages when they are in serious default of the seafarer's employment obligations.

Compensation for Ship's Loss or Foundering – Regulation 2.6

Purpose: To ensure that seafarers are compensated when a ship is lost or has foundered

Seafarers are entitled to compensation for injury, financial loss and unemployment when the ship on which they are employed is lost or has foundered. National law should establish the amount of compensation. The guidelines allow the indemnity to be limited to two month's wages.

Manning Levels – Regulation 2.7

Purpose: To ensure that seafarers work on board ships with sufficient personnel for the safe, efficient and secure operation of the ship

The MLC, 2006 requires flag states to require all of its ships to have a sufficient number of seafarers employed on board to ensure that ships are operated safely and efficiently, taking in regard security requirements, seafarer fatigue, and the particular conditions of the voyage.

Career and Skill Development and Opportunities for Seafarers' Employment – Regulation 2.8

Purpose: To promote career and skill development and employment opportunities for seafarers

Member nations are required to have national policies to promote employment in the maritime sector and to encourage career and skill development and greater employment opportunities for its seafarers

ACCOMMODATION, RECREATIONAL FACILITIES, FOOD AND CATERING

Accommodation and Recreational Facilities – Regulation 3.1

Purpose: To ensure that seafarers have decent accommodation and recreational facilities on board

Flag states are responsible for ensuring that the MLC, 2006 requirements for accommodation, recreational facilities, food, and catering are implemented on ships flying their flags. The MLC, 2006 provides detailed and technical requirements for the physical design and structural layout of ships, including: the size of rooms and other accommodation spaces, heating and ventilation, noise, vibration, and other ambient factors, sanitary facilities, lighting, and hospital accommodation. Provisions affecting ship construction and equipment do not apply to ships constructed before the Convention came into force for the country concerned. Smaller ships (200 gross tonnage and below) may be exempted from specific accommodation requirements. Detailed standards are specified for the following:

- Design and construction
- Ventilation
- Heating
- Lighting
- Sleeping rooms
- Mess rooms
- Sanitary accommodation
- Hospital accommodation
- Other facilities
- Bedding, mess utensils and miscellaneous provision

- Recreational facilities, mail and ship visit arrangements
- Prevention of noise and vibration

Food and Catering – Regulation 3.2

Purpose: To ensure that seafarers have access to good quality food and drinking water provided under regulated hygienic conditions

Flag states are primarily responsible for ensuring that the MLC, 2006 standards for food and catering are followed on their ships. Food and drinking water supplies, having regard to the number of seafarers on board, their religious requirements and cultural practices relating to food, must be suitable in respect to quantity, nutritional value, quality and variety. The catering department's organization and equipment must be adequate to provide seafarers with adequate, varied and nutritious meals prepared and served in hygienic conditions.

HEALTH PROTECTION, MEDICAL CARE, WELFARE AND SOCIAL SECURITY PROTECTION

Medical Care on board ship and ashore – Regulation 4.1

Purpose: To protect the health of seafarers and ensure their prompt access to medical care on board ship and ashore

Flag states must ensure that all seafarers working on their ships have health protection coverage and prompt access to medical care on vessels and ashore. Port states must provide access to its medical facilities to all seafarers on ships in its territory. Seafarers must be provided levels of health protection and medical care that is comparable to that available to workers ashore. National regulations must establish standards for on-board hospital and medical care facilities and equipment. Requirements for medical chests, medical doctors on ships carrying 100 or more persons, medical qualifications for persons on ships that do not carry a doctor, and 24/7 radio or satellite medical advisory systems are specified.

Shipowners' liability – Regulation 4.2

Purpose: To ensure that seafarers are protected from the financial consequences of sickness, injury or death in conjunction with their employment

Shipowners are obligated to pay for medical care expenses, including housing and subsistence during recuperation for seafarers' illnesses or injuries incurred between the times when they began duty until they are repatriated. National laws can exclude shipowners' liability to pay for injuries or sicknesses that were caused by the seafarers own willful misconduct or were intentionally concealed when the seafarer was hired. National laws can limit shipowners' liability to pay medical expenses to not less than 16 weeks from the day the injury or commencement of the sickness. Shipowners are liable to pay burial expenses for seafarers who die on board or ashore during the period of employment.

Health and Safety Protection and Accident Prevention – Regulation 4.3

Purpose: To ensure that seafarers' work environment on board ships promotes occupational safety and health

This section requires flag states to adopt regulations designed to prevent accidents, injuries and illnesses on their ships. National health and safety protection and accident prevention regulations should include the following standards:

- Precautions to prevent accidents, injuries and diseases, including exposure to harmful levels of ambient factors and chemicals or other substances;
- Providing personal safety equipment and training on its use;
- Inspecting, reporting and correcting unsafe conditions; and
- Reporting and investigating occupational accidents.

Shore-based Welfare Facilities – Regulation 4.4

Purpose: To ensure that seafarers working on board a ship have access to shore-based facilities and services to secure their health and well-being

Port states responsibilities relating to shore-based welfare facilities for seafarers are largely contained in Guidelines' recommendations. Port states are required to promote developing shore-based welfare facilities for seafarers in their ports, and they are also encouraged to establish welfare boards to regularly review seafarers' welfare facilities and services to ensure that they are appropriate for seafarers' needs. Port states are required to ensure that existing facilities are easily accessible to seafarers, irrespective of the seafarers' nationality, race, color, sex, religion, political opinion, or social origin and irrespective of the flag state on which they are employed. Port states are encouraged to ensure that seafarers' welfare facilities are available in their ports, but they are not obligated to finance them.

Social Security – Regulation 4.5

Purpose: To ensure that measures are taken with a view to providing seafarers with access to social security protection

Social security protections are vastly different from country to country and reflect each country's national practices. National social security protections often exclude persons who are not residents or nationals. This section provides flexible requirements for Member States to provide social security protections for seafarers to ensure that seafarers and their dependents are not left without protections. Member States must ensure that the social security protections that are provided to seafarers and their dependents are at least as good as those provided for shore workers. Member States must also undertake steps toward progressively achieving comprehensive social security protections for seafarers. Provision is made for national circumstances and for bilateral, multilateral, and other arrangements in connection with social security coverage.

Member States must provide at least three of the following nine branches of social security protection for seafarers, and they should attempt to progressively add more:

- Medical care;
- Sickness-benefit
- Unemployment benefit
- Old-age benefit;
- Employment injury benefit;
- Family benefit;
- Maternity benefit;
- Invalidity benefit; and
- Survivors' benefit

The social security benefits that Member States are required to provide are in addition to those that would be provided by shipowners in 4.1 and 4.2. The shipowners' obligations in 4.1 and 4.2 are generally short-term benefits. The Member State's obligations in 4.5 are intended to cover long-term benefits.

COMPLIANCE AND ENFORCEMENT

Title 5 provides an innovative and comprehensive system of compliance and enforcement mechanisms for flag states, port states, labor supplying states, seafarers and shipowners including inspections, certification, grievance procedures, and investigations. A fundamental tenet of this Title is that seafarers and shipowners, like all other persons, are equal before the law and are entitled to equal protection of the law. As such, they should not be subject to discrimination in their access to courts, tribunals or other dispute resolution mechanisms. The MLC, 2006 is enforced by the seafarers' complaint procedures, shipowners' and shipmasters' supervising conditions on their ships, flag states exercising jurisdiction and control over their ships, and port states inspecting foreign ships.

Flag State Responsibilities – Regulation 5.1

Purpose: To ensure that each Member implements its responsibilities under this Convention with respect to ships that fly its flag

In accordance with existing international law requirements, the flag states are primarily responsible for ensuring that requirements of the MLC, 2006 are following on ships flying their flags. Flag states may authorize other organizations, called "recognized organizations", to perform some of their inspection functions, but the flag states still retain full responsibility for inspecting and certifying living and working conditions on their ships.

Maritime Labor Certificate

All ships 500 gross tons or more that operate internationally must have a Maritime Labor Certificate issued by the flag state. The Maritime Labor Certificate certifies that the working and living conditions on the ship have been inspected and conform with the national laws, regulations or other measures implementing the MLC, 2006. Importantly, the certificate identifies the shipowner responsible for satisfying shipowner obligations under the MLC, 2006.

Declaration of Maritime Labor Compliance

All ships 500 gross tons or more that operate internationally must have a Declaration of Maritime Labor Compliance (DMLC). The DMLC, which is attached to the Maritime Labor Certificate, summarizes the national laws or regulations implementing an agreed-upon list of 14 areas of the maritime standards and describes the shipowner's plan for implementing the Convention will be maintained on the ship between inspections. The summary of national laws and regulations are contained in DMLC Part 1 prepared by the flag state. The shipowner's plan for implementing the MLC, 2006 is contained in DMLC Part 2 prepared by the shipowner.

Inspection and Enforcement

Flag states must inspect their vessels for compliance with MLC, 2006 at least once every three years. If an inspection is based on a complaint, the inspector must maintain the confidentiality of the source of the complaint or grievance and must not reveal to the shipowner that the inspection was made in response to a complaint. Vessels can be detained to correct deficiencies that present a significant danger to seafarers' health, safety, or security.

On-board Complaint Procedures

Flag states must establish on-board grievance procedures to handle seafarers' complaints alleging violations of the MLC, 2006 that are fair, effective, and expeditious. The procedures should allow seafarers to be accompanied or represented during the complaints procedure, as well as provide safeguards against retaliation against the seafarer for making a complaint.

Marine Casualty Investigations

Flag states must conduct an investigation of any casualty that resulted in death or serious injury involving a vessel flying their flag.

Port State Responsibilities – Regulation 5.2

Purpose: To enable each Member to implement its responsibilities under this Convention regarding international cooperation in the implementation and enforcement of the Convention standards on foreign ships

Port State Control

Port states may, but are not required to, inspect any foreign ship in its ports for compliance with MLC, 2006. Ships from countries that have not ratified the Convention are subject to port state control inspections and to possible detention if they do not meet the minimum standards MLC, 2006. The inspection should normally be limited to examining the vessel's Maritime Labor Certificate Declaration of Labor Compliance. Inspections can go beyond the certificate or declaration if:

- Required documents are not produced or are not properly maintained;
- There are clear grounds for believing that the ship does not conform with the MLC, 2006;
- There are reasonable grounds to believe that the ship has changed flags to avoid complying with MLC, 2006;
- There is a complaint alleging that the ship does not conform to MLC, 2006.

Any person with an interest in the safety of the ship, including an interest in safety or health hazards to seafarers on board, may make a complaint to port state control authorities about conditions on a ship

that do not conform to the MLC, 2006. Inspections made in response to the complaint should generally be limited to matters within the scope of the complaint. Vessels can be detained by port state control to correct deficiencies that present a significant danger to seafarers' health, safety, or security.

Onshore Seafarer Complaint-handling Procedures

Port states must provide procedures giving seafarers on ships in their ports to report violations, including seafarers' rights, of the MLC, 2006. Upon receipt of the report the authorized port officer should conduct an initial investigation. The officer should then follow the following steps to resolve the complaint at the lowest possible level:

- Ensure that on-board grievance procedure has been attempted, if appropriate;
- Conduct a port state control inspection;
- If detaining the ship following a port state control inspection is not appropriate and the complaint has not been resolved by the on-board grievance procedure, the authorized officer should seek advice and corrective plan of action from the flag state.
- Unresolved complaints should be reported to the ILO and to the appropriate shipowners' and seafarers' organizations in the port state.

Labor-supplying Responsibilities – Regulation 5.3

Purpose: To ensure that each Member implements its responsibilities under this Convention as pertaining to seafarer recruitment and placement and the social protection of its seafarers

The MLC, 2006 recognizes that flag states have primary responsibility for regulating seafarers' working and living conditions on their ships. The Convention's provisions relating to regulating seafarers' recruiting and placement agencies as well as some of its social security requirements must be enforced by labor-supplying countries. The MLC, 2006 requires labor-supplying Members to establish an effective inspection and monitoring system for enforcing its labor-supplying responsibilities.

RESOURCES

The International Labour Organization has a section of its website devoted to the MLC, 2006.

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:91:0::NO:91:P91_ILO_CODE:C186:NO

It contains the text of the MLC, 2006 at:

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:91:0::NO:91:P91_INSTRUMENT_ID:312331:NO

John Isaac Blanck Jr., *Reflections on the Negotiation of the Maritime Labor Convention 2006 at the International Labor Organization*, 31 *Tulane Maritime Law Journal* 121 (Winter 2006)

Robert Force and Martin J. Norris, *The Law of Seamen, 5th Edition*, (2003)

Thomas J. Schoenbaum, *Admiralty and Maritime Law, 4th Edition* (2001)

Peter B. Payoyo, *A Primer on the International Bill of Rights for Seafarers*, Parola, 2006

International Shipping Federation, *ILO Maritime Labour Convention: A Guide for the Shipping Industry*, 1st Edition (2006)