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WORLD MARITIME UNIVERSITY
Malmö, Sweden

**THE POTENTIAL IMPLICATIONS OF THE
MARITIME LABOUR CONVENTION, 2006,
FOR POLICY AND MANAGEMENT
IN THE MARITIME SECTOR:
A CRITICAL ANALYSIS**

By

MAUNIKUM VEGANADEN
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A dissertation submitted to the World Maritime University in partial
fulfilment of the requirements for the award of the degree of

MASTER OF SCIENCE

in

MARITIME AFFAIRS

(MARITIME LAW AND POLICY)

2007

DECLARATION

I certify that all the material in this dissertation that is not my own work has been identified and that no material is included for which a degree has previously been conferred on me. The contents of this dissertation reflect my own personal views and are not necessarily endorsed by the University or by my government.

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ABSTRACT

Title of Dissertation: The Potential Implications of the Maritime Labour Convention, 2006, for Policy and Management in the Maritime Sector:
A Critical Analysis.

Degree: MSc

The objective of this study is to firstly analyse the problems that seafarers face with respect to their working and social conditions. Secondly, to analyse critically how far the Maritime Labour Convention 2006 (MLC 2006) will materialize and resolve these problems.

Thirdly, to observe the tripartite perspectives regarding the Convention and also to analytically follow how different countries are incorporating its requirements into their national legislations and the difficulties that administrations are encountering in the enforcement process. In other words, would the Port State and Flag State Control Authorities effectively implement the MLC 2006?

Finally, whether the Maritime Labour Convention 2006 is aimed at improving the working conditions of seafarers, and will the Convention attain its objectives and purposes, for instance 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.

The dissertation provides an insight into actions taken by the international community together with the International Labour Office (ILO) to mitigate the acute problems of seafarers regarding their working and social conditions and also how port state control can be used as the best tool in achieving this objective through the commitment of the different Memoranda of Understanding (MOU) in different regions.

Key words: Seafarers, Working and social conditions, MLC 2006, Maritime Administration, Enforcement, Port State, Flag State, ILO Convention, IMO.

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ABBREVIATIONS AND ACRONYMS

MLC	Maritime Labour Convention, 2006
UNCLOS	United Nations Convention on the Law of the Sea, 1992
UNCTAD	United Nations Conference on Trade and Development
ILO	International Labour Organisation
ISF	International Shipping Federation
ITF	International Transport Workers' Federation
MOU	Memorandum of Understanding
INTERTANKO	International Association of Independent Tanker Owners
EU	European Union
JMC	Joint Maritime Commission
ECSA	European Community Shipowners' Associations
IMO	International Maritime Organisation
IOMOU	Indian Ocean Computerised Information System
PSC	Port State Control
DDOS	Deputy Director of Shipping
DOS	Director of Shipping
MO	Maritime Officer
EO	Executive Officer
SOS	Superintendent of Shipping
ASOS	Assistant Superintendent of Shipping
PSCO	Port State Control Officer
SMO	Senior Maritime Officer
VIMSAS	Voluntary IMO State Audit Scheme

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1. INTRODUCTION AND HISTORY

The International Labor Organization (ILO) was created under the Treaty of Versailles in 1919 to advance the cause of social justice and thus contribute to the establishment of universal and lasting peace. In other words, it promotes social justice and recognized human and labor rights internationally. Nowadays, the ILO helps advance the creation of decent jobs, the kinds of economy and prosperity and working conditions that give working and business people a stake in lasting peace, prosperity and progress.

The aim and purposes of the Organization were reaffirmed in the Declaration of Philadelphia, adopted by the International Labor Conference in 1944. This Declaration lays down guiding principles such as: labor is not a commodity; freedom of expression and of association are essential to sustained progress; poverty constitutes a danger to prosperity everywhere; all human beings should have the right to pursue both their material well-being and most importantly their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity.

The ILO tripartite structure is unique among agencies affiliated to the United Nations; its governing body includes representatives of governments, and of employers' and workers' organizations. Between 1919 and 1997, 181 Conventions and 188 Recommendations were adopted which includes fundamental human rights (including freedom of association, freedom from forced labour, equality of opportunity in employment and occupation, protection of children), labour administration, industrial relations, employment policy, working conditions, social security, occupational safety and health and employment of special categories such as migrant workers and seafarers.¹

Since ancient times it was recognized that international co-operation was necessary in maritime ventures. *The United Nations Convention on the Law of the Sea, 1982*

¹ International Labour Organisation (1998), *Maritime Labour Conventions and Recommendations*, Fourth (revised) edition: International Labour Office, Geneva.

(UNCLOS)² obliges the master to render assistance to any person found at sea in danger of being lost, in so far as he can do so without serious danger to the ship, the crew or even the passengers.

It was only in the earlier part of the 20th century that it was decided that special considerations relating to seafarers was to be considered by the ILO. In recognition of the special nature of the work of seafarers, the ILO has, since 1920, held special sessions addressing maritime labour standards. These standards include among other recommendations, hours of work and manning, recruitment and placement, employment agreement, crew accommodation and catering, access to medical treatment and social security. The commercially oriented conventions adopted by the other UN organizations such as UNCTAD and non-governmental institutions like the CMI, are not directly related to maritime safety but have significant effects on seafarers' interests and fundamental rights. For example under the *Hague-Visby Rules*³, the carrier has to exercise due diligence to make the ship seaworthy. Such a responsibility will not affect only the cargo owners but also the seafarers on board, because an unseaworthy ship will not only pose additional risk and danger to the cargo but also to the people on board.

A total of 39 conventions, 29 recommendations and one protocol concerning seafarers have been adopted between 1920 and 1996. Conventions normally enter in force when two States have ratified them. Some exceptions are the Merchant Shipping (Minimum Standards) Convention, 1976 (No.147) which requires ratification by ten (10) Member States with a total share in world shipping gross tonnage of 25% and which entered into force on 28 November 1981.

In 1996 the 84th (Maritime) Session of the Conference was concerned with labour inspection, recruitment and placement, hours of work and manning of ships, as well as an optional Protocol to Convention No.147. The Protocol, 1996 requires ratification by 5 Member States, three (3) of which have at least one million gross tonnage of shipping and which entered into force on 10 January 2003.

² Wordings appears in Art 98 (1); UNCLOS 1982 -Duty to render assistance.

³ The Hague Rules as Amended by the Brussels Protocol 1968.

Now, there is the Maritime Labour Convention, 2006 (CONMARCON⁴, “seafarers’ Bill of Rights”), requiring ratification by thirty (30) Member States with a total share in world gross tonnage of 33%.

1.1. Focus of the Study

The Maritime Labour Convention (MLC), 2006 represents a consolidated ILO solution to many loopholes and grey areas represented in the past with a view to enhancing welfare, education and social conditions of seafarers who constitute the main core of the shipping industry. The adoption of the Maritime Labour Convention, 2006 creates harmonisation of regulations to ensure safer ships in the future.

The effectiveness of the MLC, 2006 and its implication for ship management is dependent on its implementation. It has also been mentioned that this Convention has been intended to be globally applicable, easily understandable, readily updatable and uniformly enforced.

The main objective of this dissertation is to explore issues that may be helpful in achieving rapid ratification and effective implementation of the new Maritime Convention, 2006. It should be noted as mentioned in the ILO five-year action plan, the MLC 2006 will come into force 12 months after ratification by at least 30 ILO member countries with a total share of 33 percent of the world’s gross tonnage of ships.

In carrying out the research, the following questions were posed:

1. What is the MLC 2006’s potential for addressing the current problems relating to seafarers’ welfare, social conditions and values?
2. Who will benefit from its implementation and enforcement? (short and long term)
3. Will the convention solve the shortage in supply of seafarers in the international market and create awareness for seafarers to work on board ships?

⁴ Seafarers termed Consolidated Maritime Convention, or **Conmarcon**, as their ‘Bill of Rights’.

4. Why are some states reluctant to ratify the new Convention?
5. Will the MLC, 2006's provide a "level playing field" and avoid exploitation of workers.

In fact the implementation and enforcement of the MLC 2006 may have an amplified effect on the shipping industry; first of all an increase in seafarers worldwide which will promote overall quality shipping, reductions in claims and a rise in shipowners' profit margins, reductions in deficiencies, with more countries on the white list and at the end providing safe, secure and efficient shipping on clean oceans.

1.2. Methods and Materials

The central theme of this dissertation is to study how much priority and importance the national maritime administrations are assigning to the new Maritime Labour Convention, 2006. It also looks at whether the maritime sectors in different countries are undertaking any initiatives and activities in relation to the implementation of the provision of the convention. The major hindrances and obstructions faced by all concerned are also explored.

This study both applies primary and secondary data collection to answer the research questions. The primary data was collected from the maritime administrations, shipowners' associations and seafarers' associations in terms of annual reports and questionnaires. Interviews were conducted individually with ex-seafarers, head of administrations and associations.

Secondary data were collected from data already evaluated by other researchers and part of the literature review was made from published sources, such as books and articles by authors with extensive knowledge of seafarer's rights and current problems. In some parts, there were materials from handouts of professors, internet websites, journals, Lloyd lists and other recognized magazines. Therefore, a descriptive approach has been used to identify the current problems seafarers are facing and an explanatory approach has been used to show the interlinkages among these problems. Both an explorative approach, to identify the research issues to be

addressed and a predictive approach have been employed to aim at a prognosis for future development based more on a qualitative rather than quantitative approach/method.

Contacts were made with different maritime administrations to compare the implementation of existing ILO Conventions with the new approach of the Maritime Labour Convention, 2006.

Data and statistics together with analysis and observations were taken from different maritime institutions, such as the ITF Seafarers department, BIMCO, ISF and other relevant research papers.

1.3. The Contents

The contents of the study are subdivided in six chapters. It starts with a brief introduction to the development of ILO standards in dealing with seafarers' rights. This is followed by Chapter two which looks at the development of the new Maritime Labour Convention, 2006 together with its benefits to the shipping sector. Thereafter, it discusses the tripartite perspective regarding the implementation of the Convention together with other stakeholders' perspectives such as EU, ISF, ECSA and ITF.

Chapter four evaluates the problems in connection with seafarers which the Maritime Labour Convention, 2006 addresses and analyses how the intended benefits of the MLC, 2006 are likely to materialize and resolve these problems. Chapter five looks at the issues related to the implementation of the Convention, in terms of incorporation into national legislation; administration and enforcement of its provisions and regulations. Finally Chapter six concludes by putting forward some recommendations.

2. DEVELOPMENT OF MLC 2006

The consolidated Maritime Labour Convention 2006 was the result of a joint resolution in 2001 by the International Seafarer's and Shipowner's Organisations and supported by governments. They pointed out that there was an urgent need to consolidate and improve the existing 68 maritime labour instruments together in a single new convention to reflect the specific needs of all stakeholders of the maritime sector. It was also found that these existing standards made it difficult for governments to ratify and enforce them due to their complexity and their very detailed provisions. Additionally, some were found to be out of date and did not reflect contemporary working and living conditions on board ships.

So there was a need to develop a more effective and efficient enforcement and compliance system that would eliminate substandard ships and would work within the well established international standards for ship safety and security and environmental protection that have been adopted by the International Maritime Organisation (IMO). The Maritime Labour Convention, 2006 has been designed to become a global legal instrument or an international regulatory regime for quality shipping which will complement key conventions, such as the International Convention for Safety of Life at Sea (SOLAS) 1974, as amended, the International Convention on Standards of Training, Certification and Watchkeeping (STCW) 1978, as amended and the International Convention for the Prevention of Pollution from Ships, 73/78 (MARPOL).

Many reasons have been put forward to explain the need for a new consolidated instrument. First of all, many of the existing ILO instruments were found to be outdated with the extensive structural change that happened in the shipping industry, particularly in the last 25 years. It was found that it would be better to have a new consolidated convention rather than continuing with the process of updating the existing conventions in the ILO, which is expensive and time-consuming.

Another reason was due to the emergence of the world's first genuinely global industry and workforce in terms of changes in ownership, financing and rise of ship management companies resulting in significant shifts in the labour market for seafarers.

Additionally, development of consciously composed mixed nationality crews in highly organized global network linking shipowners, ship managers, crew managers, manning agencies and training institutions explained the *raison d'être* of the consolidated convention. It was also found by the Joint Maritime Commission (JMC) working group that there was need to provide a "level playing field" and avoid exploitation of workers.

Moreover, apart from having a relatively low ratification rate for some key ILO Conventions, the consolidated convention would be unique because it has "teeth". It is structured to stay in tune with the needs of the industry, ensure universal application and enforcement of provisions, and above all meet the demands for quality shipping. Therefore, a high level of details combined with the large number of Conventions led to problems for inspections and enforcement.

In 2001, the ILO Governing Body took a decision to develop a new instrument that would consolidate nearly all existing maritime labour standards, meet current and future needs, address barriers to achieving universality in the acceptance of the standards, and ensure better and more effective implementation of the standards. An extensive consultation exercise stretching over more than four years involving up to as many as 88 countries developed the proposed Convention text.

The new Convention is seen as having two primary purposes. Firstly, it will 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. Secondly, it will 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. The draft Convention was reviewed in detail in September 2004 by a Preparatory Technical Maritime Conference (PTMC) involving over 500 delegates who adopted both the structure and the majority of the proposed Convention text.

A follow-up meeting in April 2005 developed additional text to address several specific areas that had been left unresolved by the PTMC and reviewed proposals for amendments that had not been considered at the PTMC because of time constraints. The new draft convention adopted by the PTMC combines the “best of the old with the new”. It combines core standards found in the existing Convention with an innovative format (“similar” to STCW) aimed at achieving universal acceptance and a new approach to securing ongoing compliance and to more rapid updating of the technical standards.⁵

2.1. MLC 2006

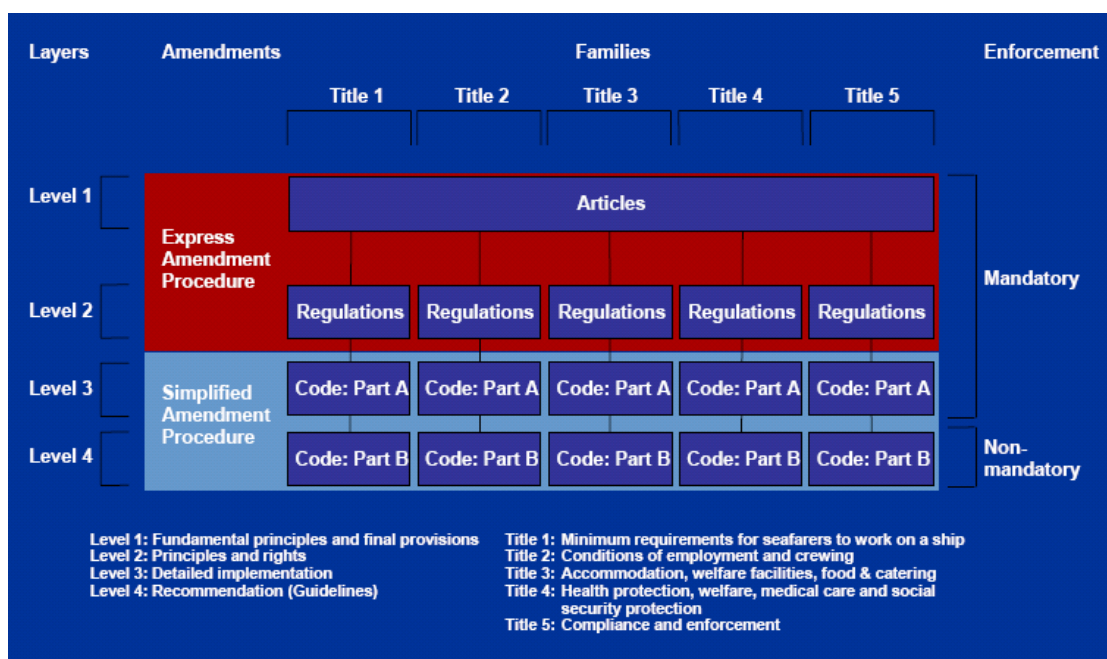


Figure 1: Structure of new Convention.

Source: Brandt Wagner, International Labour Organisation, Geneva, 2006.

The Convention adopted an approach similar to the IMO’s STCW Convention with three different but related parts; articles, regulations and a two-part Code (Part A mandatory Standards, Part B non-mandatory guidelines). The new MLC 2006 adopted a “vertically integrated” approach in its presentation with the Regulations and Code (Parts A and B) provisions organised under five Titles with a numbering system that links the related Regulations, Standards and Guidelines.

⁵ International Labour Organisation. *An overview of the proposed consolidated maritime labour Convention, 2006*. Retrieved June 18, 2007 from the World Wide Web: <http://www.ilo.org/ilolex/english/newratframeE.htm>

The titles are subdivided as follows:

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

Each **Title** comprises a number of Regulations, Standards and Guidelines relating to various topics in addition, Title 5, Part A of the Code has three Appendices while Part B has one Appendix. The new Convention concerns the standards applicable to the working conditions of crews on ships of 500 gross tonnage or over engaged in international voyages.

This Convention is exceptional in seeking not only to promote decent living and working conditions for crew members but also to provide fairer conditions of competition for businessmen and shipowners, affecting an estimated 1.2 million seafarers. The Convention also provides a special way of dealing with the low level of ratification of many maritime labour agreements, given that various countries have to date ratified only certain international maritime labour standards as illustrated that suit their own interest as illustrated above.

2.2. Trend for ratification of ILO standards

International Labour Standards



Figure 2: Ratification of the last 12 months (June 2007)

Source: <http://webfusion.ilo.org>

Figure 2 shows all ILO Conventions ratified in the last 12 months. For example, Germany which has been a member of ILO since 1919 ratified 81 conventions (72 in force). However, they ratified the following conventions just recently on 14 November 2006- the “Seafarer’s Annual leave with pay Convention, 1976 (No.146), the Repatriation of seafarers Convention (Revised), 1987 (No.166), Seafarers’ Hours of Work and the Manning of ships Convention, 1996 (No.180), Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976. Germany’s decision for not ratifying these Conventions earlier may have a negative impact on their seafarers’ welfare and working conditions.

According to Kimberly Ann Elliot⁶:

The debate over linking trade and worker rights is often a dialogue of the deaf, with advocates on either side paying little attention to the scope for positive synergies

⁶ Elliott K.A (2004). *International Economics Policy Briefs, Labour Standards Development and CAFTA*. Institute for International Economics and the Center for Global Development- The author served on the National Academics Committee on Monitoring International Labour Standards in 2002-03.

between labour standards, development, and globalization. Instead, each side views the other as promoting positions that will, intentionally or not, impoverish poor people in poor countries. Opponents of global labor standards fear that these standards will undermine developing countries' comparative advantage in low-wage goods or be abused for protectionist purposes, thereby denying workers jobs. Standards advocates argue that failure to include labour standards in trade agreements increases inequality and leads to a race to the bottom for workers worldwide. Both sides in the standards debate have some things right but others wrong (Elliott & Freeman 2003).

In the shipping industry today, ship owners will choose not to comply if the costs of non-compliance with current labour standards or regulations are lower than the related cost of compliance.⁷ The philosophy behind their way of thinking is that if they invest more in safety or working conditions and welfare of seafarers rather than to struggle within their highly competitive market, profit margins would be significantly affected.

According to a paper submitted by Kristian R. Fuglesang⁸, he clearly explained that one cannot interfere with the right of each Sovereign State to decide whether or not to ratify an International Convention. That is the state's prerogative. However, it has to be added that international negotiations by their nature frequently lead to compromises, and for a time after the conclusions of negotiations it is often accepted that the final text is the best that could be achieved under the circumstances.

However, if referring to all the international instruments that a nation intends to ratify in any case, the speed with which it is followed up is too slow. If working on an average time from adoption to entry into force regarding IMO international standards, this comes to just over six (6) years.

Liberia's national agenda "encapsulates a vision deeply rooted in our determination to humanize and restore dignity to the Liberian labour force", said Liberia's President, Ellen Johnson-Sirleaf, with a special focus on areas of priority such as child labour,

⁷ ABS, (1996). *Safer Ships Competent Crews. International Conference Halifax, Nova Scotia, Canada 24-25 October*: American Bureau of Shipping, New York, USA.

⁸ Fuglesang K.R. (2004). *The need for speedier ratification of international conventions*, the International association of Independent Tanker Owners (INTERTANKO)- OECD workshop on Maritime transport, Paris, France.

human trafficking, women empowerment and labour relations. This is the reason why Liberia was the first in ratifying MLC, 2006.

In his speech at the International Labour Conference following the final session of the Maritime Labour Convention negotiations, the Secretary General of the IMO noted that:⁹

Everyone should have a right to decent working conditions. That is something we can all agree. But for seafarers, the negative impact of conditions that fail to meet acceptable standards can be more than usually damaging. For most seafarers, their place of work is also, for long periods, their home. If conditions are poor, there is often no respite, no comforting family to return home to, for months on end.

ILO Director-General Juan Somavia says:

There is a growing feeling that the dignity of work has been devalued; that it is seen by prevailing economic thinking as simply a factor of production – a commodity – forgetting the individual, family, community and nation.¹⁰

2.3. Comparison of existing ILO conventions with new MLC 2006

Apart from the “vertically integrated” approach in its presentation, these five Titles essentially covered the same subject matter as the existing 68 maritime labour instruments, updating them where necessary. It occasionally contains new subjects, particularly in the area of occupational safety and health to meet current health concerns, such as the effects of noise and vibration on workers or other workplace risks. The provisions relating to flag State inspections, the use of “recognised organisations” and the potential for inspections in foreign ports (port state control) in

⁹ A report by the International Transport Workers’ Federation- Out of sight, out of mind- Seafarers, fishers and human rights.

¹⁰ International Labour Organisation (2006). *Press release on the 95th International Labour Conference*. http://www.ilo.org/global/About_the_ILO/Media_and_public_information/Press_releases/lang--en/WCMS_069927/index.htm

Title 5 are based on existing maritime labour conventions. The new Convention builds upon them to develop a more effective approach to these important issues consistent with other international maritime Conventions that establish standards for quality shipping with respect to matters, such as ship safety and security and protection of the marine environment.

Innovative features of the new Convention include a new system for effective enforcement and compliance - a *certification system* for conditions of “decent work”. A Maritime Labour Certificate and a Declaration of Maritime Labour Compliance will be issued by the flag State or a Recognized Organization on behalf of the flag State. The Certificate and Declaration will provide *prima facie* evidence of compliance with the requirements of this Convention (Articles, Regulations and the Code, Part A).

Flexibility is present in the last of the great innovations as far as the ILO is concerned referring to the flag State ship certification system, which is similar to the system under the IMO Conventions and whereby each country is to establish and to be supported with a strong system of inspection. It is complemented by the possibility of port State inspection to help ensure ongoing compliance by ships with the requirements of the Convention. The Certification system has been seen as an advantage by both the shipowners and seafarers. However, it will require some development of administration and capacity in flag States to inspect and issue these documents, even with the assistance of Recognized Organizations. The Convention requires that all ships, as defined by the Convention, be inspected by the flag State, but it has provided flexibility with respect to certification and also with respect to the application of some of the technical requirements under the Code for smaller ships not engaged in international voyages. Areas that were identified as posing problems have been taken into account through the Convention provisions for flexibility based on consultation and through the use of recognized organizations and through cooperation in the form of voluntary port State inspections by members that ratify the Convention.¹¹

¹¹ Doumbia H.C (2007). ILO Tripartite Seminar for South American Countries
On the Maritime Labour Convention, 2006 : Buenos Aires, Argentina.

Some specific areas for national *flexibility* the detailed provisions of Part B of the Code are not mandatory however governments are required to give “due consideration” to their content when implementing their obligations. “Seafarers Employment and Social Rights” set out in Article IV are to be fully implemented, “in accordance with the requirements of this Convention” (in accordance with the relevant provisions of the Articles, Regulations and Part A of the Code). However, “Unless specified otherwise in the Convention, such implementation may be achieved through national laws or regulations, through applicable collective bargaining agreements or through other measures or in practice.”

A special tripartite maritime committee is set up to keep the working of Convention under continuous review and to consider and process amendments through a simplified procedure. Amendments are adopted by a special tripartite committee for approval or rejection by ILC.

Fortunately, unlike previous ILO maritime conventions (which were sometimes perceived by maritime administrations to be the result of deals between employers and unions) every effort has been made to ensure that the new Convention has taken full account of the needs and wishes of governments, which, for the first time, in the context of ILO maritime discussions, have co-operated as a group.¹²

Another important concept of the new Convention according to Dr Doumbia-Henry is:

The format of the new Convention and its terminology build upon and further develop the well-established format of IMO Conventions, but with adjustments to meet ILO values and approaches. Article XV, relating to a new “accelerated amendment” procedure (to allow for rapid updating of more technical detailed provisions in the Code which is part of the Convention), is a good example of how an IMO procedure has been adapted to a tripartite environment and to the specificity of international labour Conventions. In essence, the procedure gives individual States parties to the Convention an opportunity to opt out of amendments to the Code

¹² International Shipping Federation, ILO Maritime Labour Convention 2006, a guide for the shipping industry, (2006).

approved by the tripartite General Conference of the ILO, which would otherwise apply to them, by tacit consent, if they do not opt out within a stated time.¹³

The Convention, after adoption of this Decision, can only enter in force once it has been ratified by at least 30 states representing at least 33% of the gross tonnage of the world's entire merchant fleet. For the appropriated adoption of this significant part of the sector, a longer deadline is necessary.

2.4. SOME EXCLUSION OF MLC 2006

All ILO maritime instruments, except the Pension Convention & Seafarers ID Convention, have been consolidated into a **single** "super-convention." The seafarers identity documents convention (revised), 2003, is different and is concerned with the promotion of both national and international security, but at the same time facilitating the safety, security and flexibility of maritime industries preserving the profession and welfare of seafarers. Therefore, regarding the ILO Convention there are only MLC 2006 and ILO Convention No. 185.

Besides a few specific exclusions, the new Convention applies to all ships, publicly or privately owned, which are engaged in commercial activities. However, ships engaged in fishing, ships of traditional build (dhows and junks), warships or naval auxiliaries, or ships which exclusively navigate inland waters where port regulations apply are not covered by the new Convention. Workers on board fishing vessels will be covered in a separate proposed Convention and Recommendations set to be discussed at the International Labour Conference in 2007. Also, there are provisions to exempt smaller ships (200 gross tonnage and below) not engaged in international voyages from certain aspects of the Convention. Therefore, seafarers who work on these categories of excluded vessels are not under the care and protection of the MLC 2006.

¹³ Doumbia-Henry C., Devlin D.D, Mc Connell L.M. (2006). *The Maritime Labour Convention, 2006 Consolidates Seafarers' Labour Instruments*: The American Society of International Law ASIL, Volume 10, Issue 23.

The flag State certification and port State inspection system applies only to ships above 500 GT engaged in international voyages or voyages between foreign ports. However, the certificate system is available, on request by shipowners, to other ships.

Countries that ratify the new Convention will no longer be bound by existing conventions. Those that do not ratify the new Convention will remain bound by the conventions that they have ratified, but now those conventions will be closed for further ratification.

3. MLC 2006: TRIPARTITE PERSPECTIVES

3.1 Government

3.1.1 Flag State

The role of the Flag State is really quite clear; it is the guarantor of the standards and practices set down in the Convention. It is the body which ensures that the responsibilities accepted by the state are properly discharged under the terms and to the intent of the Convention. Actually, this seems not to be so simple because that role is carried out as much before a Convention is completed as afterwards.

Captain John G. Daniels, Transport Canada, Ottawa, Ontario¹⁴ stated:

In the discussions, often over a period of years, leading to a Convention, administrations must be clear about the problems needing solution, about their overall objectives and, perhaps most of all, about the impacts which the various proposals will have nationally". From a flag state perspective, the MLC 2006 will help to ensure proper maritime labour conditions, ensuring that the working and living conditions for seafarers on ships that fly its flag are fair and meet the standards of this Convention. While consulting the representative organizations of the shipowners and seafarers, this will help to better ensure cooperation between inspectors and shipowners and seafarers and their respective organizations. Therefore, flag states will be able to maintain or improve seafarers' working and living conditions while consulting such organizations at regular intervals.

As per regulation 5.1.2 and regulation 5.1.1 (3), the inspection or certification functions can be delegated to recognized organizations but information about the authorization of the classification societies or any other public authorities should be included in the member state's reports to the International Labour Office along with the method used for assessing the effectiveness of the system established for the inspection and certification of the maritime labour conditions. Deficiencies and non-compliance with regards to seafarers' working and living conditions can be followed

¹⁴ International Conference Halifax, Nova Scotia, Canada 24-25 October 1996 on "Safer Ships Competent Crews"- Role of the Maritime Administration.

or retraced through the declaration of maritime labour compliance which will be attached to the maritime labour certificate.

This document is subdivided into two main parts. In the first part, the flag state must identify the process for inspection with a proper list of matters to be inspected, relevant provisions of the Convention with precise and concise information on the main contents of the national legislation and finally any exemption granted should be clearly indicated.

The second part is very important and useful for the flag state to monitor the seafarers' working and living conditions very closely. It would contain all the results of inspections and verifications with all deficiencies in detail recorded in controlled documents with the remedial actions within time frame. Here also the recognized organizations could be delegated the responsibilities to take into account the seriousness or frequency of the deficiencies. The introduction of the maritime labour certificate and the declaration of certificate would help the flag state to monitor the ship owners, masters and the recognized organisations since the flag state could make reference to other comprehensive documentation covering policies and procedures by the *International Safety Management (ISM) Code* or the information required by *Regulation 5* of SOLAS Convention, Chapter X1-1 relating to the ship's Continuous Synopsis Record. The flag state would be able to verify whether that seafarers work on boards ships with sufficient personnel for the safe, efficient and secure operation of the ship (*Regulation 2.7*).

The new Maritime Labour Certificate will be required when a ship changes flag or owner or is substantially altered. There are provisions permitting interim certificates in these circumstances. In short, the Maritime Labour Certificate will only be issued if the flag state is fully satisfied that a ship complies with the Convention. The flag state **must** inspect and approve the following working and living conditions before certifying a ship: minimum age; medical certification; qualifications of seafarers; seafarer employment agreements; use of a licensed, 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.¹⁵

It requires a valid certificate and a properly maintained declaration to be considered as prima facie evidence that the labour conditions on board meet the requirements of the Convention. This can help the ships concerned to avoid routine inspections in foreign port¹⁶. Through the on-board complaint procedures (*Regulation 5.1.5*), the flag state would allow the fair, effective and expeditious handling of seafarer complaints, including their rights. The flag state is obliged to prohibit and penalize any kind of victimization of a seafarer filing a complaint which again helps in monitoring the seafarers' working and living conditions.

The role of the flag state inspectors here is that they would have the power to board a ship, carry out examinations, tests and inquiries, and require that any deficiencies are remedied, where they arise from a serious breach of Convention obligations or represent a significant risk to seafarers' safety, health or security. Penalties and corrective measures for breaches or obstructions will be imposed. It should be noted that the inspectors would have discretion to give advice instead of instituting or recommending proceedings, where there is no clear breach of Convention requirements that endangers the safety, health or security of the seafarers concerned and where there is no prior history of similar breaches¹⁷.

3.1.2 Port State

From a Port State perspective this Convention will ensure that each member state implements its responsibilities through international cooperation in the implementation and enforcement of the Convention standards on foreign ships.

According to Article 5.2.1, a (ratifying) Port State, may inspect any vessel which calls its ports in the normal course of its business or for operational reasons. The right to conduct Port State Control inspections is defined in the national legislation of the Port State. This Convention has been designed to tackle problems of sub-standard ships.

¹⁵ International Shipping Federation, ILO Maritime Labour Convention 2006, a guide for the shipping industry, (2006) p. 15.

¹⁶ International Labour organization, International Labour Review, volume 145, Numbers 1-2, 2006, pp. 135-142(8)- The ILO's new Convention on maritime labour: An innovative instrument.

¹⁷ International Shipping Federation, ILO MLC 2006, a guide p. 15.

The type of information about possible problems may very well be available from its Port State Control reports and databases. Here this would help in case of a (ratifying) Port State which receives a complaint, or obtains evidence of non-compliance. The Port State may inspect (if its national laws permits inspection), file a report to the Flag State concerned with a copy to the Director-General of the International Labour Office with a view to such action as may be considered appropriate and expedient in order to ensure that a record is kept of such information and that it is brought to the attention of parties which might be interested in availing themselves of relevant recourse procedures (*as per Article 5.2.1*). The Port State may also take measures to rectify clearly hazardous conditions.

The primary responsibility for ships' standards rests with the **flag State** - but **port State control** provides a "safety net" to catch substandard ships. If there is a very good Flag State inspection, there would be no need to have Port State Inspections. So in other words, Port State Control is one of the tools to help in cross-checking and verifying the obligations given to the Flag State. Port State Control surveys, which are normally conducted by the maritime authorities, primarily focus on maritime safety and protection of environment. The "professional judgement" of these inspectors is to detect conditions, which are or may be "clearly hazardous to safety or health". However, with this Convention as per *Regulation 5.2.1*, inspections must be carried out with this regulation and should be based on an effective port state inspection and monitoring system to help see that the working and living conditions for seafarers on ships entering a port of the state party (including the seafarers' rights) are complied with.

In *Regulation 5.2.1* where an authorized officer, having come on board to carry out an inspection finds that there is a complaint alleging that specific working and living conditions on the ship do not conform to the requirements of the Convention, a more detailed inspection may be carried out to ascertain the working and living conditions on board the ship. For this purpose the standard has defined "complaint" as any information submitted by a seafarer, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest

in safety or health hazards to seafarers on board. If the reason for an inspection is a complaint from a crew member, the identity of that seafarer must not be revealed¹⁸.

The process map in figure 3 shows the process how a port inspection should deal with a complaint. It should be noted that the inspections have to be conducted efficiently due to the usually short periods of time that vessels stay in port. For example, in case of a non-conformity which has been detected by the inspector, the latter should identify the validity and seriousness of the complaint. Through the complaint the inspector may detect a minor or major non-conformity and he should proceed accordingly. This process might end up in the detention of a vessel if ratification of deficiencies were found not satisfactory.

Here, memoranda of understanding among different countries in specific region play very important roles in handling a region's PSC inspection data. For instance, the Indian Ocean Memorandum of Understanding on Port State Control (IOMOU) has introduced the Indian Ocean Computerised Information system (IOCIS). The web-site <http://www.iomou.org> is being used by many to gather information regarding port state inspections in the region. This system can be used to monitor deficiencies regarding hazardous to safety and health of seafarers onboard ships. Where non-compliance affects health and safety on board or is a serious breach, the port state control inspector can detain the ship. The general areas which have been inspected and approved by the flag state will be verified and cross-checked by an authorized port state officer. In other words, the following areas will be verified- minimum age; medical certification; qualifications of seafarers; seafarer employment agreements; use of a licensed, 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; and payment of wages.

¹⁸ See EU Council Directive 95/217EC Article 6(3) and its Annex III.

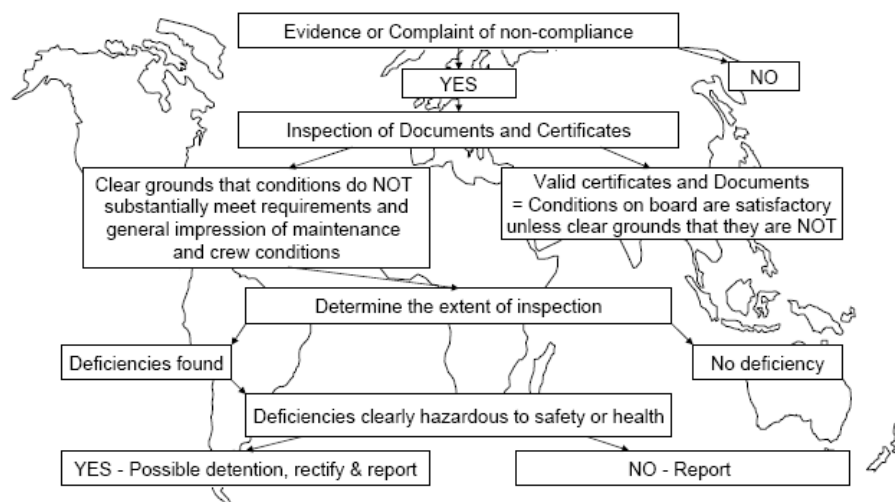


Figure 3: The process of dealing with complaints¹⁹
Source: Donner P. 2007

¹⁹ Donner P. (2007) *The International Regime of Maritime Labour, Seafarers' Rights*. Unpublished lecture notes, World Maritime University.

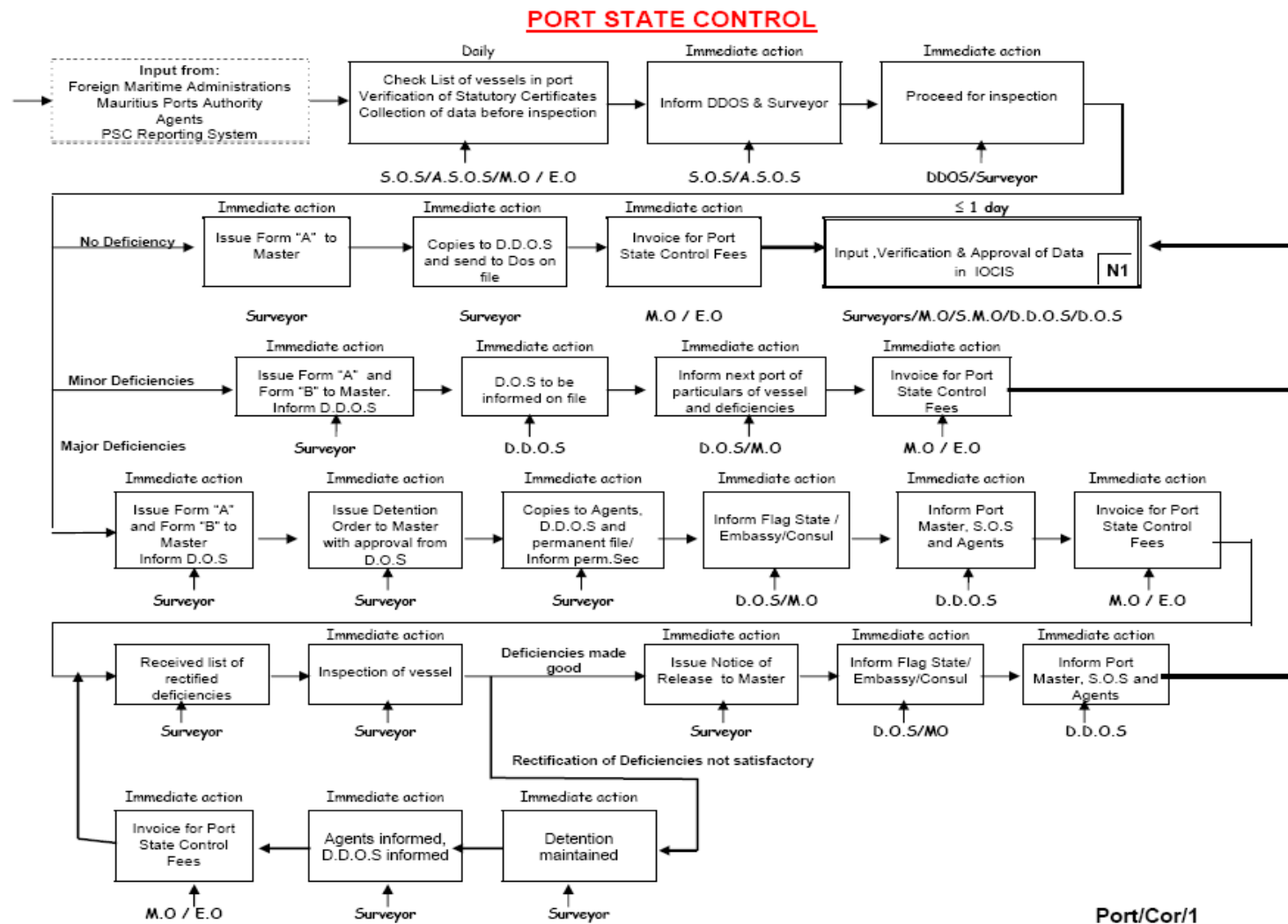


Figure 4: Port State Control.
Source: Quality Manual of Mauritius

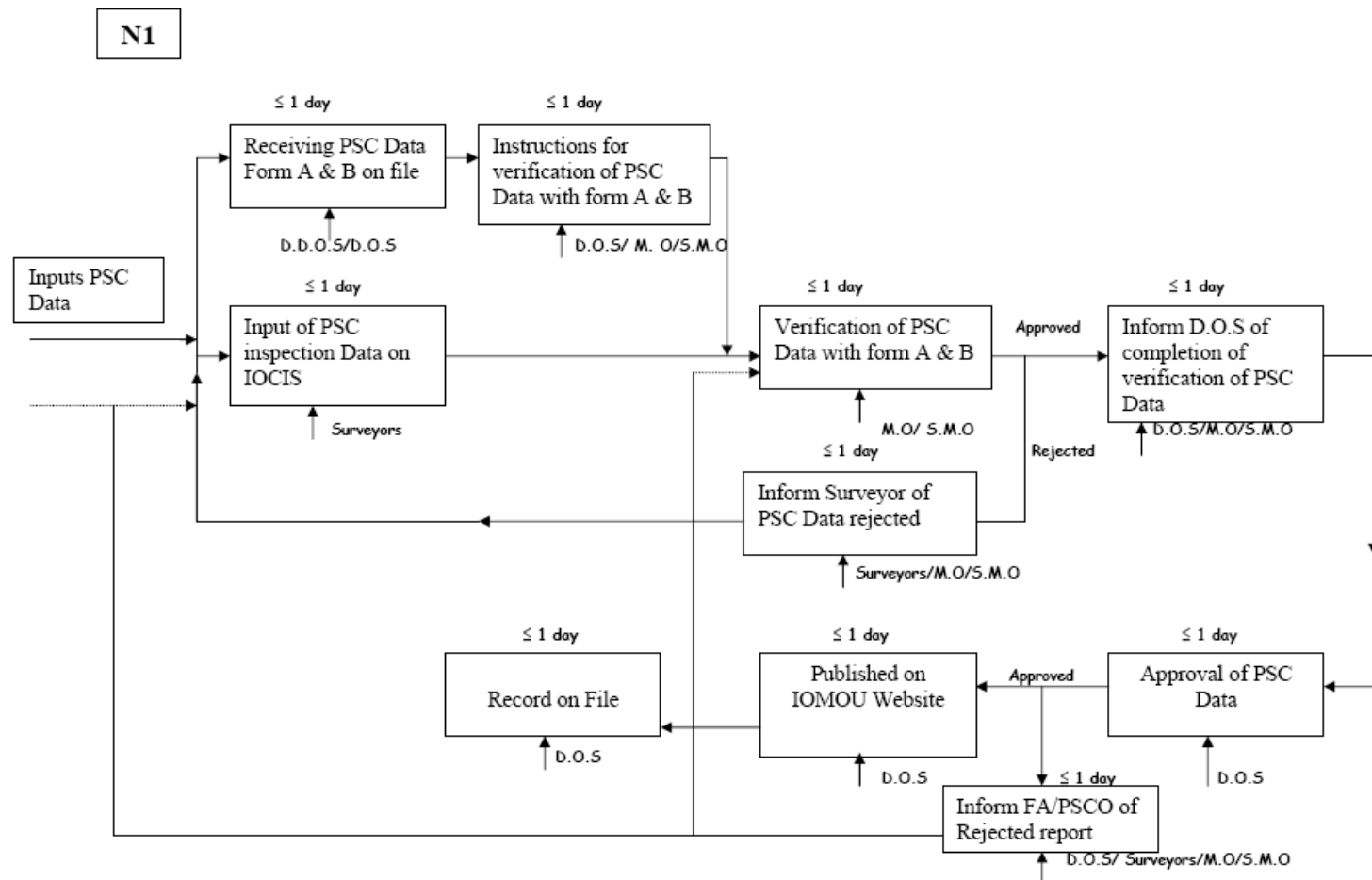


Figure 5: IOCIS (N1)
Source: Quality Manual of Mauritius

3.2 Shipowners' perspective

This is the first time in the history of shipping that a consolidated maritime labour convention with new requirements is being adopted with many changes and developments of new methods. Shipowners are facing rapid changes through high investment while promoting the working conditions and welfare of seafarers.

Shipowners' operating costs for maintaining a vessel are substantially rising. One can assume that some shipowners are unilaterally against this new convention. Crewing costs constitute a major component of the operating costs. The last thirty years, witnessed the increasing dominance of crew from developing countries on open registry and international registry vessels. The shipowner's effort to create a "least cost system" in the maritime business is tantamount to cutting down on the number of crews. Table 7 shows the differences in crew size between tankers which flagged on different registries. Aboard dry cargo ships for instance there is a tendency for vessels flagged with open registers in the higher size categories to carry lower crews than those with national and second registers.

Dr Proshanto. K. Mukherjee explained:

The principal criticism levelled against open registries is that they harbour sub-standard ships. This is borne out by statistical and empirical data on maritime casualties. The substandardness of a ship is not only characterised by its unsafe physical condition, but also by the lack of skill and competence on the part of the officers and crew, or by their unsafe, irresponsible and imprudent conduct. The lack of communication between officers and crew due to linguistic or other reasons is another factor at play, which is often attributed to the practice of hiring cheap and inadequately trained labour [...], on the other hand there are the allegations of substandard ships and the exploitation of cheap labour, on the other hand there are the consideration of economic benefits to shipowners and the maritime aspirations of developing countries offering alternative flagging

benefits [...] 'Reputation and competitiveness do not lie at opposite ends of the spectrum. To remain competitive, reputation has to be maintained.'²⁰

DRY CARGO	Officers			Ratings			Crew		
Comparison pair	Open Second	Open National	National Second	Open Second	Open National	National Second	Open Second	Open National	National Second
1,000- 2,999									
3,000- 4,999									
5,000- 9,999									
10,000- 19,999									
20,000- 49,999									
50,000- 69,999									
70,000- 99,999									
>=100,000									

Table 1: The location of significant differences in crew size between dry cargo vessels flagged with different registry types.

Source: Seafarers International Research Centre (2006).²¹

Key

- Blocks in red indicate that open registers carry larger average crews than the comparator.
- Blocks in grey indicate that national registers carry larger average crews than the comparator.
- Blocks in blue indicate that second registers carry larger average crews than the comparator.

The shipowners nowadays rather seek instant gain from the sale and purchase market for ships or from certain tax exemption loopholes. The seafarer's role and functions have been marginalized and their loyalty made meaningless. There is also little room for ongoing training of seafarers. Who wants to go on a substandard ship with the risk of not returning? The central question is: Should the economic considerations prevail untrammelled at the expense of maritime safety and an acceptable standard of labour conditions, which is MLC 2006?

²⁰ Dr Mukherjee P.K. (2002). *New Horizons for flag states, Flagging and Registration, Maritime review*, pp. 110-113.

²¹ Winchester N., Sampson H., Shelly T. (2006). *An analysis of crewing levels, Findings from the SIRC Global labour market survey*, Cardiff University.

The time that ships spend in port has reduced significantly in the last three decades due to improvements in cargo handling systems. Consequently, the time seafarers stay at sea increases. This synchronizes with the increase in the length of seafarers' contract periods, which gives rise to substantial effects on both mental and physical well being of seafarers.

Competition in the shipping industry seemed to be based solely on the financial bottom line, without due consideration to other realistic competitive factors, such as reliability of service or compliance with safety and environmental standards. Therefore, shipowners may feel pressure to cut down costs so as to maximise profit. On the other hand, seafarers are regarded as a commodity and are being exploited. Maritime administrations should intervene to balance this situation. First of all, they should convince their respective State about the urgency and necessity of ratifying necessary ILO standards and Convention. As noted in Chapter 2, ILO standards have a very low rate of ratification.

The Convention covers almost every aspects of a shipowner's involvement in the overall seafarers' working and living conditions. The Convention provides guidelines that are mandatory, that identify the full obligations on shipowners and the extent to which they should comply with. On the other hand, the Convention also provides or recommends action to be taken by shipowners which are only guidance and not mandatory. For example, in *Title 5 of MLC 2006*– Compliance and enforcement, shipowners must carry and maintain on board each ship: a Maritime Labour Certificate certifying that the working conditions and living conditions of seafarers on the ship, a Declaration of Maritime Labour Compliance which meet the requirements of national laws or regulations or other measures implementing this Convention and a copy of the ILO Maritime labour Convention. A non-mandatory guidance is that shipowners should keep themselves informed of the latest advances in technology and scientific findings concerning workplace design (noting the inherent dangers of seafarers' work) and inform the seafarers' representatives as appropriate in order to

achieve a better level of protection of the seafarers' working and living conditions²². This means masters will have to keep records to prove that they are complying with the Convention on an ongoing basis. There will also be onboard and onshore complaint procedures to encourage the rapid resolution of problems.

Most shipowners planning to stay in the business have no philosophical problem with an increase in costs that applies to all players in the market, providing a "level playing field" and fair treatment to all parties involved.

Dr Stephen Ladyman²³ states:

UK Shipowners already have a reputation as quality employers providing high quality conditions for their seafarers- and it's a reputation we must maintain. In turn, that reputation makes UK ships more attractive to better seafarers, which leads to safer, more efficient operations, which reinforce the image of the UK as a quality flag. We are firmly committed to the ratification of the new Convention as soon as existing law and practice can be brought into line. After all, the UK was a key player in its five -year development.

According to Ladyman the new MLC 2006 requires that each ratifying country promote the development of welfare facilities that are easily accessible and available for the use of all seafarers, irrespective of nationality, race, sex, religion and irrespective of the vessel on which they work.

To some extent each Member State should also provide some incentives for shipowners. For example, to protect shipowners from claims arising from medical conditions incurred by crew before they are taken on. The UK P&I Club has an established pre-emptive programme, which is now enjoying a period of expansion²⁴.

²² International Shipping Federation, ILO Maritime Labour Convention 2006, a guide for the shipping industry, (2006) pp 15.

²³ Speech by Transport Minister Dr Stephen Ladyman at the 'Mission to sSeafarers' at St Micheal paternoster Royal church, London. Delivered: 17 October 2006.

²⁴ Sophia Grant- 4 November 2004, www.loydslist.com/art/1147057656246, Health checks weed out unfit employees.

3.3 Seafarer's union perspective

The Seafarers' Union main objective is to ensure decent working conditions, social welfare and security of all seafarers employed domestically. Therefore, after the incorporation and enforcement of all the requirements of the MLC 2006 in their domestic legislation, this will be regarded as the best tool for fighting for the rights and welfare of the seafarers. In this respect, the Seafarer's Union would have an important role to play in the settlement of disputes as illustrated Figure 6 map below and to do so they should also be well conversant with the requirements of the convention and provide sufficient familiarization to all seafarers to know their rights.

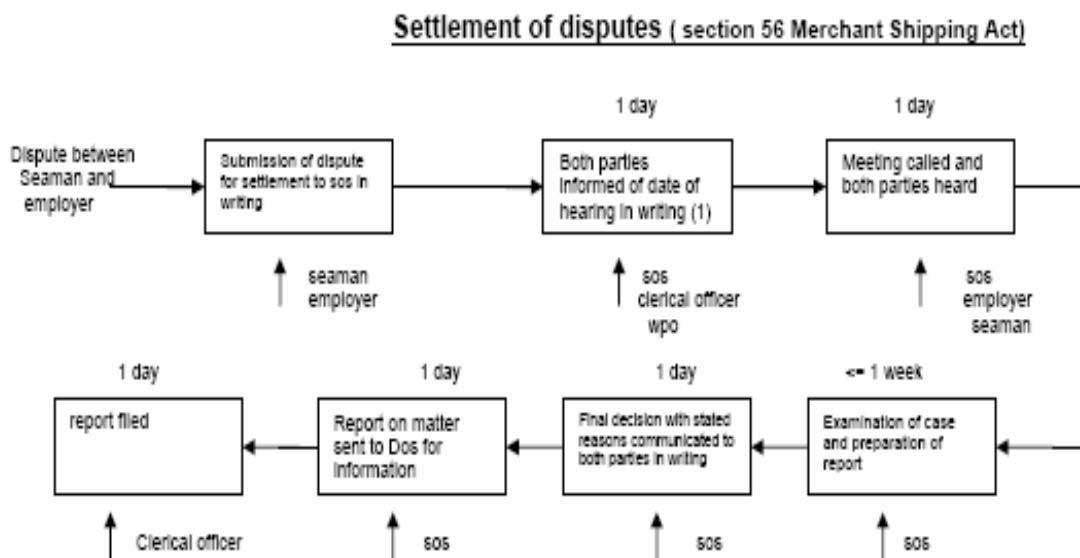


Figure 6: Settlement of disputes
Source : Quality Manual of Mauritius
SOS : Superintendent of shipping
WPO : Word processing officer

(1) The Union also informed of date of hearing if case brought to the Shipping Office by it on behalf of the seafarer.

Figure 6 depicts the process of settlement of disputes of the Maritime administration of the Republic of Mauritius. According to the Quality Management System (QMS), which is a requirement of *Regulation I/8 of the STCW*, the designated process owner is the superintendent of shipping who will be the head in dealing with such matter and

who has the authority and responsibility to take preventive and corrective actions where necessary. However, if it is a major non-conformity, the case will be brought to shipping office where the national tripartite committee including the seafarer representative will be involved. There is also a particular time frame that this process should be dealt with. The only alternative process owner will be the assistant of the superintendent of shipping.

The International Transport Workers' Federation (ITF)²⁵ is a federation of more than 600 transport workers' trade unions in 136 countries representing over 4.5 million workers. The ITF purpose is to promote the seafarers interests through global campaigning and solidarity. Within the international system, seafarers have entitlements under international, regional and domestic human rights law in their capacity as human beings. Therefore, the seafarers' rights depend on the scope of the definitions given in various instruments of the International Labour Organisation (ILO), such as for the maritime sector there is the MLC 2006.

Moreover, the seafarer representative of ITF will also have an important role to play in the special tripartite committee, whereby the Governing Body of the ILO is obliged to keep the working on this convention under continuous review to ensure its efficiency and effectiveness. Some examples of successful action taken by ITF are:

Senegalese offshore workers have been employed under Bouygues contracts, leaving them on lower rates of pay than their counterparts of other nationalities. These workers being members of ITF have won compensation and bonus pay following a one-year battle with the multinational subsidiary that acquired the company employing them.

Norrie Mc Vicar of the ITF Offshore Task Force Group said:

“This is a victory for the Union's dogged determination in the face of the multinational's attempts to undermine the contractual rights of the workforce.”

²⁵ A report by the International Transport Workers' Federation-Out of sight, out of mind- Seafarers, fishers and human rights.

Another example in India, offshore crew wins claim for back pay. The crew has now received more than Rs 21 lakhs (US \$ 48,000) in backdated pay- The crew praised the union for its “spontaneous support” and stated: “We were overwhelmed that some prosperity should benefit our welfare”.²⁶

Unpaid wages make up a large proportion of the cases handled by the Actions Unit at the ITF office. There was a case in the middle of 2004 when the crew of the 24-year-old *Arahanga II*, sailing under the North Korean flag, complained that they had not been paid for three months, had no copies of their employment contract in possession. They insisted that they signed a contract in Pakistan and finally they got back wages of some \$72,000.

Kay Parris reported:

Trade unions are among those working hard to ensure the groundbreaking Maritime Labour Convention 2006 fulfils its potential to improve the lives of seafarers worldwide. The ILO social partners, representing governments, employers and trade unions led by the ITF, have kept up the momentum to ensure ratification happens as quickly as possible.²⁷

Brian Orrell²⁸ commented:

We want seafarers to understand their rights, see how they will be delivered, and see that if they aren't delivered, they have a right to redress. We are talking about the right to be paid regularly, the right to be repatriated when necessary, the right to proper leave and to access to communications, and the right to complain.

²⁶ Seafarers' Bulletin; ITF, No.19/2005.

²⁷ Parris K. (2007). *Delivering global rights*. <http://www.itfglobal.org/transport-international/ti28-deliver.cfm>

²⁸ Brian Orrell, general secretary of the British union Nautilus UK (previously Numast) and Chair of the ITF seafarers' section, was the first to hail the Convention as a “seafarers' bill of rights”. Parris K. (2007). *Delivering global rights*. <http://www.itfglobal.org/transport-international/ti28-deliver.cfm>

Finally, the ITF General-Secretary David Cockroft said²⁹:

The adoption of the new Consolidated Maritime Labour Convention by the ILO Maritime Conference was a major step forward for the rights and social conditions of seafarers everywhere.

3.4 Other perspectives

3.4.1 EU perspective

In the Treaty of Rome, social and employment policy was practically neglected. In contrast, the Treaty of Amsterdam attached importance to social policy in the fight against all types of discrimination, and the policy for the promotion of employment finally moved to the top of the agenda, becoming a "matter of common interest".

Given the need for a Europe capable of sustainable economic growth accompanied by a quantitative and qualitative improvement in employment and greater social cohesion, the interlinking of employment, social affairs and equal opportunities is evident today. In this respect, the European Union provides major impetus for the convergence of Community and national policies through the "open coordination method".³⁰

Some of its priorities were the protection of the employee's rights, organisation of working time, corporate social responsibility; cross-industry social dialogue, sectoral social dialogue, information, consultation and participation of employees; promoting free movement of workers in the European market with related rights, social protection and third-world countries nationals; and social protection in terms of social security regimes, supplementary pension schemes, modernising social protection. In this

²⁹ ITF 41st Congress Press releases-10 march 2006 on consolidated MLC gained in "spirit of unity".

³⁰ Europa. *Activities of the European Union summaries of legislation, employment and social policy*, <http://europa.eu/scadplus/leg/en/s02300.htm>

respect, the European Union is for the speedy ratification of the MLC 2006, which will surely add to the promotion of its employment policy.³¹

EU Member States were encouraged to ratify the Consolidated Maritime Labour Convention adopted by the International Labour Organisation in 2006 as swiftly as possible since the convention aims to improve working conditions for seafarers, thus reducing unfair competition on the global market as well as making merchant shipping a more attractive profession.³²

Following the adoption of the ILO Maritime Labour Convention, 2006, the Commission issued a communication under *Article 138(2) of the EC Treaty* on the strengthening of maritime labour standards (COM (2006) 287 final) on 15 June 2006. The sectoral social partners, the European Transport Workers' Federation (ETF)³³ and the European Community Shipowners' Association (ECSA)³⁴ met on 28 September 2006. This decision constitutes the end of the first phase of consultation provided for in *Article 138(2)* of the Treaty, which paves the way for the second phase involving the negotiation on the content of a possible social partners' agreement. These negotiations should not delay the ratification process by the Member States.³⁵

The Member State must take the necessary steps to deposit their instruments of ratification of the Convention with the Director-General of the International Labour

³² The consultation report (2007) drafted by Mary-Lou **McDONALD** (GUE/NGL, IE) for the Employment Committee, endorses with minor amendments the proposal for a Council decision authorising Member States to ratify the Convention, which incorporates all existing conventions and recommendations on maritime labour adopted by the ILO since 1919 into a single text.

³³ The European Transport Workers' Federation represents more than 2.5 million transport workers in all transport modes and fisheries in 40 European countries and is a recognised social partner in 6 Sectoral Dialogue Committees.

³⁴ The European Community Shipowners Associations comprises the national shipowner associations of the EU and Norway.

³⁵ Brussels, 29 September 2006. Press release.

Office before 31 December 2008. The Council will review the progress on the ratification before June 2008.

The European Commission has established a Maritime Policy Taskforce to create the foundation for such a new Maritime Policy.³⁶ In this respect, MLC 2006 can be incorporated in the member states so as to add to the framework of the new Maritime Policy in attaining the sustainable and competitive European maritime industry clusters. Such a framework should encompass all the maritime and marine sectors, like shipping, ports, shipbuilding, marine equipment, dredging, offshore, ports, maritime services and R&D, inland shipping, yachting, fisheries, but also have links with the navies.

³⁶ Barraso J.M. (2005). *The New European maritime Policy, challenges and opportunities*. Brussels.
http://www.mareforum.com/new_european_maritime_policy.htm.

3.4.2 ISF and ECSA perspectives

The International Shipping Federation (ISF) is the international employers' organization for the shipping industry. Its interests include labour affairs, manpower and training, and seafarers' welfare issues. ISF comprises national shipowners' associations from 33 countries. Apart from co-ordinating from the representation of shipowners' views at the International Labour Organisation (ILO) in the development of maritime labour standards, ISF also represents the interests of maritime employers at the International Maritime Organisation (IMO). Therefore, the MLC 2006 will be an important tool for helping to represent the interests of the seafarers working and social welfare conditions.³⁷

The European Community Shipowners' associations (ECSA) forwarded a green paper towards a future maritime policy for the union to the EU. The MLC provides a solid, comprehensive and global basis for worldwide employment standards. ECSA urges ratification by EU Member States and its strict enforcement within the EU. ECSA is in negotiations with its social partners with a view to having EU legislation transposing the MLC via a Social Partners Agreement.³⁸

³⁷ International Shipping Federation, ILO Maritime Labour Convention 2006, a guide for the shipping industry, (2006).

³⁸ European Community Shipowners' Associations (ECSA) (2007). *Green paper towards a future maritime policy for the Union*.

4. ANALYSIS AND ASSESSMENT

In this observational study a survey was made by selecting a sample of ex-seafarers who are currently serving in senior positions in their maritime administrations from among a population of all ex-seafarers at the World Maritime University (WMU) who are well conversant with international conventions. The author's conclusions about the population are based on data collected from the sample.

On average the approximate sea time of the respondents (after first COC) is 7 years. They are from the following countries- Algeria (5), Turkey (2), Egypt (2), Fiji (1), India (2), Indonesia (4), Japan (1), Malta (1), Philippines (1), R.O. Korea (1), Liberia (1), Mozambique (1), Malaysia (1), China (1), Ghana (1) and Saint Lucia (1). The purpose was to enquire about perceived links between working conditions and issues such as their health and safety provisions, social welfare, and recreational activities at sea. Additionally, it looks into, as a result of the new MLC 2006, how far they agree that seafarers' rights and employment conditions can be improved and whether the current problems that they are facing on board ships can be solved or reduced through adequate provisions, regulations and preventive measures.

The surveys were subdivided into two parts as follows:

- A. The first part asked the question "How much did the following factors have influenced badly your employment conditions/rights/social welfare and health & safety at sea?" The respondents were asked to assign a number from a scale 1 to 5, where 1 indicates **no influence** and 5 indicates **a very high influence**. Table 2 depicts the sample mean of each specific issue considered.

No.	PROBLEMS OF SEAFARERS	SCORES
1.	Reduction in Fatigue	3.76
2.	Work load & Hours of work	3.84
3.	Reduce stress and tension	3.48
4.	Communication	2.64
5.	Isolation	3.36
6.	Health & Safety	2.72
7.	Wages	2.8
8.	Employment agreements (conditions: Leave, repatriation etc)	2.6
9.	Manning conditions (levels)	2.68
10.	Accommodation	2.52
11.	More equitable hours of rest	2
12.	Access to shore-based welfare activities	2.56
13.	Accident protection	
14.	Careers and skill development and opportunities	2.8
15.	Medical care facilities	2.36
15.	Social security	2.64

Table 2: Sample mean before the implementation of MLC 2006

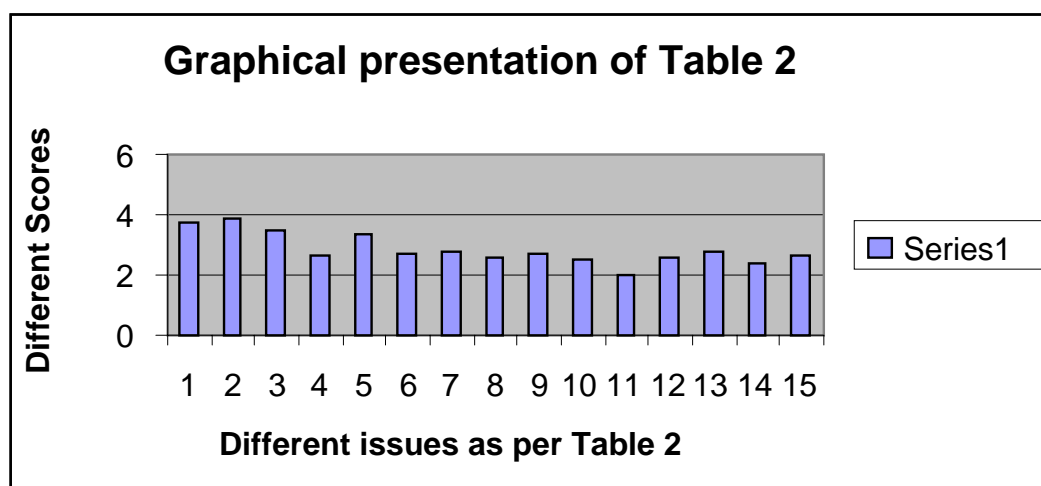


Figure 7: Graphical presentation before implementation on MLC 2006

B. The second part asked the question “As a result of the new Maritime Labour Convention, 2006 how far do you think it will help to improve the seafarers’ welfare and employment conditions or to reduce the current problems they are facing nowadays?” The respondents were asked to assign a number from a scale 1 to 5, where 1 indicates **no improvement** and 5 indicates **a very high improvement**. Table 3 below depicts the sample mean of each specific issue considered.

No.	PROBLEMS OF SEAFARERS	SCORES
1.	Reduction in Fatigue	3.28
2.	Work load & Hours of work	3.32
3.	Reduce stress and tension	2.88
4.	Communication	2.72
5.	Isolation	2.16
6.	Health & Safety	3.52
7.	Wages	3.12
8.	Employment agreements (conditions: Leave, repatriation etc)	3.52
9.	Manning conditions (levels)	3.36
10.	Accommodation	3.32
11.	More equitable hours of rest	3.44
12.	Access to shore-based welfare activities Accident protection	2.92
13.	Careers and skill development and opportunities	3
14.	Medical care facilities	3.44
15.	Social security	3.44

Table 3: Sample mean after the implementation of MLC 2006

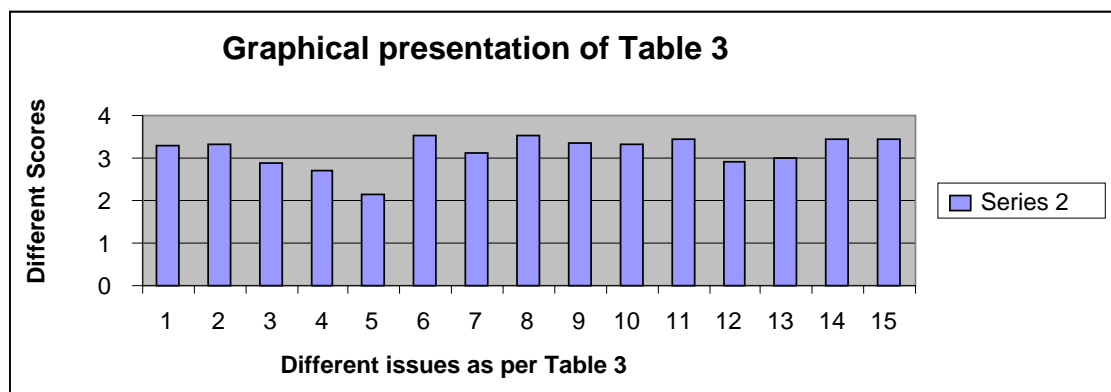


Figure 8: Graphical presentation after implementation on MLC 2006

In this exercise it should be noted that there are many other factors to be taken into consideration like the type, size and condition of vessels. For example, working on a brand new and fully automated vessel will minimise such problems identified above. Here most vessels were general cargos, bulk carriers and container ships. Another factor is the ranking and types of job which can also affect this exercise. Lastly, it widely depends on the company policy where the seafarers were employed.

It has been seen that fatigue, work load and hours of work, manning levels and equitable hours of rest are interrelated. If for instance, shipowners do not employ sufficient number of seafarers on board to ensure that ships are operated safely, efficiently and with due regard to security under all conditions, it means that they are not taking into account seafarer fatigue, nature and conditions of the voyage. In practice, manning levels should be in compliance with the relevant IMO SOLAS³⁹ Convention requirements and other IMO guidelines for the application of principles of safe manning (*as per regulation 2.7 of MLC 2006*). The flag state's role here is, while approving the manning levels, they should take into account firstly, the need to avoid or minimise excessive hours of work to ensure efficient rest and to limit fatigue and secondly all the requirements within *Regulation 3.2* and standard A3.2 concerning food and catering.

One of the problems that the seafarers faced was to be in the same daily routine. Some seafarers complained about being in the same environment, seeing the same person and doing the same work over and over again. For example, one watch keeper explained that he was more tired mentally than physically and during the beginning of his years at sea, he was highly motivated since everything was new. However, after some years with the same routine, same food and sometimes the same people, life became tough for him. Lack of communication and isolation are very common in such jobs. A remarkable work in this respect, by Aubert and Arner, was “*on the social structure of*

³⁹ *International Convention for the Safety of Life at Sea, 1974 (SOLAS)* as amended.

the ship”⁴⁰. He established a list of criteria of what actually characterises a ship in the merchant marine. On the other hand, Lamvik introduces the notion of the ship as a *total institution*⁴¹. He explained how seafarers on board spend 24 hours a day in the same place with the same activities related to either work or leisure. Also, to be on board a ship may lead to a feeling of alienation among seafarers which according to the author’s analysis did not lead to any improvement in this respect. Finally, once again according to Aubert and Arner, there is a *high turnover rate* among the personnel. This means that there is a complete lack of stability. In other words not, security as everything is based on a contract. Working with multi-national seafarers also complicate life on board in some ways, for example the survey some seafarers pointed out that different nations have different cultures and therefore different recreational activities. “Over the last thirty years, the world merchant fleet has become significantly multi-lingual and multi-cultural in crew composition. Today about two-thirds of the world’s merchant marine vessels sail with a crew composed of several nationalities.”⁴² The length of the voyage also may influence the problems of seafarers. Apart from types of ships, frequency of calls and sailing time may also aggravate these problems.

Some of the feedback from the respondents with respect to manning levels was not a weakness at all. The main reason is the good governance of the company with proper and adequate policies in every respect to promote the welfare and working conditions of the seafarers. For example, in case of tight schedules, the company adopts a double manning policy system. Even though wages were moderate but seafarers enjoy a high quality of life at sea. The company provides high level of security, where 10% of the basic salary is deducted and contributed in a provident fund which is controlled by a third party.

⁴⁰ Aubert, Vilhelm and Arner, Oddvar:1958-59. *On the Social Structure of the Ship*. Oslo, institute for social research.

⁴¹ Lamvik . G.M. (2002). *The Filipino Seafarer, A life between sacrifice and shopping*: Dept. of Social Anthropology, Norwegian University of Science and Technology.

⁴² See Jan Horck, *Getting the best from multi-cultural manning*, BIMCO Bulletin, August 2005, Vol.100-No.4.

Some seafarers explained that in some countries due to some diplomatic differences they may be restricted or denied shore-leave.

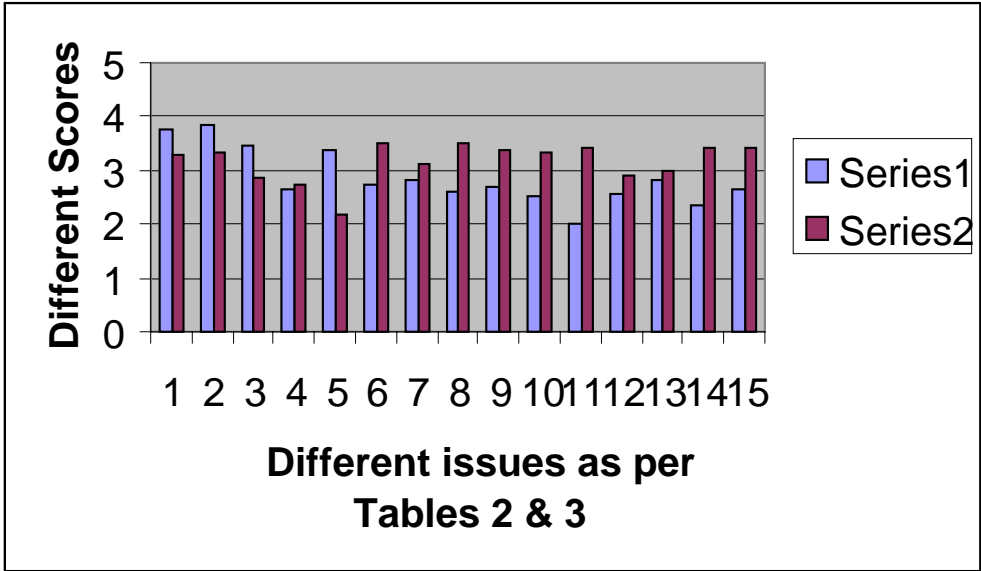


Figure 9: Measurement analysis on the performance of MLC 2006

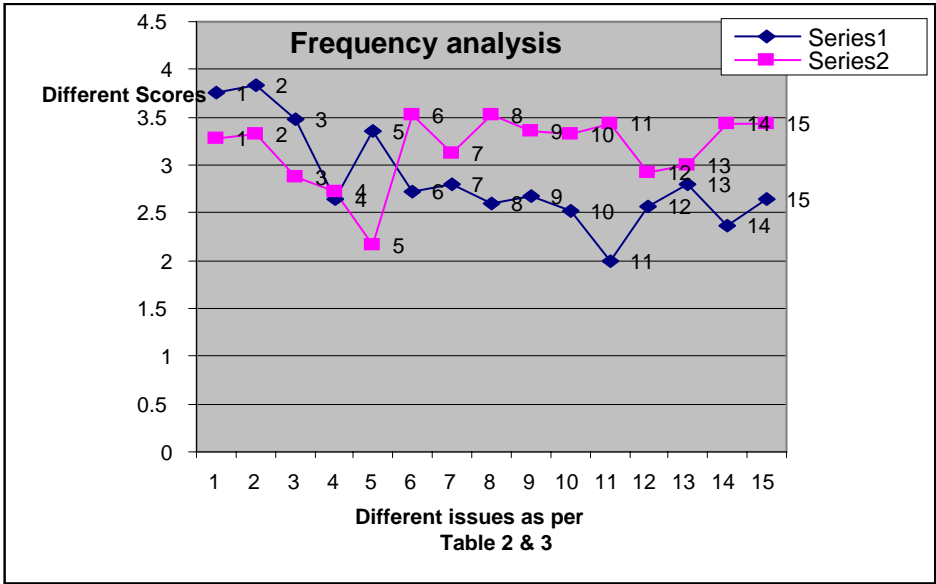


Figure 10: Predictions on the performance of MLC 2006

Through this analysis as per Figures 9 and 10, it can be seen that there would be large improvement in the health and safety standards, wages, employment agreements, manning levels, accommodation, medical facilities and access to shore-based, careers and skill development and opportunities, accident protection and social security. However, concerning fatigue, work load and hours of work, stress, communication, hours of rest and isolation, it would be moderate or there would be less improvement. As can be seen in Table 2, work load and hours of work, stress and fatigue were rated the highest in influencing the working and social conditions of seafarers. The introduction of MLC 2006 will not necessarily alleviate the situation. Some of the reasons which came out were as follows:

“I think the solution of problems of welfare and employment conditions of seafarers strongly depend on the company policy. Generally, Owner is the last decision level in private companies and in small and average size companies owners are always looking for the cheapest implementations for their profit.”

“Good shipping companies have been introducing incentive schemes voluntarily to retain experienced manpower”

“The salary of a seafarer in developing countries is paid with local currency which is very low compared with Euro or \$. In average, it is about 300 euro +/- .May be it is enough in his country but it isn't in other foreign ports.”

Secondary data collected from published sources, such articles by authors with extensive knowledge of the seafarer's rights and current problems, journals, Lloyd's lists and other recognized magazines together with data already evaluated by other researchers are as follows:

More recently Cyprus marked another first when it threatened to withdraw the ISM Certification of an operator for failing to pay crew wages (Lowry, 2001). The authorities claimed the company had “repeatedly failed” to pay

crews, which was bound to affect crew motivation, and required the company to “demonstrate it has a system in place to avoid any repetitions”. This move, naturally contested by the operator and applauded by the International transport Workers’ Federation, may seem to extend the application of the ISM Code. On the contrary, it is easy to imagine that non-payment of wages demotivated for the crew and an unmotivated crew quickly becomes a safety risk (‘Dare to be different’, 2001). The operator’s explanation that the matter should be “taken up with the owners we are just technical managers” (Lowry, 2001) is simply a lame excuse.⁴³

If the above scenario had occurred after ratification of MLC 2006, the ship would have been detained if the seafarers were not regularly paid for their work in full accordance with their employment agreements. (*Regulation 2.2 of MLC 2006*).

Below are some relevant cases and reports where seafarers’ rights were violated:

On Easter Sunday 2004 a 25-year-old Burmese seafarer was taken into a seafarers’ clinic in Vancouver. He was on the verge of collapse and the doctor diagnosed renal failure. Though he had complained to the Captain of his vessel, the Burmese flagged *Global Pioneer*⁴⁴, for many months he was offered no medical treatment. Had his condition been treated earlier he would not have lost 90% of his kidney function. The company’s first effort to engage with the problem was to cancel the planned biopsy that would establish the extent of the damage, and to endeavour to repatriate the seafarer prior to his receiving any medical treatment. The company moved swiftly to remove the seafarer from Canadian territory and to limit their liability. In a life or death situation, the seafarer, with advice from immigration lawyers and an ITF inspector, made a formal application for refugee status, which was eventually granted.

⁴³ The 2nd International Symposium on human factors on board 19-21 September 2001, Bremen, Germany- ISM Code compliance- Management causes human error.

⁴⁴ *Global Pioneer*: a cavalier attitude to kidney failure– A report by the International Transport Workers’ Federation- Out of sight, out of mind- Seafarers, fishers and human rights, source: P.H.Mohamed Haneef, Cochin Port Staff Association.

In addition to the serious health problem, the seafarer was also owed more than US\$4,000 in unpaid wages. Over a year later the case for compensation was finally concluded, with compensation awarded for sick pay, back pay and disability allowance. The seafarer is no settled in Canada, and needs dialysis twice a week until a transplant possible.⁴⁵

Problem	2001	2002	2003	2004	2005
Abandonment	38	44	30	21	19
Agency Fees	3	7	8	9	6
Owed Wages	763	772	811	751	702
Ship's Safety	74	107	70	72	77
Substandard Accommodation	90	5	80	79	86
Substandard Food	75	122	91	83	111
Substandard Safety Equipment	35	55	31	65	51
Victimisation	40	59	45	71	74

Table 4: The frequency of some examples of problems by ITF representatives when carrying out ships inspections.

Source: ITF Report (June 2006) - Out of sight, out of mind- Seafarers, fishers and human rights

Table 4 clearly shows that the maritime industry continues to allow astonishing abuses of human rights of those working in the sector. Efthimios E. Mitropoulous, Secretary-General of the International Maritime Organisation, in his World Maritime Day 2005 speech stated:

Such abuses range from instances of extreme physical violence against crew members to systematic cheating by owners and agents of seafarers' wages. There are numerous examples of crew abandoned without subsistence, having not been paid for months. In some cases they are afraid to complain or seek assistance from trade unions or welfare organizations for fear of black listing.⁴⁶

⁴⁵ Peter Lahay, ITF Co-ordinator, Canada – A report by the International Transport Workers' Federation- Out of sight, out of mind- Seafarers, fishers and human rights.

⁴⁶ ITF Report (June 2006) - Out of sight, out of mind- Seafarers, fishers and human rights.

Vessel	Flag	Abandoned	Port
Abu Abdullah I	Comoros	January 2006	Suez Canal, Egypt
Al Manara	St. Kitts & Nevis	February 2006	Port Victoria, Seychelles
Capbreton 1	St. Vincent & Grenadines	January 2004	Lagos, Nigeria
Carl Philipp	Bolivia	June 2004	Port-au-Prince, Haiti
China Sea Discovery	Liberia	August 2004	Kaohsiung, ROC
Concel Pride	Nigeria	May 2005	Algeciras, Spain
Dauria	Comoros	August 2005	Antalya, Turkey
Frenaso	Panama	September 2005	Dakar, Senegal
Grenland	Dominica	February 2006	Aviles, Spain
Leda [fishing vessel]	Ukraine	September 2004	Conakry, Guinea
Maha	Belize	March 2004	Abidjan, Côte d'Ivoire
Maznah	Indonesia	August 2005	Tawau, Malaysia
Nordland	St. Vincent & Grenadines	June 2005	Santander, Spain
Ormos	North Korea	January 2005	Kakinada, India
Pots Express	Panama	September 2005	Monrovia, Liberia
Silva	Cambodia	February 2004	Esbjerg, Denmark
Spirit II	Honduras	June 2004	Naples, Italy
Sri Lakshmi	India	October 2005	Bahrain, Saudi Arabia

Table 5: Current and outstanding abandonment cases

Source: ITF Report (June 2006) - Out of sight, out of mind- Seafarers, fishers and human rights.

In most of these cases Table 5 shows current and outstanding abandonment cases of which the ITF is aware. Nevertheless, it is certain that a significant number of cases go unreported or unrecorded in ports without ITF inspectors or maritime organisations. When the crew members are abandoned or not paid for months, one should not forget the negative and multiplier impact that it can cause to society in terms of social costs. For example, the standard of living of these crews is affected with a reduction in their purchasing power and at last adds to the vicious circle of poverty.⁴⁷

In a recent case, seafarers abandoned in Turkey were arbitrarily accused by the shipowner of being terrorists. Their substandard, Comoros- flagged vessel was detained in port and the crew instead of embarking on legal proceedings to arrest the ship and obtain the wages, they were repatriated without wages and the vessel continued trading with a new crew.⁴⁸

⁴⁷ See www.worldbank.org/depweb/beyond/global/chapter6.html- Meeting the challenge of Global development, Chapter IV, Poverty.

⁴⁸ ITF Report (June 2006) - Out of sight, out of mind- Seafarers, fishers and human rights.

Recently, the Joint IMO/ILO Ad Hoc working group on liability and compensation regarding claims for death, personal injury and abandonment of seafarers agreed to establish an on-line database to monitor such cases which is now accessible on the ILO website at www.ilo.org/dyn/seafaers.

As per *Regulation 4.2 of MLC 2006*, shipowners should ensure that seafarers are protected from the financial consequences of sickness, injury or death occurring in connection with their employment. Another important part that *MLC 2006 addressed* is that where sickness or injury results in incapacity for work, the shipowner is liable to pay full wages as long as the sick or injured seafarers remain on board or until the seafarers have been repatriated, and wages in whole or in part should be paid as prescribed by national laws or regulations or as provided for in collective agreements. Therefore, by implementing the MLC 2006, these problems can be monitored efficiently for the benefit of seafarers.

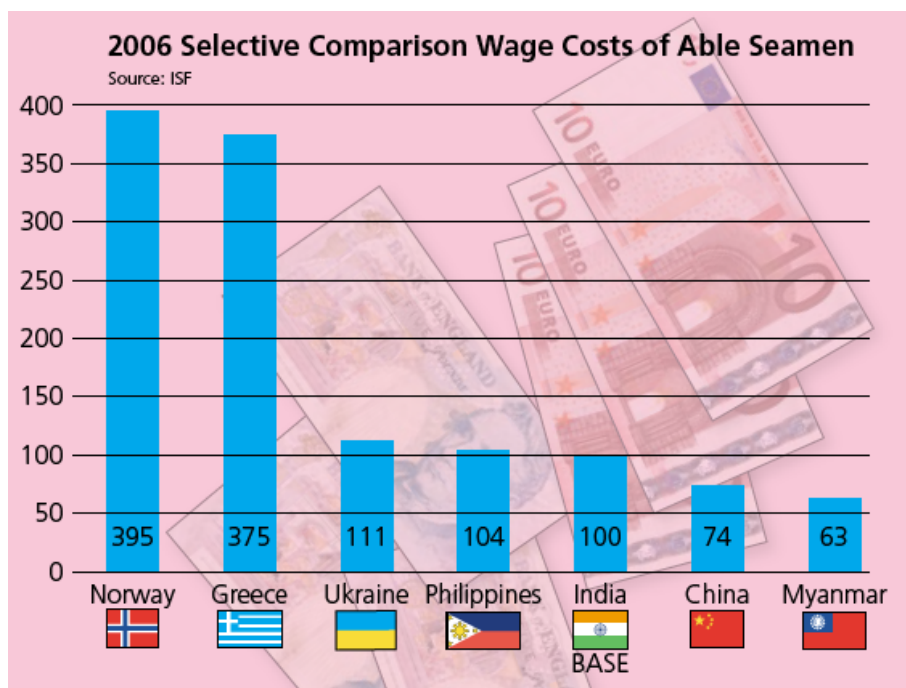


Figure 11: Compare wage costs of able seamen
Source: ISF Annual Review 2007

Sample wage cost summary, selected countries
(US\$ per month served)

	Dry cargo	Master Tankers	Dry cargo	AB Tankers
UK	9,300 - 11,000	11,000 - 12,800	3,500 - 4,200	4,200 - 4,900
Denmark	8,760 - 10,820	9,790 - 11,850	3,810 - 4,120	4,330 - 4,640
Spain	7,300 - 7,500	8,300 - 8,500	2,100 - 2,300	2,200 - 2,400
Pakistan	4,800 - 5,200	5,300 - 5,600	1,300 - 1,400	1,300 - 1,400
India	4,700 - 4,900	5,500 - 5,900	1,160 - 1,400	1,215 - 1,400
Croatia	4,600 - 5,000	6,000 - 8,000	1,300 - 1,400	1,300 - 1,400
Korea (South)	4,500 - 5,000	5,500 - 6,500	1,400 - 1,700	1,700 - 2,300
Latvia	4,500 - 5,000	5,500 - 5,800	1,300 - 1,400	1,300 - 1,400
Russia	4,500 - 4,800	5,000 - 5,500	1,300 - 1,400	1,350 - 1,450
Poland	4,500 - 4,700	5,900 - 6,300	1,200 - 1,400	1,350 - 1,550
Mexico	4,330 - 4,530	4,750 - 4,950	1,150 - 1,400	1,200 - 1,450
Montenegro	4,100 - 4,300	6,150 - 6,350	1,300 - 1,400	1,390 - 1,490
Egypt	3,880 - 4,080	4,490 - 4,690	1,400 - 1,450	1,400 - 1,450
Romania	3,800 - 4,000	5,050 - 5,250	1,150 - 1,400	1,350 - 1,550
Philippines	3,600 - 4,000	3,800 - 4,300	1,050 - 1,400	1,100 - 1,400
Ukraine	3,460 - 3,660	3,980 - 4,190	870 - 970	970 - 1,070
China	2,700 - 3,300	3,550 - 4,150	820 - 1,000	970 - 1,200
Burma/ Myanmar	2,150 - 2,350	2,550 - 2,750	370 - 420	450 - 500

Source: Precious Associates, from Drewry report "Ship Operating Costs Annual Review and Forecast - 2004/05".
NB: Rates above do not take account of improved wages under ITF agreements.

Table 6: Wage costs of certain countries for comparison.
Source: ITF Seafarer's Bulletin 2005.

Figure 11 and Table 12 clearly demonstrate how seafarers coming from third world countries are being exploited. Since these countries are working hard to promote their working conditions and welfare, it does not seem right to discriminate them with low wages. As a result, *MLC 2006 (Regulation 2.2)* and the ILO minimum wage would help to ratify or reduce such discrimination. The Convention incorporates the requirements of the ILO minimum wage (Able seafarers). So the wage figure is calculated by a prescribed formula, which takes into consideration the following changes: Firstly, in cost of living in different maritime countries, secondly any fluctuations in the exchange rates. This given formula is periodically updated at the bipartite ILO joint Maritime Commission meetings. It forms the basic for wages in some collective bargaining agreements and has also been used in court cases.⁴⁹

4.1. Impact of MLC 2006 in addressing current problems of seafarers

4.1.1 Conditions of employment

As per *Regulation 2.1* of the MLC 2006, the shipowners have the exclusive responsibility to ensure that seafarers have a fair employment agreement, that is, the terms and conditions of a seafarer's employment should be set out in a clear, written, legally enforceable agreement. It must be compatible with the provisions set in the Convention, particularly with the living and working conditions. *Regulation 2.2* of the MLC 2006 defined shipowners' obligation to ensure that all seafarers are paid regularly and accordingly, at least monthly, and in full agreement with the terms of employment. The ILO minimum wage recommendation for Able Seafarers should be taken into consideration as it is incorporated in the Convention. *Regulation 2.3 of MLC 2006* provides the same requirements as set in the previous ILO Convention on

⁴⁹ International Shipping Federation, ILO Maritime Labour Convention 2006, a guide for the shipping industry, (2006) p 29.

Seafarers' Hours of Work and manning of ships Convention, 1996 (No.180). Here the important requirement in addition to STCW⁵⁰ is that ships should maintain individual records of work or rest.

So this will be an important tool to monitor the interlinked problems of work load and hours of work, stress and fatigue discussed as per Table 3. Another addition in the requirements of this Convention is that it applies not only to watch keepers but to all seafarers. The seafarers' working hours should comply with the limits set in the provision. Finally, the shipowner should not neglect the flexibility to allow exceptions to these limits which could be made possible through collective bargaining agreements authorised by the flag state where it is permissible by the national laws. Regarding the hours of rest, it is the responsibility of the Master to ensure that seafarers are provided sufficient and adequate periods of rest. Further details on how shipowners to be in compliance with the hour of rest record requirements and the preparation of compliant tables of shipboard working arrangements are available on the software program *ISF watchkeeper* from Marisec Publications at www.marisec.org/watchkeeper.⁵¹ Regarding the entitlement to leave the ship owners should ensure that seafarers have adequate leave. No agreements without the consideration of annual paid leave should be permissible and absences justified should not be included in the annual leave. Here again unless through any provision of a collective bargaining, calculation should be made as per *standard A2.4*, that is on the basis of a minimum of 2.5 days as per the calendar month. Under *Regulation 2.5 of the MLC 2006*, seafarers have the right to repatriate at no cost to themselves in the circumstances and the provisions of the code. No advance payments should be made by the seafarers or any reductions to fund repatriation. Only in the case of the agreement being expired can seafarers be repatriating.

⁵⁰ *Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW)*, as amended.

⁵¹ International Shipping Federation, *ILO Maritime Labour Convention 2006, a guide for the shipping industry*, (2006) p 31.

As per *Regulation 2.6* an indemnity should be paid by the shipowner to ensure seafarers with adequate compensation in case of a ship is lost or has foundered and of injury or unemployment due. With respect to *Regulations 2.7 and 2.8* the shipowner should employ sufficient manning in compliance with IMO SOLAS⁵² requirements and other IMO guidelines for safe manning. The Seafarers should be provided with relevant training, vocational guidance and education in order to promote the career and skill development and employment opportunities for seafarers.

4.1.2 Health protection and medical care

The Member State should ensure that shipowners are providing adequate measures for the protection of their health and that seafarers have access to prompt and necessary medical care on board. (*Regulation 4.1 of MLC 2006*). Health care provision is not limited to treating sick or injured seafarers but includes preventive measures, such as health promotion and education. For instance, in Cameroun health protection and medical treatment are offered free or at very low rates in some circumstances to both the workers and their families. Moreover, when there is an accident during working time, they provide compensation rate based on the gravity of the injury.

According to *Guideline B4.1*, where the shipowner is not required to carry a medical doctor, the Member State should ensure that at least one designated seafarer with the approved medical first-aid training required by STCW, which enables such persons to take immediate, effective actions in case of accidents or illness occurring on board a ship. The designated person should make use of medical advice by radio or satellite communications.

Nowadays due to developments in communications technology seafarers have better access to medical advice, although costs are still a deterrent for many owners. There

⁵² *International Convention for the Safety of Life at Sea, 1974 (SOLAS)* as amended.

are also sophisticated systems capable of transmitting medical information, such as X-rays and electrocardiograms, to shore-based specialists to cater for the passengers.

The following illustrations which shows how committed one should be concerning health protection and medical care and how health on board is taken seriously:

Greek master, Vasilios Panagiotakauis was taken by helicopter from his ship, the bulk carrier *Aldebaran*, by the US Coast Guard after suspected a heart attack. It was 25 miles off the coast of British Columbia, the USCG helicopter flew through 35-knot winds and dark, snowy conditions to land a rescue swimmer on the deck of the ship in 15 ft seas and hoist the master up to the aircraft.⁵³

As Dr Tim Carter, medical adviser to Britain's Maritime and Coastguard Agency clearly states:

"More effort is now also put into medical examinations of seafarers, both before and during employment, in an attempt to reduce the incidence of illness. The limited data available have confirmed the prominence of heart disease as a cause of death at sea. He believes medical standards and preventative campaigns can only be improved with far better information than is at present available. An international programme of research into seafarers' health and medical standards is needed, he believes, with maritime authorities, unions and employers engaging in a debate about tolerable levels of medical risk".⁵⁴

From a project undertaken by the Seafarers International Research Centre where the main data was collected from 104 ship inspections by 'shadowing' inspectors in the UK, Russia and India. Additionally, a total of 37 semi-structured interviews were

⁵³ www.lloydlist.com/art/1012760957737.

⁵⁴ www.lloydlist.com/art/1012760957737.

conducted with inspectors and other key industry stakeholders (ship operators, shipping agents, national and international regulators, insurers and union officials).

In the course of a port state inspection of a 25 year old general cargo vessel in an Indian port; the researcher reported:

I think this was the dirtiest unhygienic eating place I had seen on any of the vessels. The galley was locked and we had to call the cook to open it. All the food was lying open with thousands of flies on the food. Now, rather than commenting on it, the port state inspector asked the cook if he knew how to fight a fire [...] no question on hygiene was asked'.

In this inspection, it should be noted that the vessels obtained sixteen (16) deficiencies where emphasis were made only on technical aspects of health and safety, rather than on hygiene, living and working conditions.

It was also noted that inspections of the accommodation, galley, galley store, ships hospitals and medical supplying were less frequently conducted in Russia. Here it is to be noted that not only the ratification of the MLC 2006 is important to look after the working and social conditions of seafarers but also proper implementation is necessary. Therefore, the port state inspectors need to be trained on various aspects on how to inspect hygiene, living and working conditions on board ships. The memorandum of understanding of different regions has an important role to bring consistency in such inspections.

Regarding another category, mortality, which diseases caused by, has been analysed as follows:

In Professor K.X.Li, Zhang Shiping's paper, it is stated that:

[...] the fourth category is mortality from "diseases". 2,640 mortality cases or 49% of the total, were identified as the result of diseases, an average of 98 per year. There is no information in the data obtained as to the details of illness and diseases leading to the demise of seafarers. Studies [UKCS, 1994; Wickramatillake, 1997],

however, showed that Chronicle Heart Diseases (CHD) was the principal natural cause of death among seafarers, and suggested the proportion of deaths from this cause is higher than in other occupations because of extensive stress and fatigue on board ships.

Some studies tend to show that the incidence of lung cancer among engine room crew was higher than among other crew⁵⁵.

4.1.3 Welfare and social security protection

As per *Regulation 4.4 of MLC 2006*, each Member State should ensure that seafarers working on board a ship have access to shore-based facilities and services to secure their health and well-being. In other words, there must be no discrimination with regard to welfare facilities on the basis of nationality, race, colour, sex, political opinion, social, culture or the ship's flag. Shipowners should co-operate with the state in providing seafarers on ships that are in its ports with access to adequate welfare facilities. In this analysis some seafarers explained that in some countries due to some diplomatic differences they may be restricted or denied shore-leave which is against the intention of this Convention.

In a report on a port based on welfare services for seafarers, Prof. Erol Kahveci stated⁵⁶:

All the seafarers without any exception acknowledged that having shore-leave was important for their physical and mental well-being.
In summary the result of this survey was as follows: "Seafarers

⁵⁵ Hansen, H and Petersen, G (1990): Influence of occupational accidents and deaths related to lifestyle on mortality among merchant seafarers. *International Journal of Epidemiology*, 25(6):1-6.

⁵⁶ Erol Kahveci (2007), SIRC, Cardiff University- The research was conducted in different locations where 86 questionnaires from shipowners and key ship management company, 52 semi-structured interviews with shipowners and ship management company informants in Cyprus, Germany, Greece, Hong Kong, Norway, Singapore, and the UK, 112 in-depth interviews with seafarers in their home societies in China, India, the Philippines, Russia, turkey, Ukraine, and the UK.

overwhelmingly acknowledged that having shore leave is important for their physical and mental well-being.

The MORI survey in 1996 found “57 percent of seafarers were satisfied with their shore-leave. Today, on the contrary, 64 percent of the seafarers were not able to have shore-leave for a considerable length of time.”

Thirty-six percent who had shore leave said that their shore leave on average lasted around two hours. The majority of these seafarers were not able to go further than the nearest phone box.

From Figure 9 and 10 respectively together with the analysis, it is predicted that with the introduction of MLC 2006, there would be a better access for seafarers to shore-based welfare activities. However, regarding the time to be allowed for shore leave as mentioned in this report on ports based on welfare services for seafarers, it would be taken into consideration in *Guideline B4.4.1 of MLC 2006*, where the Member State should take into account the special needs of seafarers, depending on the facilities provided at different ports and their spare-time activities which are permissible.

Regulation 4.5- social security clearly explained that the shipowners should ensure that seafarers’ employment agreement provide the means by which branches of social security protection will be made available to the seafarer by the owner, together with other statutory deductions from wages and the shipowners’ contributions made in accordance with the requirements of necessary national social security schemes.

4.1.4 Accommodation and recreational facilities

Regulation 3.1 of MLC 2006 deals with the requirements for the construction of a ship, for example crew accommodation together with certain facilities and limits of dimensions. In other words, shipowners should comply with the requirements stipulated in this Convention together with IMO guidelines. The IMO definition of ergonomics is the study and design of working environments (e.g., workstation,

cockpit, ship bridges) and their components, work practices and work procedures for the benefits of the worker's productivity, health, comfort, and safety⁵⁷. Moreover, a ship is similar to a floating platform which can be affected by external and internal environment conditions such as weather, temperature, humidity, noise, vibration and ship motion (pitching, rolling and slamming). The objective of the *Regulation 3.1 of MLC 2006* is to care for those factors which are detrimental to the safety and performance of those who work and live onboard.

4.1.5 Food and catering

In *Regulation 3.2 of MLC 2006*, where the Member State ensures that seafarers have access to good quality food and drinking water provided under regulated hygienic conditions. Another important aspect of this Convention is that food and drinking water of appropriate quality, nutritional value and quantity should adequately cover the requirements of the ship. Here, differing cultural and religious backgrounds are taken into account.

As per an article in Lloyd's List – P&I and lifestyle gurus turn attention to seafarers- Professor James Brewer wrote:

Shipowners need to shape up to look after the health and fitness of the crew members- or risk more accidents at sea. Too many of the world's seafarers suffer from heart problems, obesity or tiredness that can be blamed on poor diet, insurers have insisted. Some people are consuming too much stodge and others too much sugar. Danger diets have become a worry from the marine safety and insurance viewpoint- ship maintenance and cargo care can also suffer- that concerns have been raised at the level of the International Group of P&I clubs.

⁵⁷ International Maritime Human element Bulletin (2004). *Alert, Issue No.3*: The Nautical Institute. <http://www.lr.org/NR/rdonlyres/2CF5C81B-7EF3-4BC7-BF94-933268784072/37170/Alert4.pdf>

Mr Tony Baker, the head of loss prevention of the club underlined:

A significant number of P&I claims relate to sub-standard performance or ill-health of seafarers. He emphasized that proper nutrition, along with adequate rest and sleep, regular exercise and good hygiene, help to prevent diseases and improve health, well being and general performance. When referring to a proper nutrition, this means a balanced diet with sufficient protein for the formation and repair of body tissues, adequate supply of minerals to reinforce body tissues and sufficient carbohydrates and the right amount of fats for energy. There must be vitamins to keep the brain, nerves and other vital organs functioning.

In conjunction with the SM Lazo medical clinic in Manila, which specializes in monitoring health and fitness of Filipino crews, North of England has drawn up a recommended diet chart as follows:

“Eat a little” food including oils, salt and sugar.

“Eat some” food such as eggs, meat and cheese.

“Eat more” food such as fruit and vegetables.

“Eat most” food including potatoes, rice, bread and cereal

And finally was the right food everyday with two liters or eight glasses of water, light juice or clear broth, advises the club.

From an article in Lloyd’s list, it mentioned that shipowners need to shape up to look after the health and fitness of crew members- or risk at sea and that too many of the world’s seafarers suffer from heart problems, obesity or tiredness, which can be blamed on poor diet, insurers have insisted. For example, failing to observe regular meals and missing breakfast can lead to low performance.⁵⁸

⁵⁸James Brewer- 11 May 2006, www.lloydslist.com/art/1147057656246, P&I diet and lifestyle gurus turn attention to seafarers.

4.2. Casualties and accidents resulted due to social problems on board ships.

There must be many factors which may have negative effects on seafarers' behaviour or attitude to their jobs. For example, low wages not compensating for their discomfort and hardships attending life at sea far from family and from amenities of life ashore (isolation). Nowadays, the industrialized shipping industry sometimes neglects the social problems of life aboard ships. "If ships are operated for social reasons this might be convincing but it is difficult to accept such a policy as a primary principle in a commercial context"⁵⁹. Not taking into account the social welfare and recreational activities can add to the acute problem of human errors or lack of concentration while on duty. Due to loneliness and tough life at sea and away from the day to day life ashore, the biggest hobby at sea is drink. "Finnish seamen consume three to four times as much alcohol as Finns who work ashore".⁶⁰ One may say and prove that a high level of alcohol in turn means more sleeping and relaxation time. Lack of sleep may lead to fatigue, which in turn may add to the risk of accidents. The seafarers may be trying to escape from hard stress and work loads together with fatigue and as a result become alcoholic. The difficulties of life on board may also lead to self- aggressive behaviour or even acts of committing suicide.

According to an analysis made on reasons for UK seafarers committing suicide and homicide incidents, from a total of 348 suicide cases (1962-88), that is, an average of 13 cases per year, giving a mean annual suicide rate of 0.16 percent, it was suggested that this may be due to stressful nature conditions at sea. A person distressed to the extent of committing suicide certainly would not be able to perform his duty or function properly, and could be a hazard to safety.⁶¹

⁵⁹ Capt. M. Maclead, letters to the Editor, safety at sea, Jan 1980.

⁶⁰ Problems aboard, Svensk Sjöfarts Tidning, 1/1980.

⁶¹ K.X.Li, Zhang Shiping (2002). Maritime professional safety: prevention and legislation on personal injuries on board ships. Hong Kong Polytechnic University, Hong Kong.

Figure 12 shows different environmental factors which can cause a casualty to occur. It should not be forgotten that the majority of shipping casualties are caused by human-related error factors, such as operating skills, knowledge and decision-making. Nonetheless, which is the most important and that should be taken into high consideration is the sound body and mind of the operator which has been classified as the condition of the operator within the environmental factors. The countermeasures for instance may be less alertness to lookout, dozing, misjudgment and mishandling which might result to an accident.

The social behaviour of seafarers should also be followed very closely. There are many factors which can have negative impacts upon seafarers' attitude to their job which need to be worked upon. For example, low wages do not offset the discomfort and hardships attending life at sea far from the family and far from the amenities of life ashore. It should be emphasized that there are also external factors such as hard schedules due to pressures from business side for the ship's turnaround time at ports, time allowed for cargo handling work/service and speed at sea. Dr.Erol Kahveci⁶² clearly explained the negative impact of fast turnaround ships on the intensity of seafarers' workload. He also described how a decline in manning levels, lack of shore leave can have amplified the effect on the mental and physical well-being of seafarers. Therefore fast turnaround times have limited the possibility of social contact beyond the ship board community and the reduction in manning levels has increased the workload and reduced the quality of social contact on board.

⁶² Kahveci E. (1999). Fast turnaround ships and their impact on crews: Seafarers International Research Centre, Cardiff University, Cardiff.

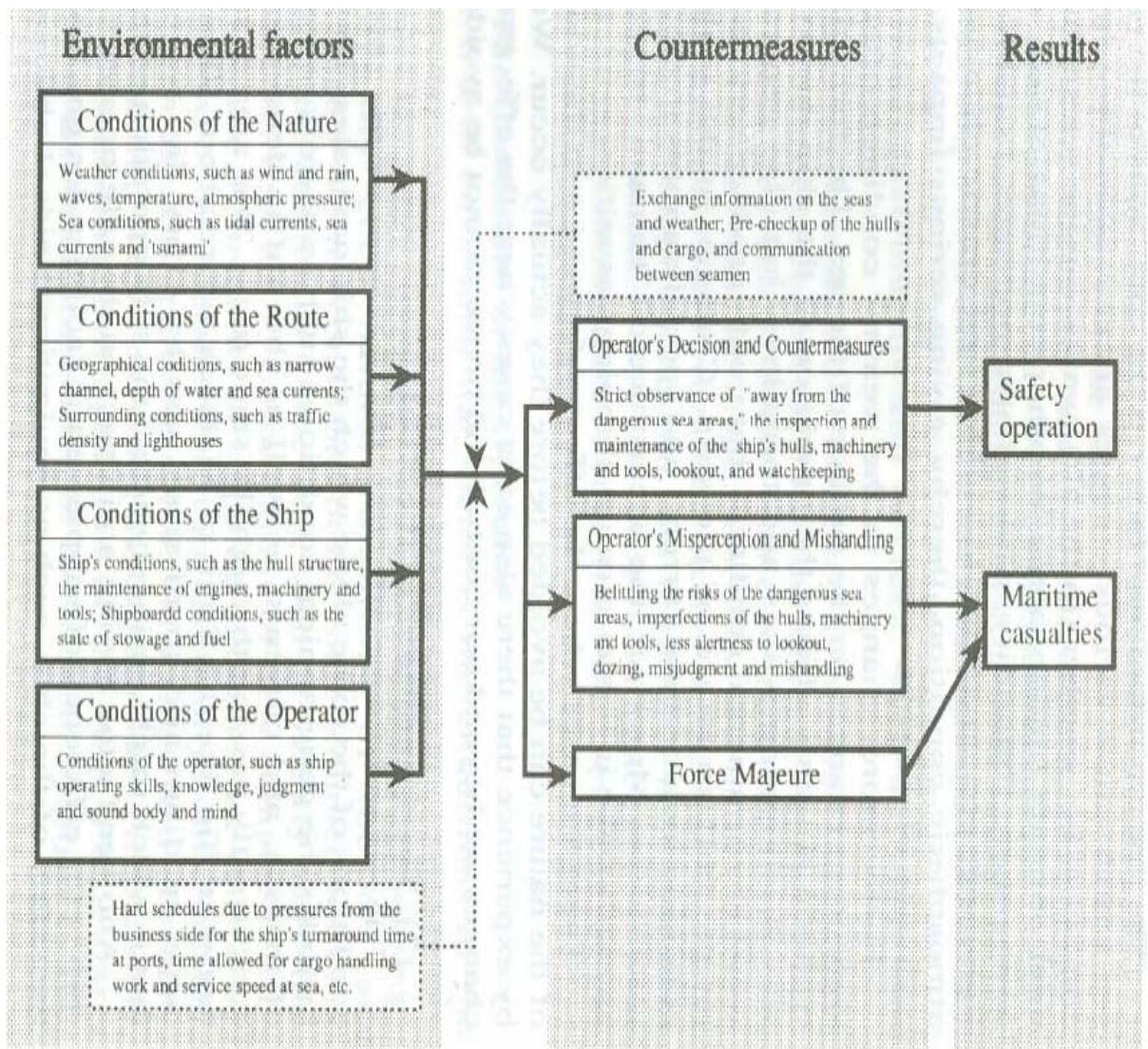


Figure 12: Causes of maritime casualties to ships.

Source: Japan maritime Research Institute (1993).

Therefore, the MLC 2006 is the best tool in order to ensure the social welfare and working conditions of seafarers (with more recreational activities) , that is, ensuring that they are both physically and mentally fit and work in the most decent environment with an optimal level of productivity. Sufficient, healthy and well paid men with positive expectations concerning their jobs (security) are providing the basis for interest in ships' maintenance and safety. There is no doubt that the intended benefits

of the Maritime Labour Convention, 2006 are likely to materialize and resolve these problems.

4.3. Issues related to the implementation of the MLC 2006:

As part of the research study, questionnaires were also sent to maritime administrations, shipping companies, and seafarers' unions. The objective was to collect information regarding the impact of the Maritime Labour Convention, 2006. Feedback was collected from the following countries' maritime administrations, associations and unions: Indonesia, Algeria, Cameroun, Korea, New Zealand, Ukraine, Malaysia, Norway, Pakistan, the Philippines, Sri Lanka, Vietnam, the Republic of Mauritius, China, Greece, Singapore, Myanmar, Liberia, Argentina, Canada, Russia, St. Lucia, the UK, Japan, Cambodia, Thailand, and Sweden.

4.3.1 Incorporation into national legislation

All the countries who responded were obviously keen on ratifying the MLC 2006 since their ships would provide better working conditions and social welfare and rights for their seafarers. This Convention would help to protect unfair competition against substandard ships on the shipping market. The introduction of a system of certification would reduce delays in terms of long inspections in foreign ports.

[...] the new system for enforcement and compliance should ensure that the provisions of the Convention are highly effective in practice [.....] By virtue of the principle of "no more favourable treatment" for vessels not covered by the prescribed certification, the latter will be liable to thorough inspections in the ports of States having ratified the Convention. States are thus given a strong incentive to ratify and apply it-especially since the scope of "port state control" extends to every single provision of the Convention. Serious and repeated deficiencies can result in detention of the ship.⁶³

⁶³ International Labour Review, Volume 145, Numbers 1-2, 2006, pp.135-142(8)- The ILO's new Convention on maritime labour An innovative instrument.

Incorporating the international convention into appropriate national legislation would depend whether the ratified country follows the monistic or dualistic method. So the implementation process would depend on the manner in which the convention is likely to be interpreted by national courts. In a monistic state, once the convention is ratified it becomes automatically part of the Constitution or laws of the State. In some monistic States, a convention duly ratified needs to be officially published or gazetted before it can be law in force.⁶⁴ For a monistic method to be effective, the convention should be “self-executing” or of “direct effect or application.” On the other hand, a dualistic State needs some form of legislative action for the implementation of the international convention, following its ratification or accession.

Another important element while interpreting international conventions, whatever the system in place, the draftsman of the domestic legislation should be conversant with how treaty provisions are interpreted into domestic legislation. Therefore, to avoid misinterpretation only its pith and substance should be transmitted to the domestic legislation. As Lord Denning stated in *Corocraft Ltd v. Pan-Am*, “(T)he courts of all countries should interpret the convention in the same way.” They should maintain the uniformity, unification and harmonization principles. In carrying out the task of incorporating the law of a convention into domestic legislation of a comprehensive kind, such as shipping act, it must be borne in mind that whereas a convention speaks to its State Parties, the domestic legislation speaks to its citizenry; i.e., the recipients and users of the legislation. So in this process of implementation the State should provide the necessary guidelines to be applied by its citizens⁶⁵.

⁶⁴ Proshanto K. Mukherjee, WMU, Maritime Legislation, p 126.

⁶⁵ P.K Mukherjee, WMU, Maritime Legislation, pp. 133-134.

The following shows how far some countries' laws and regulations ensure compliance with the requirements of MLC 2006 and their progression towards its ratification.

The Republic of Liberia

The Republic of Liberia was the first on 7 June 2006 to ratify MLC 2006 and H.E. Ms. Ellen Johnson Sirleaf, President of the Republic of Liberia stated that the main reason for this commitment is due to the high unemployment rate (85 percent) whereby Liberia requires immediate support to create sustainable development. However, another reason in order to keep their standards as recognised by the United States Coast Guards's Qualship 21 Quality Incentive Programme being the best in ensuring that their ships were maintained to the highest quality standards as a result of its excellent port state control. Therefore, for a ship to be seaworthy, it should also have competent seafarers with all the necessary decent working and welfare conditions on board. In the interim, Liberia should work closely with shipowners, including the secretariat of the Liberian Shipowners Council, to address any relevant issues that could be an obstacle to implementation of the MLC-2006 during the process of consideration.⁶⁶

Denmark

In the same way many countries are ready for ratification and have seen the very necessity of the Convention. For instance, some developed countries have more or less the same standard as the Convention. For example, Denmark already has instructions for the Foreign Service⁶⁷ in details for working conditions and social benefits for seafarers. The Merchant Shipping (Masters' and Seamen's) consolidation Act⁶⁸ of Denmark is in compliance with mostly everything. As per *Section 64 Chapter IV of the consolidated Act* in the event of a dispute which arises between the master and a

⁶⁶ Flagship, news from the Liberian registry, issue No. 17, may 2006

⁶⁷ Instructions for the foreign service (1992), Volume 2, shipping and seamen.

⁶⁸ Act No. 420 of 13 June 1973 as amended latest by Act No. 14 of 13 January 1997.

seaman about the wages or other terms of employment while the ship is abroad, the dispute may be referred to a Danish consul. The decision of the Danish Maritime Authority or the consul shall be final administrative ruling. If the seaman has no other venue in Denmark, an action may be brought against him in the judicial district in which the ship has her home port. If the decision involves payment of an amount exceeding Kroner 500 the consul may, if it is warranted by the facts of the case, decide that the amount shall be deposited with him in full or in part. An amount deposited together with a copy of the consul's decision shall be forwarded to the Danish maritime Authority. The amount shall be paid after the expiry of 6 months unless the dispute has been brought before a Danish court of law before that time.

Canada

In the Canada gazette⁶⁹, the Order Amending Schedule 1 to the Canada Shipping Act, 2001 (Maritime Labour Convention, 2006) (the Order) adds the Convention to Schedule 1 to the Canada Shipping Act, 2001 (CSA 2001). When the CSA 2001 comes into force on July 1, 2007, paragraph 35(1)(d) of that Act will give authority to make regulations that implement provisions of the Convention for the purpose of giving them force of law in Canada.

More practically, the addition of this Convention to Schedule 1 to the CSA 2001 will provide the authority to bring the Convention into force in whole or in part in Canada, give the Minister the power to issue compliance documents and have certificates issued to, or by, any signatory states. The Convention having the specific framework for labour requirements will put in place a certification regime that is necessary to meet the objectives of the CSA 2001.

⁶⁹ Canada gazette(June 13, 2007),Vol. 141, No. 12 —Registration
SOR/2007-109 May 31, 2007,CANADA SHIPPING ACT, 2001

Japan

Japan is one of the major shipping nations in Asia, the Pacific, and the Pacific region due to its geographical position. Japan is actually coordinating port state control and is the host for the Tokyo Memorandum of Understanding, (MOU). The Japanese flag ships and flag of convenience (FOC) have a share of 11.5% of the overall maritime shipping in the world. The number of seafarers is keeping on declining and about 30,000 seafarers covered the cargo vessels along the coast. Vessels are simultaneously declining and nowadays there are around 6,000. Japanese seafarers working on foreign ships were about 2,600 in 2005. Japan has ratified the Merchant Shipping Minimum Standards Convention No.147 and there are many other conventions in the Japanese national laws to cover various requirements of the ILO conventions. Mr. Teranishi, who is the Deputy Director General of College of Land and Infrastructure and Transport of MLIT⁷⁰ states:

Since we want to improve the working environment of the seafarers and for the protection of the seafarers and we believe that these conventions are very important for the healthy development of maritime shipping.⁷¹

Therefore, Japan will have to lay more emphasis on *Regulation 5.2 of the MLC 2006* being the coordinator of the Tokyo Memorandum of Understanding, (MOU). In fact, Japan will have an important role to play. For example, it could monitor on-board complaints in this specific region regarding the working conditions and social welfare.

Russia

Russia, a leading port and flag state and a major supplier of seafarers to the global maritime community, has been identified by the ILO as a priority country where consideration of the new convention should be encouraged. “We are very satisfied with the results of our meetings in Moscow”, says Ms. Cleopatra Doumbia-Henry, Director

⁷¹ Asean-Japan Seafarers Policy Cooperation, International Seminar on ILO Maritime Labour Convention 2006 (October 2005).

of the ILO's International Labour Standards Department and head of the High-level mission. "We are impressed by the work already done in Russia and the progress made towards the ratification of the Maritime Labour Convention. The ILO will continue to support our partners' efforts to promote this important instrument."⁷²

4.3.2 Administration and enforcement of its provisions and regulations

The most important is Title 5 regarding the compliance and enforcement and according to Dr Doumbia-Henry⁷³, Director of the ILO's International Labour Standards Department:

The principal challenge - and thus one of the reasons why innovation was essential - was to endow the new Convention with a far higher prospect for widespread ratification than had been achieved in the case of more traditional international labour Conventions. Much of the answer lay in allowing sufficient flexibility so as to accommodate national circumstances and economic diversity; but this flexibility had to be provided without prejudicing the strength of protection to be given to seafarers. The innovations relate not so much to the solutions adopted, but rather to their development in the Convention.

⁷² ILO, Newsletter (March 2007), ISSN 1811-1351, www.ilo.ru

⁷³ *Doumbia-Henry, Dominick Devlin and Moira L. McConnel (September 2006), the MLC, 2006, Consolidates Seafarers' Labour Instruments, the American Society of International Law ASIL, Volume 10, Issue 23.*

At the actual time most countries are at the early stage of incorporating the requirements. The pros and cons for some administrations while enforcing the provisions and regulations from the MLC 2006 requirements will be analysed in the following:

Indonesia

The essence of the MLC 2006 has already been inserted into the revision of the Shipping Act No.21, 1992, which is now being discussed in the parliament. Most of the requirements of the MLC 2006 have already been regulated in the national laws and regulations.

Indonesia has no problem at all with Title 1 of the Convention; all requirements are fully in compliance with existing domestic laws. With respect to Title 2 (carrier and skill development and opportunities for seafarers) Captain Indra Priyatna explained that this section depended on the interpretation of the word “opportunities” since it is the role of the government to regulate and act as a facilitator and moderator.⁷⁴

So here it will depend on the national government policy to provide opportunities to support this requirement of MLC 2006. Investments should promote well equipped a maritime training institute with qualified teachers and at the same time provide facilities and subsidies to seafarers to ensure career and skills development.

For title 3, regulations are in place but not fully in compliance as per Standard A3.1-Section 4 (a) and (c) for instance the size of the cabin is smaller than the requirements and particular attention to ensuring the requirements relating to noise and vibration is not as stipulated in the MLC 2006. The implementation of the requirements for this title is based on the SOLAS, Tonnage and the Load Line Convention. Therefore, this requirement is not fulfilled where the room should be bigger to be protected from noise, vibration and ambivalent temperatures. Decisions should be made by policy makers at least to take preventive actions immediately if not corrective. For example, new ships

⁷⁴ Asean-Japan Seafarers Policy Cooperation, International Seminar on ILO Maritime Labour Convention 2006 (October 2005).

should be designed ergonomically with respect to *Regulations 3.1 of MLC 2006*, to ensure decent accommodations for seafarers' working and living conditions on board ships. Shipowners should not neglect the seafarers' health and well-being.⁷⁵

Lastly, Title 4, health protection, medical care, welfare and social security are in compliance but in Title 5, since regulations 5.1.4 and 5.2.1 are interrelated, neither is fully in compliance; ships are inspected only for the safety of the ship, safety of personnel on board, safety of cargo and environment according to *Regulation A-I/4: of STCW Code: Control procedures, Section 1.2 of ISM Code*, whose objective is to ensure safety at sea and damage to the environment, prevention of human injury and loss of life. However, the social security and the aspects of recreational facilities are not inspected. Therefore, it is the responsibility of the flag state to provide such regulations. It is not easy at all to prepare regulations for the recreational facilities and to quantify them for monitoring and inspection. Therefore, necessary guidelines need to be designed ergonomically to suit the requirements of the Convention.

Moreover, the administration is facing difficulties in monitoring on-board complaints and procedure or mechanism set to issue the maritime labour certificate. Indonesian seafarers do not know the content of the Maritime Labour Convention of 2006 yet; therefore, there is an urgent need to revise the curriculum and syllabus for the training. Another more difficult task is how to familiarize seafarers with working onboard foreign ships (nearly 84,000). For instance, there are about 6,060 seafarers working on-board the Holland America Line. The responsibility of providing this training and familiarization should rest on the shipping companies, as mentioned in the ISM Code requirements to provide training officers on-board. With respect to the port state responsibilities, the checklist should be revised in order to monitor the working and social conditions of seafarers.

⁷⁵ See Nicholson S.A. and Ridd E.J. (1988). Health safety and ergonomics: Butterworth & Co.Ltd.

Philippines

The Philippines is substantially in compliance with most of the provisions of the conventions as follows:

Title 1: The minimum age requirement of *Regulation 1.1 of MLC 2006* is in compliance with the provisions of the Labor Code of the Philippines which is 18 years old. Additionally, they have the Republic Act NO.7610 and the special protection of children against child abuse, exploitation and discrimination which prohibits the employment of children below 15 years of age in public and private undertaking, as amended by Republic Act No. 77658.

The Special Protection of Children against Child Abuse, Exploitation and Discrimination Act and Child and Youth Code also allow employment of children below 16 years of age for light work. This is permissible since it is not harmful to their safety, health or normal development and which is not prejudicial to their studies.

As per *Regulation 1.2 of MLC 2006*- medical certificate; the rules and regulations are already provided to govern the recruitment and employment seafarers require whereby for the purposes of employment they have to conduct medical examination. A recruitment agency should ensure the requirements of international standards. The Philippine Merchant Marine Officers Act of 1998 applies to the training and qualification of Officers. In addition, manning agencies are ruled under their licensing policy. There also exist a standardized mechanism for licensing private recruitment and placement services for seafarers. Specific rules are set so manning agencies can not charge any fees from the Seafarers for their recruitment and deployment services and penalties for a violation of these rules, which is the cancellation of license. The Labor Code of the Philippines also provides a regulation for the recruitment and placement activities by the private sector.

Therefore, the Philippines is in full compliance with *Title 1 of MLC 2006*.

Title 2, conditions of employment, is fully compliant with the requirements of MLC 2006. Regarding seafarers' employment agreement, the POEA⁷⁶ rules apply to recruitment and placement of seafarers regardless of the flag of the ship.

Ms. Rosalinda Baldoz⁷⁷ stated:

Through tripartite consultation involving the seafarers and the private sector, the POEA determines, formulates and establish minimum separate and distinguished standard employment contract for seafarers in accordance with the accepted international standard and maritime practice. Also the rules provide that Filipinos seafarers employed in ocean- going vessels and their employers are free to enter into a collective agreement providing for higher benefits than what is provided under the standard terms and conditions in the contract. Today two major seafarers' unions in the Philippines have signed standard collective bargaining agreement with the employers in Norway, Denmark, Sweden, Netherland, Japan, Singapore, Hong Kong, South Korea among others.

Regarding wages, the Labor Code of the Philippines provides a systematic approach process dealing with paying wages to the workers within a particular time frame which is not later than 15 days of the succeeding month, from the date of commencement of contract until the date of arrival at the point of hiring upon the termination of the employment as stipulated in *Regulation 2.2 of the MLC 2006*.

According to *Regulation 2.3 of MLC 2006*, hours of work and rest, the Labor Code of the Philippines provides the rules for the determining hours of work and rest period. For overseas employment of seafarers the POEA contract provides that the seafarer must not perform more than 48 hours of regular work a week. The hours of work will be determined by the master provided that it confirms the customary marine international practices and standards.

⁷⁶ Philippine Overseas Employment Administration.

⁷⁷ Administrator of the Philippine Overseas Employment Administration, speech on, Asean-Japan Seafarers Policy Cooperation, International Seminar on ILO Maritime Labour Convention 2006 (October 2005).

Regulation 2.4 of MLC 2006, entitlement to leave, the Philippine Labor Code provides, for an annual 5-day service incentive leave with pay, which is similar to the annual holiday with pay. The POEA standard employment contract for overseas Filipino seafarers allows the seafarers to paid holiday. And annual holiday pay, holiday with pay is not provided since the term of the POEA standard employment contract can not exceed one year. The days of leave must not be less than 2 and half days of each month of service and prorated. Repay will be settled on board and settled two weeks after arrival of the seafarers of the point of hire. On-shore leave provides that the seafarers must be allowed shore leave when practicable upon the consent of the master or his deputy taking into consideration the operation and safety of the vessels.

As per *Regulation 2.5 of MLC 2006*, repatriation, the Republic Act 8042 otherwise known as the migrant worker and overseas Filipinos Act of 1995 provides for legal support for repatriation of the overseas workers including seafarers. The 2003 POEA rules provide for the repatriation of the seafarers and the transport of personal belongings which must be the primary responsibility of the principal and or the agencies which recruited or deployed the seafarers. The standard employment contract also contains the provision and mandatory repatriation of seafarers.

Seafarers compensation as per the requirement of *Regulation 2.6 of MLC 2006*, the standard employment contract provides that when the vessel is necessitating the termination of employment before the date indicated in the contract, the seafarers are entitled to earn wages, medical examination at the employer's expense, to determine their willingness to work and repatriation at the employer's cost and one month basic wages as termination pay. The same package is provided for termination of employment due sale of the vessel or discontinuance of voyage or declaration of the vessels.

Regarding manning level *Regulation 2.7 of MLC 2006*, IMO stipulates the principles of safe manning on ships under the standard training and watchkeeping (STCW Code) to be directed by the Maritime Safety Committee. The Philippine government will comply with any regulation that will be coming out of the STCW Code.

Regarding *Regulation 2.8 of MLC 2006*, on career and skills development and opportunities for employment of seafarers, the rules of the POEA provides that it is the policy of the administration to develop the strategies and programs to ensure the full quality employment of opportunities for seafarers to have an appropriate level of competence, training and certification as required by the STCW Convention and applicable conventions, laws, rules and regulation.

Title 3 - Accommodation and recreational facilities and food and catering. This particular provision of the convention needs to be considered by the Philippine government in so far as domestic shipping is concerned and in view of the absence of any laws presently governing the matter of accommodation and recreational facilities for seafarers onboard ship flying national flag , especially those engaged in coastal trade. Therefore, for both *Regulation 3.1 of MLC 2006* and *Regulation 3.2 of MLC 2006*- Food and catering, necessary guidelines and regulations should be made ergonomically to fulfill the requirements.

Title 4- As per *Regulations 4.1 and 4.2 Of MLC 2006*, compliance is already made by the Philippine Merchant Marine Rules and Regulation, where ships carrying 500 or more passengers and with travel time exceeding 12 hours to provide a cabin which must be converted into an emergency isolation room, when the need arises and the same is applied to passenger and passenger cargo ships. Regarding the medical care ashore, seafarers under the national flag, are covered by the national health insurance, and are provided with necessary medical facilities as required.

As per *Regulations 4.2 of MLC 2006*, Shipowners' liabilities, the standard employment contract provided seafarers with necessary compensation for injury, sickness or death. The social security system provides additional benefits if needed. Concerning seafarers not working on national flag vessels, the Overseas Workers' Welfare Administration, Employees' Compensation Commission and the Philippine Health Insurance Cooperation cover them. Additionally, the labour Code of the Philippines provides for the employee compensation system for work-related injuries, sickness or death.

As per Regulation 4.3 on health and safety protection and accidental prevention, the Health and Safety Protection and Accidental Prevention Law in the Philippines are covered under the Philippine Labour Code. However, necessary amendments need to be made to be in compliance with MLC 2006 requirements, that is, covering the work places onboard ships.

An access to shore-based welfare facilities (*Regulation 4.4 of MLC 2006*), the Migrant Workers Act of 1995 provides for the establishment by migrant workers and other overseas Filipino resource centers in countries where there is a large concentration of Filipino migrant workers. The center provides services, such as counseling, legal service, welfare assistance, including the procurement of medical and hospitalization services.

Social security (*Regulation 4.5*) is covered by the Republic Act, which provides for social security benefits for domestic seafarers and in case of overseas seafarers, membership is on a voluntary basis.

There are Philippine bilateral agreements on the coverage of social security but this is essentially for land-based workers and the social security system is continuing its bilateral negotiation for the coverage of Filipinos seafarers' onboard ocean-going vessels.

The Philippines is in compliance with *Title 5 of MLC 2006*. The Domestic Shipping Development Act of 2004 grants the Philippine maritime authority jurisdiction under the domestic shipping industry, overseas international shipping, maritime manpower and ship building, ship repair with the adherence to the international safety and security standards in accordance with the applicable conventions and regulations.

Regarding port state responsibilities (Regulation 5.2), the port state control of the Philippines has created the Philippine coast guard within the frame work of the Tokyo Memorandum of Understanding on port state control. It sets the resume for the Asia Pacific region. The Tokyo MOU has also established the Asia Pacific computerized information system for the purpose of exchanging information and for the state inspection to enable to authorities to carry out the selective inspection of foreign flag ships and exercise port state control on such ships.

However, there are pending maritime related laws which the government should give priority to on their agenda. There is a proposal of a National Seafarers Office that will promote the integrated maritime manpower and placement program for the Filipino seafarers employed in both domestic and overseas shipping and developing in coordination with other agencies involved in the maritime industry.

There is a need to establish the process for the licensing of the agencies and deployment of seafarers.

4.3.3 Observations

Based on the foregoing review of various issues faced by selected countries relating to the implementation of MLC 2006, a number of challenges can be identified. One common issue is that seafarers need to be familiarized with onshore seafarer complaint-handling procedures. Similarly, regarding the Seafarer's Employment Agreement, steps need to be taken to ensure that all elements of the requirements of MLC 2006 are integrated in the procedure for employment contract. It is recommended that every seafarer should have a copy of the agreement. Therefore the contract should

consist of four sets; one original and three attested (controlled) copies. Each party that signs will obtain one copy and the original kept by the company. Of the three copies one should be kept by the seafarer, one by the Union and the other by the maritime administration. The wages should be written down in the contract together with the overtime, whether it is running or fixed and also the amount of leave pay. Additionally, the issue of these agreements should apply globally so as to ensure uniformity in the Port State Control exercises.

Further, regarding hours of rest, there needs to be some harmonization between MLC 2006 and STCW. As is, MLC 2006 has more hours of work (77 hours) compared with STCW (Section A-VIII/I paragraph 4) which is 70 hours for each seven-day period. Most countries comply with STCW. However, with 77 hours, there needs to be an amendment in the existing provisions since there is 7 hours lacking. STCW Convention applies only to watchkeeping personnel but MLC 2006 applies to all personnel. STCW excludes masters from the requirement of the rest hour period while MLC 2006 includes masters. Similarly, shipmasters hours of work should be regulated and need to be introduced in domestic regulations.

With respect to health and social protection benefits, other Ministries concerned, such as the Ministries of Health, Human Resource and Labour should intervene and work jointly to arrive at a suitable consensus on these issues.

Some countries which have not ratified ILO Convention 55 (shipowners liability) have almost equivalent requirements as per MLC 2006. Regarding shipowners liability, flag states should ensure that shipowners are taking their responsibilities as stipulated in the requirements. Simultaneously, the governments must establish necessary procedures in their respective national laws to ensure consistency in this process. The same should apply to ILO Convention 102 (social security) whereby states should engage in bilateral agreements on the coverage of social security for the coverage of their seafarers on-board ocean-going vessels.

Labour supplying responsibilities become difficult if countries do not have diplomatic relationship with one another. For instance, some Indonesian seafarers work on board Taiwanese vessels. However, Indonesia only recognizes mainland China (Beijing) and not Taiwan (Taipei). Therefore the employment scheme must be negotiated at a private to private level rather than government to government.

Most states must formulate and implement policies to ensure the welfare and protection of seafarers while employed overseas. For instance, they should set up minimum standards legislation and documentation of qualified seafarers, regulations of private sector participation, systems of licensing of manning agencies, legislation of foreign employers and provision of certification services in case of involving violation in recruitment rules and regulations.

Lastly, concerning inspection, global standards need to be set. The vessels of non-convention signatory countries, if they are substandard or do not comply with the requirements of MLC 2006, may be detained. Therefore fair competition will be secured and working environment of seafarers will be improved. It has also been found that more surveyors are needed to conduct these inspections. Regional cooperation is a must to bring uniformity and therefore the MOUs have a vital role to play in this process.

5. CONCLUSION AND RECOMMENDATIONS

5.1. Conclusion

Firstly, having taken a detailed look at the problems of the seafarers on board ships and ashore together with the impact of the MLC 2006 on them, it was observed that normally and practically some problems are uncontrollable.

Figure 14 illustrates the responses to the following question posed by a Malaysian survey:

“The Maritime Labour Convention 2006 is aimed at improving the working conditions of Seafarers⁷⁸ under the present global trend; do you think all the Port State and Flag State Control Authorities will effectively implement it?”

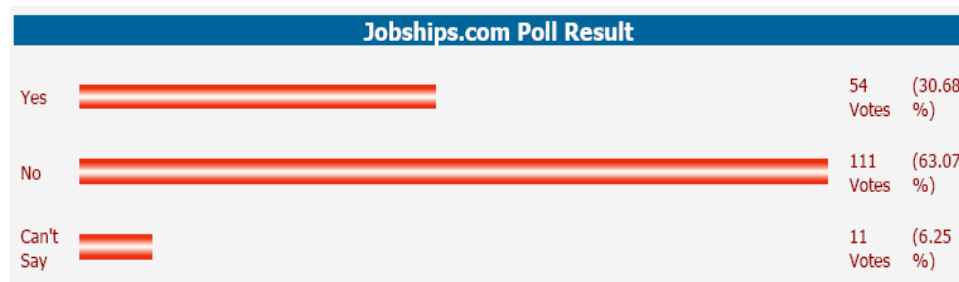


Figure 13 : Jobships opinion survey, 2006.
Source: Maritime Institute of Malaysia, 2006.

With respect to this opinion survey and the analysis, made in this paper great improvement can be made on all aspects which are manageable and controllable with the commitment of all parties concerned. In other words where there is a will, there is a way.

Secondly, regarding the incorporation and enforcement of the Convention most of the countries already have in place some regulative tools to monitor the working and social conditions of the seafarers. Some developing countries should place more emphasis on the social conditions. However, it was also seen that in some cases, it is very difficult

⁷⁸ See article at jobships.com.

to establish uniform guidelines. For instance, in the port state control process in another country there might arise some conflicts or complications if the same requirements of the MLC have been implemented differently. Therefore, the ILO should maintain on their instrumental approach of having seminars where all the doubts and confusion can be clarified and a solution be set to all countries or regions. All the coordinating port state control countries for the memoranda of understanding (MOU) in the different regions would have their part to play in promoting the working and social conditions of seafarers.

An economic perspective

An economic perspective to analyse and examine the economic implications of MLC 2006 is essential in order to achieve a socially feasible solution towards the implementation process of the Convention. Economics is a social science which studies human behavior as a relationship between ends (unlimited wants) and scarce means (limited resources) which have alternative uses.⁷⁹ Alternatively, a choice has to be made whether to implement and how to implement. Practically, not every party's individual goals can be attained at the same time, so the *trade-offs* should be made where the concepts of pareto improvement should be applied (Kaldor-Hicks efficiency). That is, instead of making somebody better off while at the same time making someone else worse off, it should be balanced and equally distributed.

The Shipowners' role is primary in the implementation process in ensuring most of the mandatory part of the Convention they are adhered to. It should be noted that they are party to any implementation only if the cost of implementation is less than the cost of not implementing the Convention. However, they have no choice. The illustration in figure 15 is from the model of Total Quality Costs.⁸⁰

⁷⁹ Professor Robbin's definition of economics.

⁸⁰ Joseph M. Juran, Classical model of safety costs. International Conference October 1996, safer ships competent crews.

On the y-axis the quality of social welfare, health and safety is measured in the context of having a complete seaworthy ship with reliable seafarers with all MLC requirements complied with and the probability of accident occurrence is zero.

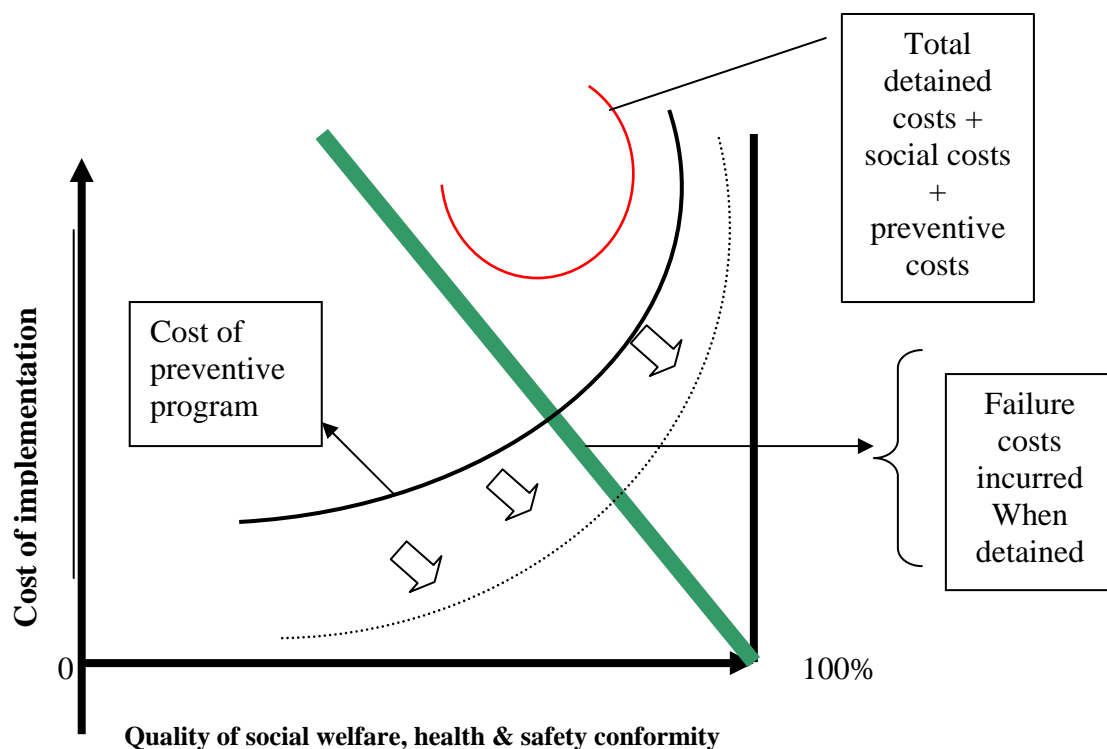


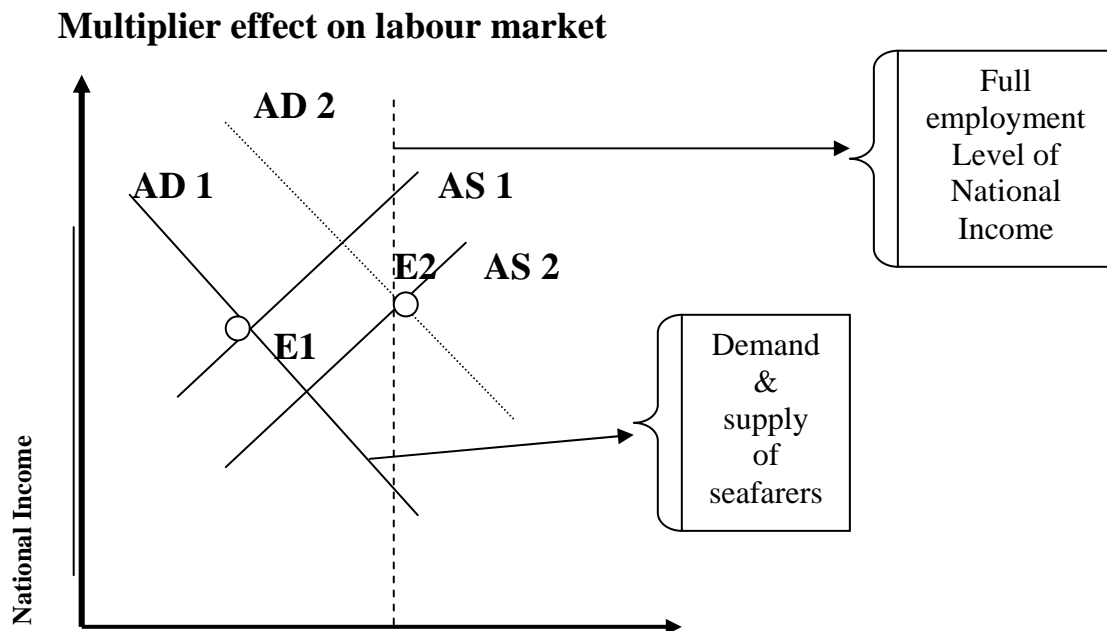
Figure 14: Optimal Quality of social welfare, health and safety conformity

However, in reality and practice this 100% is unattainable due to many factors, such as human errors (80% of maritime accidents being linked to human error)⁸¹, *force majeure* and also lack of commitment and negligence on any party concerned. So from Figure 15, it is clearly depicted that if there is an increase in cost of implementation, one can reach 100% safety conformance with no accidents. Furthermore, when adding mathematically the cost of a safety preventive program with the cost of implementation

⁸¹ European parliament (2007). *Employment policy, call for speedy ratification of Maritime Labour Convention*. http://www.europarl.europa.eu/news/expert/briefing_page/3713-071-03-11-20070228BRI03712-12-03-2007-2007/default_p001c010_en.htm

the total safety costs are obtained. Total safety costs can comprise the following costs: costs of the shipowner spending in operating costs (economic losses/private costs) due to ship delays in ports, social costs if seafarers are delayed to obtain their wages and the safety preventive costs together with the original cost of implementation.

Willingness to pay and accept together with individual party preferences also determines the reason for its ratification and implementation. One way of increasing the costs of a safety program by the shipowners, for instance, is the imposition of penalties or detentions. Another way in this case to reduce the cost of preventive measures (safety measures) is by shifting liability of the penalties or the operating costs and dues at the port due to delays to the end users of the products. Here, what should be emphasised is that even the costs in the short run are high in terms of implementation, but in the long run it will be beneficial with more availability of competent seafarers and fewer accidents occurring in the future. From Figure 15, the shift of the curve to the right explains how the government by providing incentives to the shipowners, such as loans at a preferential rate of interest or any incentives for them to run their business smoothly but making them more health and safety conscious on the other hand, the quality of social welfare and health and safety conformity will come closer to safety a conformance of 100%. In the same way, if the government provides subsidies on health and safety equipment, the same scenario will happen, that is, the tendency to reduce accident occurrence comes close to 100% quality safety conformance.



0 Figure 15 Quantity of demand & supply by seafarers

Figure 16 shows how MLC 2006 has an amplifying effect on the demand and supply of seafarers on the labour market. Given originally that aggregate demand is AD1, with the introduction of the requirements of MLC 2006, with incentives in terms of welfare conditions and social benefits, the aggregate demand will switch to AD2. Moreover, it causes an increase in the national income with equilibrium at the full employment level from point E1 (where there was inadequate supply to meet increasing demand) to point E2 (the full employment equilibrium level). Point E1 describes that there is a crew shortage, particularly with regards to ‘good officers,’ together with a high age profile of senior officers and the lack of qualified replacements available. Similarly, at this point there is no proper and optimal way of securing seafarers’ rights, working and social conditions. In contrast, point E2, with the ratification, enforcement and efficient implementation of MLC 2006 there will be a universal Maritime Labour Code with innovative methods to ensure security, rights, welfare and decent working conditions of seafarers. The expected continuing growth of the world fleet, and likely

international pressure to increase manning levels, suggests that the demand for qualified seafarers will persist to increase over the decade.

Furthermore, governments of each state designing necessary policies, will increase the ability of the existing work force of seafarers (quality training) and willingness of the younger generation to choose seafaring as a career (recruitment). MLC 2006 will help to recruit, retain and motivate seafarers while ensuring a quality flag state with both quality seafarers together with quality shipowners and ship management. Finally, MLC 2006 can be used as an efficient tool for a state to curtail the acute problem of unemployment; thereby, increasing the overall macroeconomic performance through an increase in both demand and supply in the seafarers' labour market.

5.2. Recommendations

The necessary policies with respect to the requirements of MLC 2006 should be successfully developed and designed rationally by the national policy makers and regulators together with national trade unions and seafarer's welfare associations. Among these, the following recommendations and proposals could be adopted to improve the ratification and enforcement of MLC 2006.

Company policy

The shipping and ship management companies should have policies in place, parallel with MLC 2006 requirements, in place making sure that seafarers are apart from ensuring decent working conditions enjoying recreational and welfare facilities, transport and communication facilities.

Stress, workloads and fatigue

In addition to providing guidelines for recreational activities as per *Regulation 3.1 of MLC 2006*, the companies could develop a holistic approach to seafarers' welfare beyond just addressing limited entertainment facilities aboard the vessels. In the same way, shipping companies should acknowledge the importance of port seafarer welfare

workers (including Union representatives) for their crews, and their on board visits should be encouraged in ports under ISPS arrangements; therefore, instead promoting *Regulation 4.4 of MLC 2006*- access to shore-based welfare activities.

Port State Control

Port state control plays an important role in ensuring compliance. However, it has been seen that most countries should insert the requirements for verifying the working and social conditions of seafarers through amendments or guidelines and new regulations. Nevertheless, one thing which is very important is that the Memorandum of Understanding (MOU) in different regions should find a way to ensure uniformity and effectiveness in these inspections. That is, each country's port inspection checklist should be identical. The coordinating country, for example Japan for the Tokyo Memorandum of Understanding on Port State Control can use the existing database that all MOUs are using today to verify and trace the shipowners or flags that are not complying with the requirements of MLC 2006. In the same way, the complaints on board ship in specific regions can be monitored by the country coordinating the port state control MOU in order to settle any disputes in the best possible way. ILO should explain how this Convention has "teeth" and would ensure decent working conditions for seafarers, no favorable treatment among shipowners, manning agencies and in the shipping community as a whole. At present there are fewer substandard ships in the Paris MOU on Port State Control region simply because they divide flags into "White", "Grey" and "Black" lists depending on good, average or poor scores in port state control inspections. This has a positive impact since fewer substandard ships are using European ports.

International Labour Organisation

Some countries' abilities to ratify MLC 2006 would depend on their capacity to implement it. ILO should assist these countries in identifying sources of funding for technical assistance for them to review their legislation and also provide them with adequate information and seminars to be organized at all levels. Countries should

know the implication of the Convention in order for them to support the short term cost of activities which will render them high benefits in the long run. In fact they should know the positive and negative impacts of not ratifying the Convention. For example ILO should demonstrate the benefits to be gained by more consistent application of regulations within the international shipping industry.

International Transport Workers' Federation (ITF)

ITF should continue providing assistance and advice on signing contracts to work at sea. This can also help in reducing complicated cases that may arise, such as non-payment of wages. The best guarantee of proper conditions of employment at sea to negotiate a contract drawn up in accordance with an ITF-approved collective agreement. Actually this is the root cause of any expected dispute on wages. All the national unions should familiarize their seafarers with their fundamental rights.

Multilateral System Co-operation

Member states should co-operate with each other in order to facilitate effective implementation and enforcement. This translates into co-operation between countries, international organizations, shipowners, seafarers, and other organizations. First and foremost, the Convention is designed to work seamlessly with the established systems of the International Maritime Organisation (IMO).

In the same way, agreement can be made between shipowners' and the seafarers' associations to identify all the recruitment policies and working conditions on board in reference to all the requirements of IMO and ILO. For example, there is a collective bargaining agreement for Indian officers between Norwegian Shipowners's Association and the Maritime Union of India, the Norwegian Maritime Officer's Association and the Norwegian Union of Marine Engineers.

MLC 2006, or the "Super Convention" as it oftentimes is called, sets out the basic rights of seafarers in concrete statements providing a large measure of flexibility to

ratifying countries as to how they can implement those standards for decent work with national laws. It is easily understandable and globally applicable, readily updatable and therefore uniformly enforceable. International Labour Organisation (ILO) Director-General, Juan Somavia, calls it a "landmark development in the world of work".

There has been a tremendous increase in world trade over the last century. The increase in the shipping sector's productivity has reduced import barriers and further promoted international trade. All of these, combined with the advancement in modern science and technology in terms of better transport and telecommunications, have only strengthened shipping's position as the most important medium in world trade.

Without shipowners and seafarers, the extent of globalization would not be as advanced as we know it today. Consequently, it is important to set solid and uniform rules for workers, employers and governments to provide a model for commerce at sea. As an answer to current challenges that plague the maritime industry, the new MLC 2006 Convention aims to address conditions, promote compliance and strengthen enforcement mechanisms. There will no longer be an array of differing national and international laws to bewilder seafarers or shipowners. For the first time, the Convention boasts and hopes there will truly be a global foundation for national laws in the maritime labour sector.

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**7. Appendix Questionnaires sent to maritime
administration, seafarers unions,
shipowners association, manning
agencies and ex-seafarers**

Name (optional) :

Position :

Address(Country):

.....

.....

Questions

- 1) Does your country plan to ratify the Maritime Labour Convention, 2006?**

☐ Yes

☐ No

- 2) Regardless of your response to *Question 1* above, is the maritime sector in your country (government and/or private industry) undertaking any initiatives/activities in relation to the implementation of the Convention's provisions?**

☐ Yes

☐ No

If answer is Yes, please proceed to Question 3.

- 3) By and large, do you find the implementation initiatives/activities following as anticipated (i.e., with no major hindrances or obstructions?)**

☐ Yes

☐ No

- 4) What major weaknesses are you facing in your position as administration or company in the implementation process of the new Maritime Labour Convention?**

.....

.....

.....

- 5) Do you expect an improvement for seafarers with regards to the following issues?**

- a) Conditions of employment-**

☐ Yes

☐ No

Please comment on your response:

.....

.....

.....

b) Accommodation, recreational facilities, food and catering

☐ Yes

☐ No

Please comment on your response:

.....

.....

.....

c) Health, medical care, welfare and social security protection

☐ Yes

☐ No

Please comment on your response:

.....

.....

.....

6) In your opinion will ratification of the Convention contribute to addressing existing problems of welfare and employment conditions for seafarers?

☐ Yes

☐ No

Please comment on your response:

.....

.....

.....

7) Do you have an existing Tripartite Committee with members of your administration, the Seafarer's Union and the Ship Owners' association, working on the rights and welfare of seafarers?

☐ Yes

☐ No

If answer is YES, please continue from question 8

8) Do you expect a change in the manner that this committee is organised and operated as a result of the new Maritime Labour Convention?

☐ Yes

☐ No

Please comment on your response:

.....

.....

.....

Name(optional) :

Position :

Address(Country):

.....

.....

Questions for Ex Seafarers Working Ashore

C. Personal Details

Name (Optional)	
Year of Birth	
Nationality	
City or Town of Residence	
Approximate Sea Time in Months (After first COC)	

D. Professional Qualification Certificate of Competency (Tick as Appropriate)

Master	First Mate	2 nd Mate	Watch Keeping Officer	Others(Indicate)
1	2	3	4	9

MEO Class 1	MEO Class II	MEO Class III	MEO Class IV	MEO Class V
5	6	7	8	

- E. How much did the following factors have influenced badly your employment conditions/ rights/ social welfare and health & safety at sea? Numbers represent a scale from 1 to 5, where 1 indicates no improvement and 5 indicates a very high improvement.

	No	Low	Moderate	High	
V.High					
Influence					
Fatigue	1	2	3	4	5
Work load & Hours of work	1	2	3	4	5
Stress	1	2	3	4	5
Communication	1	2	3	4	5
Isolation	1	2	3	4	5
Health & Safety	1	2	3	4	5
Wages	1	2	3	4	5
Employment agreements (conditions: Leave, repatriation etc)	1	2	3	4	5
Manning conditions (levels)	1	2	3	4	5
Accommodation	1	2	3	4	5
Hours of rest	1	2	3	4	5
Access to shore-based welfare activities	1	2	3	4	5
Accident protection					
Careers and skill development and opportunities	1	2	3	4	5
Medical care facilities	1	2	3	4	5
Social security	1	2	3	4	5

- D. Have you heard about the new maritime Labour convention, 2006?

☐ Yes

☐ No

- E. Does your country plan to ratify the Maritime Labour Convention, 2006?

☐ Yes

☐ No

- F. Has the maritime sector in your country (government and/or private industry) undertaking any initiatives/activities in relation to the implementation of the Convention's provisions?

☐ Yes

☐ No

- G. As a result of the new Maritime Labour Convention, 2006 how far you think it will help to improve the seafarer's welfare and employment conditions or to reduce the current problems they are facing nowadays?**

	No Improvement	Low	Moderate	High	V.High Improvement
Reduction in Fatigue	1	2	3	4	5
Work load & Hours of work	1	2	3	4	5
Reduce stress and tension	1	2	3	4	5
Communication	1	2	3	4	5
Isolation	1	2	3	4	5
Health & Safety	1	2	3	4	5
Wages	1	2	3	4	5
Employment agreements (conditions: Leave, repatriation etc)	1	2	3	4	5
Manning conditions (levels)	1	2	3	4	5
Accommodation	1	2	3	4	5
More equitable hours of rest	1	2	3	4	5
Access to shore-based welfare activities Accident protection	1	2	3	4	5
Careers and skill development and opportunities	1	2	3	4	5
Medical care facilities	1	2	3	4	5
Social security	1	2	3	4	5

- H. In your opinion will ratification and implementation of the Convention contribute to addressing existing problems of welfare and employment conditions for seafarers?**

☐ Yes

☐ No

Please comment on your response:

.....

.....