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WORLD MARITIME UNIVERSITY
Malmö, Sweden

**VIETNAM TOWARDS THE MARITIME LABOUR
CONVENTION, 2006:**

Benefits, challenges and reality

By

NGUYEN VIET HOANG SON

S14032

Vietnam

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

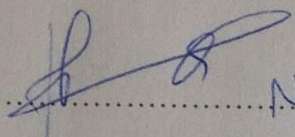
(MARITIME LAW AND POLICY)

2014

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

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NGUYEN VIET HOANG SON

Abstract

Title of Dissertation: **Vietnam towards the Maritime Labour Convention, 2006: Benefits, Challenges and Reality**

Degree: **MSc**

The dissertation is a study of matters revolving around the compliance status of Vietnam with the Maritime Labour Convention, 2006, including the benefits the Convention brought to Vietnam, the challenges faced by competent authorities, ship-owners and seafarers, as well as the reality of compliance after the recent entry into force of the Convention in Vietnam.

A brief introduction about the establishment of the MLC, 2006 is included. The problems in the seafaring career are examined to confirm the critical necessity of adopting the Convention.

Selected provisions within the MLC, 2006 are analysed, in order to provide a deep understanding about the benefits and the challenges that stakeholders in Vietnam's maritime industry, including competent authorities, ship-owners and seafarers have experienced or will potentially encounters, since the Convention has recently entered into force in the country.

The qualitative questionnaire method is used in the dissertation in order to gain an insight into the difficulties of applying the MLC, 2006. The questions comprises a few specific areas of the Convention and were distributed to seafarers, ship-owners and maritime administrations or other relevant maritime public authorities asking for individual opinions.

The concluding chapter provides the recommendations which are made concerning the need for altering the current operational system of the maritime industry, so that the MLC, 2006 could achieve its highest effectiveness and efficiency. The majority of the recommendations in the dissertation are drawn from the comparison between Vietnam and other countries, particularly those who are Member States of the Convention.

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List of Abbreviations

C.138	Minimum Age Convention
COLREG	the International Regulations for Preventing Collisions at Sea
DMLC	Declaration of Maritime Labour Compliance
GDP	Gross Domestic Product
IACS	International Association of Class Societies
ILO	International Labour Organization
IMO	International Maritime Organization
MARPOL	The International Convention for the Prevention of Pollution from Ships
MLC¹	Maritime Labour Certificate
MLC, 2006	Maritime Labour Convention, 2006
MOU	Memorandum of Understanding
P&I	Protection and Indemnity
PSCO	Port State Control Officer
PTMC	Preparatory Technical Maritime Conference
RO	Recognized Organization
RPS	Recruitment and Placement System
SOLAS	The International Convention for the Safety of Life at Sea
STCW	The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers
UNCLOS	United Nations Convention on Law of the Sea
VINAMARINE	Vietnam Maritime Administration
VMU	Vietnam Maritime University
VR	Vietnam Register
VSU	Vietnam Seafarers Union
WHO	World Health Organization
WMU	World Maritime University

¹ Note the difference between the MLC, 2006 (the Convention) and the MLC (the certificate)

PART I: INTRODUCTION

1.1 Focus of the Study

Obviously, the Maritime Labour Convention 2006 (hereinafter referred to as the MLC, 2006) can have a significant impact on the shipping industry of Vietnam, because it opens a new opportunity to improve the conditions for seafarers and creates a healthy competition between the national and foreign ship-owners. Furthermore, the MLC, 2006 acts as the foundation for the State in the development of human resources that meet the requirements of the maritime industry at an international level, and also unites ship-owners and enterprises as well as the maritime administration regarding the employment and management of the seafarers.

Nonetheless, there are a few particular areas of the MLC, 2006 that influenced the maritime industry of a State more than other industries, depending on various factors, such as the economy, legal system, culture and tradition. In the context of Vietnam, firstly, its economy is still at the developing stage, meaning not only seafarers but other types of employment offer low wages compared to other countries in the region, and in the world. The recent global economy downturn, together with the bankruptcy of the biggest state-owned shipbuilding firm of the country² (Cain, 2012), leading to the collapse or stagnation of other enterprises in the maritime industry, resulted in further decrease in budget for seafarers' wages. Lower wages, sometimes late or unpaid wages, caused dissatisfaction among seafarers whose work performance and productivity in turn would be reduced considerably (which will be discussed in Chapter 2). Second of all, the legal system is not fully integrated (Nguyen, 2013, p. 135), especially in the maritime domain, which in turn

² The ship-building corporation VINASHIN

raises the concerns with the certification of the ship in accordance with the MLC, 2006. Lastly, the competency of seafarers has yet reached the international level, thus the education and training of seafarers are given more attention than before.

1.2 Research Question

It would be too broad to try to discuss the impact of all of the provisions of the MLC, 2006 in one single Master's dissertation, therefore the following areas are selected for investigation:

Title 1: The minimum requirements for seafarers to work on a ship. All four regulations will be analysed individually.

Title 2: Conditions of employment. Only Regulation 2.2 is being discussed in detailed, as well as the Regulation 2.8 as it is relevant to Title 1.

Title 5: Flag State responsibilities will be analysed, particularly on the topic of Maritime Labour Certificate (MLC) and Declaration of Maritime Labour Compliance (DMLC). However, as the heart of the topic is the status quo of compliance of Vietnam (i.e. Flag State); therefore, Regulation 5.1 and its six sub-regulations will be analysed.

Nevertheless, the other part of the MLC, 2006, including the Articles I to XVI, can be brought to the discussion if it is relevant to the topic or further explanation is needed.

Under each Title, the following research questions will be answered:

1. What is the benefit of each selected Regulation to Vietnam's maritime industry?

2. What are the challenges of the State in implementing the provisions of all selected Titles?
3. What are the resolutions that the State has provided in order to overcome the obstacles? What is the recommendation from the author's opinion? Note that the recommendation given is taking into account the current condition of the industry and examples from other Member States of the MLC, 2006, whose maritime industry shares similar characteristics to Vietnam.

1.3 Research Methodology

1.3.1 The methods employed

The provisions of the aforementioned Title (i.e. Title 1, Title 2 and Title 5) will be carefully analyzed and compared to the existing legislation of Vietnam and to the reality of Vietnam's relevant maritime sector in this dissertation.

In order to study the practical effectiveness of the MLC, 2006 in Vietnam, a set of questionnaires has been developed and distributed to maritime authorities, ship-owners and seafarers³ in Vietnam. Each category of respondents will have a different set of questions, but based on the same topics, which are stipulated from the MLC, 2006. The topic is selected so that it reflects the existing problems within the operational system of the maritime industry, particularly in regard to the minimum requirements of seafarer's employment, conditions of seafarers' employment and last but not least, the Flag State (Vietnam) responsibility in ensuring the smoothness in compliance and enforcement of

³ See Appendix B – The dissertation research questionnaire

the MLC, 2006. The aim is to gain a qualitative view rather than quantitative statistics; therefore, short-answer questions were incorporated into the questionnaire.

The survey was initially required to get the approval from World Maritime University Ethics Committee (REC) before sending it out to the respondents, in order to ensure that no unethical investigation was conducted. The REC form was signed by both the researcher and supervisor and was approved on 14 August 2014. The REC form is attached in Appendix A. The questionnaire was translated into the Vietnamese language in order to get more responses from Vietnamese seafarers, and later the responses were translated back into the English language, which are included in Appendix C, D, E and Appendix F of this dissertation.

Another method to collect the data and information is through government publications. Circular, Decrees and other legal government documents are all publicly published, and hence, could be easily obtained through certain credible webpages. Information about the current situation or the actions taken by the competent authorities and ship-owners are available in the webpages of the Vietnam Maritime Administration, the Vietnam Register and other shipping companies. In addition, this dissertation also employed several reputable local newspaper sources that are relevant to maritime issues.

Last but not least, the dissertation will rely on literature about the MLC, 2006 itself and the problems arising from implementing the MLC, 2006 in Vietnam. Articles and journals written about other countries ratifying the MLC, 2006s are used for the purpose of comparing them to Vietnam.

1.3.2 Advantages and drawbacks of the research methodology

1.3.2.1 Online questionnaire

The questionnaire being used in this thesis is an online questionnaire. It covered topics related to the selected Titles, such as seafarers' wages or training and qualification of seafarers. It is the best way to employ online questionnaire for the purpose of this dissertation due to two reasons: First of all, seafarers are often working at sea, which is at least 6 to 10 months per year; therefore, it is very difficult to conduct a focus group or in-depth interview with individuals. Second of all, online questionnaires are able to capture respondents' answers about sensitive issues more effectively because the identity of the respondents is kept anonymous and the respondents do not have to be face-to-face with the interviewers (Rubin & Babbie, 2009, p. 123). Lastly, an online questionnaire is fast, cost efficient, easy to set up, response is received instantly, and the data will be automatically recorded and analysed, although in a simple manner (Perner, 2013).

However, the online questionnaire lacks the respondent's willingness to participate and lacks validity as well as low response rate (Wiersma, 2013, p. 9). This is proven also as the number of responses is very low, the questionnaire also received a number of refusals to participate. This online questionnaire was sent to approximately 200 people who mostly consist of seafarers. However, only 40 responses were received, consisting of 37 seafarers, 3 ship-owners and no maritime authority's personnel. This is due to the fact that the survey was distributed mainly through emails and through community webpages; therefore, the attention from seafarers, who are usually younger than the other two categories, were easier to capture. With only 40 responses, this survey introduces sampling errors, which are the errors whose estimates are based on a small sample rather than on a complete population (Bethlehem, 2010, p. 164)

Additionally, the online survey is unreliable because the respondents are free to select themselves to participate and to answer anything that they want to say. Bethlehem (2010, p. 162) called this self-selection bias. The respondent may not have the experience

mentioned in the questions; therefore, they can make up the answer, or sometimes they exaggerate the answers.

Furthermore, online survey also has problems with representativeness (Duffy & Taylor as cited in Szolnoki & Hoffmann, 2013, p. 58). Many seafarers do not have Internet connection in order to answer this online survey, thus the statistics do not wholly represent the thinking of the seafarer's community.

1.3.2.2 Online research

Once again, Internet is fast and cost efficient (Perner, 2013); therefore, information could be obtained easily and it is diversified. Government documents can be downloaded freely, and many official webpages of shipping companies or governmental organizations are trustworthy. Furthermore, since the MLC, 2006 has just entered into force, reputable sources, such as empirical research or peer review articles are not many. Benefits and challenges are at potential stage and have not been reviewed thoroughly. Therefore, credible newspapers are the optimum choice to capture what is happening around the implementation of the MLC, 2006, despite its bias and its lack of validity.

1.4 Dissertation outline

This dissertation is divided into five main parts, from Chapter I to Chapter V, as can be seen in the Table of Contents. The first Chapter is the introduction, which contains the research questions and the research methodology.

Chapter II provides the general view on the Maritime Labour Convention, 2006, and explains the reason the MLC, 2006 was adopted which was to consolidate the existing ILO's instruments, as well as to resolve the current challenges faced by seafarers all over the world.

Chapter III discusses the general impact of the MLC, 2006 in Vietnam, how it affects the legal systems, the management system and the seafarers' welfare of Vietnam.

Chapter IV is dedicated to the deep analysis of the influence of the selected Title of the MLC, 2006 (i.e. Title 1, 2 and 5) in Vietnam. This chapter serves as the heart of this dissertation, where the research questions in regard to the benefits, challenges and reality of compliance and/or the recommendation for each of the selected Regulations will be answered, under the context of Vietnam's maritime industry. Each sub-chapter follows the same structure, starting from the benefits to the challenges and ending with the status quo of compliance or the recommendation. However, since Regulation 5.1 contains six sub-regulations, the structure of this subchapter is slightly different. It begins with the overall benefits of Regulation 5.1, followed by the purposes of each sub-regulations and how Vietnam dealt with them, and concluded by the overall challenges of Regulation 5.1.

Chapter V provides the recommendation by the author, with reference to the suggestion from Vietnam Seafarers Union (VSU), and the actions taken by other Member States of the MLC, 2006 are also taken into account.

PART II: GENERAL VIEW ON THE MARITIME LABOUR CONVENTION, 2006

2.1 The need to adopt the MLC, 2006

2.1.1 MLC, 2006 is not an exception

There is an obvious fact that each of the Maritime Conventions existing today, regardless of their entry-into-force status, was introduced as a response of the international community towards serious issues occurring in maritime history. Take a look at what is called “the Constitution for the seas” or commonly known as United Nations Convention on Law of the Sea (UNCLOS), which at first was adopted to deal with the conflict of sovereign control over the oceans between States, in regard to a number of topics including maritime boundaries, resources exploitation, environmental protection, privacy and so on. Other examples would be the first three pillars of the global maritime regulatory system, namely *The International Convention for the Safety of Life at Sea (SOLAS)*, *the International Convention for the Prevention of Pollution from Ships (MARPOL)* and *the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW)*. The SOLAS Convention was introduced as the answer to the question about safety standards emerging from the sinking of the famous Titanic in 1912 (International Maritime Organization [IMO], 2014b). The adoption of the MARPOL was led by a chain of oil pollution incidents among which Torrey Canyon case was considered as the biggest disaster ever recorded up to that time (IMO, 2014a). Similarly, the STCW has derived from the need to unify the standards of training, certification and watchkeeping of officers and ratings which at that time varied greatly from countries to countries and hindered the international meaning of the shipping industry (IMO, 2014c).

The Maritime Labour Convention, 2006 was certainly not an exception. In the publication of the “Rules of the Game”, the International Labour Organisation (ILO) (2009, pp. 66-69) briefly introduced the purpose of adopting MLC, 2006 as a consolidation instrument of ILO’s Maritime Standards, resulting from the fact that most of the existing standards are either obsolete or inappropriate under the current situation of the working and living condition on board ships. Thus, the MLC, 2006 has been set as a new comprehensive global standard and it adopted a new format that enabled an update so that modern conditions can be reflected. This set of standards is to protect the world’s seafarers, to ensure the minimum conditions of “decent work” and many other provisions related to wages, accommodation, repatriation, food and catering and others that are listed in the MLC, 2006.

2.1.2 The current challenges in seafaring jobs

Seafarers are distinguished from other careers, mainly by the hazardousness and the working environment of “greater casualization and precarious work” (McKay & Wright, 2007, p. 3). In other words, seafarers are re-employed on a casual or short-term basis, which means their wages depends on the opportunity of being employed. Some could argue that their wages are higher than some onshore jobs; however, it may not truly reflect the risks they are exposed to during the time spent at sea and being far away from their families. The point is supported by McKay and Wright (2007, p. 4) in their qualitative study which has shown that despite the general positive perception received from seafarers about working at sea, the “worst element” of the job is the separation from home and family. Another point to be noted that many seafarer’s families at home were having newborn babies or small children while they were at sea, which makes the separation even harder for both him or her and their families back home. An example of a real life case is this dissertation’s author’s uncle, who is a seafarer and who once got a call for a job just

two weeks before his first son was born. Because he had not been working for 8 months and had spent almost all of his wages from a previous journey to take care of his pregnant wife, he had no choice but to take the offer and left his family for another 10 months.

This is just one of many difficulties a seafarer can suffer in his everyday job. Further research conducted by the McKay and Wright (2007, p. 8) has indicated other typical problems faced by seafarers are: working conditions at sea, long and unsociable working hours and a prevalence of low pay. Other long-term threats are also identified as physical and mental issues. The authors' findings extended to not only the problems arising when working at the sea, but also when seafarers went onshore and tried to adjust to shore-based life. It is not easy to find a new job onshore because their certification and skills are only specific to seafaring work. A few who are lucky could find opportunities in maritime training, education and consulting area.

However the more fearful problem for seafarers lies in the prolonged absence from home. Many observed seafarers had divorced or were living on their own (McKay & Wright, 2007, p. 9). This is mostly due to the long distance relationship between a seafarer and his or her partner. Thomas (2003, p. 58) detailed the loneliness of the wives who are being isolated from not only their husbands but also from social networks, due to being a "single-parent" and then struggling in fitting in with either married couples or single friends. Additionally, the imbalance of emotion in the relationship, in which seafarers always want to find support from the wives whereas their counter partners do not feel the same way could also contribute to the break-down of a relationship.

On top of that, the safety and security of the entire merchant shipping chain would also be impacted by the seafarer's poor performance. Numerous findings compiled by Hetherington, Flin and Mearns (2006, p. 402) have shown that around 80% of shipping incidents were caused by human errors of which most common are errors of judgment, improper watchkeeping and failure to comply with regulations. These errors are no doubt

caused by fatigue, stress, health and social issues that were resulted from extreme conditions of working on board ships. Smith's research (2006, pp. 40-41) summarized that fatigue is associated closely with occupational and environmental factors. The author confirmed that poor sleep quality, frequency of port switching, being young, exposed to negative environmental conditions, long working hours from more than 12 hours per day or 6 hour shifts are common contributors leading to fatigue.

The theory of long working hours associated with fatigue was supported by a major multi-partner European research study called "Project Horizon", involving 11 academic institutions and shipping organizations, together with 90 volunteered deck and engineer officers. The research was conducted in order to "capture empirical data" on the impact of fatigue to the decision-making performance of seafarers (Warsash Maritime Academy & Chalmers Tekniska Hoegskola AB, 2012, p. 4). The result was not a surprise where the crew's sleepiness was found to increase with time in watch and during night/morning shift. This leads to the worst performance at night or early morning watch, indicated by the slowest reaction times. Another noteworthy problem was that the sleepiness level is higher in the 6-on/6-off system compared to 4-on/8-off system, and the former produces more tiredness resulting from sleep loss (i.e. not having enough with 8 hours of sleep).

To conclude, seafarers are faced with a wide range of risks, including financial, social, physical and emotional threats. More attention and efforts are needed to increase the standards living conditions for seafarers, to ensure the safety of both personnel, the ship and the property on board in order to prevent accidents. Furthermore, the living conditions of seafarers vary significantly between different nationalities, thus a set of international standards is required in order to unify the world of seafarer and the shipping industry. This affirmed the adoption of the MLC, 2006.

PART 3 – GENERAL IMPACT OF THE MLC, 2006 IN VIETNAM

Like any other set of rules and policies, the MLC 2006 would only be approved and ratified by a State if it helps to resolve the major problems existing in that country. The MLC, 2006 was proudly introduced by the ILO as the “seafarer’s bill of rights” and the term has been widely used in the title of most of the articles talking about the MLC, 2006. The reason was that the MLC, 2006 achieved or was closest to achieve a goal that all sectors of the maritime industry have been striving for – to ensure decent work conditions for seafarers but at the same time secure the economic interests through a fair competition for reputable ship-owners. The uniqueness of the MLC, 2006 is represented as the adoption by a Tripartite Committee consisting of representatives from governments, employers and workers. In other words, the MLC, 2006 targeted the common issue existing among the three parties by enabling the exchange of information between them, particularly the difficulties regarding the implementation of the MLC, 2006 as well as the interpretation in particular sectors of the maritime industry (ILO, 2010).

Vietnam has been a member of the UNCLOS 1982 since 1994 and has expressed its strong determination to join the international community and to fully support the establishment and promotion of an equitable maritime legal system. For example, Vietnam is an official member of the IMO and ILO, has ratified 15 international maritime treaties, such as the MARPOL 73/78, SOLAS 74/78, STCW 78/95, *the International Regulations for Preventing Collisions at Sea* (COLREG) 72 and others treaties adopted by the IMO (Nguyen, 2013a, p. 134) and 21 Conventions established by the ILO (ILO, 2014c). Therefore, the first and foremost advantage of ratifying the MLC, 2006 is to enhance the national prestige and to mark a huge step in the current development of the maritime industry, particularly in ensuring the rights and obligations of Vietnamese

seafarers. The ratification of the MLC 2006 further expresses the determination to lift the national maritime industry to the international level. Additionally, the notion of “no more favourable treatment” is another way of promoting the ratification of the MLC, 2006 and protecting the Member States from unfair competition from Non-member States. According to Gard P&I Club (2014), one of the world’s leading insurers, there will be a disadvantage for those countries who have not ratified because they will face closer scrutiny by PSCO for not possessing the appropriate certificates in compliance with the MLC, 2006.

Secondly, under a legal point of view, the MLC, 2006 “consolidates” the existing international laws on all matters in regard to seafarers’ employment and working conditions and has been agreed by the majority of the countries concerned. Thus the MLC, 2006 would benefit Vietnam by fulfilling the gaps in the current national legal system. All the legal documents including the Vietnamese Maritime Code, Labour Export Law, Insurance Law, Civil Code, Labour Law, and Health Law will be affected by the MLC, 2006. Nguyen (2013a, p. 134) stated that all of these laws and regulations are the fundamental and initial conditions before accessing the MLC, 2006. However, the overlaps between them are unavoidable, particularly due to the differences between Vietnamese and foreign cultures. The Government and the Vietnam Maritime Administration (VINAMARINE) will have to implement the MLC, 2006 in a proactive manner by making necessary changes to make it practicably appropriate for Vietnam’s maritime industry.

Thirdly, for the management role, the adoption of the MLC, 2006 required the Maritime Administration and relevant public authorities to strengthen the training and management system of seafarers. The MLC, 2006, nonetheless, has assisted that responsibility by simplifying the reporting obligations which is now to one Convention rather than many like before (Almeida, 2013). Through effective implementation of

training, certification and inspection of ships, individual seafarers and the management of seafarer unions as well as the quality of Vietnamese seafarers will improve significantly. Not only that, those well regulated provisions in the MLC, 2006 gave a guidance to the administrators on how to provide seafarers working conditions comparable to the international standards, and hence minimize or eliminate the unfair practice towards seafarers. In order to achieve the set goals, the Maritime Administration and relevant public authorities will have to put in extra efforts and must ask for collaboration from both ship-owners and seafarers.

Fourthly, from the seafarer's perspective, their rights will be protected under the MLC, 2006. The MLC, 2006 "spells out in one place and clear language seafarers' basic employment rights" (Almeida, 2013, p. 2) and other rights including the rights to have a decent working and living conditions. According to Mr. Bowring, who is the Chairman of the ISF, the MLC, 2006 aimed to raise the seafarer's welfare and also "raises the levels to which people will have to operate their ships and benefit the seafarers" (ILO, 2011). To further compliment Mr. Bowring's statement, a qualified trainer of trainers of the MLC, 2006, Reverend Canon Ken Peters described the MLC, 2006 as a "paradigm shift" in the care of seafarers as they now have a "degree of protection from the worst exploitation" (Mission Looks Forward to MLC Impact, 2013). In other words, the MLC, 2006 directly benefits seafarers and indirectly benefits the maritime industry of Member States, including Vietnam, as well as the maritime industry of the whole world.

Nevertheless, the implementation of the MLC, 2006 will face many difficulties because it requires the ratified State to change and adjust to the new changes. Changes must be made in the legal system, in the management system and seafarers' principles, despite the fact that they are being protected by the MLC, 2006. The collaboration within the three parties is crucially important to the success of the compliance of the MLC, 2006. In the next several chapters, the challenges of adopting the MLC, 2006 will be indicated

hand in hand with the benefits it brings or will potentially bring to the State, in order to give a more complete picture of Vietnam under the scope of this MLC, 2006. As mentioned above, due to the restricted length of this dissertation, only selected provisions in Title 1, Title 2 and Title 5 of the MLC, 2006 will be discussed.

PART 4 – BENEFITS, CHALLENGES AND REALITY OF SELECTED AREAS OF THE MLC, 2006 TOWARDS VIETNAM

Chapter 4.1 - Title 1. Minimum requirements for seafarers to work on a ship

4.1.1 Minimum age

Regulation 1.1 - Minimum age

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

- 1. No person below the minimum age shall be employed or engaged or work on a ship.*
- 2. The minimum age at the time of the initial entry into force of this Convention is 16 years.*
- 3. A higher minimum age shall be required in the circumstances set out in the Code.*

This Regulation is straight forward as it sets the minimum age for working on board a ship at 16 years of age. Standard A1.2 prohibits night work and the work under hazardous environment which is likely to jeopardize their health or safety for seafarers under 18 years of age. A similar regulation was adopted under Minimum Age Convention (C.138) which Vietnam ratified in 2003. Moreover, Vietnam has adopted in June 2013 the *Circular No. 11/2013/TT-BLDTBXH*, which increases the minimum legal age to carry out light work activities up to 13 years of age, in order to ensure the consistency with the requirement of C.138 (ILO, 2013).

Status quo of child labour in Vietnam

The Vietnam government has during its reports to the ILO provided statistics showing that there are still 25,000 children subjected to heavy labour and working in hazardous and dangerous conditions in 2010 (ILO, 2014a). Another recent report revealed that there are 1.75 million child labourers aged 5 to 17 in Vietnam, which are accounted for 10% of the country's children population (ILO, 2014b). Moreover, one third of the child labourers have to work an average of more than 42 hours per week. To support this, a study conducted in 2014 by a group of researchers at Monash University found that children as young as eleven are working up to 18 hours a day and under harsh and abusive conditions (Lam, 2014). However, no report on the case of under-aged sailors working on board ships has been made, due to the fact that the primary choice of children's work is in the agricultural sector, following by work in manufacturing and in trade services (Aldobrandini, 2009, p. 35).

Nonetheless, there are still a small number of children working on board ships. However, these ships are either small fishing boats or passenger boats operating in inland waters and of less than 200GT. It is a general understanding that those ships will not be paid attention to, in accordance with the MLC, 2006. The reasons are, beside the fact that these ships stand outside of the MLC, 2006's scope in pursuant to Article II(6), all of these children labourers are located in rural areas, where the attention of the media is less reachable. This is in accordance with the aforementioned report by Aldobrandini (2009, p. 3), in which the author has disclosed that the gap in the access to basic services between rural and urban areas in Vietnam remains significant. Another reason according to the Vietnamese Government explanation is that, working on small fishing boats has been understood as one of those traditional jobs that require skills to be transferred from generation to generation, and hence

training and practice from an early age is necessary (ILO, 2011). Poverty also contributes to this issue, but this will be discussed in detailed in the next chapters.

The benefit

Seafaring, notwithstanding, is a special type of occupation involving heavy duty which requires employees to have good health and professional ability. Therefore, each nation must take into account all the social and national features when deciding the legal minimum age of seafarers, as well as other relevant standards, rather than applying the MLC, 2006 straightforwardly. For example, China revised this provision of the MLC, 2006 into its Regulations of People's Republic of China on Seafarers, by increasing the minimum age of seafarers to 18 years old. Other countries like Denmark and the UK allow a person of 16 years old to be a seafarer (DMA, 2014; *Seafarer Working and Living Rights*, 2014). Countries, such as Germany have also increased the minimum age of seafarers from 15 to 16 years of age (Noguchi, 2005, p. 25). Noguchi also observed that seafaring is a particular sector that progresses ahead of the general minimum age, due to the aforementioned special occupational characteristic (i.e. heavy duty).

Vietnam still lacks adequate policies to protect the seafaring profession. To illustrate, the Vietnam Labour Code, amended in 2012, stipulated under Article 3(1) is a very general definition of the basic rights and regulations of employees who must be over 15 years old. The only legislative document touching the surface of age allowance for seafarers was *the Inter-ministerial Order No. 9 TT/LB* that provided a list of occupations prohibiting the employment of workers under the age of 18, including working on ocean-going ships. Thus, the MLC, 2006 has provided Vietnam with an additional legal document to guide the Government to develop a more

complete set of laws specializing on seafarer employment, including the minimum ages.

The challenge and recommendation

Apart from the lack of specific legislation, there would be virtually no considerable obstacle to implement this provision. Nevertheless, it can be noted that the UK government carefully prepared a report on the application of Title 1.1 of the MLC 2006 and the changes that would be made to the existing UK legislation (*Merchant Shipping Minimum Age Regulations Consultation*, 2013). It specified the impact of each provision of the Standard A1.1 and elaborated on how the national legislation should adjust. Moreover, an invitation to comment on the effectiveness and feasibility of the changes was also attached, taking into account the comment on the cost and benefit assessment of the changes. This is something that Vietnam can definitely learn from because to alter the current legislation is not an easy task. There will be potential impacts on not only the maritime sector but also many other sectors because every single industry is an important chain of the whole economy system, both nationally and globally. One example is that there will be a cost involved during the development of a new set of policies and legislations to regulate minimum age. Another is that all of the maritime institutions must revise their training programmes for future seafarers, in respect of the paragraph (3) of Standard A1.1

4.1.2 Title 1.2 – Medical certificate

Regulation 1.2 – Medical certificate

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

- 1. Seafarers shall not work on a ship unless they are certified as medically fit to perform their duties.*
- 2. Exceptions can only be permitted as prescribed in the Code.*

The benefit

Two important documents are cross-referenced under this segment of the Code associated with this Regulation, one is *ILO/WHO Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers* and the other is the STCW, 1978, as amended. A few specific requirements are also covered in the Code such as the validity of a medical certificate and the exceptions.

Regarding *ILO/WHO Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers*, it was supervised and then replaced by *Guidelines on the medical examinations of seafarers* (referred to as “The Guidelines” within this chapter). The new Guidelines were adopted and based on two grounds: the first was the motivation to achieve harmonization during the period where internationalization of shipping has been increasing at a fast pace while the previous Guidelines were too obsolete (adopted in 1997), and the second was that since the MLC, 2006 came into force in August 2013, these Guidelines would provide

complementary advice with regard to safe-guarding the health of seafarers and promoting safety at sea⁴.

The Guidelines extend in detailed the information specified in Standard A1.2 of the MLC, 2006, and Section A-I/9, paragraph 7 about the minimum requirement of the medical certificate. The intention, according to the Guidelines (ILO, 2013, p. 12), is to help Member State to avoid subjectivity by giving objective criteria for decision making. It provides the guidance for persons who are authorized to conduct the medical examinations of seafarers and for the comprehensive procedures to be included in the test. Attached appendixes of the Guidelines are very inclusive in terms of which standard criteria should be applied for in every part of the test, from vision and hearing standards to the fitness criteria for medication use and for common medical conditions. Obviously, this guidance is very necessary because working on board ship demands a high level of fitness, both in a physical and psychological sense since seafarers have to stay under high pressure from heavy duty and bad weather conditions at all times during the voyage (these problems have been analysed in Chapter 2 of this dissertation). Therefore it is advisable that a special form of medical certificate should be developed. As a result, the Guidelines provide a suggested format for recording medical examinations of seafarers.

Furthermore, the Guidelines further supply the guidance for competent authorities regarding the criteria for the qualification of a medical practitioner. In order to be qualified to conduct a maritime medical examination, the medical practitioner must be competent in maritime health or in case of general medical practitioner, he or she must be assisted with written guidance on the procedures for the conduct of maritime medical examinations. Thus, the MLC, 2006 will be a useful assisting tool

⁴ Based on the application of the MLC, 2006 as well as the STCW Convention, 1978, as amended.

for both competent authorities and medical practitioners in developing a thorough medical examination and a recognized medical certificate.

In addition, the MLC, 2006, answers all the concerns in regard to the expiration of a medical certification and the circumstances where exception would be allowed (Paragraph 5, 7, 9 and 10 of Standard A.1.2)

The challenge

The biggest challenge lies in the discipline of seafarers and competent authorities. Surprisingly, the public selling of false or “on-demand” health certificate in front of hospital is not an uncommon practice in Vietnam. The problem has been published in a lot of credible newspapers and reports, and is not only happening in a single city (Viet, 2007; Duc, 2014; Nhu, 2014). The price of a false certificate is 10 times cheaper than a genuine one and is made up upon the request of the buyers, and they also save buyers the queuing time. Interviewees have admitted that it is very convenience and they do not know how these people can get a red stamp and the signature from the doctors of the hospital, since it looks all very real (Nhu, 2014).

The second challenge is the limitation of resources of competent authorities in inspecting and handling the malpractice of these health centres. A report revealed that there were approximately 24,000 registered facilities in Vietnam in 2010 (*Health Service Delivery Profile*, 2012), and today’s figure would be much more than that. Thus, it is impossible to ensure that the qualified medical centres and practitioners are treating their patients in compliance with the regulations.

Even so, many of the medical practitioners still fail to comply with the procedures. An example of dishonest practice during a maritime medical examination

is that a patient could pay some “fee” to have some of the tests removed, usually less important criteria such as visions test or of physical appearances (Vinimam, 2014). This encourages the malpractice of issuing false bills of health. Moreover, ship-owners also fail to recheck the validity of the medical certificate, and hence a number of unqualified seafarers are able to get a job on board. As mentioned above, it is impossible to conduct inspections on all of the medical centres; therefore, honesty from both practitioners and the seafarers is the only key to solve the problem.

Compliance status quo of Vietnam

Vietnam’s Ministry of Health issued *Decision No. 20/2008/QĐ-BYT*, dated 9 June 2008, which regulates the standards of health conditions for seafarers working on board of ships flying Vietnamese flag. The Decision adequately set up the minimum requirement on physical and psychological standards and also attached a list of diseases and disabilities that are not appropriate for applying for seafarer jobs. However, it still lacks some areas and some of the measure units being used are different from the international standards, which make them inconsistent.

The *Decision No. 1221/QĐ-TTg*, dated 25 July 2013, issued by the Prime Minister of Vietnam, also mirrors the provision on medical certificate and further urges the Minister of Health and Minister of Transport to work together with the Tripartite Committee in order to develop a complete set of legal documents that regulate the matter concerned, including a standardized format of medical certificate for seafarers. Especially the Ministry of Health was directed to provide the seafarers a list of health centres and medical practitioners that are certified to conduct maritime medical examinations and to issue medical certificates.

4.1.3 Training and qualifications

Regulation 1.3 - Training and qualifications

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

- 1. Seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties.*
- 2. Seafarers shall not be permitted to work on a ship unless they have successfully completed training for personal safety on board ship.*
- 3. Training and certification in accordance with the mandatory instruments adopted by the International Maritime Organization shall be considered as meeting the requirements of paragraphs 1 and 2 of this Regulation.*
- 4. Any Member which, at the time of its ratification of this Convention, was bound by the Certification of Able Seamen Convention, 1946 (No. 74), shall continue to carry out the obligations under that Convention unless and until mandatory provisions covering its subject matter have been adopted by the International Maritime Organization and entered into force, or until five years have elapsed since the entry into force of this Convention in accordance with paragraph 3 of Article VIII, whichever date is earlier*

Physical and psychological fitness is not enough for a seafarer to be able to perform his duties on board ships. Working at sea means working at a remote distance from the shore, where the expert help is limited. Even though technological developments have been installed and productively utilized on board ship to assist the job of the seafarers, a captain and his crew must not rely solely on the machine.

On the contrary, they have to be more knowledgeable and competent so as to control this equipment and the ship in an effective way. Therefore, education and training for seafarers are essential. Moreover, training helps crew members to be prepared before going to the sea, which is virtually their “second life” and/or to be ready to handle more

responsibility when they are promoted. It is clear why the STCW was introduced and why the STCW training is a necessity for seafarers (Singla, 2011).

The benefit

The training and certification, nevertheless, have been regulated by the IMO's STCW 78 of which Vietnam is a member. This is also mentioned indirectly in paragraph 3 of this Regulation as it allows the training and certification in accordance with other mandatory instruments by the IMO to be equivalent. The benefit of having this regulation is not new, yet still important due to the following reasons:

The MLC, 2006 is aimed to be a “consolidation” of ILO's current legal regime and a “seafarers’ bill of rights”; therefore, the training and certification should be included even if the provisions have been mentioned by the STCW. Furthermore, no Code is indicated in this Regulations as a result of an agreement by Preparatory Technical Maritime Conference (PTMC) that the IMO is willing to take the matter of the training and certification requirements of able seafarers into account, if these were transferred by the ILO (ILO, 2012, p. 19).

Moreover, the MLC, 2006 extends the coverage to all seafarers irrespective of their duties on board ships, for example a nurse or a doctor. However, the training and qualification of those who are not regulated under the STCW must be decided by the Member State's national legislation (ILO, 2012, p. 19). The competent authorities only have to require the ship-owners to ensure that personnel meet all relevant national standards. This is consistent with the spirit of the ILO and the MLC, 2006 in ensuring that all the seafarers who are working on board ships (in Article II(1)(g)) are protected (as in Article IV).

The challenge

According to a recent report on maritime training for seafarers in 2013 by Vitranschart JSC (Vitranschart, 2014), one of the top leaders in seaborne trading and ship agency in Vietnam, less than half of the trainees have completed with a good level while the remaining are underachieving. Particularly, 90% of the Third Mates being trained were below average. The reports listed three reasons for these poor results, which also could be used to explain the challenges in the training and certification situation in Vietnam, namely psychological factors, cost factors and English language barrier. These will be explained further below.

To begin with, many Vietnamese seafarers are taking training courses only to get the certification, not for obtaining knowledge and experience. Captain Cao (Vitranschart, 2014) emphasised that this is an erroneous conception among seafarers. This is related to the self-inducing complacency issue that exists within the seafarer community (Bielic, 2008, p. 5). Seafarers believe that experience can be acquired better from actual working. Although that thinking is not wrong, it is inadequate in the sense that conditions at sea are harsh, weather is unpredictable and accidents are uncontrollable, thus by training, the chances of survival will augment during emergency conditions (Singla, 2011). Furthermore, training is essential for seafarers to get familiar with the complicated structures and procedures on the ship, especially during the era of technology and automation development when ships are all equipped with very modern systems. Therefore, without proper training, seafarers will not be able to handle these systems and reverse effects may occur, leading to unfortunate accidents.

Second of all, cost is another factor associated with the resistance from the seafarers to take the training. According to the statistic, Vietnam remains in the lower middle income category (The World Bank, 2014), and the GDP per capita is USD 1028.63 annually which is equivalent to 8% of the world average (Trading Economics, 2014). An

additional survey revealed that only 4 out of 37 seafarers asked are satisfied or very satisfied with their wages⁵. One respondent claimed that he does not want to take the training because he will lose his income for the period of not working and at the same time⁶, he has to pay for the training fee. As a result, Vietnamese seafarers are very reluctant to enter into training and only do so for the certification requirement.

The English language barrier is another challenge preventing Vietnamese seafarers from attending the training. Mr. Tran, who is deputy director of the Personnel Department of the Transport Ministry shared his concern that the English fluency of Vietnamese seamen is fairly poor, which reduces the opportunity for Vietnamese seafarers to work for foreign ship-owners as well as the potentiality of sending Vietnamese seamen for training overseas (Vietnamnet, 2014). Extra costs will occur if seafarers have to take English class apart from the training programme, which have been mentioned above as an issue for the seafarers. Additionally, the problem was also founded in the teaching system in Vietnam. English textbooks and courses are rampant in the market, causing confusion for the learner. There has not been an effective system of qualifying and monitoring English teachers as many of them have not met the minimum standards for teaching English (Van, 2007, p. 15). Additionally, the Vietnam Maritime University (VMU), the official university for educating seafarers, is still offering the majority of courses in Vietnamese. Vietnamese seafarers are not provided with a sufficient environment to practice and improve their English vocabulary and other skills. As a matter of fact, they are afraid to accept opportunity to get training abroad.

⁵ See Appendix E

⁶ Appendix C, question 7, respondent no. 7

Recommendation

The maritime authorities, the ship-owners and crew manning agencies should pay more attention to the inspection and communication with the seafarers and try to change their misleading conception about training and certification, and improve their English competency. They should create more opportunity for them to get proper trainings. It is believed that many companies have invested a lot of money and human resources in training such as inviting Japanese trainers to Vietnam to conduct the training (Vittranschart, 2014). Similarly, the VMU has signed an agreement with the California Maritime Academy about offering education in English for future seafarers, as well as sending its maritime teachers to overseas educational institutions (US, Japan, Korea, Australia, Taiwan, and China) to improve the quality of the teachers. In return, seafarers could put extra effort and enthusiasm to obtain the knowledge from the training courses that have been offered.

The government has issued a number of Decisions which provide approval for the training, educating and fostering of the seafarer's competencies for several training centres (Ministry of Transport, 2014). The Government also directs the Ministry of Transport and relevant parties to develop and enact a comprehensive training programme for the certification of Port State Control Officers, Ship Officer and Ratings, and Maritime Officials in shipping companies, in response to the implementation of the MLC, 2006 (*Ke Hoach Trien Khai Thuc Hien Cong Uoc MLC 2006*, 2014).

Additionally, *Decision No. 1400/QĐ-TTg*, dated 30 September 2008 and signed by the Prime Minister of Vietnam, in which it is required that university students must have a minimum English certificate of TOEIC 450 or IELTS 4.5 or the equivalent. The VMU applied the Decision and set the minimum of TOIEC 450 as one of the compulsory graduation criteria. This expresses the effort at all levels to increase the English and specialized competency of seafarers.

4.1.4 Recruitment and placement

Regulation 1.4 – Recruitment and placement

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

- 1. All seafarers shall have access to an efficient, adequate and accountable system for finding employment on board ship without charge to the seafarer.*
- 2. Seafarer recruitment and placement services operating in a Member's territory shall conform to the standards set out in the Code.*
- 3. Each Member shall require, in respect of seafarers who work on ships that fly its flag, that ship-owners who use seafarer recruitment and placement services that are based in countries or territories in which this Convention does not apply, ensure that those services conform to the requirements set out in the Code*

The Regulation requires the Member State to establish and maintain an efficient recruitment and placement system (RPS). The pertinent Code is long and thorough as it sets, in addition, calls for the collaboration from Non-Member State to safeguard seafarers' interest by ensuring its RPS is conform to the requirements set out in the Code.

The benefit

The most visible value of the Regulation is the emphasis to ensure that an “efficient, adequate and accountable” RPS is being given to seafarers. The MLC, 2006 has carefully defined the term “seafarer recruitment and placement service” in Article II, paragraph 1(h) which broadly covers all types of services dealing with recruiting and

placing seafarers for and with ship-owners, including both the private and the public sector, to make sure that seafarers are protected from any malpractice or negligence. It is further stressed in Paragraph 5 of Standard A1.4 where it prohibits any RPS from using “means, mechanisms or lists intended to prevent or deter seafarers from gaining employment for which they are qualified”, and subparagraph (b) also disallows the RPS to impose extra charges upon seafarers other than the ordinary fees, for instance applying a medical certificate, passport and travel document but excluding the visas fee. This Regulation 1.4 together with the requirement of “no more favourable treatment” specially benefit the major seafarer supplying countries (Wu & Jeng , 2012, p. 44). The authors pointed out that seafarers in these countries, such as China, Taiwan and India, are employed by crewing agents and dispatched to shipping companies, who more than often are foreigners. Therefore, although these countries have not ratified the MLC, 2006, their seafarers would still be protected, because paragraph (3) of this Regulation provides that RPS based in countries who are Non-Member of the MLC, 2006 must conform to the requirements set out in Code.

Vietnam has gradually substituted China and the Philippines in the seafarer supplying market, attributable to the rising cost of Chinese and Filipino crew, as well as the birth control policy of China. Since a Chinese officer is the only child, he would prefer to work at sea for a short-term and then switch to land-based employment (Osler, 2010). Another factor is the traditional culture of the Chinese which are very family-oriented (Kleinman & Lin, 1981, p. 107), therefore a Chinese officer who is the only child would not want to stay far away from the family for too long and would always look for an opportunity to get a job onshore.

On the other hand, Vietnamese seafarers are actually willing to work for foreign ship-owners, usually the Japanese, because of the higher wages. Therefore, competition between Vietnamese seafarers for a job in foreign shipping companies is foreseeable,

resulting in the potential misconduct by RPS centres whereby unqualified or less qualified persons would be able to get a spot in foreign ships. That is the reason why subparagraph (b) of Standard 1.4(3) prohibits the extra costs for providing employment being imposed on seafarers. Additionally, the term “in an orderly manner” is repeated throughout the Code is another way of targeting this issue by the MLC, 2006.

Moreover, the MLC, 2006 deals with the aforementioned unprofessionalism by requiring the Member State to establish a system of handling the complaints, undertaking investigation and compensation for the seafarer’s losses, as stated in paragraph (5) and (7) of the Standard 1.4. Competent authorities are also provided guidance on organisational and operational practice regarding RPS under the Guideline B1.4, which is similarly comprehensive to the mandatory part.

Nevertheless, the MLC, 2006 is flexible as it encourages, rather than requests, its Members to establish and maintain a well-regulated and efficient systems of RPS. It recommends the exchange of information among competent authorities, ship-owners and seafarers in order to achieve a balance of interest and harmonisation. The MLC, 2006 further tries not to interfere with any agreement stipulating the free movement of workers between States or diminish the obligations and responsibilities of ship-owners.

Vietnam, as well as other Member States, would save a substantial amount of time, human and monetary resources from researching an effective RPS system because this Regulation of the MLC, 2006 acts as a complete how-to guide on building “an efficient, adequate and accountable system” of recruitment and placement for seafarers and ship-owners.

The challenge

As mentioned above, the implicit meaning of this provision is to battle the unprofessionalism in recruiting and placing seafarers.

In the first instance, what is omitted in Wu and Jeng's article is the fact that this Regulation targeted those countries which are encountering a high level of corruption, including Vietnam. Vietnam sadly to say belongs to the highly corrupt category of countries, according to the Corruption Perceptions Index 2013 statistics (Transparency International, 2013). Abuse of power, secret dealings and bribery continue to damage the country's economy and its citizen. Although the authorities have been trying to combat the problem, it has only been reduced but not totally eliminated. There are many causes of corruption but some major noteworthy points are the weak sanction policy for corruption cases, existing "ask-give" mechanism, weak transparency and information disclosure in public agencies, low salary (which will be discussed in Chapter 3.2.2.1 of this dissertation) and complicated and cumbersome administrative procedures (The World Bank, 2012, p. 68; Department of Economic and Social Affairs UN, 2014, p. 16). Another contributory factor is the tradition of recruiting seafarers from family connections or community connections (Vietnam Seafarers Research Team, 2014). If a seafarer knows someone working in the RPS centre or has any connection with the ship-owners/shipping companies, he could have a high chance of getting employed despite his insufficient qualifications.

Results from the survey⁷ shows, 19 out of 37 seafarers being asked expressed that the existing RPS systems are not effective and efficient and 13 of them agreed that the systems are fairly efficient, but there is still room for improvement. Furthermore, many seafarers⁸ admitted that they have to pay a significant amount for the RPS centres to get a

⁷ Appendix D

⁸ Appendix C, question 3

placement. One mentioned that the charge is equal to his one month salary, another claimed that he has to pay maximum 100 million VND (roughly USD 5000) if he wants to get a desired job⁹. It has been accepted to be a common practice, as an “under-the-table ticket” to get the job¹⁰. One particular respondent said that he had been tricked by a representative of an RPS centre, into losing all his identification documents, and as a result he was denied by the ship-owner when he went on board¹¹. It causes difficulty for seafarers, especially the fresh graduate who has less connections, less financially independence and who is inexperienced in applying for a job on board a ship than those who know their way around the system.

The challenge lies in the hand of the ship-owner as well. One ship-owner in the survey explained that this “fee” is not publicly stated but must be implicitly understood because there is an imbalance between supply and demand¹². Everybody wants to work for reputable companies, but the space is limited. Moreover, the competence of Vietnamese seafarers is still low compared to international standards, and with the aforementioned English barrier, it is getting harder for RPS centres to match the employees and the job requirements. Besides, it has been accepted to be common; therefore, if the practice is removed, it would be facing a big protest from the workers of RPS centres and any middleman companies, resulting in a potential of bankruptcy. Small ship-owners who do not have enough resources to establish their own RPS would suffer if the RPS agencies break down. Difficulty would also be faced by competent authorities, in the work of investigation and certifying the RPS centres.

⁹ Appendix C, question 3, respondent no. 13

¹⁰ Appendix C, question 3, respondent no. 25, 23, 28 & 31

¹¹ Appendix C, question 3, respondent no. 3

¹² Appendix F, question 3, respondent no. 38

Reality

Despite the challenges mentioned, some RPS centres have invested extra efforts and resources to be a qualified and trustworthy place for the seafarers and ship-owners to do business. The pioneer is the Ho Chi Minh-based Southern Crewmanning Center who was the first RPS centre to get certified by the ClassNK, Japan (ClassNK, 2013).

At the same time, many ship-owners have started to publicize on their websites the sections on frequently asked questions to address the concerns from seafarers about recruitment and placement requirements and procedures, as well as expressing the willingness to handle complaints and feedback from seafarers. Some examples are the Saigon-tourist cruise ship carrier and VOSCO Bulk Carrier.

In the aforementioned *Decision No. 1221/QĐ-TTg* (2013) on approving the implementation of the MLC, 2006, The Prime Minister requires that all the RPS are in compliance with the Article 14 of the Vietnam Labor Code 2013 and any relevant procedural legal documents. The Government also urged the VINAMARINE in regard to the training, certification of officials in both public and private RPS centres, together with the work of inspection and handling any violations of regulations (*Ke hoach trien khai thuc hien Cong Uoc MLC 2006*, 2014). In response, the VINAMARINE has sent an official draft to domestic shipping companies in which they are required to act in compliance with the regulations in regard to recruitment and placement services, stated in Vietnam Labor Code 2013 and the MLC, 2006 (*Draft No. 2923/CHHVN-VTDVHH*, dated 30 August 2013).

As mentioned earlier, this battle cannot be won overnight as it demands the joint effort between seafarers, ship-owners and competent authorities. Competent authorities should tighten the work of inspection and certifying RPS centres. Ship-owners and

seafarers should coordinate by reporting to the competent authorities any suspicious RPS centres and stop using their services.

Chapter 4.2 – Title 2. Conditions of Employment

4.2.1 Wages

Regulation 2.2 - Wage

Purpose: To ensure that seafarers are paid for their services

- 1. All seafarers shall be paid for their work regularly and in full in accordance with their employment agreements.*

The Regulation simply states the obvious fact that seafarers, like any other workers, are entitled to be paid for the work they have done, fully and regularly. The Code specifies the conditions on how seafarers' wages should be made. Interestingly, the Guidelines are divided into four parts. The first part gives the definition of the term in order to avoid confusion in translating the MLC, 2006 into the seafarer's employment contract or agreement which has been dealt with in Regulation 2.1. The second part concerns the conditions for compensation for overtime work. The third part provides suggestions about the minimum wages calculation and the final part talks about the minimum monthly wages for able seafarers.

The benefit

The wage payments of the seafarers has been regulated in *Seafarer's Wage, Hours of Work and the Manning of ships Recommendation, 1996 (No. 187)* and the transfer of earnings to the families have been introduced in *Seaman's Welfare in Ports Recommendation (No. 48 - Article 10)* (Christodoulou-Varotsi & Pentsov, 2007, p. 308).

However, the fact that these provisions were made mandatory and consolidated under one regulation represented the seriousness towards the seafarer's wages issue.

Traditionally, many people choose to pursue the seafaring career because the seafarer's wages are at a higher standard compared to many onshore-based jobs'. However, the high wages reflect the hazardousness of the task, and they often have a long-term impact on the seafarer's physical and psychological health (McKay & Wright, 2007, p. 6). Moreover, the wages fluctuate at a very close amplitude with the world economic performance, and hence during this period of economic recovery, the wages have been reduced significantly. On the other hand, Vietnam has one of South-East Asia's fastest-growing economies ("Vietnam Country Profile," 2014), so that the high growth potential and inexpensive cost of labour has been attracting more and more foreign investments into Vietnam (Nguyen, 2014). More employment opportunities with good salaries have been created, particularly in the garment and textile industry, and the living standards of the citizens have improved remarkably. The gap of wages between seafaring and land-based jobs is getting smaller, while the risk of the former remains unchanged. As a matter of fact, lately the number of active seafarers has been reduced considerably, leading to a serious shortage of seafarers in Vietnam.

Additionally, *inter alia*, wages are one of the most important criteria for a student when choosing a major at a university. In Vietnam, a national university entrance examination is compulsory for every high school student who wants to go into a university (or college). Each university after the grading process will provide a benchmark so as to determine whether a student passed or failed. Moreover, the benchmark also acts as a preference indicator of each major, as the higher the benchmark is, the more students choose to enrol in that major. Unfortunately, the average benchmark of maritime majors, especially navigation and maritime engineering branches, have always been below average. A case in point is VMU, where the average benchmark of maritime major was

19 over the maximum point of 30 in 2007, and had been steadily reduced over the years to 14 in 2014. In contrast, the benchmark score for secondary majors, for instance accounting or international business, has always been about 19 over 30 for the last 7 years (VMU, 2014). It indicated that the number of students registered for a maritime major has always been fewer than for other majors, such as finance, accounting, law and medical science. The reason given was the wage difference between on board and onshore job today is not high and stable enough to compensate the difficulties they will encounter if they choose to work on a ship. To demonstrate, the survey¹³ reported that out of 37 seafarers who responded to the questionnaire, only 4 are satisfied or very satisfied with their wages, 8 of them are dissatisfied and 16 of them are extremely dissatisfied. Therefore, by implementing such provisions, seafarers are ensured a minimum amount of wages that can adequately compensate for their work, to be received regularly (no greater than monthly intervals in pursuant to paragraph 1 of Standard A2.2). As a result, it would encourage more students to pursue a seafaring career, and current seafarers are also provided with motivation to stay in the job and continue contributing to the maritime industry of Vietnam.

Another considerable motivation for seafarers is the fact that the “earning transfer” clause has been made mandatory, according to paragraphs 3 and 4 of Standard A2.2. Member States must ensure a system that allows a seafarer to transfer a proportion of their wages for remittance at regular intervals to their families. It causes a greater impact on seafarers and their families in developing countries, including Vietnam, than seafarers in other developed Member States. To illustrate, as indicated in Chapter 2, marrying a seafarer means the wife has to understand that she might have to be a single-parent for eight to ten months a year, and some have to give up their jobs to stay home raising their children. Therefore, by enabling allotments to be remitted at regular intervals to their families, seafarers will be relieved from financial worry and put more concentration into

¹³ Appendix E

their duties, which in return increases their safety awareness while working under harsh conditions on board.

Furthermore, the notion “a seafarer’s bill of rights”, expressed in the clearest terms are what this regulation stated in the Guideline B2.2. The Guideline stipulates specific conditions when calculating the remuneration for overtime work and principles to prevent any discrimination, fraud, malpractice or exploitation of workers’ rights in regard to minimum wages and wages payment. The rights of seafarers are extensively covered in this Guideline and Regulation.

The challenge

The challenge in relation to the seafarer’s wages in Vietnam’s context is the delay in wages payment that is happening commonly among shipping companies. In the survey conducted¹⁴, 26 out of 37 seafarers claimed that they have experiences in regard to the delay in wage payments. According to the survey, one month delay in the wage payment has become a norm among domestic/state-owned companies, some delayed for 20 days¹⁵ to 2 months, and others have postponed it for 7 months¹⁶. They pointed out that even well-known companies such as VOSCO Bulk Carrier, ranked in the top 200 largest domestic companies in Vietnam and sixth in transportation and the logistics industry in 2012 (Vietnamnet, 2012), still owe their employees at least one month wages¹⁷.

The excuse given by the ship-owner¹⁸ for the late payment is because of the global economic recession. This might not be entirely true since the Vietnam Shipping industry

¹⁴ Appendix C, question 3

¹⁵ Appendix C, question 4, respondent no. 1

¹⁶ Appendix C, question 4, respondent no. 9

¹⁷ Appendix C, question 4, respondent no. 23

¹⁸ Appendix F, question 4, respondent no. 36

was reported to be healthy and stable, despite the slight decline compared to the past few years (*Vietnam Shipping Report*, 2014). However, the report indicated that the tension between Vietnam and China will result in an economic backlash from China, whereby China will stop bidding for new contracts in Vietnam and potentially causing downside risks to the Vietnamese economy as a whole and the maritime industry in particular.

In contrast, transmitting seafarers' wages to their families has been practiced in a good manner by the shipping companies, in accordance with the survey¹⁹. The respondents are satisfied since their companies transfer the allotment through banking online to the employees' families²⁰, so that the families could receive the money in the shortest possible time.

However, the majority of answers are "No"²¹, which is unclear whether they have not experienced the situation or their companies do not offer the service of earning transmit to their seafarers. This poses a potential issue because seafarers do not have the full knowledge about their rights and obligations when they sign a labour contract with a company. The MLC, 2006 is indeed the "seafarer's bill of rights", and the real trouble lies in the implementation process, most importantly the seafarers know about the MLC, 2006 and fully understand what benefits the Convention offers to them.

¹⁹ Appendix C, question 4

²⁰ Appendix C, question 4, respondent no. 2 & 5

²¹ Appendix C, question 4

4.2.2 Career and skill development and opportunity for seafarers' employment

Regulation 2.8 - Career and skill development and opportunities for seafarers' employment

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

1. Each Member shall have national policies to promote employment in the maritime sector and to encourage career and skill development and greater employment opportunities for seafarers domiciled in its territory.

This Regulation extends from Regulation 1.3 the protection of seafarer's rights in regard to the career development. In other words, if Regulation 1.3 requires seafarers to possess sufficient qualification or certification in order to work on board ships, then Regulation 2.8 hands the Government and Maritime authorities the responsibilities to ensure that seafarers are given opportunities or necessary support in career and skills development so that they will be able to achieve such qualification and certification.

However, Regulation 1.3 implicitly expresses the willingness to share the responsibility for the training and certification requirements from the IMO, as already stated in Chapter 4.1.3 of this dissertation. In contrast, Regulation 2.8 straightforwardly directed such responsibility to the governments of Member States. Interestingly, however, no conflict of interest is presented because these two Regulations complement each other, and the benefit resulted from that will be discussed in the following paragraph.

The benefits

Such public international law like the MLC, 2006, has often been questioned for its mandatory characteristics. D'Amato (2010, p. 1) identified the source of the criticism was the fact that international law lacks enforcement power. The author also gave an

excellent example to prove the difficulty in enforcing international law against an entire nation, especially a superpower, such as the United States or the Soviet Union (the Russian Federation). To give more evidence to support the fact, the well-known case, “*The Arctic Sunrise Case*,” should be considered. The hearing was held by the International Tribunal for the Law of the Sea (ITLOS) in 2013. The Russian Federation (Russia), as the defendant, did not participate in the hearing and refused to accept the jurisdiction or the compulsory dispute settlement procedures of section 2 of Part XV of the UNCLOS, despite its ratification in 1997 (Burke, 2013). Thus, the success of an international treaty, such as the MLC, 2006, is decided by the principle of compliance of each Member States.

Therefore, the MLC, 2006 indirectly granted the enforcement power to the States by asking them to develop national policies. As pointed out in previous chapters, the biggest challenge lies in the compliance attitude of the seafarers, ship-owners, competent authorities and mainly, the Member States. The help from the international community mentioned in Regulation 1.3, such as the ILO and the IMO, is essential, but the final decision and actions are in the Member States’ hands. Through the creation and maintenance of effective national policies, seafarers domiciled in their territory will be truly protected.

From another perspective, career and skills development for seafarers is of the utmost importance in order to build and sustain a strong maritime industry in this fiercely competitive world. The first half of the year (2014) sees an end to a five-year downturn of the shipping industry since 2008 (Wallis, 2014). Despite the danger still being present, the recovery has gradually started and developed a fundamental point to an upturn in 2016. A press released by the Baltic and International Maritime Council (BIMCO) indicated the improvement in the global economy by the increase in demand for imported containerised goods in Europe and the US (Sand, 2014). This news has both advantages and

disadvantages for seafarers, but as the two sides of the same coin, they indicated how important the career and skills development for seafarers are.

The advantage is that more job opportunities will be opened for seafarers resulting from the upcoming acceleration of the global economy. Together with the protection from this MLC, 2006, seafaring careers will gradually be paid more attention. Furthermore, if Vietnam aims to stand among the tops in the seafaring supply market, as mentioned in Chapter 4.1.4, then skills development is a crucial factor. Potential Vietnamese seafarers would need to be equipped with necessary practical knowledge and appropriate qualifications to be able to cope with international standards. The statement “A well-trained seafarer is the most valuable asset an owner has on board” by Barsan, Surugiu and Dragomir (2012, p. 91) is to further emphasize the point. Seafarers’ training and skills development today have reached out of its traditional purpose, from just to ensure the jobs can be accomplished efficiently, to attain competitive advantage and sustainability during the financial world crisis. In other words, to protect seafarers through an effective policy is to protect the maritime industry of that country itself.

On the other hand, the disadvantages resulting from the recovery of the global economy; which increased the requirement standard of employment, make it difficult for seafarers to apply for a job on board ships. The optimistic outlook about the shipping industry in the next few years has pushed up the demand for capacity. Although the global economy has just started to recuperate, the world’s existing orderbook for containerships has already increased significantly, with 85% of the orders to be delivered by 31 December 2015 (Lee, 2014). However, the efficiency benefit of “economy of scale” has fired up a race to build and deploy larger vessels, which according to AlixPartner’s outlook report (Donahue, Stein, & Christensen, 2014) is both a cause and an effect of the persistent financial pressure. This pressure is put on the carriers’ shoulders and forced them to focus on cost-cutting activities in order to reshape their services. Crew costs today account for

about 44% of total operating expenses for a large container ship (Stephens as cited in Arnsdorf, 2014), and hence, *inter alia*, is agreed to be a major concern for owners and operators of vessels. Consequently, ship-owners have to be more selective in the hiring process, and obviously seafarers with higher competency and better qualifications would stand a greater chance to get a job on board ship.

The challenges

At first glance, there should be no significant challenge in implementing this Regulation in Vietnam because competent authorities only have to develop national policies in regard to the development of career and skills development of seafarers, after consulting with ship-owners and seafarers or their representatives. The only disadvantages are that the legal system is still formalistic and consultation mechanisms are not as effective as expected (Nguyen, 2013a, p. 135). As a result, there will be a gap in terms of professional competency and expertise between Vietnamese seafarers and international standards.

Nevertheless, there are a few minor difficulties in the implementation of these Regulations under the MLC, 2006. For example, although under paragraph 2 of Guideline B2.8.2, it is instructed that priority should be given to seafarers registered in the lists of employment, the reality is not the same. Referring to the chapter 4.2.1.4 of this dissertation, corruption has become a social norm in Vietnam, where employment priority is determined by the connection and the financial strength a seafarer has, rather than the knowledge and skills he has achieved. This problem does not occur everywhere but it still manages to survive in a considerable number of circumstances, usually in small companies.

Furthermore, in order to discover the reality of career and skills development of seafarers, questions number 6, 7 and 8²² of the survey asked respondents whether they had been provided with opportunities on career promotion, skills development and sufficient training programme to keep up with technological developments (as stipulated in paragraph (1)(c) - Guideline 2.8.1), respectively. A majority of the answers indicated the dissatisfaction from the seafarers.²³

Regarding the question on career and skills development, a few respondents claimed that their company did provide them a certain amount of support; however, it is not really effective as it lacks practical and specialized knowledge. One respondent²⁴ used the word “tribute” as a slang expression for the act of bribery in case a seafarer wants to advance in his career. Others complained that they had to strengthen their skills from their seniors during their time working on board, but had not received any training courses from their ship-owners²⁵. The reason given was the imbalance between the number of seafarers and the number of ships in Vietnam²⁶. As mentioned above, the current trend in the shipbuilding market is to increase the capacity, or to build larger vessels. Ship-owners have always tried to cut down the operational costs particularly personnel costs since they account for a large proportion of the total expenses. It means that they will favour seafarers that possess higher qualification and job experiences.

Moreover, it has been the result of the downturn of the shipping market more than five years ago. The current market is still in a recovery stage, so ship-owners have to save the costs as much as possible. They, therefore, have to cut down the budget for training their crews. As a consequence, seafarers have to use their pocket money to sponsor their training courses, and hence they are very unwilling to do so, as explained in Chapter

²² Appendix C

²³ Appendix C

²⁴ Appendix C, question 6, respondent no. 31

²⁵ Appendix C, question 7, respondent no. 31

²⁶ Appendix C, question 6, respondent no. 2

4.2.1.3 of this dissertation. Therefore, the national policy when being drafted must take into account all these existing difficulties and should balance the interest between ship-owners and seafarers.

The reality

Prior to the ratification of the MLC, 2006, Vietnam stipulated under Vietnam Maritime Law only general regulations on training of seafarers and have not made them mandatory for ship-owners and crew manning agents (Nguyen, 2013b, p. 35). Nguyen also indicated that there has not yet been a characteristic regulation on seafarer's labour contract as regulations from Vietnam Labour Code are being used, and the contract does not include any provisions in regards to career development or ongoing training for seafarers.

Moreover, in all the government documents created by the government and maritime competent authorities (i.e. Ministry of Transport) no directive or guidance pertaining to this matter is included. For example in the *Implementation Plan of the MLC, 2006* (2014), the VINAMARINE has been only directed to organize and deploy training programs and certification processes for seafarers, but the plan did not contain any provisions in respect of ongoing training²⁷ or promotion of opportunities ashore for further training and education of seafarers²⁸.

Maritime training institutions, such as the VMU or other vocational training colleges scattered throughout the country, are responsible for offering courses to improve seafarers' competency and technological awareness. Nevertheless, the training facilities

²⁷ in pursuant to Standard A2.8(3)

²⁸ in pursuant to Guideline B2.8.1(c)

of these schools are obsolete and inadequate. Further, the main duration of the courses are theoretical rather than practical, and many trainers are not qualified and weak in English fluency (Pham, 2014). The Rector of Maritime College I, Mr. Phan Van Tai recommended that the Government should increase the budget spent for maritime institutions and develop a policy to encourage ship-owners to contribute their human and financial resources to the schools (Phan, 2014). Obviously, a lot of work would have to be done so that the MLC, 2006 could be implemented in an effective way in Vietnam.

Chapter 4.3 – Title 5. Compliance and Enforcement

4.3.1 Flag State responsibility

Regulation 5.1 – Overall benefit.

The last Title of the MLC, 2006 designates the responsibilities of each Member State to implement and enforce the provisions set out in the Convention, including the Articles and all previous Titles, in an effective and efficient manner. The responsibilities are divided into two parts, targeting both Flag State (Regulation 5.1) and Port State (Regulation 5.2). To be consistent with the structure of this dissertation, which focuses more on the domestic issues associated with the MLC, 2006 than the international cooperation, Regulation 5.1 was selected for the discussion. Moreover, since this Regulation is fairly long and detailed (it contains 6 sub-regulations), an overview of the benefits of the Regulation will be provided and then each sub-regulation will briefly be discussed on the issues of challenges faced and status quo of compliance in today.

The relationship between this Title and the previous Titles is inseparable as this Title is served as a summary of duties and obligations provided in the previous Titles of the MLC, 2006 (and in the Articles), which are to be fully implemented and enforced by Member States. In a legal sense, if provisions regulated in those previous Titles are the substantive law then this Title are the procedural law, which focuses on the enforceability of the Flag State and Port State. It is also accompanied by two other documents issued by the ILO in February 2009, which are the *Guidelines for flag State inspections under Maritime Labour Convention, 2006* and the *Guidelines for port State control officers carrying out inspections under the Maritime Labour Convention, 2006*.

Another thing worth noting is the concept of "substantial equivalence" stated in paragraph (3) of Article VI does not apply to Part A of the Code in this Title, in pursuant

to paragraph (2) and (3) of Title 5. The notion “substantial equivalence” provided room for flexibility for Member States in implementing the rights and principles of the MLC, 2006. The Member is allowed, according to subparagraphs (a) and (b) of Article VI(4), to produce a national legislation or other implementing measure that “is conducive to the full achievement of the general object and purpose of the provision or provisions of Part A of the Code concerned” and “gives effect to the provision or provisions of Part A of the Code concerned”. According to the ILO (2012, p.12), the MLC, 2006 permits Members freedom in implementing the provisions of the Code of this Convention, or to “satisfy themselves”; however, it does not imply total autonomy. Besides producing a “substantial equivalence” national legislation, Member States also have to carry it out in good faith, so that the root objectives of the MLC, 2006 are effectively achieved.

However, the requirements of Title 5 cannot be implemented through “substantially equivalence” provisions. One of the reasons is that any substantial equivalents that have been adopted must be stated in Part I of the DMLC, according to Paragraph (10)(a)(iv) of Standard A5.1.3 of the MLC, 2006. Thus, if Title 5 is made replaceable then each State may establish a different set of DMLC that is supposed to be “substantial equivalence” to present in front of a PSCO, which would potentially cause inconsistency, controversy and complication during a port state inspection. Therefore, Title 5 was established to prevent such issues from happening, and the flexibility element of the MLC, 2006 is under control.

In the next section of this chapter, the purpose of each sub-regulations will be briefly discussed. Due to the fact that the MLC, 2006 has just entered into force, there would not be many problems regarding the status quo of compliance to be examined. Therefore, each sub-regulation will also be accompanied by the legal documents issued in Vietnam, in order to demonstrate the action taken by a competent authority to carry out the Flag state responsibility in accordance with the MLC, 2006

The last section of this chapter is designed for the (potential) challenges in implementing this first part of Title 5.

Regulation 5.1.1 – General principles

The first Regulation set out general obligations and duties that a Flag State is responsible for, which will be specified in the subsequent regulations of MLC, 2006. For example, the authorization of recognized organizations regulated in paragraph 3 is further clarified in Regulation 5.1.2. Moreover, the possession of MLC and DMLC are constituted as *prima facie* evidence of the compliance of the ship which is regulated under paragraph 4, is covered in Regulation 5.1.3. The structure of this Regulation 5.1.1 went from general to specific to assist the Members in following the procedures or in incorporating this Convention into their national legislations.

Regulation 5.1.2 – Authorization of recognized organizations

The objective of a Recognized Organizations (ROs) is to conduct ship classification and ship surveys including statutory certification of ships under IMO Conventions (ILO, 2012, p. 40). The RO delegated by the competent authority must meet the requirements regarding competency and independence set out in the associated Code (i.e the first and second paragraph of Standard A5.1.2). The Code for ROs was adopted by IMO in 2013 to consolidate existing instruments in regard to the recognition and authorization of ROs and the guidelines for the oversight by Flag States, and the

amendments to mandatory instruments are expected to enter into force on 1 January 2015 (IMO, 2014d).

Vietnam Register (VR), an independent organ of the Ministry of Transport, is an official state-owned RO and is qualified to conduct such ship surveys and ship classification, subjected to the responsibility permitted by the Minister of Transport which is regulated in Articles 9 and 10 of the *Decision No. 51/2005/QĐ-BGTVT*, dated 12 October 2005. This Decision also allows other ROs to conduct registration, classification and certification procedures of Vietnamese sea-going ships.

In the introduction of the organization (Vietnam Register [VR], 2008), VR mentioned that there are 26 sub-departments in charge of technical safety inspections of seagoing vessels and marine structures (i.e. oil rig). Furthermore, the competency of this organization has been ensured by the ISO 9000:2000 certification, issued by Bureau Veritas Certification. Currently, there are approximately 1100 personnel working for VR, including 903 with Bachelor's degrees and 94 post-graduates. VR has established a strong relationship with the Association of Asian Classification Societies (ACS) and its members, particularly Japan (ClassNK), China (CCS), Korea (KR), India (IRS) and Indonesia (BKI). VR has also collaborated with the International Association of Class Societies (IACS) in various areas of ship classification and certification. VR also maintains and updates the expertise of its personnel, pursuant to Standard A5.1.2(2)(b) by frequently sending its staff to attend regular meetings of the Council and Committees of the IMO. In addition, VR has signed agreement with the IACS and the World Maritime University (WMU) in educating and training its staffs annually.

Furthermore, according to a recent report by the Tokyo MOU (2013, p. 47), VR has a high level of performance, whereby it is responsible for only 7.14% (15 over 210) of detentions over a three year period (2011-2013).

Regulation 5.1.3 – Maritime Labour Certificate and Declaration of maritime labour compliance

The scope of application is defined in its paragraphs (1) and (2). Paragraphs (3) and (4) require ships within the coverage of the Regulation to carry and maintain an MLC and a DMLC. The MLC or Maritime Labour Certificate is to ensure that the ship is inspected and verified to be in compliance with the requirements of the MLC, 2006, and the provisions of the DMLC. Standard A5.1.3(1) provides that a list of 14 areas, which can be found in Appendix A5-I, must be inspected and certified. Moreover, the DMLC is an inseparable document from the MLC, which is divided into two parts. Summarized by the Maritime and Coastguard Agency (2014), Part I of the Declaration is to be filled in by the attending surveyor, who identifies the topics for inspection (14 areas), lists the relevant pieces of legislation embodying the provisions of the MLC, 2006 as well as any “substantial equivalents” or exemptions that have been granted. Part II of the Declaration is to be filled in by the ship-owners, and its authenticity must be verified by the attending inspector. It outlines the duties of ship-owners in order to meet national requirements regarding 14 areas listed, to suggest the measures to ensure that there is continuous improvement. The detail of items to be put in Part II is specified in Guideline B5.1.3, paragraphs (2) and (3), whereas paragraph (4) suggests that the DMLC should be drafted in clear terms in order to check that the requirements are being properly implemented. The format of the MLC and the DMLC Parts I and II are provided in Appendix A5-II to the Convention. The example of information provided in the national Declaration is provided under Appendix B5-I, pursuant to paragraph (5) of Guideline B5.1.3, which may be found useful.

These two sets of documents served as *prima facie* evidence that the ships are in compliance with the requirements of the MLC, 2006. Furthermore, these documents are

also to identify ships that have the potentiality of poor working and living conditions for seafarers immediately, which are the ships that do not possess the required documents.

To comply with this Regulation, Vietnam's Minister of Transport issued *Circular No. 45/2013/TT-BGTVT*, dated 19 November 2013, which provided the procedures for granting, approving, and retrieving the Declaration of conformity to the Maritime Labour and the Maritime Labour Certificate. Appendixes to the Circulars, which contain the format of the MLC and both parts of the DMLC are in both Vietnamese and English for reference.

Regarding the validity of the MLC, paragraph (1) of Standard A5.1.3 provides the maximum period of validity is five years. However, the ILO suggested that the competent authority or authorized RO should issue a certificate for a shorter period, so as to prevent the simultaneous expiration of certificates or to align the validity of the MLC with other IMO Convention certificates (ILO, 2012, p. 44). *Circular No. 45/2013/TT-BGTVT* sets out the validity period of an MLC is five years, under the condition that the ship must be inspected once during the period between the second and the third year from the issued date.

The interim maritime labour certificate is stipulated under paragraphs (5), (6) and (7) of Standard A5.1.3, whereby an interim MLC may be allow to be issued under a few specific situations such as new ships on delivery or when a ship changes its flag. However the ship still needs to be inspected and verified that the MLC, 2006 is fully complied. *Circular No. 45/2013/TT-BGTVT* also mirrors those provisions in its Article 6.

Regulation 5.1.4 – Inspection and enforcement

This Regulation requires Member States to establish an effective and coordinated system of regular inspections, as set out in Regulation 5.1.1(2), and ensure through such a system that ships comply with the requirements of the MLC, 2006. Part A of the Code further lists in detail the requirements in regard to the system. Nevertheless, the *Guidelines for flag State inspections under the Maritime Labour Convention, 2006* were adopted by the ILO in reference to the “clear guidelines” mentioned in paragraph (7) of the Standard A5.1.4, in order to assist its Members in implementing this Convention. Paragraph (7) in addition grants to the inspectors the power to detain the ship if serious deficiencies are found.

The inspection of the ship in compliance with the MLC, 2006 initially started on 8 May 2014 in Vietnam (the date the Convention entered into force). All the ships of 500GT and over, flying Vietnamese flag and engaged in international voyages are required to hold the MLC and DMLC. However, the Ministry of Transport decided to postpone the starting date for inspection until 20 August 2014, pursuant to the *Official Letter No. 5047/BGTVT-HTQT*, dated 7 May 2014.

As mentioned above, VR is responsible for ship inspection, including the matter in relation with the MLC, 2006. In addition to translating the *Guidelines for flag State inspections under the Maritime Labour Convention, 2006* into the Vietnamese language for ease of access, VR has drafted an Official Notice titled *Technical information on sea-going ships*, dated 7 July 2014, to send to ship-owners and ship registry units, which listed typical deficiencies regarding the implementation of the MLC, 2006. VR also encouraged ship-owners whose ships are engaged in international courses to devote their time and resources to build and execute a labour management system complying with the Convention.

Regulation 5.1.5 – on-board complaint procedures

As regulated in the first paragraph of this Regulation, it is required to have a complaint procedure required to have on board in order to ensure the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of this Convention (including seafarers' rights). The Standard A5.1.5 lays down some basic principles for the developing of the procedures. For example paragraph 1 of the Standard A5.1.5 required that the "procedures shall not prejudice national laws or regulation or collective agreements", or such "procedures shall seek to resolve complaints at the lowest level possible" as stated in paragraph 2, although they have a right to complain directly to the master, and seafarers must be provided with a copy of such procedures containing necessary information as provided in paragraph 4.

In the first preliminary version of the Decision on the regime of seafarers working on board ships that fly Vietnamese flag, Articles 16 also covered the prohibition of the harassment and victimization of seafarers for filing complaints, pursuant to paragraph (3) of Standard A.5.1.5, and those adverse actions should be dealt with according to the law. Article 18 allows seafarers to report complaints to the Port Authority during the time in port, and a PSCO will be appointed to conduct an initial inspection.

Regulation 5.1.6 – Marine casualties

The topic of marine casualties has been covered in the majority of the IMO's instruments; therefore, there is no Code under this Regulation. The Regulation simply requires Members to hold an official inquiry into any serious marine casualty, and encourages the collaboration between Members to facilitate the investigation of serious marine casualties.

The overall challenges in implementing Regulation 5.1

According to the analysis conducted by the VR (2014), by the end of June 2014, there were only 386 ships flying Vietnamese flags under the scope of application of the MLC, 2006. However, only 95 of them were inspected and 70 of them were issued with the MLC. Another newer report released that by the first day the inspection started (20 August), 250 ships had been assessed and nearly 200 MLC had been issued (Huy, 2014).

The challenge is that 49% of the shipping companies was reported no having submitted the form for inspection to the VR, and they are usually small size enterprises, despite the willingness from the VR to conduct inspection so that their ships would be safe from foreign inspection (VR, 2014).

Mr. Pham Thanh Truong, Deputy Director of the Certification of Quality Management and Safety System Centre, pointed out that despite the effort to host conferences or send official notices to all the ship-owners to encourage them to get their ships inspected, many small size ship-owners (who own less than 3 ships) had not taken any action (as cited in Huy, 2014).

Another difficulty lies in the ethical principle of ship registry units and registrars. The Director of VR, Mr. Tran Ki Hinh, indicated that the problems existing within VR, particularly in the ship registry sector, are systematic in nature and would not be resolved if not being frankly pointed out (Hong, 2014). The Director gave some examples, such as many branches of VR have appointed ship registrars whose competence and expertise are undetermined, certification was issued without thorough consideration, the quality management of shipbuilding factories have not been assessed, and lack of effective coordination between the Equipment Testing Department and the Design Approval Department prior to the installation on board. He further provides evidence showing that many seafarers and ship-owners are the victim of harassment from ship registrars.

PART V: RECOMMENDATIONS AND CONCLUSIONS

The preparation prior to and after the implementation of an international treaty is a massive workload requiring huge amounts of both time, human and financial resources. Although the competent authorities have promulgated a certain number of legal publications, such as Decrees and Circulars (which have been indicated in each sub-chapters), they are not complete as many areas of the MLC, 2006 have not been covered. This chapter at first will provide the recommendation from the VSU, and then followed by the recommendations and conclusions from the author of this dissertation.

5.1 Recommendations from the Vietnam Seafarers Union

The first thing that the Vietnamese government need to do is to complete the draft of the Decree on the implementation of selected provisions of the MLC, 2006 (referred to as “*The Draft*” within this chapter). The VSU has sent to the Ministry of Transport the *Document No. 14/2014/CV/HNDBVN*, dated 29 August 2014, providing the recommendations in regard to the implementation of selected provisions of the MLC, 2006. The Union advised that all of the legal documents should translate the wording from the original text of the MLC, 2006 to the Vietnamese language so as to convey the intention of the Convention. For example, the terminology “seafarer” was recommended to be changed to “any person....to which this Convention applies” rather than “any person....met eligibility criteria and assumed the title as prescribed by law” as written in the Draft. Other important areas, such as wages, hours of rest, entitlement to leave and repatriation are also given recommendation to amend the terminology of *The Draft* so that the meaning of the MLC, 2006 will not be lost.

The Union further suggested that *The Draft* should be more detailed in the certification of the MLC. The Union mentioned that the information regarding the authorization of PSCO, the procedure of the certification of the MLC and DMLC should be made public for seafarers. Additionally, the VSU recommended the VINAMARINE should be the only organisation that is authorized to examine and issue the MLC and the DMLC, in order to prevent confusion to ship-owners.

5.2 Other recommendations and conclusions

As already stated by the VSU, the legal system of Vietnam in regard to the implementation of the MLC, 2006 should be completed as soon as possible so that ship-owners and other agencies, such as ROs, RPSs and crew manning agencies, could be guided appropriately, and hence the violations of the MLC, 2006 or the confliction with the intention of the Convention is minimized or eliminated.

First of all, some of the government publications should be amended or replaced. For example, a new legislative document specializing in seafarers' employment, including the minimum ages should be developed. The *Decision No. 20/2008/QĐ-BYT* should be amended to be consistent with the international standard in terms of measure units. Moreover, the VINAMARINE should communicate with other Ministries to perfect *the Decision No. 1221/QĐ-TTg*, particularly on the subjects of career opportunities and skills development and wages for seafarers. As mentioned in Chapter 4.1.1, Vietnam should learn from the UK by publicize any amendments or new establishment in the legal system and invite comments and feedback about the impact on the current situation of the maritime industry. This method will prevent conflicts of interest between competent authorities, ship-owners and seafarers, and any further potential complication.

Second of all, ship-owner must help to eliminate the misbehaviour of agencies such as RPSs or ROs or health centres by stopping to employ their services and report to competent authorities regarding any suspected behaviour. Furthermore, ship-owners must take care of their seafarers and create as many opportunities as possible to support them in their careers as well as their personal matters. Once again, the quote from Barsan, Surugiu and Dragomir should be kept in mind (2012, p. 91): “A well-trained seafarer is the most valuable asset an owner has on board”.

Thirdly, seafarers in turn should cooperate with ship-owners and competent authorities to minimize the harassment by reporting misconduct cases and only applied for jobs through authorized companies and agencies. Moreover, seafarers should take advantages of the opportunities provided by the ship-owners and competent authorities to improve their skills and knowledge. They have to understand that they have to be self-reliant to get promoted in their careers rather than buying an “under-the-table ticket”, and then their wages will increase accordingly.

Further, although the policy maturation is low, the enforcement power is poor either and needed to be strengthen. Starts with the inspection process, the PSCOs and other inspectors’ wages should also be sufficient enough not to tempt for bribery, and competent authorities must regularly counsel them to avoid such acts. In addition, punishment for bribery, according to the law, must be strict and to set an example for others not to do or repeat these acts. This punishment must be applied for all of the stakeholders in the maritime industry, from the competent authorities’ personnel, to the ship-owners, RPSs staff, medical practitioners and also the seafarers.

Despite the fact that there is still a long road ahead to see the full impact of the MLC, 2006 on the maritime industry in Vietnam, the ratification by the country to the Convention is absolutely necessary. The quality of Vietnamese seafarers and the position

of the national maritime industry will increase dramatically and match international standards in the near future.

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PART VI: APPENDIX

Appendix A – WMU Research Ethics Committee Protocol



WMU Research Ethics Committee Protocol

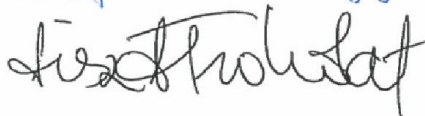
Name of principal researcher:	Nguyen Viet Hoang Son
Name(s) of any co-researcher(s):	N/A
Name of supervisor, if any:	Dr. Lisa Froholdt
Title of project:	Maritime Labour Convention 2006 : Benefit, Challenges and reality of Vietnam towards to Convention.
Is the research funded externally?	No
If so, by which agency?	N/A
Where will the research be carried out?	Malmö, Sweden
How will the participants be recruited?	Through emails
How many participants will take part?	Not limited
Will they be paid?	No
If so, please supply details:	N/A
How will the research data be collected (by interview, by questionnaires, etc.)?	Questionnaires
How will the research data be stored?	Google server
How will the research data be disposed of?	Deletion of the form
Is a risk assessment necessary? If so, please attach	No

Signature(s) of Researcher(s):

 Son Nguyen

Date: 11 August 2014

Signature of Supervisor:



Date: 13 August 2014

Please attach:

- A copy of the research proposal
- A copy of any risk assessment
- A copy of the consent form to be given to participants
- A copy of the information sheet to be given to participants
- A copy of any item used to recruit participants

Appendix B - The survey to seek opinion from competent authorities, ship-owners and seafarers about selected areas in relation to the MLC, 2006

9/22/2014

Maritime Labour Convention 2006 - Google Forms

Maritime Labour Convention 2006

Dear Respondent,

I am currently undertaking the Master of Science (MSc) program at the World Maritime University, specializing in Maritime Law and Policy. The World Maritime University is an educational institution of the International Maritime Organization (IMO) located in Malmö, Sweden. My profession is a lecturer at Vietnam Maritime University.

As part of the MSc program I am required to write a dissertation titled "Vietnam towards Maritime Labour Convention 2006: Benefits, challenges and reality" in order to achieve an overview about the current compliance status of the Convention in Vietnam. Therefore I would like to seek your opinion and learn about your experience in relation to the Convention. I would be deeply grateful if you could spare some time to complete the questionnaire attached herewith as your opinion is very important.

Your participation is purely voluntary and will be kept anonymously and is very much appreciated. Please do not hesitate to contact me if you need any further clarification. Once again your answer is critical to the success of my dissertation.

I thank you in advance for your patience and your co-operation.

Your sincerely,

Son Nguyen

WMU, Sweden

Email : s14032@wmu.se

By proceeding with answering this questionnaire you indicate your informed consent and understanding that your participation is completely anonymous and that all personal data relating to respondents (if any) will be held and processed in the strictest confidence.

***Required**

1. What is your age ? *

.....

2. What is your nationality *

.....

3. What is your current occupation *

Please choose one description

Mark only one oval.

- ☐ Seafarer *Skip to question 18.*
- ☐ Shipowner *Skip to question 11.*
- ☐ Maritime Administration or any other maritime public authority *Skip to question 4.*

Maritime Authority questionnaire

4. 1. Do you think applying MLC 2006 will bring benefit to your maritime industry ?

Please elaborate

5. 2. What have you done in resolving the challenges in applying MLC 2006 ?

Please elaborate

6. 3. Do your country have an efficient and adequate system for finding employment on board ships? *

Mark only one oval.

- ☐ Yes
- ☐ It is a good system but still need improvement
- ☐ No

7. 4. Have you (or someone you know) ever been charged for finding employment on board ship?

Please elaborate

8. 5. Have you (or someone you know) experienced a delay in wages payment of seafarer ?

Please elaborate

9/22/2014

Maritime Labour Convention 2006 - Google Forms

9. **6. Have you provided seafarers a good career development / skills opportunity ?**

Please elaborate

10. **7. Have you provided seafarers a good job findings after they are going on-shored ?**

Please elaborate

Stop filling out this form.

Shipowner questionnaire

11. **1. In which country your ships registered to ? ***

12. **2. Are you provided with an efficient and adequate system for hiring seafarers for work? ***

Mark only one oval.

- ☐ Yes
- ☐ It is a good system but still need improvement
- ☐ No

13. **3. Have you (or someone you know) ever been charged for finding employment on board ship?**

Please elaborate

9/22/2014

Maritime Labour Convention 2006 - Google Forms

14. 4. Have you ever had to delay paying wages to your employees ?

Please elaborate

Form area for question 14, consisting of five horizontal lines for text entry.

15. 5. Do you provide your employees a good career development opportunity ?

Please elaborate

Form area for question 15, consisting of five horizontal lines for text entry.

16. 6. What kind of training do you provide in relation to technological development ?

Please elaborate

Form area for question 16, consisting of five horizontal lines for text entry.

17. 7. Do you provide your employees adequate support in their recruitment and placement services?

Please elaborate

Form area for question 17, consisting of five horizontal lines for text entry.

Stop filling out this form.

Seafarers questionnaire

18. **1. In which country the company you are working for ? ***

Mark only one oval.

- ☐ Domestic company
- ☐ Foreign company
- ☐ Other:

19. **2. Are you provided with an efficient and adequate system for finding employment on board ship ? ***

Mark only one oval.

- ☐ Yes
- ☐ It is a good system but still need improvement
- ☐ No

20. **3. Have you (or someone you know) ever been charged for finding employment on board ship?**

If yes please elaborate

.....

.....

.....

.....

.....

21. **4. Have you (or someone you know) experienced a delay in wages payment?**

If yes please elaborate

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22. **5. Have you (or someone you know) experienced a difficulty in transmitting your earnings to your families**

If yes please elaborate

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9/22/2014

Maritime Labour Convention 2006 - Google Forms

23. **6. Have you provided with a good career development opportunity by your company?**

If yes please elaborate

24. **7. Have you provided with a good skill promotion opportunity by your company?**

If yes please elaborate

25. **8. Have you provided with sufficient training to keep up with technological development**

If yes please elaborate

26. **9. Do you feel satisfied with your wages ***

Mark only one oval.

	1	2	3	4	5	
Very satisfied	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Very unsatisfied

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Appendix C – The report on the summary of responses of the survey (For Seafarers)

No.	What is your age?	1. In which country the company you are working for?	2. Are you provided with an efficient and adequate system for finding employment on board ship?	3. Have you (or someone you know) ever been charged for finding employment on board ship?	4. Have you (or someone you know) experienced a delay in wages payment?	5. Have you (or someone you know) experienced a difficulty in transmitting your earnings to your families	6. Have you provided with a good career development opportunity by your company?	7. Have you provided with a good skill promotion opportunity by your company?	8. Have you provided with sufficient training to keep up with technological development	9. Do you feel satisfied with your wages
1	24	Domestic company	Yes	No	It was 20 days of wage delay for my ship	No	No	Yes	Yes	4
2	26	Domestic company	It is a good system but still need improvement	Can I say it is like buying a ticket for me to get a job? This still exists in my company	Most of the domestic company do the same. MY company Vosco is not an exception	No, my company pay through ATM card which is very convenient	Partially. But for now there are fewer ships than seafarers so the space is limited	I don't know about my company. But I have learned a lot on board due to the great support at work	Yes, my training programme is updated annually after each voyage	3
3	24	Domestic company	No	I myself got cheated one time. When I was a fresh graduate, a person named Vo Dai Nam from An Hai company cheated me and kept all my ID. When I went on board I have nothing to identify myself. That						1

				company also delayed wages.						
4	24	Domestic company	No	Yes	Yes	Yes				2
5	25	Domestic company	It is a good system but still need improvement	Last time I got an interview in English with an oil rig company and I was told OK. But other interviewees through brokers could get the job while I have to wait.	Domestic companies usually delay one month wages, and it is becoming a rule of thumb that is agreed by all the domestic companies	Transferred via the card so there is no problem	Clearly not	No	No	5
6	51	Domestic company	Yes	Yes	No.	No	Yes	Yes	Yes	3
7	25	Domestic company	No	It took me one month salary in order to get a job on board ship	My wages have delayed for 4 months	ship owners pay cash but was 5 month late	No	No	I asked for a leave to go home for training but I was rejected, or else I would lose all of my wages	5
8	25	Domestic company	Yes	Yes	No	No	Not yet	Not yet	Not yet	5
9	26	Domestic company	It is a good system but still need improvement	I don't know any person so I got contact with an agency and they take my one month wages as the fee	Almost all of the domestic firms and foreign ship owners delay for 1 month, some delay for 6 to 7 months. Seafarers have not choice but continue to work because they are afraid of losing the money	I don't know	No	NO	No	5

10	25	Domestic company	No							4
11	20	Domestic company	It is a good system but still need improvement							3
12	24	Domestic company	It is a good system but still need improvement	I don't know	Many domestic companies, such as Innaco HP	No	Fairly good	No	No	5
13	22	Domestic company	It is a good system but still need improvement	Fresh graduate like me usually pay from 3 to 100 million VND to get the job you want	At least 1 month, some seafarers do not know how to get back their wages					4
14	24	Domestic company	It is a good system but still need improvement	Yes	Domestic companies usually pay very late	This is not difficult, the problem is I don't have the money	It's very difficult for domestic companies	No	No, I have to research and learn it myself	5
15	40	Oil & Gas	No	No	Majority of Vietnamese seafarers' wages are delayed	No	Yes	No	No	4
16	32	Foreign company	No	Many of my friends have to pay a very substantial amount to get an interview with a foreign ship-owners	We usually get paid later than 1 -2 months	No	Yes	The training prior to the job on board is very limited,	Very little	3
17	28	Domestic company	No	It is a common practice in Vietnam	Many domestic companies delayed the payment	No	Yes but not enough	Yes but it needs improvement	Yes	5
18	31	Domestic company	No	99% of the application fee is "under the table"	For the domestic companies during this time, it is common practice to	I don't know	No, totally self-initiative	Yes but the effectiveness is low	Yes, but it is not for keeping pace with the technology development. It is for getting the required	4

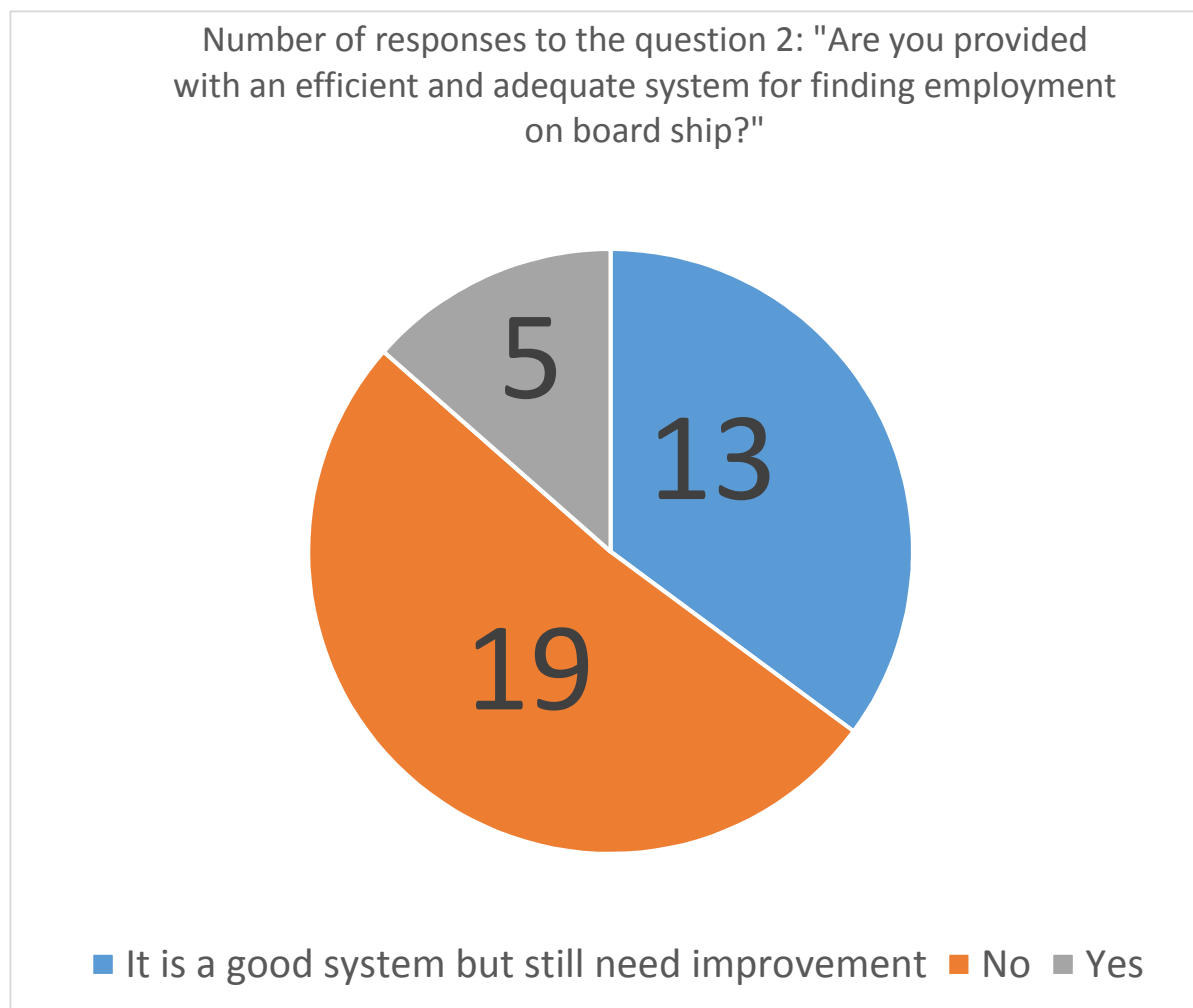
					delay the wage. It will not happen for foreign shipping companies				certification in order to get a job on board	
19	30	Domestic company	No	No	No	No	No	No	NO	1
20	24	Domestic company	No	No	No	I don't know	No	NO	No	5
21	25	Foreign company	No	I don't have exact information but I think it is true	The wages delay is informed during job interview, like a term of the contract. However most of seafarers accepted it	It is happening mostly on foreign fishing vessels such as Taiwan, South Korea, North Korea	The partner of my company is a Japanese company therefore the training for seafarers is emphasized	Support is provided even when you are on vacation	Due to the economic constraint, majority of the training is conducted in the paper or video-based. But it does increased the awareness about the development of the maritime industry	4
22	30	Foreign company	It is a good system but still need improvement	Yes! Many of seafarers were bothered by this. This question make me think many seafarers will report the issue of being charged to get a job on board. From private to public companies, they have many ways to charge you	In Vietnam majority of shipping companies is practicing that, even default on crew wages. After the implementation of the MLC, they have found other ways around to escape the inspection	Labour contracts' term will never be strictly complied	Most companies do not do that. I have to work and be self-reliant. If I want to continue I have to "tear the ticket"	Partially	It's quite OK	4
23	25	Domestic company	It is a good system but still need improvement	Anyone who is a Vietnamese seafarers will know about this	Too much. For example Vosco has been delayed the wages for 13	No	Yes	Yes	Yes	5

					months. Vinaline, vinaship all big companies.					
24	30	Domestic company	It is a good system but still need improvement				Yes	Yes	No	3
25	27	Domestic company	It is a good system but still need improvement	It is a common practice in Vietnam, you can ask many community pages in Facebook, brokerage fees is common despite your knowledge and experiences	During this current situation, most of the shipping companies delay wages. But I don't know any case to tell you	I don't know	I have that rights	I have that right. Depending on your learning attitude	Depending on the financial condition of yourself. Learning costs money	3
26	24	Domestic company	No	toi phai tra tien moi gioi bang mot thang luong	MY ship-owner do not pay my wage on time	ship owners pay cash but was 5 month late	Learns from the senior	I do not receive any help	No	1
27	23	Domestic company	No	Brokerage fees is the back door to get on board	It is a common practice in Vietnam, although the wages are very low. The ship- owner use two payrolls in response to the MLC, 2006	Pay directly on board	No	No	No	5
28	31	Foreign company	No							3
29	31	Domestic company	Yes	Crew manning agency	Dai nam and An Hai shipping companies					5

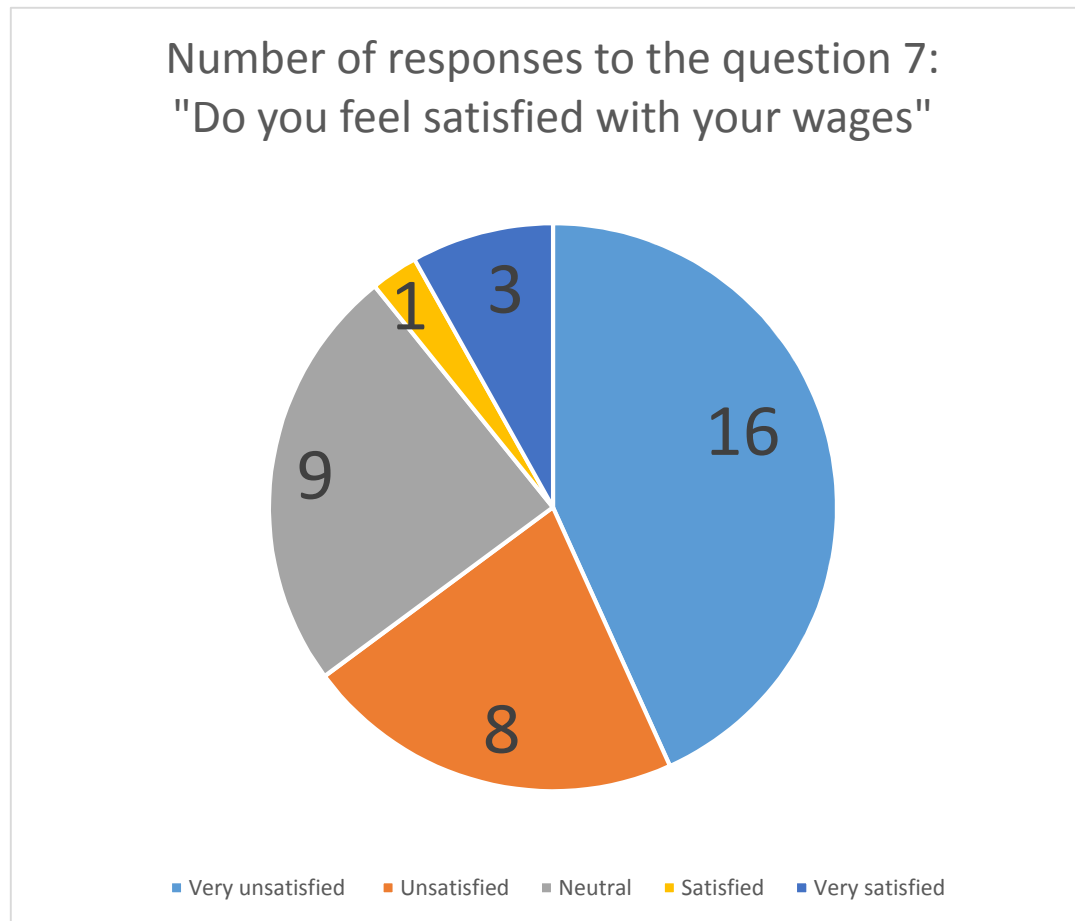
30	30	Domestic company	It is a good system but still need improvement	Yes, the first time I went on board I have to pay 6 million VND to Minh Phu crew manning company in Hai Phong	I worked for HODASCO 19 6 months and get delayed for 3 months	No	I don't know	Yeah! Thanks to my company who only use damaged ships which make my electric skills improve tremendously!!!!	No, I have to learn through the Internet and other mass media	5
31	29	Domestic company	No	I don't have any experience about this	I know many cases: vinaship, vinashin line, vinashinship	I don't know		The company does not provide any training for skills development for seafarers. I'm completely learn from my seniors	I have participated in the training course in the Vietnam Maritime University	4
32	25	Domestic company	No	No	Yes	No	No	No	No	5
33	26	Foreign company	No							3
34	48	Foreign company	Yes	Yes, we have to pay the service charge for manning company.	No.	No	Yes.	Yes.	Yes.	5
35	35	I am giving lecture at VMU	No	I have to pay 12% my salary for manning fee every time when I work on ship.	Almost of crews in my country who are working for domestic companies at this time experienced a delay in payment.	No	No	No	No	5

36	40	Foreign company	It is a good system but still need improvement	Never	Yes, it like leeway, about 300\$ for chief officer	No, normally only received 400\$ on board. The remaining of salary is transferred to account at home.	Yes. The company has policy for crew in promotion.	Yes. For rating, at least one promotion is needed from C/O. For operational officer, two letters of promotion from C/O. For chief officer as captain, two letters of promotion of different captains.	Yes. The company has policy for training crew on shore and on board. Before departure, a briefing for every rank must be satisfactory.	3
37	30	Domestic company	No	N0	N0	N0	N0	N0	N0	5

Appendix D – Number of responses to the question 2: "Are you provided with an efficient and adequate system for finding employment on board ship?"



Appendix E – Number of response to the question 7: "Do you feel satisfied with your wages"



Appendix F – The report on the summary of responses of the survey (For Ship-owners)

No.	What is your age?	What is your nationality	What is your current occupation	1. In which country your ships registered to?	2. Are you provided with an efficient and adequate system for hiring seafarers for work?	3. Have you (or someone you know) ever been charged for finding employment on board ship?	4. Have you ever had to delay paying wages to your employees?	5. Do you provide your employees a good career development opportunity?	6. What kind of training do you provide in relation to technological development?	7. Do you provide your employees adequate support in their recruitment and placement services?
38	36	Vietnam	Ship-owner	Vietnam	It is a good system but still need improvement	In the present context, it is not easy to find a job on board and a fee is required. This fee is undisclosed but implicitly understood to be transferred to recruitment team. The amount of the fee depends on the type of job.	My company have never been late in wages payment. The company's motto is to create the best conditions or seafarers. However due to the current economic downturn, many other companies delay their duties of paying wages for seafarers, in order to	My company is always trying to create the opportunities for seafarers to advance in their career, because as they get promoted, their services as well as the company quality will increase accordingly	Currently, my company is applying the specialized training programmer for crew members in order for them to master their professional responsibility. We also combined with extensive training for qualified seafarers to work on a variety of ships type	We are recruiting the crew in accordance with ISO 9001-2008, and hence any matter related to the recruitment and replacement will be announced and clarified to crew members and those who are involved.

							keep that for another purpose			
39	29	Vietnam	Ship-owner	Vietnam and Panama	It is a good system but still need improvement	Yes, the crew department will have to find and recruit the students as well as hire the crews from other companies.	Yes, the salary normally is delayed about 3 months since 2011.	We always support and help the crews to have the best working environment to develop their competence.	Yes, the crews are supported after recruitment and during working but I suppose that it is not good enough.	
40	31	Vietnam	Ship-owner	Vietnam	It is a good system but still need improvement	Yes. I know some seafarers who have been charged for finding employment on board ship. Some pay to get employment on board. Some pay to get better assignments, to work on better ships/routes. Some even pay to get quick promotion.	Yes. Due to financial crisis, some shipping companies in my country have had financial difficulties, which makes them delay paying to employees.	Yes. Our company has tried best to provide seafarers with good career development opportunity. Seafarers are given training opportunities funded by the company.	Not so much.	