Implementation of the Maritime Labour Convention in Peru: applications MET's models to optimize implementation

Gustavo Livia Rosas
World Maritime University

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IMPLEMENTATION OF MARITIME LABOUR CONVENTION IN PERU

Application of MET’s models to optimize effective implementation

By

GUSTAVO LIVIA ROSAS

Perú

A dissertation submitted to the World Maritime University in partial fulfillment of the requirements for the award of the degree of

MASTER OF SCIENCE

In

MARITIME AFFAIRS

(MARITIME EDUCATION AND TRAINING)

2014
DECLARATION

I certify that all the materials in this dissertation that is my work has been identified, and that no material is included for which a degree has previously been conferred on me.

The content of this dissertation reflects my personal views and are not necessarily endorsed by the University.

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ACKNOWLEDGMENTS

Firstly, I would like to express my gratitude to God who, in spite of the difficulties, let me finish this research, leaving me hoping to continue it in the future.

I express my gratitude to the Maritime Authority of Peru and Navy of Peru that allowed me to study for the degree of Master of Science. In addition, I would like to thank all the colleagues who have in some way contributed to the development of this work.

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Title of Dissertation: Implementation of the Maritime Labour Convention in Perú. Applications MET’s models to optimize effective implementation

Degree: MSc

The dissertation is an inquiry on the application of models of maritime education and training for the real implementation of the MLC-2006 in Peru, considering the main features for each group of people involved.

At present, the Maritime Labour Convention is one of the four pillars in the regulatory regime of maritime activities. For states, its adoption is not the conclusion of a process, but rather the beginning of a challenge called implementation.

A number of guidelines and literature written propose how to implement the Convention but it is not enough to ensure it. The problems encountered by States in their roles will be critically debated. Also, responsibilities of the IMO and ILO will be analyzed.

The evolution of maritime transport in Peru will be discussed, with emphasis on the history of maritime labor practices and the status quo before entry into force of the MLC, 2006, which will be analyzed through interviews to identify the problems faced by the implementation process. Additionally, the process of implementing the MLC, 2006 followed by other states will be considered, trying to assess their effectiveness.

The identification of problems, such as the possible gap and the nature of the actors involved will allow to prove the use of theories of maritime education and training in the process of implementing the MLC, 2006.

The final chapter examines the results and proposes the incorporation of an educational model to ensure compliance with the obligations of the Peruvian state under the new International Convention. Further, recommendations for implementation of other mandatory instruments based on future investigations are provided.

**KEYWORDS:** Maritime Labour Convention, Flag State implementation, Learning Theories, Education and Training, Perú
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<tr>
<td>DWT</td>
<td>DEAD WEIGHT TONNAGE</td>
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<tr>
<td>DICAPI</td>
<td>DIRECTORATE GENERAL OF CAPTAINCES AND COASTGUARD OF PERU</td>
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<tr>
<td>ENAMM</td>
<td>MARITIME ACADEMY “ADMIRAL MIGUEL GRAU”</td>
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<td>FAO</td>
<td>FOOD AND AGRICULTURE ORGANIZATION</td>
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<td>IMO</td>
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<td>ILO</td>
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<td>IMLI</td>
<td>INTERNATIONAL MARITIME LAW INSTITUTE</td>
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<td>ISM</td>
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<td>INTERNATIONAL CHAMBERS OF SHIPPING</td>
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<td>ITF</td>
<td>INTERNATIONAL TRANSPORTATION FEDERATION</td>
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<td>MLC</td>
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<td>RO</td>
<td>RECONIZED ORGANIZATION</td>
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<td>Acronym</td>
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<tr>
<td>ROCRAM</td>
<td>OPERATIVE NETWORK FOR REGIONAL CO-OPERATION AMONG MARITIME AUTHORITIES OF THE AMERICAS</td>
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<td>UN</td>
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<td>UNESCO</td>
<td>UNITED NATIONS EDUCATIONAL SCIENTIFIC AND CULTURAL ORGANIZATION</td>
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<td>UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT</td>
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<td>VIMSAS</td>
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Chapter 1
Introduction

The Maritime Labour Convention, 2006 (MLC), aims to ensure that all seafarers have the right to a safe and secure workplace, including fair terms of employment, decent working and living conditions on the ship, and the right to health protection, medical care and other types of social protection. The MLC entered into force in August 2013, and it has to date the ratification of 56 countries with the representation of world tonnage of approximately 80% (ILO, 2014).

Peru has not yet ratified the list, which is updated by the International Labour Organisation.

The International Labor Organization (ILO) stated that despite the success of the Convention, with the process of adoption of the MLC Convention, the reality in the field of implementation can be openly opposed (Doumbia-Henry, 2014)

While the first line of action (the preparation of an international convention with which signatory flag-issuing States are obliged to comply) has been satisfied the same can not be said of the second (effective implementation).
Some States undertake the formal commitment that ships flying their flag must comply with the specified conditions, however in practice they either disregard them for want of political will or fail to comply for lack of the human and physical resources needed to exercise control over ships, particularly those that do not frequent their own ports. In either case, their ships can thus evade the provisions of international conventions, with the unfortunate consequences still too frequently observed (Piniella, 2013 p. 63).

In this sense, the position of the IMO is to be more realistic about it and put the focus on the implementation. According to the Secretary-General of IMO: “The adoption of the IMO convention can not be the end of the process. …because an IMO convention is only worthwhile and meaningful if it is effectively and universally implemented” (Sekimisu, 2014).

Although the tacit acceptance procedure has been adopted at IMO, it may seem that the commitment to enforce the Convention in some states for current and future Conventions will be uncertain.

One the one hand, the tacit acceptance procedure places the IMO as an adaptable organization to change and provides rapid response to changes in technology and the changes that international trade requires. In this way numerous technical conventions have been modified and their entry into force has not been delayed, so the ability of the IMO to regulate international shipping is not paralyzed.

On the other hand, this rapid and effective response of the IMO has not achieved its objectives. In some cases, it can be said that, on the contrary, whenever an amendment requires a costly implementation and installation of new equipment or modifications of structures (Shi, 1998).
More importantly, the high cost of compliance is particularly problematic for developing countries facing domestic political pressure and the slow process of policy development within States.

Therefore, to avoid generating opposition to these processes, the IMO “as an organization that has innovatively developed the tacit acceptance procedure, it will undoubtedly use creative solutions to encourage implementation” (Shi, 1998 p. 332).

For this situation, the Government and Non-Governmental Organizations strive to produce multiple implementation guides and supporting documents that can clarify understanding, comprehension and decision making about the actors involved.

The Integrated Technical Cooperation Programme aimed at capacity building, to improve implementation processes in focal areas, namely maritime safety and prevention of marine pollution, reflects that the IMO implementation processes are associated with learning processes within each state (IMO,2014a).

Claiming that the IMO has always considered education as an important part in meeting its objectives is true. Since the creation of the Expertise Programme of Maritime Education and Training as a pioneer of the specializations at World Maritime University in order to provide adequate education to seafarers, according to the latest amendments to the STCW Convention, the human element has always been present as the center of maritime education.

However, it must be recognized that the human element has been directed to the seafarers. As mentioned by the former Secretary General of the IMO: “Putting the seafarer first” …he said “.in this first decade of the 21st century the “human element” has surfaced as a core concern for the maritime industry in relation to the implementation of ship safety, security and pollution measures…”.(Mitropulus, 2005).
This paper attempts to consider the effective implementation of the Maritime Labour Convention by incorporating more than just a seafarer’s approach and using MET models, hereby allowing a synergy with the objectives of the IMO. This can be seen as an alternative to traditional implementation processes as a way in which states can overcome the usual difficulties in these processes.

1.1 Objectives

The purpose of this research is to propose a model of Maritime Education and Training, addressed to all actors within the maritime community, taking the case of the implementation of the Maritime Labour Convention in Peru. The objectives to achieve this aim are:

1. Demonstrate the effectiveness of the existing legal framework (national and international) in the field of maritime labor in Peru

2. Identify actions that have been taken to date for the implementation of the Maritime Labour Convention 2006 in Peru.

3. Analyze the best practices in the maritime field, in the framework of the implementation of the MLC 2006 in other administrations and identify gaps thereof in Peru.

4. Demonstrate the necessity of applying an educational model for the application of the MLC-2006 in Peru.
1.2 Methodology

To achieve the objectives of this paper, both primary and secondary data will be collected in order to answer the research questions. Firstly, in order to establish the history of maritime labor practices in Peru and establish the status quo of the implementation process of the MLC-2006 in Peru, data will be collected from the maritime administration, seafarers and seafarer’s associations and ship owners, using questionnaires.

Likewise, with a focus on the Peruvian process, individual interviews will be conducted with officers of the maritime administration in the context of the Viña del Mar agreement. Speeches and current related articles will be included. Secondary data will be collected from the review of national laws, literature, books and authors with relevant knowledge on the rights of seafarers and maritime education and training.

A comparative analysis of the implementation of the MLC in other States and statistic information will also be included, in order to identify possible models of education and training applied in each country.

Finally, in order to ensure that effective implementation of the MLC is accomplished for seafarers, shipowners and maritime administration, the necessity of a proposed model of education and training will be justified.

1.3 Benefits of this research

For some countries like Peru, a process that ensures the implementation of international conventions tends to have a long incubation period. The sheer amount of possibilities can have no end.
The research tries to recognize gaps that can identify these processes and proposes that the principles of effective learning should be used through an educational model for the implementation of the conventions from the perspectives of the administration, shipowners and seafarers. Ways in which this can be evaluated and monitored are also considered.

Finally, the dissertation also tries to contribute with knowledge about how learning theories can be applied in MET and how they might be used by other researchers.

1.4 Assumption and Limitations of the research

For the purposes of this research, it was assumed that Peru signed the MLC, and initiated the process for implementation.

Similarly, during the study it was considered that the Peruvian State would appoint the Maritime Authority as the body responsible for the implementation.

However, the functions of the Maritime Authority in its representation of the responsibilities of the Port State and State Flag State will be the most analyzed, assuming that this would be considered a Competent Authority.

Moreover, the small Peruvian flag merchant fleet, has not increased in the same pulse as sustainable economic growth in the last 20 years. In this sense, all the data about operators and shipowner are limited.

Implementation of international conventions is a global problem. The proposal considers factors deemed by the researcher as most important for this process in Peru.

The lack of studies with a similar vision for the proposal has been a limitation for the development of this work.
These factors are the result of the analysis of the information obtained despite economic constraints, availability of literature on Peru and time constraints. More stakeholders and significant gaps can be obtained to the extent that the study can deepen and be subject for further review.

Finally, the results of this study could contribute to developing a new theoretical framework that could be taken into account for the implementation of other new conventions, development plans or enforcement strategies.

1.5 Dissertation outline

The structure of this dissertation is prepared following the appropriate sequence to achieve the objectives.

For this purpose, in Chapter 1, the introduction, after a brief description of the importance of implementation of the MLC Convention in the current maritime context, will show objectives and methodology applied in the study and the dissertation outline. It also describes the benefits and the limitations of the study.

Then, Chapter 2 will examine the meaning of the word “implementation” and will consider the IMO and ILO approach in this process, which is explained with differing perspectives on the State responsibility. A brief summary of the MLC is provided, and the importance of the tripartite group participation involved as a key to the process. Finally, it will be examined how the international organizations and non-governmental organizations can put their efforts in helping them, as part of the implementation process.
Chapter 3 will address the analysis of the MLC in Peru. For these purposes, an analysis of the legal framework in historical and current scope is undertaken and the implementation process will be analyzed.

In Chapter 4, a situational assessment of the existing perceptions about the enforcement of labor standards in the maritime field in Peru is provided, under the context of the forthcoming signing of the MLC. The information was obtained through electronic surveys of stakeholders in Peru, interviews with actors in the Latin American context and based on information collected from open sources and texts. This process reflects a qualitative analysis but includes some quantitative information needed to classify the information obtained.

Chapter 5 is dedicated to the topic of the influence of current learning theories, and how these are affected by social changes, advanced technology and also by new educational ideas. This chapter will also introduce, in a practical way, how the learning theories could help in the implementation process of the MLC.

Finally, Chapter 6 will set out the conclusions and recommendations of this dissertation.
Chapter 2
Implementation: IMO/ILO perspectives

2.1 Introduction

Every year the International Maritime Organization (IMO) has put emphasis during the World Maritime Day on a current issue that is considered relevant to the work of IMO.

Last year in 2013, the theme was "Sustainable development: IMO's contribution beyond RIO + 12 sustainable maritime development goals (IMO, 2013).

In this regard the development of research like Prylipko (2013), has sought to promote a response from the MET institutions in sustainable development in order to achieve a successful implementation of this concept in the maritime community.

This year, the Secretary-General of the IMO, Koji Sekimizu announced that in 2014 the focal theme would be "IMO conventions: effective implementation," emphasizing the need for international IMO instruments to come into force or are effectively implemented in each country (IMO, 2014).

However, the concern expressed by the Secretary-General of IMO, is not new and much less unknown within the maritime industry. For years, some authors have come down to
numerical modeling that provided the time it took the States since the adoption of the International Convention until it enters into force.

Thus, a brief review of the nature of international law, it can be said that the importance of international conventions is that they are at a higher level than to other legal resources internationally.

Further, Mukherjee stated that, “the implementation of an international convention to which state has become a party is, therefore, an essential step without which the Party State can not benefit insofar as the application of that law within its jurisdiction is concerned,” (Mukherjee, 2002, p.225).

In this sense, unlike the monistic method or "direct effect or application" (ibid) process, in the case of Peru, it is necessary that a treaty should enter into force when it is incorporated into domestic law through parliamentary approval.

Therefore, when the Peruvian State ratifies an international agreement either of the IMO or the ILO or another international organization, it means as provided in Articles 55, 56 and 57 of the Political Constitution of Peru of 1993, it will not become effective until the approval by the legislative branch.

Hence, the situation of each state and its ability to implement an international agreement in the maritime field will be discussed later in the context of the flag state, port state and coastal state. However, it is necessary putting into advance that this process will face a number of challenges and not only regarding laws.

This chapter will analyze the different ways that the term implementation is interpreted in the context of international conventions (ILO, IMO) to conclude finally on the different points of view about implementation processes as part of the responsibility of States as well as the current challenges that the MLC represents.
2.2 What is “implementation”?

Within the scope of the IMO the word "implementation" is repeatedly used in order to orient the responsibilities of States to the enforcement of an international agreement.

Despite its common use in the maritime field, the definition can be confusing. According to the Oxford English Dictionary (1998), the term, implementation, is derived from the word implement in the field of law which means "performance of an obligation" or "put into an effect (decision, agreement, plan).”

On the other hand, if using the definition by Chambers (1992) implement means "to give effect to", and defines implementation as performance, fulfillment or the various steps involved in installing and operating a system.

In this sense, the nature of its meaning has always been associated with the demand to comply with regulations or requirements. Over time, this has evolved as it has been understood that changing customs or practices of people require more than just laws.

By Resolution of the Assembly, the IMO adopted the Code for the Implementation of mandatory IMO instruments (IMO, 2007), which establishes international conventions involved in the resolution (excluding MLC), and recommended measures for 1) implementation, 2) enforcement and 3) assessment and review. In addition, it urges governments of flag States, port States and coastal States to implement the Code at national level.

This Code focuses on ten mandatory IMO instruments and is organized in four parts on the functions of the States: (1) the common areas (standard materials, flag, port and coastal States), (2) flag States, (3) coastal States, and (4) port States. Five annexes follow them. The first four annexes cover the obligations of the contracting parties and the fifth includes tables of mandatory instruments under the IMO conventions. Already
in 2007 these obligations shaped the Audit Scheme IMO Member State (VIMSAS), which is now mandatory (IMO, 2007).

If the structure of the code is analysed, it could clarify that enforcement, assessment and review are not part of the implementation process, which is not true.

The statement made by the Secretary-General of the IMO has more meaning. What can be done to ensure effective implementation of international conventions? Perhaps the fact that in 2015, the World Maritime Day theme is Maritime Education and Training can encourage the development of new ideas.

For these reasons, the development of this work considers the implementation within the context of the IMO and also the ILO. Implementation is a process that encompasses not only the generation of rules and laws.

Implementation is the process of learning in which States must demonstrate competence in fulfilling their responsibilities. Therefore, stakeholders should demonstrate their knowledge, understanding and proficiency. Through education the States should incorporate methods for demonstrating competence and also how to control and monitoring to continuous process improvement.

2.3 IMO perspective

The International Maritime Organization is a specialized agency of the UN in the maritime field and has been consolidated over the years to a position of prestige in the international arena.

The functional development and production of international standards are on a par with technological advances, as well as economic and human developments.

Indeed, the IMO through the development of international conventions and protocols has been regulating the obligations of states on the safety of human life at sea, safety of
navigation as well as on the prevention of pollution at sea from ships, without neglecting the seafarers.

The cases of past maritime disasters, such as the cruise ship "Titanic" or the tanker "Prestige" and more current the ferry "Sewol" always put the regulatory ability of the IMO on the agenda. These casualties also included flag states to be responsible for maintaining the vessels under their registry.

As is well known, over 90% of global freight is carried by sea and the IMO has undertaken to cover all the technical aspects involved in shipping in their large number of conventions and codes. Therefore, the IMO has become a management model for other international organizations (ICS, 2014).

However, the processes that follow from the adoption of a convention to enter into force with its corresponding implementation by the states are paramount to the success of the IMO mission.

Since its inception the original mandate as the Intergovernmental Maritime Consultative Organization was an organization that should be consultative and advisory, with no decision making.

Therefore, no power to the enforcement of its instruments has been given but depends upon the Governments of Member States, Contracting Governments to enforce the provisions of IMO Conventions as far as their ships are involved and also set the penalties for infringements when these are applicable… in most Conventions, the flag state is primarily responsible for enforcing Conventions as far as their own ships and personnel are concerned (IMO Convention, p.3).
The IMO meets international regulatory functions and has no authority to put directly, the regulatory framework in place in the Member States.

However, this does not mean that, the IMO is not interested in this. For over two decades, the IMO has been conducting a series of efforts to promote the implementation by the following actions (Balkin, 2000 p.19):

- Giving appropriate publicity to the newly generated rules and providing guidelines for implementation in the States
- Constantly encouraging States to implement international conventions incorporating help through counselling and technical assistance.
- Promoting discussion in its committees and sub-committees on the instruments used trying to identify problems and seeking solutions.
- Promoting the upgrade of standards issued through a continuous process of evaluation and revision replacement as needed.

Over the years, the requirements of IMO to the States have changed. For example, when the review of the 1995 STCW Convention was carried out the "white list" was included.

“This was IMO’s first tentative foray into the field of increased oversight of Member States, with initial approval for inclusion on the IMO White list being confined to and evaluation of submitted documents” (Mansell, 2009 p.226).

Subsequently, efforts such as the Technical Cooperation Committee of the IMO to provide assistance to States to incorporate and work in a coherent legal, administrative and human framework have not been sufficient to achieve effective implementation of international conventions.

The need to develop training and education programs around the world and the continuity of World Maritime University (WMU) and International Maritime Law
Institut (IMLI) are other major efforts where education and training play an important role in the strategies of the IMO.

In addition, on the way to promote the acceptance of its Conventions, close relations with other international organizations such as Food and Agriculture Organization (FAO); International Labour Organization (ILO); United Nations Educational Scientific and Cultural Organization (UNESCO) among others are necessary.

The latest effort to implement international conventions of the IMO and which is accepted by the States has been through the so-called "Voluntary IMO Member State Audit Scheme (VIMSAS)."

As mentioned, this process occurs within the IMO as it comes from the work of the Sub-Committee FSI and consists of auditors from other Member States who examine in compliance with the audited State of its responsibilities as a coastal, port and flag state.

The process includes the application audit (Denmark was the first to apply voluntarily), the completion of a questionnaire and the implementation of the audit itself. This mechanism has been hailed within the United Nations and has had a positive acceptance in states that have been numerous undergoing these audits.

In this process, now mandatory, the recognized parties will evaluate through indicators on their performance based on the following criteria (Sasamura, 2003 pp. 2-3; IMO, 2000):

- Legal performance and means of promulgating maritime legislation that shall satisfy the international maritime obligations of the State.
- Ability to demonstrate giving full and complete effect to instruments in force to which the State is a party.
- Enforcement of maritime legislation.
- Responsibility for any Recognized Organization (RO), that acting on behalf of the Administration. That including authorization and monitoring of, and any corrective action against, to RO.
- Ability to investigate the causes of personal injuries, non-compliance. Casualties, pollution incidents and ability to take appropriate remedial action.
- Ability to ensure that a ship having joined its register does not operate unless it complies with applicable instruments.
- Ability to demonstrate that the ship has the policy is in place to promote at all times the safety and environmentally-minded working culture.

Despite the willingness of the States to be evaluated, it is also necessary to recognize that these processes are slow. Using a metaphor in the field of naval operations is a valid description "it is the slowest ship that determines the speed of the fleet." In the context of the IMO, when a State delays the implementation, many things in the IMO are delayed.

While it is true that the incorporation of the tacit acceptance procedure is having a great effect on giant steps to accelerate approval processes in the IMO, this is not reflected in the field of implementation (Shi, 1998 p.311).

However, there is another idea regarding this, namely that the more it is accepted in the States, the universality of maritime transport and the need for an international regulatory regime, organizations such as the IMO will be increasingly essential (Craig, 2009 p.332).

The responsibility of the States to implement the Conventions and monitor compliance on ships remains in the registry, which is doubtful. If the IMO does not incorporate effective measures to endure "Formula Thames," praise and history of achievement that has sustained over time would fail.
That is why it is questioned when the States do not assume full responsibility for their international commitments (by not implementing the Conventions), but in turn generating new perspectives in the regulatory field.

To what extent is it necessary to maintain a system based on States that have outsourced regulatory responsibilities in international organizations, outsourcing responsibilities of inspection and control of classification societies and outsourcing security responsibilities and police in other countries with extraterritorial capacity?

The result is a system in which, for some, the responsibility of the flag State survives in principle, but remains alive largely through the efforts of other states ...... .. and has concluded that can not continue to operate under a fanciful vision of responsibility of the flag State. Doing so poses unacceptable risks to other States and the global commons and the credibility and authority of the IMO (Craig, 2009 p.333).

It is at this point that it is necessary to ensure that countries like Peru can achieve an adequate capacity to implement international conventions, without the necessity of waiting for a supplement to the IMO (or its sovereignty is questioned).

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1 “According with Craig H.A. (2009) "Thames Formula” mean the balance struck among the respective roles, rights and obligations of flag States, coastal States and port States and international organizations (I/Os) by the 1982 LOS Convention and the family of marine safety, security and environmental protection conventions developed under the auspices of the International Maritime Organization. From its offices on the banks of the River Thames, the IMO has operated in accordance with the frequently cited "balance of interests" reflected in the LOS Convention (and its 1958 predecessor conventions) while also adapting to new ocean uses and effects.
Therefore, it raises the need for new models for effective implementation through Maritime Education and Training to enable alignment to "Thames Formula" and its concept to be reaffirmed in the maritime field.

2.4 ILO perspective

Within agencies under the umbrella of the United Nations, the International Labour Organization, is responsible for generating international standards in the workforce.

Creating decent work conditions for workers without exception, has guided the development of conventions, recommendations and programmes.

Created as a corollary of the Treaty of Versailles in 1919, the ILO promotes respect for human rights, labor rights internationally and the common good or social justice which together form the basis for a universal and lasting peace (ILO, 2014).

Currently, its objectives translate into decent jobs that generate personal development for workers, under conditions that allow workers and employers to prosper.

Since its creation to date, the ILO adopted in different areas of work context, agreements and recommendations (184 Conventions and 192 Recommendations). In this regard, within the categories that exist, there is a corresponding particular issue area: seafarers.

The ILO maritime program consists in improving the social and economic conditions for seafarers, and since its inception in 1919 this area has been the focus of particular work. At present, this unique area is divided into four sectors: maritime transport, ports, fisheries and inland waterways, and all sections maintain the idea of improving social and economic conditions of seafarers.
At this point, efforts are channeled into labor regulations in the maritime field. This included topics such as minimum age, recruitment, and placement of medical examinations, enrollment, paid holidays, social security, hours of work and rest, crew accommodation periods, identity, health and workplace safety, well-being at sea and in port in continuity of employment and vocational training and certificates of competency (Piniella, 2013 p.62).

The work at sea from time immemorial is a difficult and dangerous job and has always been considered a high-risk activity (Hansel, 1996). However, it is not only the risk of being at sea that seafarers have faced. Use of forced labor, abduction, neglect, exposure to unhealthy conditions, fraud or unpaid work or have also been part of the history of maritime labour (Fitzpatrick, 2014 p.)

The changes that have emerged worldwide with the effects of globalization and the expansion of access and information, as well as the incorporation of technology in the maritime sector, have favored working conditions on board. However, such practices have not been banished entirely from the maritime business.

However, technological changes also show a new side, that is, not as favorable for seafarers. Rising responsibilities due to staff reductions and the requirements given by the response times of modern ports, makes seafarers spend almost the entire time at sea.

Within this panorama, an important feature of the ILO work and its procedures is the fact that it is the only UN agency that grants non-governmental actors the right to vote.

This unique feature, known as the tripartite structure of the ILO, is one that allows workers (seafarers), employers (shipowners) and governments to be involved in the development and adoption of maritime standards. Also, favorable is the existence of a Joint Maritime Commission (shipowners and seafarers) that advises the governing body of the ILO on maritime issues.
This Joint Commission means that employment in the maritime field issues has been dealt with separately from the other issues in the ILO. Also, the people involved in this regulatory work always belonged to the maritime community, so from personal experience and knowledge (shipowners and seafarers) regulations are in a realistic context, which is contained in previous agreements of the MLC (30 conventions and 23 recommendations for maritime field) (Appave 2014).

Similarly, international labor standards are backed by a control system that is unique worldwide. This system ensures the implementation of the conventions adopted by each member state.

The ILO regularly examines the application of the rules in Member States and points out areas that could be better applied. If there are problems involved, social dialogue programs and technical assistance are offered in order to seek solutions.

These procedures were established in the ILO with the aim of monitoring the implementation of the conventions and recommendations approved. Since its constitution in 1919, the spirit of the importance of effective implementation was reflected in the preamble that states:

“Whereas also, the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations that desire to improve the conditions in their own countries “(ILO, 2010 p.5)

The process established in the Constitution is as follows:

The procedures, which can be found in Article 19 of its Constitution, dictate precise rules and mainly include the commitment of States to implement the standards. In addition, reports at regular intervals to the ILO not only of the measures taken to ratified Conventions, but also to those which have not been ratified.
It also establishes the participation of representative organizations of employers and workers who have to incorporate their views on proposals for legislation or other actions having to be taken by States.

Whether the latter procedure is not fulfilled, Articles 24 and 25 give the power to employers and workers to submit to the ILO a communication informing the breach of an agreement signed by a member state.

Finally, Articles 26 to 29 and 31 to 34, describe measures to be taken in case a Member State considers that another State Party of the Convention does not comply and channels a complaint to ensure the observance of the international standard.

Despite the time elapsed and the constant change in the workplace, ILO maintains the concept of effective participation of the three main actors, which far from ensuring group interests, requires ability to maintain an ongoing dialogue that generates an exchange of knowledge that benefits the implementation process.

This unique feature of the implementation process now incorporated into the maritime theme is an obvious opportunity for creating new trends in terms of existing practices, or adapting them to an environment that puts pressure on states to greater commitment and fulfilling their responsibilities.

2.5 ILO-IMO perspective

The processes of joint participation in international regulatory aspects and collaboration between the IMO and the ILO keep on the consideration of the human factor as a primary element in the development of shipping activities.

These two organizations through the creation of Joint Working Groups, have turned their attention to the human element in order to improve maritime safety and social and
working conditions in the maritime field. The Groups have ultimately been focusing on seafarers and the work covered by the Joint IMO / ILO Ad Hoc Expert Working Groups.

Furthermore, life at sea is very dangerous because certain rules benefit employees, such as the rules on hours of work and manning, crew accommodation and medical treatment (Fitzpatrick, 2014 p. 44).

As McConnell points out,

> On the one hand, we have the ILO who brings their experience of using the best tools of tripartite, labor inspections, claims systems and monitoring different routes and the other side IMO that incorporates the known procedure based on the inspections and certification of ships, and control of port state State (essentially spot checks) and try to reach a quality shipping. (McConnell, 2011, p. VII).

This historic combination suggests a success in the implementation of future agreements that these two organizations carried out. However, in the globalized world, shipping is the key in good faith implementation of the legal obligations of States, but also it is about ensuring sufficient expertise and ability to implement them immediately as is the market requirement.

In this regard, as manifested by Doumbia-Henry, “today there is a need to move ahead rapidly – *for example* - to bring the MLC, 2006 into force and to give a human element in shipping a truly front and central role in the maritime industry” (Doumbia-Henry, 2010, p.2).

However, at present seafarers can not be considered as the only part of the human element in the maritime industry. According to IMO, "the human element is a complex
multi-dimensional issue that affects maritime safety and marine environmental protection" (IMO, 1997).

As will be explained later, although the focus of the human element in shipping is always directly related to seafarers, it must be pointed out that various actors, both IMO and ILO, cannot be left out as they are considered a vital part in the implementation processes.

2.6 Maritime Labour Convention

2.6.1 Description

The agreement, "bill of rights for seafarers", seeks to achieve decent working conditions for seafarers while ensuring economic interests through fair competition between shipowners. It covers almost all aspects of their living and working conditions on board, including:

- Minimum age.
- Working arrangements.
- Hours of work or rest.
- Payment of wages.
- Paid annual leave.
- Repatriation termination.
- Medical care on board.
- Using authorized service recruitment and placement.
- Accommodation, food and meals.
- Protection of health and safety and accident prevention.
- Procedures for handling complaints from the seafarers.

The Convention was designed to be applied globally and to be easy to understand, to update and to implement. Already known as the "fourth pillar" of the international
regulatory regime and the guarantor of quality shipping, it complements the key IMO conventions to deal with safety, security of ships and protection of the marine environment.

This agreement is essential as it gathers in one instrument, all international minimum standards required to ensure decent work conditions for more than 1.2 million seafarers in the world, requiring an onboard standard that meets the following characteristics:

- A safe and secure workplace which complies with safety standards.
- Fair employment conditions.
- Decent working and living conditions on board.
- Health protection, medical care, social welfare and other forms of social protection.

Its adoption has two main purposes (Appave, 2014):

- to bring the system of protection contained in existing labour standards closer to the workers concerned, in a form consistent with the rapidly developing, globalized sector (ensuring “decent work”);
- to improve the applicability of the system so that shipowners and governments interested in providing decent conditions of work do not have to bear an unequal burden in ensuring protection ( “level-playing field” - fair competition).

The initiative for a new Agreement was generated by groups representing shipowners and seafarers in the ILO and was subsequently recognized and accepted by governments. The motivation for this development was as follows:

- The existence of many instruments of the ILO, which required updating to reflect the working conditions in the industry.
- Changes in the ownership of the vessels, their funding and an increase in ship management companies which originated significant changes in the labor market for seafarers.
• The presence of multi-nationality crews on board ships
• Increased internationalization of ship registers and "flags of convenience"
• The need to provide a "level playing field" and avoid exploitation of workers
• Increased stress and complexity of seafarers having an impact on health and social security of workers

2.6.2 Content

The MLC contains a compendium of standard norms based on 68 maritime labour instruments (Appendix A) which have been adopted by ILO since 1920. This includes 37 international conventions and 31 recommendations on maritime labour.

It also states that these existing agreements remain in effect as countries decide to ratify the MLC, so now there are two parallel systems that will remain in force for a period of transition.

In this sense, the high level of ratifications required for the MLC to come into force, which is higher than usual in the ILO Conventions, it is expected to ensure a greater impact on the States.

With an unprecedented vote, States had already voted in favor of the convention, which is unusual within the ILO. With a vote of 314 in favor to none against and being reviewed by more than 1,000 participants from three stakeholder groups (seafarers, shipowners and governments) from 106 countries between 2001 and 2006, it is considered that this convention will have a universal acceptance in a short time.

As shown in Figure 1, the level of acceptance to date confirms this expectation:
The MLC, 2006, consists of three main parts: the Articles, where the general principles and obligations to be established are, and then, the Regulations and finally the Code (divided into parts A and B), which contains more detailed provisions. Regulations and standards (Part A) and guidelines (part B) of the Code are organized around five titles, which virtually cover the following topics: (Blanck Jr, 2006).

Title 1: Minimum requirements for seafarers to work on a ship

This title considers the requirements of age, physical fitness, training and qualification, and sets standards for the recruitment and placement.

Title 2: Condition of employment.
This part establishes the obligations relating to employment including aspects of contracts, payment of wages, hours of work and rest, leave, repatriation, compensation in case of loss or foundering, career paths, skill development and employment opportunities for seafarers.

**Title 3:** Accommodation, recreational facilities, food and catering.

This part determines the requirements of safe and decent accommodation that the ship needs, including recreational facilities, detailed obligations in relation to living quarters, kitchens, sanitary facilities, laundry facilities, and nursing.

In relation to food, it is required that this be free, and food and drinking water must be of good quality, nutritional value and quantity. An additional point is the demand for trained and qualified chefs onboard.

**Title 4:** Health protection, medical care, welfare and social security protection.

In this title the rights of seafarers and shipowners' liability with respect to medical care on board ship and ashore are highlighted, including the measures for the protection of health and safety, accident prevention, access to shore-based welfare facilities, and social security.

**Title 5:** Compliance and enforcement.

In this final part, obligations are included that must be met by Member States to verify compliance with the standards set by the Convention on ships flying their flag (flag state) as ships entering their ports (port state) through certifications and inspections, which will be described below in detail.
The five titles consolidate and update past ILO instruments. Also, included are new themes, such as the area of occupational health; current health problems, such as the effects of vibration and noise as well as hazardous work places.

In addition, if some of the provisions require an update from time to time, these parts of the code are amended by including tacit acceptance procedure.

Another significant inclusion of the Convention is in the definition of seafarers. This clarification has been allowed to be more inclusive for the people who are in out-board navigation and ship operation activities.

2.6.3 Requirements to Implementation

First, it is necessary to specify that the MLC has considered two important aspects in the maritime workplace. Firstly, for the first time a "legal status" is given to seafarers, implementation mechanisms and adequate protection and not only merely theoretical proclamations. Secondly, the Convention integrates full-fledged labor issues in maritime law, with commercial (shipping) and maritime safety and prevention of marine pollution (maritime safety, marine pollution) developed by IMO (Rodrigo, 2010).

The MLC contains many obligations for shipowners, flag states and port states, including the active participation of seafarers. Therefore, the challenges of implementing the MLC are different depending on the circumstances of each state.

There is also the challenge of taking actions to provide social security for seafarers who are "ordinarily resident" in the country and to promote the adoption of policies to promote employment opportunities and the creation of support centers for seafarers on shore for counseling and medical services for ships entering the territory (Mc Connell, 2011, p. 134).

Finally, the implementation can be considered difficult to meet for some countries, especially if the difficulties in the economy and policy of each country itself are added.
Flag State responsibilities and challenges:

Ships are entitled to fly the flag of the State in which they are registered and whose nationality they accordingly bear. Thus, the flag State, the State of registration and the State of nationality are usually regarded as synonymous (Fitzpatrick, 2004, p.133).

In relation to MLC implementation, flag states take responsibility for the inspection and certification process. To comply with the obligations of the Convention States are required to have inspectors who have clear rules on the activities to be run.

In this regard, the efforts of the ILO have been channeled through the publication of the Guidelines for Flag State Inspections that has promoted the development of training courses in different levels of implementation.

Considering that some states have a large merchant fleet on their records, the RO participation in the process is allowed. In this regard, for uniformity between RO acting on behalf of the same flag, it is appropriate that States should establish the same criteria in the application.

The recognized organizations have also made efforts in publications and courses in order to facilitate the implementation process.

In the legal field, each state must adopt appropriate measures to establish an appropriate regulatory framework. Measures can be tricky when within the governmental structure, so functions with respect to maritime labor issues are divided between different ministries or departments (McConnell 2011a).

It is also a challenge for some countries regarding levels when required to implement state-level economic policies with respect to social security or medical assistance which may delay the implementation process; therefore, there are difficult levels of negotiation between government sectors (Ibid).
On the other hand, the existence or not of representative organizations with which the State may provide flexible standards based on labor agreements becomes a complicated application and, therefore, the implementation process.

All these factors and provisions that States must take into consideration under the MLC are challenges for implementation.

**Port State responsibilities**

A port State is a State within one of its ports a particular ship is at any given time. The question for consideration is whether a port State is permitted or required to apply international standards concerning seafarers’ rights to foreign ships within its maritime zones and, if so, whether and how seafarers may assert such rights before the national courts of the port State (Fitzpatrick, 2004, p.154).

If a country has a small national fleet but maintains good movement of foreign vessels into its ports, port state control is the procedures most used in the implementation. Through procedures defined and agreed with regional agreements (MOU) states should conduct inspections to ships and if serious deficiencies are found, the inspector may proceed to arrest the ship.

Globalization and the proliferation of open registries have created in-situ action in which PSC activities have become much more efficient than the feeble or non-existent controls exercised by States issuing flags of convenience or in open register.

In this sense, it is perceived that the so-called flags of convenience and open registries have been predisposed to accept the MLC; however, this can not ensure the implementation process. Conventions related to the living and working conditions of seafarers have been ratified by fewer of the open-registry countries, whether traditional open registries (e.g., the Bahamas and Singapore) or "new" ones. However, the
countries in the latter group have clearly ratified on average fewer international labour conventions than those in the traditional group (Piniella, 2013).

In this sense, the first country, Denmark, had already ratified the Convention in 2011, so the implementation legislation was put into force on the same date the Convention came into effect.

Only two weeks after the Convention's enactment, the first detention under the rules was made. A Liberian-flagged supply vessel calling at the Danish Port of Esbjerg was subjected to a port state control by the Danish Maritime Authority. The control showed that the crew did not have articles of agreement, and the ship was detained in accordance with the Convention until such articles were signed.

The rules have thus quickly shown their worth in ensuring proper working conditions for seafarers (Mollman, 2012 p. 615).

Guidelines

Government and Non-Government offices have generated under the control of the ILO documents to support the implementation process, which are freely available to the public through the website:

- ILO Maritime Labour Convention, 2006 (MLC)
- Up-to-date list of MLC ratifications
- ILO training course
- ILO Guidelines on the Training of Ships' Cooks
- ILO Guidance on Implementing the MLC Model National Provisions
- Guidelines for Flag State Inspections under the Maritime Labour Convention 2006,
• Guidelines for Port State Control Officers Carrying Out Inspections under the Maritime Labour Convention, 2006

2.7 Human Element in maritime context

Although it is true the human element has always been considered important in on the agenda of the IMO (Trivedi, 2005; IMO, 2014a), it was not until 1997 when the IMO considered including not only regulatory issues but also directing their efforts towards developing a safety culture with emphasis on the human element (IMO, 2003).

Within the period of the IMO Assembly: that same year through Resolution A.850 (20), a review of all existing laws was made in order to revise and determine whether such regulations were affecting seafarers.

Using a checklist where aspects of the human element is included, it is recommended to both Committees within the IMO and its member states that they should verify the proposed modification or development before approval or adoption of amendments to mandatory and non-compulsory IMO instruments.

This instrument was updated by the A.947 (23) Resolution and relocated the current human element vision, principles and goals for the Organization and was adopted by the 23rd Assembly in November-December 2003 (IMO, 2003).

The first principle states that the human element in the maritime context “involves the entire spectrum of human activities performed by ships' crews, shore based management, regulatory bodies, recognized organizations, shipyards, legislators, and other relevant parties, all of whom need to cooperate to address human element issues effectively” (IMO, 2003).
This definition in the maritime field is the same as in the organizational field where human resources are all people with skills, talents and attitudes that play a role within the organization or system (Brantton & Gold, 1999).

As seen, these definitions do not only consider seafarers as part of the human element in the maritime industry, but all the actors around.

Alert! (2014), on a specialized review in his web page defined that the human element in shipping is "anything that influences the interaction between any other human being, human or machine system and onboard ship".

However, a key issue on the IMO agenda in 2010 was “keeping the safety of life at sea and the human element, especially the seafarer, at the heart of IMO's work” (IMO, 2014).

Although the amendments to the international conventions were initially oriented to technological factors, it is through the STCW Convention in 1995 that the importance of seafarers was evident by deeming that many of the accidents were due to human error.

As is known, approximately 80% of accidents at sea are a result of human error. Mistakes are viewed not to occur due to inadequate or failed regulations but because “standards do not exist or have been ignored” (Ziarati, 2006, p. 2).

Further, according to Ziarati and Ziarati (2007) accident analysis reports indicate that the causes of many maritime accidents are the result of inefficiencies in maritime education and training of seafarers or poor conveyance of existing standards.

Are seafarers the only ones responsible for accidents or are they in fact the prevention? As Gregory and Shanahan (2010) claimed, “The global shipping industry is a dangerous place. Every day it loses two ships, pays out US$4 million in claims and radically changes the lives of hundreds of people forever. Human behaviour is the source of
virtually all such loss. It is also the reason the loss is not greater” (Gregory & Shanahan, 2010).

The ISM Code is an example that sets the tone of thought that shipping is a system that goes beyond the ship and seafarers, and immerses stakeholders at shore (companies) to incorporate a culture of security.

The MLC as did the ILO since its inception through the primeval conventions, also focus on the human element, in order to ensure proper regulatory framework for the rights of seafarers.

With this international convention bringing together authorities, ship owners and seafarers under certain responsibilities, it attempts to remove onboard concerns that may affect the development of the people on board ships

However, the entire implementation of this legal framework "was not free of errors and omissions; a few of them took time to be dealt with adequately, and another few have still not been clarified, causing risks to human life and protection of the environment” (Alexopoulos, 2001).

Based on this review it can be assumed that both ILO and IMO have focused on seafarers. MET has been developed based on seafarers representing the importance within the maritime community.

In conclusion, the application of theoretical models of learning, teaching techniques and policies and institutional development plans at various levels (companies, national, regional), have focused mainly on the seafarers as well as on how to equip them with knowledge, skills and the right attitude.

However, another important part in the development of security should be present and this involves the workforce of the administration, the shipowners and seafarers.
Chapter 3

Maritime Labour Practice in Peru

3.1 Background of the Merchant Marine in Peru

To understand the importance of maritime transport in Peru, it is necessary to go back to the seventeenth century in England, when in 1651 the British Navigation Act of Oliver Cromwell was instituted.

The law stated that all products would arrive to England in two ways: either in British ships or in ships of the country of origin of the goods, thus removed to third parties outside the load.

The intention was to foster British maritime trade and avoid the middleman. As many as 1,660 new laws were issued stating that the captain and three-quarters of the crew of all vessels should be of British origin. This is how England controlled the ships, crew, cargo and freight, and therefore, maintained the supremacy of maritime trade.

Since the issuance of the Navigation Act of Cromwell, states have reserved cargo within the national maritime transport (Clapham, 1910).
In Peru in 1906 by Act 194 the Peruvian Steamship Company and Callao Dykes was created, initiating the formal participation of Peru in the shipping market.

Already in 1928 by Law No. 6207, the cargo reservation cabotage for Peruvian flag vessels was available, at the same time as the great European powers, required a Peruvian crew protecting its merchant fleet which was vital in times of armed conflicts, prevalent at that time.

Having ushered in the Peruvian merchant fleet, with Peruvian seafarers from the National School of Merchant Marine Admiral Miguel Gráu, the development of the National Merchant Marine led to the interaction under both a national and international regulatory framework.

With the name of the Peruvian Steamship Corporation until the first half of the 80s, the Merchant Marine has been tagged as one of the 4 best of South America, with 64 oceangoing vessels with a capacity of 1'160,000 GT sailing the world with a prudent reserve percentage load and a distinctly Peruvian workforce.

However, in early 1985, government policies hoarded 100% cargo in favor of a national company and the competency was eliminated. The result was administrative and operational inefficiency.

Already in the 1990s, before a change of government and the introduction of free trade policies, it was decided to eliminate political reserve charges and exemptions to import vessels causing between 1991 and 1995 the merchant fleet to disappear.

As a result of these policies, Peru changed its cargo capacity: a total of 1'160,000 DWT in 1987 to 667,000 DWT in 1990 and ended with 204,000 DWT in 2010 (Palacios, 2009).
After 1998, there was the entry of foreign vessels flying flags of convenience to Peru, which favored the fall of the national merchant fleet and the rules issued allowed the possibility of coastal shipping as well.

However, the policy of free trade not only brought bad news. The signing of trade agreements with other countries has allowed Peru to enter international markets from achieving the last 20 years that sustainable economic growth is reflected in the substantial increase of shipping in their ports and upgrading them (UNCTAD, 2013).

Also by Law 28583, as amended with Law 29475 “Promotion and Revitalization Act of the National Merchant Marine”, the State has established legal mechanisms to generate national investments in shipping and increase the current merchant fleet (Figure 2), which has had a positive impact in recent years by increasing the merchant fleet.

This includes:
1. Promoting the development of national shipping companies with domestic vessels;
2. Deadlines of indefinite operating permits to perform activities of maritime, inland water transport;
3. Exclusivity of national transport (cabotage) to Peruvian ships;
4. For reasons of national security and defense, high public interest and the national interest, 25% of the transport of hydrocarbons in coastal shipping will be reserved for Navy ships;
5. Ship crews are 100% Peruvian in national shipping;
6. Greater incentives for building national merchant ships; and
7. Changes to import regime and ship taxes to encourage shipowners and national companies to acquire ships.
Not only has Peru's economic growth greatly increased the flow of vessels in Peruvian ports, but also new laws to promote the merchant marine have increased the Peruvian merchant fleet to generate the need for increased capacity of the Maritime
Administration. The capacity is related to higher requirements for infrastructure, equipment, staff and of course an updated regulatory framework.

Likewise, the maritime community is required to adapt to this changing environment to be current with these changes.

3.2 Evaluation of parties after MLC-2006 enter in force

Peru is a member of the ILO since 1919, when it was created and Peru has ratified 74 Conventions (67 currently in force) among which 8 are the fundamental conventions (ILO, 2014)

On that line, if the agreements for seafarers, which were consolidated in the creation of the MLC, are analyzed, it was found that Peru has ratified the following in chronological order:

- Unemployment Indemnity (Shipwreck) Convention, 1920 (4\textsuperscript{th} April 1962)
- Placing of Seamen Convention, 1920 (4\textsuperscript{th} April 1962)
- Seamen's Articles of Agreement Convention, 1926 (4\textsuperscript{th} April 1962)
- Repatriation of Seamen Convention, 1926 (4\textsuperscript{th} April 1962)
- Officers' Competency Certificates Convention, 1936 (8\textsuperscript{th} November 1945)
- Shipowners' Liability (Sick and Injured Seamen) C. 1936 (4\textsuperscript{th} April 1962)
- Sickness Insurance (Sea) Convention, 1936 (4\textsuperscript{th} April 1962)
- Minimum Age (Sea) Convention (Revised), 1936 (4\textsuperscript{th} April 1962)
- Food and Catering (Ships' Crews) Convention, 1946 (4\textsuperscript{th} April 1962)
- Certification of Ships' Cooks Convention, 1946 (4\textsuperscript{th} April 1962)
- Social Security (Seafarers) Convention, 1946 (4\textsuperscript{th} April 1962)
- Seafarers’ Pensions Convention 1946 (4\textsuperscript{th} April 1962)
- Medical Examination (Seafarers) Convention, 1946 (4\textsuperscript{th} April 1962)
• Merchant Shipping (Minimum Standards) Convention, 1976 (and 1996 protocol) 
  (6th July 2004)
• Labour Inspection (Seafarers) Convention, 1996 
  (4th October 2006)

Given that the thirty-seven (37) agreements have served to create the MLC, Peru has ratified only fourteen (14), with eleven (11) ratified in 1962.

This shows that Peru has been reluctant to many international conventions established by the ILO relating to maritime affairs, which is not so good for its international profile.

However, this is also directly related to the behavior of the Peruvian merchant fleet through the years generating a lack of national interest in maritime labor standards.

With regard to the implementation of even existing ILO conventions, it is necessary that liability should be divided among various sectors, as the Maritime Authority incorporates all the legal framework required in the Regulation of Law No. 26620, approved by Supreme Decree No. 028 -25 May 2001 - and Consolidated Text of Administrative Procedures of the Navy of Peru approved by DS 016-DE / MGP - June 20, 2005- (Peru, 2001, Peru 2001b).

This regulation includes standards of previous instruments and covers much of the rights of seafarers which correspond to the conventions ratified by Peru, which have exercised jurisprudence for cases involving investigations concerning seafarers.

For this study, despite efforts to obtain suitable information within the Maritime Authority that may lead to demonstrate the effectiveness of these rules, the information was not obtained.
Currently, in accordance with state policies in the labour sector, new regulations have been incorporated. Some of them are linked with labor inspections and safety issues in place at work among others.

The MLC now represents an opportunity for the maritime labor law framework in Peru. As will be detailed later, the ratification of the Convention will enable their reintegration into the international scene, and even more so with the increased expectations of the national merchant fleet and the projected increase in a greater number of ships to Peruvian ports.

3.2.1 Authority

Currently, the work of the Peruvian Maritime Authority is represented by the General Directorate of Coast Guard and Captaincies (DICAPI), through the Peruvian Coast Guard Corps, which was created by law in 1969, as a component of the Peruvian Navy. Since that time, the organization has been improving upon the work of the previous Directorate of Captaincies, which was also under the control of the Peruvian Navy.

Initially, the commercial aspects of the Peruvian maritime transport legislation were incorporated through the Regulation and Control Act Surveillance Maritime, River and Lake Activities establishing missions and jurisdictions DICAPI, Districts and port captaincies.

On the other hand, rules were included for the conduct of maritime activities in different national jurisdictions. The new legislation has been made in accordance with the legal status of Peru and in accordance with relevant international agreements to which Peru is a party.

Relevant legislation related to maritime activities is the organic Law of the Ministry of Transport and Communications Ministry of Production and Ministry of Labour Ministry of Environment among others.
All IMO International Conventions ratified by the Peruvian government, support its implementation in DICAPI, which concentrates the functions as Flag State, Port State and Coastal State in coordination with other sectors according to the nature of their duties.

In 2005 by creating the National Port Authority, new responsibilities have been incorporated into the institution related to port work and standards of port security included in the Certification of Port Facilities under the ISPS Code and legal mechanism for the business side of port services.

The Maritime Authority, as mentioned above, is formed by the Corps of Coastguards, who are responsible for enforcing existing regulations, regulating new activities and encouraging the development of a safety culture at sea and river activities and lakes in Peru.

The DICAPI is part of the Navy of Peru becoming one of the three major operating bodies with the mission of "to exert naval jurisdiction of control, surveillance, safety and protection upon the maritime, fluvial and lacustrine activities, as well as upon the natural resources existing in Peruvian waters in order to comply and carry out the enforcement of the National Maritime Law and the international agreements signed by the Peruvian Government".

Further, as administrator of maritime safety in Peru, DICAPI is responsible for effectively carrying out research on occurrences and marine casualties in order to discover the causes of the facts and based on the findings of this study, to make the effort to avoid similar events.

Regarding the human element that makes up the DICAPI, 95% of the staff are from the Navy of Peru between officers and subaltern ranks.
Coast Guard officials have a professional preparation and are graduates from the Naval Academy of Peru after five years of studies in nautical science and engineering with a general knowledge of all aspects of maritime safety, maritime law and naval operations.

At the end of the studies the cadets have sufficient skills to perform functions on operations, navigation and communications aboard ships and serve as Deck Officer, Engineer Officer, Executive Officer at different offices among other functions.

After two years, these officers can choose to study the Coast Guard specialization, following a course of a year where they are introduced to aspects of international conventions, national standards and operational aspects, such as control and surveillance, as well as technical ship inspections.

Furthermore, subordinate staff that underpin all operational and administrative actions within the organization have a technical background study after three (3) years.

After graduation, the graduates start working in direct relation to the maritime community which involves more official contact with the work of the organization, according with their ranks.

During the career, the line of both improving their knowledge and skills is clearly linked to the workplace which is selectively reinforced with more specialized courses mostly generated based on national, regional and international agreements.

In that sense, the harbour masters are distributed along the Peruvian coast, which involves a constant and unstoppable flow of activities. These places are allowed to provide staff greater choice of learning in the workplace.

Through the Coast Guard Training School, teaching courses are regularly promoted, so it is necessary to accept that the distances, economic constraints and requirements of their duration are limiting success.
In addition to the regulatory approach that the organization has, maintenance policy enforcement, input and feedback from the private sector are required. However, these have been given sparingly.

As a result, much of the knowledge acquired every day by the human element in the workplace, does not end up being shared within the organization or outside, thus a significant opportunity for improvement is lost.

3.2.2 Shipowners

As mentioned above, the processes of change in economic policy in Peru produced a fall in the Peruvian merchant fleet. Participation of Peru in international trade was limited to the activities of the Amazon Naviera one of the oldest companies (1876), which was maintained by the specialized mixed navigation between the port of Iquitos through the Amazon River to the Atlantic and final destination to the United States of America.

Other companies formed with Peruvian capital or more Peruvian participation were disappearing. By liberalizing access without restriction to the transport of cargo originating and destined within Peru, third flag vessels, most of the fleet was sold abroad or moved to countries offering better facilities for membership registration.

At present, there are a few shipping companies operating in Peru. Many of them are currently engaged in strengthening their position in the business of maritime cabotage and are mostly engaged in the operation of tankers.

However, in this point it is necessary to consider companies that work representing foreign shipping companies that are operating permanent maritime transport activities in Peru.
Both the owners and operators representing shipping lines operating in Peru are active in the commercial maritime sector and are directly involved in the operation of ships.

The professional experience of the human element in these companies is linked as a global trend. In other words, the majority of staff who work there are retired seafarers who are responsible at both managerial and operational levels.

Certification processes for national flag ships and the procedures for providing services to ships visiting the port under its representation are the basis of the daily activity, which has generated expertise that can be useful in the implementation process.

The formal or informal exchange of professional information with authorities can be considered minimal. This process is limited only to the resolution of disputes or claims, which over time has generated a condition of no membership in the community.

With the country's economic growth and the opening of new jobs numerous retired Navy Officers have entered the labor market, which is an opportunity to create channels of communication with the Authority in favor of the achievement of common goals such as the implementation process of new regulations.

3.2.3 Seafarers

Peruvian seafarers have been formed in the only National School of Merchant Miguel Grau (ENAMM) for 90 years. Current generations of merchant seafarers are graduating from that school on an average of one hundred officers per class, with deck and engineering specialties.

The ENAMM is a public educational institution and is under the Ministry of Defence and controlled by the Navy of Peru to maintain a semi-military instruction and in strict compliance with international standards, which has been maintained over time.
In addition, the ENAMM until three years ago was the only maritime training center recognized by the Maritime Authority for the issuance of the careers of Merchant Marine Officers, specialization courses and models established by the IMO for the demonstration of competencies. Today, in Peru two training centers have opened. To date no graduates have been promoted.

As is the global trend, the ENAMM entered a stage of educational certification and aspired to become a university. Today after four years training, professional degrees are granted and a Master’s program and Ph.D. in Maritime Sciences are offered.

In parallel, courses of instruction in the commercial field for maritime operations on land are provided as a response to market needs.

All these actions are the result of its response to multiple problems faced with the demise of the national fleet.

In this sense, according to a study by the University of Cardiff, it is estimated that in 2005, there were about 700 Peruvian merchant officers working around the world. (Ellis, 2008).

From then to date, the number of Peruvians who continues to work onboard is estimated at just over 1000, but that figure has not been possible to corroborate recent studies where the workforce of Peruvian seafarers is not considered.

The rest of the staff remains linked to the maritime industry both locally and internationally. Many of them are connected to jobs in port companies operating in Peru.

In 2009, perhaps motivated by the norms of MLC, the College of Merchant Marine Officers of Peru was established as a professional association of seafarers. While this institution still needs to be consolidated, it is an open forum for professionals with knowledge of the reality of working on board and may represent a contribution of experience and nurture implementation processes.
3.3 Roles in implementation

3.3.1 Flag State
DICAPI is the Competent Authority for the exercise of the responsibilities and powers of the State Flag. Every Peruvian ship, since its design stage, construction or purchase and modifications is under the control of the DICAPI.

To fly the Peruvian flag, ships have to be registered and inspected by qualified Flag State surveyors in order to verify compliance with Peruvian and international standards. For this purpose, the DICAPI arranged a Technical Office which is responsible for administering the Ship Registry, its control and certification, which includes both the registration of smaller ships as part of the National Register

DICAPI has not been immune to the problems that caused the absence of a national merchant fleet. In this sense the ability of inspectors was developed initially in response to inspections of the national registry ships which are not certified under IMO rules, such as fishing ships mainly, as well as riverboats and ships of maritime services that constitute a considerable work effort at a national level. Despite this drawback, the DICAPI assumed the challenge and this function was not delegated to any RO.

After passing this stage, training courses have been developed regularly with professionals from the organization or through the hiring of experienced instructors to improve the effectiveness of inspecting commercial vessels.

Whenever experience is given by the repetition of the in situ activity during the inspection process, as these are limited, it is necessary to recognize that inspectors are still few who have attained expertise in merchant ships.
However, the inspectors are familiar with recognition procedures and test equipment, and documentation review, which is a valuable contribution to the process of implementation.

On the other hand, in the particular case of the MLC, labour inspections under the national standard must be made by certified personnel of the Ministry of Labour. This work will require coordination with other sectors. This is a challenge because the exchange of experiences and information between sectors will be a learning opportunity.

3.3.2 Port State Control

Inspection processes to foreign ships operating in Peruvian waters are run through the Harbour Masters. For this purpose, according to the port traffic, the number of inspectors required in each jurisdiction Captaincy is set to meet inspection requirements.

Peru has achieved certification of its officers through national and international courses under the requirements of the IMO, and at present with an appropriate number of OSERP.

These personnel, due to the great job rotation every two (2) years and not constantly carrying out service inspections lose praxis and need to be updated periodically. In order to ensure process continuity and maintain knowledge within the organization, the organization started hiring professionals (retired seafarers) to act as PSCO in the principal ports of Peru.

The limitations of staff within the organization to address the multifunctionality required for both the national and international context, affect the average performance of inspections by the Port State, as focus has been only on the principal ports.
On the other hand, the Operative Network for Regional Cooperation among Maritime Authorities of the Americas (ROCRAM) formed by Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Mexico, Panama, Paraguay, Peru, Uruguay and Venezuela (ROCRAM, 2014), agreed in 1992 to establish the Latin American Agreement on the Port State Control of Vessels, Agreement of Viña del Mar.

This agreement is a regional response to the need to integrate efforts to prevent the operation of substandard ships in jurisdictions of countries belonging to the understanding.

If reviewing the statistics of the Latin American Agreement, it is concluded that there is considerable regional experience in the inspection of vessels under the inspection of Port State Control, based on 12 year's experiences. (VM Mou, 2014)

While the MLC is not among the Conventions of the Agreement, it is considered that in time this forum will be important to share knowledge in any implementation process in fulfilling the duties as Port State.
Chapter 4
Evaluation of the implementation

4.1 Methodology

When analyzing the situation of seafarers worldwide, a wealth of both physical and virtual information can be found in magazines and publications.

Although the maritime profession is global, information concerning seafarers in regions such as Latin America, specifically in Peru, is poor. Along the same vein, information about the actors in the maritime community (owners and authorities) is also sparse. Given the lack of national research compiled in this respect, academic documents are likewise scarce.

While it is possible to share certain characteristics of other countries and regions where the above mentioned documents can be found, it is also true that there will be more or less profound differences.

As in this research, the focus is on how there have been labor practices in the maritime field in Peru and identify the processes of implementation of international agreements that focus on the MLC. The aim is to discover the mechanisms that could make these processes more effective, by using primary information sources.
The purpose of this chapter is to show the methods that have been used in the pursuit of information for this research. In order to get closer to the approach used, Figure 3, proposed by Sanders (2009), the research onion diagram, is drawn on as it allows the framework of this study.

![Research Onion Diagram]

**Figure 3 The research onion**

First, considering the information described in Figure 3, which states that the methodology used is based on the philosophy of realism and positivism, which covers an epistemological position that advocates that the study operates with an observable social reality. The emphasis is to find a methodology to facilitate analysis.

Next, a deductive approach (quantitative data) and an inductive approach (qualitative data) is used, since the acquisition of knowledge of the process sample flowed from the general to the particular is given. (Ibid, p. 127)
The use of qualitative and quantitative methods in the study of the same phenomenon has frequently been used, and some researchers claim it is a third method of investigation. (JSCW, 2009). Different names have been assigned to this new and growing type of research; some of them are multi-strategy (Bryman, 2004), multiple methods (Brannen, 1992), mixed methods (Tashakkori & Teddlie, 1998), or mixed methods (Creswell, 2003; Tashakkori & Teddlie, 2003). However, in combining qualitative and quantitative methods in the study of the same phenomenon, it can be said that the choice of triangulation research has been chosen. The reason for returning to this classic type of combination of methods is due to the definition of triangulation; and the different stages in the triangulation, can provide the opportunity to cross-validate ones data (Hussey & Hussey, 1997; Creswell, 2002).

Although a disadvantage can be that more time is needed in order to gather the data, the facilitated process of triangulation can battle the pitfall of employing a single method approach e.g. biases.

4.2 Data collection

Primary data source

Survey

Using the platform to deliver applications Google +, primary information obtained through an electronic survey (Appendix B) was sent via email to stakeholders (shipowners, seafarers and authorities) located in Peru.

The electronic questionnaire is a data collection tool (Philbrick, Smith & Bart, 2010) that can take the characteristics of geographical distance into account, as the researcher is positioned in Malmö and many of the respondents are in Peru. The questionnaire is also
convenient for the respondent, who can answer whenever it suits him or her, although within a given timeframe. Finally, the questionnaire provides the opportunity of gathering a large amount of data in a relatively short amount of time (Gillham, 2008).

The questionnaire was designed with input from existing models and students at World Maritime University, MET specialization, and aimed to answer the first two research questions.

Finally, it can be said that this method was included within existing justifications for use via the WMU Ethics board.

Interviews

Interviews were conducted with respondents that are representatives of the Administrations of Latin American countries, and current WMU students also participated.

The interviews were conducted in a semi-structured format and were recorded for evaluation (Kvale, 1996).

The interviews allowed to further expand some concepts that were established in the questionnaires, considering the environment in which Peru participates, which is the Viña del Mar Agreement for inspections of the Port State.

Under positivism interviews, the framework is based on closed questions (Collis & Hussey, 2003). However, the interviewees were asked additional questions in order to help them to elaborate on their answers as suggested by Mathis and Jackson (2008).

Questionnaires and Interviews are validated by the supervisor and by conducting a pilot survey as suggested by Kothari (2009).
Secondaries data resources

To achieve the other objectives of the research, similar processes established in other countries regarding the implementation of the MLC were superficially analyzed, which was obtained through electronic publications.

In this manner the sources included journals, articles and books as well as a brief analysis of some existing cases of similar processes in a preliminary phase.

Literature was gathered from books on management, psychology and the maritime industry. Information was also collected from government publications, such as, Alert! Magazine, IMO, ILO and UNCTAD.

The findings have been deducted from the findings that were made through the sources.

The development of the research and its results do not constitute the point of view of the researcher but seek to meet the goal. This work seeks to contribute to an improvement based on the theoretical contribution that has been achieved during the development of the academic program.

Population and sample:

According To Gravetter and Forzano (2008, p. 141), convenience sampling is a non-probability sampling technique where items are selected by convenient accessibility and proximity of the subjects to the researcher.

The particular research subjects were selected for the study only because they were easier to recruit, and the researcher was not considering the characteristics of inclusion of items that makes them representative of the entire population.
Therefore, this study has been based on convenience sampling because it was an easier, less expensive, more timely technique than any other kind of sampling (Gravetter and Forzano, 2008, p. 141).

The sample was taken as representative of the group of existing Port State Control Officers at the Maritime Administration, which may or may not be take part in inspections today.

As previously mentioned, the problems described relating to seafarers through the years with the Merchant Navy of Peru, and the existence of many officers of the Merchant Navy working abroad, it was attempted to get a sample of seafarers serving under national flag vessels or vessels operating regularly on the Peruvian coast.

In this manner the sample can be considered as small; however, it is considered representative for the purposes of this study. Similarly in the area of shipowners, the respondents were staff working within organizations because their views are considered part of the organizational culture of the same.

4.3 Data analysis

For exploratory data analysis, which allows statistical results to be presented through charts, graphs or tables, was used. This form suggested by Hussey and Hussey (1997) was supported by a computer program.

However, for qualitative data or information the numerical study of qualitative data analysis method could not be considered.

Then, when the quantitative analysis of qualitative analysis exists behind the goal is “gathering in-depth understanding of human behavior and the motives that govern such behavior” (Moon, 2012, p. 11).
This type of analysis allows to operate within the results of the questionnaires and interviews (Swetnam, 2007). This technique is commonly used in the social sciences, ethnographic studies and market research (Sapsford & Jupp, 1998).

Ethics

For the development of this research the rules established by the WMU and the Research Ethics Committee has been considered, and approval was obtained.

These rules include, among others, that voluntary participation and consent procedure information is achieved. For the completion of this questionnaire, all participants provided evidence of consent to participate.

Furthermore, considerations have been taken to ensure the confidentiality of information obtained and anonymity of participants and a commitment to use the information only for academic purposes.

4.4 Data Presentation

Information obtained through primary and secondary sources are presented through a descriptive statistical method.

The information is presented in tables, figures and summary form in Appendix C. This description presents the data in an orderly manner guiding the research objectives (Singh & Bajpai, 2009).

It also includes the findings of research conducted.

4.5 Limitation of data collection

Data collection was limited by the distance between the study area and the place of object under investigation (Sweden - Peru). Although the use of electronic media helped in the process, the coverage was not according to the expectations of the researcher.
This impacted on the samples; however, it is sought to be representative through the opinion of leaders.

It was included as part of the requirements of the survey consent forms that included the name of respondents. Although anonymity is guaranteed, this might discourage most critical results.

During data collection, personal and financial problems arose, which did not allow or expand the base of the population surveyed, interviewed and research in detail of the actions of other countries, because the deadline for submission of the study was already set at the university of the present work.

In a priori analysis it can be considered that the focus of the interviews could be extended in order to obtain more information from the fourth objective of this study, which was left pending for the continuation.
Chapter 5: Learning Theories

5.1 Introduction about learning theories

As mentioned in Chapter 2, the implementation processes are learning methods by which states must demonstrate the ability to meet their obligations. Therefore, it is necessary to demonstrate their knowledge, understanding and proficiency.

Learning is constant, and this is obtained through all the things that happen on a daily basis, which may include observation, experience or instruction. This is influenced or modified by the interaction the people have with the environment and other individuals or social groups.

Hence, people through learning adapt to their environment and respond to changes that operate around them even to survive.

Whenever this process of acquiring knowledge, skills, values and attitudes can be understood in different positions, different theories are related to an individual’s learning.
Learning theories attempt to explain how the meanings are structured and learning new concepts. The concepts can reduce the complexity by removing learning to hold, allowing not only to identify people or objects, but also to sort and classify reality, so that it can be predicted what will happen.

Over the years, there have been several of them (Appendix B) and they are primarily classified according to the target and the circumstances and in no way one is better than the other and the same are not definitive as they evolve over time.

Figure 4 shows five main theories of learning

**Figure 4 Main Theories of Learning**
*Source: Play with Learning* By Carlton Reeve from http://www.bioteams.com/2012/11/05/the_five_major.html

Behaviorism
In this theory, learning is reflected in a change of behavior that can be observed due to an external stimulus environment. Change is learning.

The theories developed by Thorndike, Pavlov and Skinner established that conditioning (stimulus) can be of two types: classic when a natural reflex responds to a stimulus and active when a response is reinforced to a stimulus.

Under this concept, reward and punishment are incorporated to condition behavior. If an action is rewarded it is repeated. If punished, it is not repeated.

In the educational field, its impact on teaching, training and instruction is significant. Frequently, when learning objectives are posed in the academic programs, a desirable behavior that is rewarded is included. The reward is an obvious example of the behaviorist orientation that this process is.

One important aspect can be considered that it is based on observable behaviors; therefore, it is appropriate to collect information data to analyze and quantify it.

From another point of view, learning which is dependent upon the reward and the possibility that people can acquire knowledge without a response is discarded.

The stimuli implemented in experiments as the "Skinner box" has demonstrated how it can increase the frequency of a behavior when it is as positive reinforcement and decreases when punished.

**Cognitivism**

The ability of people, motivation and determination as part of mental processes of memory developed through motivation, thinking and reflection are the focus of this theory.
According to this theory, Jean Piaget and Jerome Bruner as its principal exponents believe that learning is reflected in a change in knowledge and understanding. Unlike the behaviorist position, this guidance states that the stimulus and response process takes place in the mind, generating thinking and understanding that alters the behavior. Thus, this model becomes relevant on behaviorism that prevailed until about 1960.

Under cognitivism, information is transmitted from the people who have to those who do not have information. Once the information is received, this is retained and stored by relating it to the previous information that the people already have in an orderly manner that will allow the person to recover it later when needed as a souvenir. Cognitivist learning is the process of connecting pieces of knowledge in meaningful and memorable ways.

In their studies, Piaget supported his theory on the notion of "Stages of Development," based on the mental capacity of receiving the information, which describes working with adults is more severe than in children. Because at that stage the adults guidetheir learning to modify or extend existing knowledge rather than add or replace ideas.

For educators to reach equilibrium between when transmitting information or knowledge (new entry) as facilitating understanding (create your idea), is essential for effective learning.

**Constructivism**

From the constructivist theory, it is the learner who constructs his understanding instead of receiving it from someone who knows. By observation, processing and interpretation people transform information into knowledge, using their personal and previous experience.

Unlike behaviorism, learning is not a stimulus-response phenomenon, but requires self-regulation and the building of conceptual structures through reflection and abstraction.
As well as recognising the cognitive aspects of learning, a major emphasis of the constructivist theory is situated learning, that is, contextual learning where material is placed in a recognised situation and takes account of the learner’s beliefs and conceptions of knowledge (von Glasersfeld, 1995).

Boethel and Dimock (2000) identified six assumptions of constructivism to learning: It is adaptable, and it is situated in the context in which it occurs, so the learner generates knowledge; prior knowledge, experience and socialization are vital, but there is always an opposition to change.

Learning, according to the constructivist theory, is performed through the stimulation of ideas and help reflected on them. This process encourages students to consider how new ideas, actions taken and their experiences have meaning through their mental models.

"Learning by doing" sums up the outline by Seymour Papert (1999), of the constructivism position, where the role is to produce motor learning.

**Social**

Based on the model proposed by Vygotsky, the social learning model states that the processes of development of learning, interacting considers learning as a factor of development. In addition, the acquisition of knowledge is explained as forms of socialization.

Vygotsky conceives of man as a social construction that is biological unlike Piaget, who believes higher functions are the result of cultural development and involve the use of mediators.

Vygotsky in his Theory of Social Development coined the term "scaffolding" to describe the various forms of support that education providers can offer students. It could include
verbal assistance, questioning, suggestions and directions all designed to extend the activities of a student in which the student can not achieve this alone.

For Vygotsky (1962), learning from others who are more competent in skills and culturally appropriate technologies was the cornerstone of his theory of education. Vygotsky suggests that students can be guided by explanation, demonstration, and work, and can reach higher levels of thinking if they are led by someone who is more capable and competent.

It considers learning as one of the fundamental mechanisms of development. In his opinion, the best teaching is that which precedes the development. In the model of education that provides the context, central and social interaction becomes the engine of development.

This close relationship between development and learning that Vygotsky highlights and takes him to formulate his famous theory of "Zone of Proximal Development" (ZPD). ZPD means, in the words of Vygotsky, "the distance between the level of development as determined by the ability to solve a problem independently, and the level of potential development as determined through problem-solving under adult guidance or in collaboration with a more capable companion.” (Vygotsky, 1978 p.83). Through more interaction and participation, students can extend to the highest levels of cognition.
A potential development area created in the course of social interaction would thus refer to functions that have not yet matured but are in the process of doing so.

Nevertheless, it stresses that motor learning is always the subject's activity, determined by two types of mediators: "tools" and "symbols", either autonomously in the "zone of actual development" or helped by mediation the "zone of potential development."

The "tools" (technical tools) are the expectations and prior knowledge of student information that transforms the stimuli it receives from the context. The "symbols" (psychological tools) are the set of signs used by the same subject to such stimuli themselves. The stimulus itself is not modified, but the knowledge structures when those stimuli are internalized and become themselves. The "tools" are externally oriented, and
their function is to guide the activity of the subject towards objects, seeking to dominate nature; "symbols" are internally oriented and are a means of internal activity aimed at mastering oneself.

Both domains are closely linked and influence each other. Both constructions are also artificial, so that its nature is social; therefore, the progressive mastery in planning capacity and self-regulation of human activity lies in the incorporation of culture in the sense of learning systems using signs or symbols that men have developed in the past, especially the language (Vygotsky, 1978).

Vygotsky does not deny the importance of associative learning, but it is clearly insufficient. Knowledge is not an object that is passed from one to another, but it is something that is constructed by operations and cognitive skills that are induced in social interaction. Vygotsky states that the intellectual development of the individual can not be understood as independent of the social environment in which one is engaged. For Vygotsky, the development of higher psychological functions occurs first on the social plane and then on the individual level (Vygotsky, 1978).

Based on these five theoretical approaches described above, it can established that for the process of implementing the MLC there is a need for an assessment of potential actors (in this case authorities, shipowners and seafarers) and under whose context it is possible to use the theoretical framework in the development of a learning process.

In that sense, the existing legal framework does not allow to consider in this process of implementing the theory of experimentalism as the effects could prove politically unacceptable and irreversible and against functions as a state.

Dismissing then what was mentioned in the previous paragraph, a matrix in which the characteristics of the environment where the process and the condition of the students who were part of where the process develops are made (Figure 6).
As mentioned at the beginning of the chapter, learning theories used in the field of education are not mutually exclusive. The consideration of a single theory would bias the learning process.

Therefore, posteriorly and considering the situational analysis of the target groups, the learning process will define the methodology as part of this work.

At this point it should be noted that for the development of learning programs, it is vital that concepts such as Benjamin Bloom Taxonomy and Hierarchy of Needs Abraham Maslow which are detailed below, should be incorporated:

5.2 Maslow and Bloom’s approach

Bloom

Under the title Taxonomy of Educational Objectives: The Classification of Educational Goals. Handbook I: Cognitive Domain, Benjamin Bloom and a group of professors from universities in the United States met in order to create a database that could be exchanged and allow them to streamline their work later in the year when it was required to prepare comprehensive examinations. This conception gave a regulatory element in classifying statements, which was expected or intended that students learn as a result of instruction.

The original taxonomy as a common language on the learning objectives allows to transfer information across individuals, subject matter and grade levels.

It also serves as a basis for determining an alignment between the objectives, activities and evaluation of the curriculum and allowing contrast and comparison with others within the framework of ongoing programs, such as the broader context of national programs.
In the original Bloom Taxonomy, Knowledge, Understanding, Application, Analysis, Synthesis and Evaluation were categorized. All but implementation has been broken down into subcategories which were ordered from simple to complex and from the concrete to the abstract. In other words, it is a cumulative hierarchy; i.e., mastering simple then move to complex.

Initially, Taxonomy was considered difficult to understand; however, eventually it gained greater acceptance and use and is so far accepted

One of the main contributions which is reflected in the ability of its use has been to classify learning objectives. Before Bloom, objectives were mostly related to the category of knowledge, rather than to other levels.

At present, the most complex processes, such as Comprehension, Analysis, Evaluation among others, can be defined more precisely.

Thus, the goals are often framed in terms of (a) the content of matter and (b) a description of what should be done with or for that content. Therefore, mission statements usually consist of a nominal or noun phrase - the content of the subject - and a verb or verb phrase-the cognitive process.

However, to keep the noun and the verb in the same size did not allow a clear definition when it wanted to establish the most complex processes. Following the amendment made in the revised Taxonomy these two aspects, the noun and the verb, allow forming separate dimensions, providing the basis for substantive dimension of knowledge and the word formation based on the cognitive process dimension.
Table 1  Structure of the original and the revised taxonomy

<table>
<thead>
<tr>
<th>Structure of the original Taxonomy</th>
<th>Structure of the Revised Taxonomy</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1.0 Knowledge</strong></td>
<td><strong>1.0 Remember</strong> Retrieving relevant knowledge from long-term memory</td>
</tr>
<tr>
<td>1.10 Knowledge of specific</td>
<td>1.1 Recognizing</td>
</tr>
<tr>
<td>1.11 Knowledge of terminology</td>
<td>1.2 Recalling</td>
</tr>
<tr>
<td>1.12 Knowledge of specific facts</td>
<td></td>
</tr>
<tr>
<td>1.20 Knowledge of ways and means of dealing with specifics</td>
<td>2.0 Understand Determining the meaning of instructional messages, including oral, written, moreover, graphic communication.</td>
</tr>
<tr>
<td>1.21 Knowledge of conventions</td>
<td>2.1 Interpreting</td>
</tr>
<tr>
<td>1.22 Knowledge of trends and sequences</td>
<td>2.2 Explaining</td>
</tr>
<tr>
<td>1.23 Knowledge of classifications and categories</td>
<td>2.3 Classifying</td>
</tr>
<tr>
<td>1.24 Knowledge of criteria</td>
<td>2.4 Summarizing</td>
</tr>
<tr>
<td>1.25 Knowledge of the methodology</td>
<td>2.5 Inferring</td>
</tr>
<tr>
<td>1.30 Knowledge of universals and abstractions in the field</td>
<td>2.6 Comparing</td>
</tr>
<tr>
<td>1.31 Knowledge of principles and generalizations</td>
<td>2.7 Explaining</td>
</tr>
<tr>
<td>1.32 Knowledge of theories and structures</td>
<td>3.0 Apply Carrying out or using a procedure in a given situation.</td>
</tr>
<tr>
<td>2.0 Comprehension</td>
<td>3.1 Executing</td>
</tr>
<tr>
<td>2.1 Translation</td>
<td>3.2 Implementing</td>
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<tr>
<td>2.2 Interpretation</td>
<td>4.0 Analyze - Breaking material into its constituent parts and detecting how the parts relate to one another and to the overall structure or purpose.</td>
</tr>
<tr>
<td>2.3 Extrapolation</td>
<td>4.1 differentiating</td>
</tr>
<tr>
<td>3.0 Application</td>
<td>4.2 organizing</td>
</tr>
<tr>
<td>3.1 Executing</td>
<td>4.3 Attributing</td>
</tr>
<tr>
<td>3.2 Implementing</td>
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</tr>
<tr>
<td>4.0 Analysis</td>
<td>5.0 Evaluate Making judgments based on criteria and standards</td>
</tr>
<tr>
<td>4.1 Analysis of elements</td>
<td>5.1 Checking</td>
</tr>
<tr>
<td>4.2 Analysis of relationships</td>
<td>5.2 Critiquing</td>
</tr>
<tr>
<td>4.3 Analysis of organizational principles</td>
<td>6.0 Create Putting elements together to form a novel, coherent whole or make an original product.</td>
</tr>
<tr>
<td>5.0 Synthesis</td>
<td>6.1 Generating</td>
</tr>
<tr>
<td>5.1 Production of a unique communication</td>
<td>6.2 Planning</td>
</tr>
<tr>
<td>5.2 Production of a plan, or proposed set of operations</td>
<td>6.3 Producing</td>
</tr>
<tr>
<td>5.3 Derivation of a set of abstract relations</td>
<td></td>
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<tr>
<td>6.0 Evaluation</td>
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<tr>
<td>6.1 Evaluation in terms of internal evidence</td>
<td></td>
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<tr>
<td>6.2 Judgments in terms of external criteria</td>
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</tbody>
</table>

This change in the Taxonomy, beyond the change of names and the number of subgroups allowed to adapting to the way they are used in the objectives. The verbal aspect of the groups changes using gerunds of verbs to ensure breadth and depth of each category, and keeping them in a hierarchy to facilitate the work of teachers.

Thus, the dimension hierarchy is a cognitive process and can also be supported and probably one that like the original taxonomy in terms of empirical evidence (Anderson & Krathwohl, year).

In summary, Taxonomy of educational objectives is a scheme for classifying educational objectives, giving an organizational structure to improve communication.

Finally, it should be mentioned that continuing the work of Bloom, later led by Krathwohl (1964), was drawn in the same way the taxonomy of the affective domain includes the manner in which the people deal with things emotionally, such as feelings, values, appreciation, enthusiasms, motivations, and attitudes. The five major categories are listed from the simplest behavior to the most complex: being open to experience (receiving), engaging in life (responding), cultivating values (valuing), managing oneself (organizing), and developing oneself (internalization).

Later works have studied how the affective domain can affect cognitive development through the integration of both Bloom’s affective taxonomy and Maslow’s model of motivation into the existing cognitive-based framework, with positive results.

Maslow
In 1954 Abraham Maslow, a psychologist close to behavioral and experimental schools targeted his work observing the behavior of human beings in different situations, which is shown in his book "Motivation and Personality" (Maslow, 1987).

As part of their findings, Colvin and Rutland came to the conclusion that human beings, in the development of their needs, will cover various stages, so as to meet the higher needs which had to secure the immediate preceding. It is only when a need is "reasonably" satisfied, additional needs will come out (Colvin & Rutland, 2008).

Maslow's theory, considered as one of the most important in the motivational field, business management and development and organizational behavior provides five (5) needs of the individual, which are: physiological, safety, love and belonging, esteem and self-actualization and each has components that describe them, as shown in Figure 6, (Reid 2008).

![Fig 6 Maslow’s hierarchy of Needs](Source www.amnavigator.com)
In his work he considered the first four needs as "deficient" by its relation to a lack (physiological, safety, love and belonging, esteem) and the latest "development of being" related to the work of the individual (Koltko, 2006).

Maslow recognizes that learning maintains a social component as mentioned by Vygotsky, but also people are affected by intrinsic needs to face the world and these needs are not the same for everyone.

Maslow continues to evolve his theory with the contribution of many authors, and its importance is to become the educational paradigm to focus on the person, which is based on education training and not only ambition but also to seek growth of staff to achieve self-realization with the aspects of their personality.

5.3 Situated learning and Communities of Practice

The situated learning theory was a proposed Jean Lave and Etienne Wenger (1991), a concept including the theoretical concepts of social learning theory of Vygotsky. In this study, they try to contrast the traditional learning in a classroom with what occurs in the context or in the place where people with experience will be found.

When taking students (apprentices) away from their passive attitudes and promoting interaction with more than a connoisseur of a certain subject or discipline, the generation of a complex set of social relations will be promoted. This constitutes the living curriculum for apprentices, which they call communities practice.

As social interaction is a fundamental component of situated learning, people who engage in a "community of practice", embody certain beliefs and behaviors to be acquired, maintained and disseminated.
In summary, it can be stated that communities of practice "are groups of people who share a concern or a passion for something they do and learn how to do it better as they interact regularly" (Wenger, 2014).

The concept is currently having a greater acceptance within different fields of education, governments and companies. As Wenger mentioned "knowledge of an organization lives in a constellation of communities of practice each taking care of a specific aspect of competition that organization needs to achieve its objectives" (Wenger, 2014).

People constantly live within communities of practice that will nurture knowledge in each of their activities. Their participation is unconscious if the activities are routine or consented and if there are structured activities such as clubs or conversation circles.

What if we assumed that learning is as much a part of our human nature as eating and sleeping, that it is both life-sustaining and inevitable?. And what if, in addition, we assumed that learning is a fundamentally social phenomenon reflecting our own deeply social nature as human beings capable of knowing (Wenger, 1998,).

However, when placing the communities of practice within organizations, it must be ensured that they will not be confused with other types of associations and groups that are generated in a structured manner, such as development groups, working committees, meetings of brain-storming. Although these communities have no organizational, technological or geographical boundaries, they must comply with these features:
• There must be a domain: This allows its members to identify with the shared interest for membership, which implies a commitment to the domain and distinguishes it from others.

• A community must be built up: Essentially members participate in joint activities, help each other and share information allowing them to learn from each other.

• Practice must be maintained: Communities must be active and their members as a whole must be considered practitioners. Sustained interaction experiences, stories, tools are a shared repertoire of practice.

During the development of this theory Lave and Wenger (1991) state that learning occurs in a process of "legitimate peripheral participation". This concept seeks to understand how students, beginners or newcomers move from the periphery of the community to the center in search of knowledge, opting for a continued involvement that make them more active and engaged within the culture, and hence assume the role of expert or old. In this sense, “the concept of legitimate peripheral participation provides a framework for bringing together theories of situated activity and theories about the production and reproduction of the social order” (Lave, 1996).

In attempting to explain how the concept of internalisation of learning occurs, areas and actions which have a profound link with the work of the zone of proximal development should be described, as Vygotsky outlined above.

Lave (1996) defines three categories about the internalization process as follows:

Firstly the distance between problem-solving abilities exhibited by a learner working along and that learner’s problem-solving abilities when assisted by or collaborating with more experienced people. Second “it is the distance between understood knowledge that is provided by instruction and active knowledge as
owned by the individual” and lastly, they talk about the development of collectivist and societal perspective, however Engestrom, defines it as a “distance between everyday actions of individuals and the historically new form of societal activity that can be collectively generated as a solution to the double bind potentially embedded in … everyday actions (Ibid, pp. 48-49)

The relationship between Vygostky’s concept of zone of proximal development and the concept that the authors were trying to develop and understand was that they “try to extend the study of learning beyond the concept of pedagogical structuring, including the structure of the social world and taking into account in a central way the conflictual nature of social practice” (Ibid pag.49-52).

Currently Wenger (2014) shows various levels of participation of people in the community of practice (Figure 7). These levels in association with the theories of Vygotsky are roads to build an educational model for effective implementation, the focus of this work:
These levels of participation defined by Wenger (2014) and people can enter and leave them throughout their participation. These levels are:

- **Core group**: a relatively small group of people whose passion and engagement energize and nurture the community
- **Active participants**: members who are recognized as practitioners and define the community (though they may not be of one mind as to what the community is about)
- **Occasional participants**: members who only participate when the topic is of special interest, when they have something specific to contribute, or when they are involved in a project related to the domain of the community
Peripheral participants: people who have a sustained connection to the community, but with less engagement and authority, either because they are still newcomers or because they do not have as much personal commitment to the practice. These people may be active elsewhere and carry the learning to these places. They may experience the community as a network.

Transactional participants: outsiders who interact with the community occasionally without being members themselves, to receive or provide a service or to gain access to artifacts produced by the community, such as its publications, its website, or its tools.

As mentioned, the contributions and benefits offered by communities of practice within organizations are diverse and are mechanisms that provide a modern, non-traditional education that meets the needs the maritime field.

Their structure (formal or informal), their limit, their identity, and their participation course are not difficult to use cross-organizational, to reach goals and generate knowledge.

Furthermore, where actors or groups have been identified in the implementation process, it can be established that all parties remain within their organizations. Much of the knowledge, which if shared, may be useful for independent perspectives, needs and ambitions.

5.4 Models applicable in MET: Preparing the way

As previously mentioned, many of the existing efforts in the development of new learning technologies in the maritime field, have been related to the functions that seafarers must meet board.
Currently, the latest 2010 Manila amendments to the STCW Convention, which entered into force in 2012, prompted a series of changes within the maritime training centers.

These changes have since then included the introduction of new methods of teaching and training to technological upgrading in order to achieve the fulfillment of the tasks set for seafarers.

Thereby, it has been common in MET institutions, working under the concepts of learning theories to establish that seafarers should learn in light of the new regulatory requirements.

Like Fisher (2013) notes, the development of curricula is a first step in the learning process in order to establish "what to teach, when to teach, how to teach and how to assess the impact of the teaching."

In that sense, activities such as those carried as part of the curricula designed in MET institutions, such as the working groups where ideas are exchanged, or work with the material that actually will be used onboard will allow students to gain experience. Practical exercises that happen in situations on board such as fires allow them to generate knowledge. These are examples of the application of the theories of constructivism and cognistivism.

To develop a model to optimize the processes of implementation of international conventions, it must first be accepted as a learning process, which is in a highly changing and mostly digital environment.

1. Maslow’s thoughts and his hierarchy of needs are included, since the use will reveal the needs of students and identify what can be done to improve those conditions.
Parallel to that, the use of Bloom’s Taxonomy may not necessarily focus on a hierarchy of activities such as Maslow’s, but it provides a useful mechanism to identify where instruction can begin to thereby generating motivation of the alumnus.

Krathwohl (1964) mixes the dimensions of knowledge, and the cognitive process which can have a table for classifying activities of objectives, assessments providing a clear concise representation of a particular course or unit and use for monitoring and evaluation planning educational programs which are much more understandable and useful (Table 2)

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<td>A. Factual Knowledge</td>
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<td>B. Conceptual Knowledge</td>
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<tr>
<td>C. Procedural Knowledge</td>
<td></td>
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<td>X</td>
<td></td>
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<tr>
<td>D. Metacognitive Knowledge</td>
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</table>

Table 2 The Cognitive process dimension

*Source: Krathwohl, D (2002)*

2. While the cognitive field goals may have been clearly determined, it is probable that during the time to evaluate the process of cognitive development, failures were detected. For some reasons, students experience some type of motivation that affects the learning process, and therefore do not achieve the objectives.
These issues which are not addressed may include student motivation, the external problems of the student's educational environment, high failure rates, academic misconduct, and other matters that belong more to the affective domain.

Bloom’s work forms a foundation for the creation of affective and cognitive objectives with the identification of specific target levels of achievement. Maslow’s work provides a more personal framework where students can identify their own cognitive-affective objectives through self-reflection and handle many external problems without instructor intervention.

![Table 3 Bloom-Affective/Maslow chart](http://www.cis.usouthal.edu/~mckinney/session2793.PDF)

Table 3 Bloom-Affective/Maslow chart
Source: Denton L [http://www.cis.usouthal.edu/~mckinney/session2793.PDF](http://www.cis.usouthal.edu/~mckinney/session2793.PDF)
3. The work of Vygotsky and Lave and Wenger (1991) are in line with constructivism, as expressed by Abdal-Haq (1999) is a theory that if you do not teach, that promotes learning and construction of meaning by offering an explanation of the nature of knowledge and how humans learn.

The construction of their own new understandings or knowledge through interaction and reflection on what they already know and believe, balanced against the ideas, events, people and activities that have contact in their day-to-day learning (Bockarie, 2002).

Among the similarities that the theories of Vygotsky and Lave and Wenger (1991) present, it can be argued that both believe that learning is a function related to where you are and when it occurs rather than something that happens within the mind of individuals as cognitive psychologists have traditionally argued. It can be said then that constructivism serves to build a bridge between the ZPD of Vygotsky and practice of learning as shown by Lave and Wenger (ibid).

As Wenger (1998) argues, students engage in a community of practice because it covers all contained social relations within a community of workers who share similar activities and identities (Wenger, 1998), and to get things accomplished when they in an effort gather around of mutual engagement (Little & Quinlan, 1998).

Bockarie (2002) mentions that in a community of practice:

- social relationships are created around work, knowledge and production
- are not created for carrying out a task
- structures expressed implicitly and explicitly the terms and conditions for the legitimate participation of members, and define and set boundaries around their learning
Within a community of practice to develop its members revolves around the knowledge base that will eventually allow them to become full members of a community. It is here where the ZPD could be perceived as a limit for members who are at different levels of competence and learning in a community of practice. Ormrod (1995) uses the term competent person, rather than adult or peer (Lave 1991), while Van der Veer and Valsiner (1994) say Vygotsky used the term social or other scaffold builder.

What is interesting for the author is the method which makes it possible to later define individuals within communities of practice. Bockarie (2002) develops an exercise boundary that identifies that a person develops within the ZPD, and basically revolves around a learner relationship - knowledge – a competent person who is described below:

The four figures presented in the succeeding pages of this article are graphic representations of Vygotsky's ZPD. The angle lines in each of the figures are intended to serve a purpose similar to the border crossings Wenger (1998) uses to denote the crossing points of communities of practice. The lines are not used to suggest each individual fits into the particular range. The dark shading is used to depict the idea that an individual's current ZPD is comprised of a solid base of current knowledge and skills, while the fading-away area serves to indicate individuals are moving outside their ZPD; if taken too far across the border crossing they may become incompetent.
Lave and Wenger (1991) labeled this range of development as *Status Subordinate* to portray the role and status apprentices hold in the training process. The status subordinate role both requires and allows newcomers to step back and observe the journeypersons in action without being burdened with assignments they are yet unable to fulfill, and the newcomers are not held responsible for any part of the community's operational activities.

Lave and Wenger (1991) labeled the role and status ascribed to the apprentice in this range as *Learning Practitioner*. The transition into the learning practitioner role makes it possible for newcomers, after their initial period of simply observing the journeypersons in action as Status Subordinates, to perform routine tasks in concert with them. To occupy the newcomers' time and mind, and to give structure to their experience and development, the journeypersons assign these seemingly insignificant tasks that can be performed without any prerequisite capabilities, other than having previously observed the journeypersons performance of the same or a similar task.

Figure 3 represents the third and continuous range of development Vygotsky might have been thinking about in his ZPD concept. Lave and Wenger (1991) labeled this range as *Sole Responsible Agent for a 'Minor' part in the Performance* to portray the role and status of apprentices as their ZPD expands and their competence advances to a new level.
Figure 4, represents the fourth in a continuum of development Vygotsky might have been thinking about in developing the ZPD concept, and Lave and Wenger saw as the final stage of apprenticeship. Lave and Wenger (1991) labeled this stage **Aspiring Expert** to communicate that an apprentice had achieved the community's required level of competence as a journeyperson, expert practitioner, or professional, and is now recognized by other experience professionals or journeypersons as a peer holding similar roles and status. The transition into the aspiring expert role makes it possible for the former newcomer to lead the development of the newest newcomers and to operate side by side and on par with other journeypersons.

Based on the analysis of the theories described in this chapter and the relationship between them, to reaffirm that to build a learning model, the process involves more than one of them and their understanding and application will be defined by the challenges it faces and objectives hoped to be achieved.

For the development of a learning model, the objectives should be defined using the table of Bloom's taxonomy. It is also deemed necessary that posteriorly Table Bloom and Maslow could be used in the affective domain.

Once the goals are defined and raised, the process will start based on the model of situated learning promoting communities of practice within the organization and between the processes involved in the implementation, with a view to contribute to the generation of knowledge the MLC should be the basis for the start of this model.

The literature points out those communities of practice must arise spontaneously within organizations. Suggest that the informal nature allows its success and that its objectives are not exact and are open.
However, to begin work there is a need to promote them based on a structured design. To this end, techniques such as the ADDIE model (Analysis, Design, Development, Implementation and Evaluation) can be applied.

Finally, communities of practice can generate a knowledge management coupled with the introduction of technology, such as internet networks always available at present. This should allow achieving support for the implementation process through the generation of independent knowledge of the distances, times or organizational boundaries.
Chapter 7

Conclusion and Recommendations

Conclusion
IMO as an international organization specializing in the maritime field has demonstrated over the years an enormous capacity and innovation in the regulatory field line with the global maritime environment.

This, however, has reflected problems in the field of implementation by States, which in turn, has an impact on the objectives of the IMO.

The focus of international organizations like ILO and IMO on the human element is reflected in their regulatory efforts to improve the seafarers’ rights, knowledge, skills and competencies to work aboard ships; however, these agencies also recognize the importance of other stakeholders in maritime transport, such as authorities and shipowners.

These efforts have also led to the search for better training for seafarers by developing skills in training centers, and of instructors, which have generated an abundant
bibliography in finding the best learning method. These methods are based on existing theories that can facilitate the achievement of educational qualifications to seafarers, contributing to security in shipping.

However, very little progress in the field of education has been channeled to other stakeholders in maritime transport, who are fundamental in the system. Many maritime studies and papers focus on the issues involved with seafarers leaving ships to work ashore. This is seen as a problem. However, this can be an opportunity to develop best practices within the authorities and companies where they work today.

The MLC with its special characteristics is another challenge on the agenda of the international community. In the case of Peru and other developing countries that have not yet adopted this instrument, its implementation will mean a joint effort with shipowners and seafarer that requires innovative tools for success.

With the information gathered during this investigation, it is revealed that despite Peru having an appropriate regulatory framework, the adoption of the MLC is an opportunity to improve the conditions of seafarers and ships.

This is complemented by the necessary actions to be taken by the Administration to ensure better implementation and greater control which is a consistent challenge, because through surveys the author has perceived the presence of motivation, commitment and availability of stakeholders be part of this process.

These actions involve better communication skills with stakeholders through technological means that reduce distance but are inexpensive. Also effective, are the implementation of learning programs, which are not being used to the best capacity by the Administration of Peru.

In addition, interviews conducted show that the situations of most countries of the Viña del Mar Agreement are not far from the Peruvian reality, where the processes of
implementation are reflected mostly in the legislative change and in an action-reaction part of the maritime community subject to technical inspections to verify compliance.

The nature of shipping has meant that currently shipping companies in isolation promote compliance with standards and develop mechanisms to control their own ships by classification societies, avoiding detention and economic repercussions.

This accumulation of all of the seafarers’ experience, coupled with what seafarers may express and regulatory input and control of the authorities, is the source of knowledge that gives contribution to social learning model.

In light of the analysis of existing theories and an assessment of the particular characteristics of the MLC is possible to establish:

Under current conditions in Peru, implementing communities of practice based on the theoretical approach of situated learning is the most adequate for implementation the MLC.

The participation of three groups of stakeholders involved in the implementation process, would be the main contribution to community.

Proving its usefulness, can be used as a tool for various processes within the Maritime Authority.

Despite the difficulties this initiative might face at first, the author is expected to use the initiative in the process of implementing the MLC in Peru, and it is the foundation for later use in similar processes.

In addition, it is considered that this represents an opportunity to increase under ROCRAM, professional connections which can lead to other communities around eg PSCO, generating increasing capabilities for security in shipping.
The guide proposal in this study represents a simple procedure to start a community of practice. Its use will allow generating an authentic, reliable and valid assessment of it for further corrections and improvements needed.

Provided that the objectives of their existence are consistent with the purposes of the organization, the community of practice can become a source of knowledge and ensure institutional support for their development.

The author's intention is not to reject currently existing procedures or create doubts regarding current practices within the organization. The findings in this study show convincingly that its use can improve the process by making it more transparent, participatory and flexible, which will benefit the corporate image.

**7.2 Recommendations**

At the end of this study the author is allowed to give the following recommendations:

- The concept of communities of practice should be spread within the organizations involved in the implementation process, highlighting its benefits in education and knowledge management.
- The development of similar studies in Peru should be encouraged to assess and identify more precisely the gaps in the implementation process of the national and international regulations.
- Acceptance should be gained for use as part of organizational policy to achieve in the future the creation of communities of practice among members of the ROCRAM, strengthening Latin American maritime community.
- Similar practices in the maritime field, which can guide the process to ensure its validity and update should be explored.

Finally, the author believes that this study needs to be complemented by additional information, which will be obtained after returning to his country of origin.
This will allow further analysis of the stakeholders in the implementation process, giving greater support to design an appropriate learning model that meets the needs of Peru.
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Appendix A

Compendium of ILO standard norms included in MLC

<table>
<thead>
<tr>
<th>Norm</th>
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<tr>
<td>Minimum Age (Sea) Convention, 1920</td>
<td>(No. 7)</td>
</tr>
<tr>
<td>Unemployment Indemnity (Shipwreck) Convention, 1920</td>
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<tr>
<td>Placing of Seamen Convention, 1920</td>
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<td>Medical Examination of Young Persons (Sea) Convention, 1921</td>
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<td>Seamen’s Articles of Agreement Convention, 1926</td>
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<td>Repatriation of Seamen Convention, 1926</td>
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<td>Officers’ Competency Certificates Convention, 1936</td>
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<td>Holidays with Pay (Sea) Convention, 1936</td>
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<td>Shipowners’ Liability (Sick and Injured Seamen) Convention, 1936</td>
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<td>Sickness Insurance (Sea) Convention, 1936</td>
<td>(No. 56)</td>
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<tr>
<td>Hours of Work and Manning (Sea) Convention, 1936</td>
<td>(No. 57)</td>
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<tr>
<td>Minimum Age (Sea) Convention (Revised), 1936</td>
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<tr>
<td>Food and Catering (Ships’ Crews) Convention, 1946</td>
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<td>Certification of Ships’ Cooks Convention, 1946</td>
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<td>Social Security (Seafarers) Convention, 1946</td>
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<td>Paid Vacations (Seafarers) Convention, 1946</td>
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<td>Certification of Able Seamen Convention, 1946</td>
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<td>Accommodation of Crews Convention, 1946</td>
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<td>Wages, Hours of Work and Manning (Sea) Convention, 1946</td>
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<td>Paid Vacations (Seafarers) Convention (Revised), 1949</td>
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<td>Seafarers' Annual Leave with Pay Convention, 1976</td>
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<td>Merchant Shipping (Minimum Standards) Convention, 1976</td>
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<td>Recruitment and Placement of Seafarers Convention, 1996</td>
<td>1996</td>
</tr>
<tr>
<td>Seafarers' Hours of Work and the Manning of Ships Convention, 1996</td>
<td>1996</td>
</tr>
</tbody>
</table>
Appendix B
Questionnaires template

Introduction
PLEASE RESPOND TO ALL OF THE QUESTIONS
a) What is your age?
- Less than 30
- Less than 45
- More than 45
a) What is your current occupation? Choose one
- Shipowner
- Seafarer
- Maritime Authority
- Other: [ ]
b) How long have you worked in your current occupation?
[ ]
c) How long have you been working in the maritime field?
[ ]

Information
a) Considering the following subjects, assign a number from 1 to 5 rating their importance within their profession in the maritime field (1 is the most important, please do not repeat the number)

<table>
<thead>
<tr>
<th>Subject</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Safety of Life at Sea</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Environmental protection</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rights of the seafarers</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Seafarers competence</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transportation goods</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

b) Your knowledge about the international conventions of the IMO is:
- I do not know
- I have only heard of them
- I know I need it for my work
- I know more than is necessary
I am an expert

c) In what ways are information about changes or modifications to the IMO standards or the IMO International Convention brought to your attention? If necessary mark more than one

- Never receive knowledge
- In an open source (newspapers magazines, internet)
- In groups, associations or networks of information to which I belong
- In the workplace
- By the Authority

d) In what ways are information about changes or modifications to the IMO standards or the IMO International Convention distributed in your opinion in Peru?

Knowledge flows about the new international maritime regulations

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>Fast</th>
</tr>
</thead>
<tbody>
<tr>
<td>Slow</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Knowledge flows about the new national maritime regulations

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>Fast</th>
</tr>
</thead>
<tbody>
<tr>
<td>Slow</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

What is the reaction of the organization in which you work on putting in the new rules into practice

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>Fast</th>
</tr>
</thead>
<tbody>
<tr>
<td>Slow</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

What is the reaction of the Authority to apply the rules

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>Fast</th>
</tr>
</thead>
<tbody>
<tr>
<td>Slow</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

e) In your own words what you understand by the word "implementation" in an IMO context (optional)

Information II

The Maritime Labour Convention, which entered into force worldwide August 20, 2013, provides for the first time comprehensive protection for seafarers at work, while also promoting conditions of fair competition for shipowners. At the current day Peru has not signed this Convention.

a) Do you know the scope of the Maritime Labour Convention

- Yes
- No

b) Taking current labour regulations for seafarers in Peru into account, how much do you know about:
### Minimum requirements for seafarers to work on a ship

<table>
<thead>
<tr>
<th></th>
<th>Nothing</th>
<th>Some</th>
<th>Enough</th>
<th>All</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conditions of employment</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accommodation,</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>recreation facilities,</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>food and catering</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Health protection,</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>medical care, welfare</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>and social security</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>protection</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### c) Peru has only few specific national laws for seafarers, however only general standards are applied in maritime field.

How effective do you feel that these rules are?

1 2 3 4 5

- not effective
- very effective

### d) Do you think the implementation of the MLC Convention will improve labour laws for seafarers?

In relation with the seafarers work

- would improve
- would diminish
- would be equal
- Other: ______

### e) Do you agree with these statements

The current rules are good, the problem is not implemented.

1 2 3 4 5

- Completely disagree
- Completely agree

The signing of the MLC does not guarantee compliance

1 2 3 4 5

- Completely disagree
- Completely agree

We already have too many rules.

1 2 3 4 5

- Completely disagree
- Completely agree

### f) Which of the following factors do you consider important for effective implementation of the Maritime Labour Convention in Peru?

- Politics
1  2  3  4  5

unimportant   ○  ○  ○  ○  ○  very important

**Better laws**

1  2  3  4  5

unimportant   ○  ○  ○  ○  ○  very important

**authority control**

1  2  3  4  5

unimportant   ○  ○  ○  ○  ○  very important

**major access to education**

1  2  3  4  5

unimportant   ○  ○  ○  ○  ○  very important

**business**

1  2  3  4  5

unimportant   ○  ○  ○  ○  ○  very important

**better coordination between public and private organization**

1  2  3  4  5

unimportant   ○  ○  ○  ○  ○  very important

---

**g) What kind of system is more effective for you, if you need to increase your knowledge?** *(Studies not compulsory)*

- [ ] Self studies
- [ ] Attend class
- [ ] E-learning
- [ ] Conference
- [ ] Other: __________

**h) If you want you to write some additional comment**
Appendix C
Data results – Questionnaires

A.- Introduction

Data was obtained electronically through the tools available in Google Forms and sent via email following the criteria described in the study methodology.

Overall 33 questionnaires from different stakeholder groups were received, who were in the process of implementing the MLC.

<table>
<thead>
<tr>
<th>A1) What is your age?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>Less than 45 [14]</td>
</tr>
<tr>
<td>More than 45 [15]</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Less than 30 [4]</td>
</tr>
<tr>
<td>Less than 45 [14]</td>
</tr>
<tr>
<td>More than 45 [15]</td>
</tr>
</tbody>
</table>

<p>| |</p>
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 30 4 12%</td>
</tr>
<tr>
<td>Less than 45 14 42%</td>
</tr>
<tr>
<td>More than 45 15 45%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A2) What is your current occupation?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maritime Authority [13]</td>
</tr>
<tr>
<td>Other [9]</td>
</tr>
<tr>
<td>Shipowner [1]</td>
</tr>
<tr>
<td>Seafarer [10]</td>
</tr>
</tbody>
</table>

<p>| |</p>
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Shipowner 1 3%</td>
</tr>
<tr>
<td>Seafarer 10 30%</td>
</tr>
<tr>
<td>Maritime Authority 13 39%</td>
</tr>
<tr>
<td>Other 9 27%</td>
</tr>
</tbody>
</table>

In the other category, as a result of the survey were presented as ship manager, fleet manager, crew manager among others. Because they are staff of shipping companies, for this studies they were included in the group of shipowners.

The sample population is relevant for the maritime field between 6 and 37 years, which allows us to have a complete picture of the labor situation from different perspectives.
**B.- Information**

In this part of the questionnaire, it comes to measuring the perception of the sample with respect to the main agenda items of the maritime community in the IMO.

While the instruction set was to assign different values (1 to 5) per item, the system allowed the participant to respond if assigned the same value to two different subject.

However, on average this did not distort the final result.

### B1.-Safety of Life at Sea

[a) Considering the following subjects, assign a number from 1 to 5 rating their importance within their profession in the maritime field (1 is the most important, please do not repeat the number)]

<p>| | | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>25</td>
<td>76%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>4</td>
<td>12%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>1</td>
<td>3%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>1</td>
<td>3%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>2</td>
<td>6%</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### B2.-Environmental protection

[a) Considering the following subjects, assign a number from 1 to 5 rating their importance within their profession in the maritime field (1 is the most important, please do not repeat the number)]

<p>| | | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>7</td>
<td>21%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>12</td>
<td>36%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>6</td>
<td>18%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>6</td>
<td>18%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>2</td>
<td>6%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B3. - Rights of the seafarers</td>
<td>1</td>
<td>3</td>
<td>9%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>7</td>
<td>21%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>12</td>
<td>36%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>10</td>
<td>30%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>1</td>
<td>3%</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| B4. - Seafarers competence | 1 | 8 | 24% |
| 2 | 9 | 27% |
| 3 | 8 | 24% |
| 4 | 5 | 15% |
| 5 | 3 | 9% |

| B5. - Transportation goods | 1 | 1 | 3% |
| 2 | 3 | 9% |
| 3 | 2 | 6% |
| 4 | 5 | 15% |
| 5 | 22 | 67% |
As a result of this question, it is stated that the perception of the respondents is that the Safety of Life at Sea is the most important convention in the maritime field followed by environmental issues.

It was the intention to divide the questions concerning the seafarers in two areas: rights and responsibilities; the sum of both would displace the second most important environmental protection.

Although the sample size does not allow us to affirm, we could say that there is a tendency to consider that the rights of seafarers are at a higher level than the importance of their skills level.

<table>
<thead>
<tr>
<th>C.- Your knowledge about the international conventions of the IMO is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>I do not know</td>
</tr>
<tr>
<td>I have only heard of them</td>
</tr>
<tr>
<td>I know I need it for my work</td>
</tr>
<tr>
<td>I know more than is necessary</td>
</tr>
<tr>
<td>I am an expert</td>
</tr>
</tbody>
</table>

100% of the respondents know a greater or lesser extent on international agreements. Two of them claimed to be experts in the field.

Although not carried out in an assessment in this regard, the results indicated that the level of people involved in international conventions is high. If we relate this to the number of years that people have been working in the industry from the survey answers, we can affirm that the sample group is competent in these areas.

<table>
<thead>
<tr>
<th>D.- In what ways are information about changes or modifications to the IMO standards or the IMO International Convention brought to your attention?</th>
</tr>
</thead>
<tbody>
<tr>
<td>I know more</td>
</tr>
<tr>
<td>I do not know</td>
</tr>
<tr>
<td>I have only heard of them</td>
</tr>
<tr>
<td>I know I need it for my work</td>
</tr>
<tr>
<td>I know more than is necessary</td>
</tr>
<tr>
<td>I am an expert</td>
</tr>
</tbody>
</table>
When this question was raised, the idea was to find out how the regulatory information reached the target audience in the maritime field.

In the last position, Authority has obtained 18%. This issue has been proven through open sources like web page or social networks where the Authority's participation is limited.

<table>
<thead>
<tr>
<th>Method</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Never receive knowledge</td>
<td>3%</td>
</tr>
<tr>
<td>In an open source (newspapers magazines, internet)</td>
<td>58%</td>
</tr>
<tr>
<td>In groups, associations or networks of information to which I belong</td>
<td>48%</td>
</tr>
<tr>
<td>In the workplace</td>
<td>73%</td>
</tr>
<tr>
<td>By the Authority</td>
<td>18%</td>
</tr>
</tbody>
</table>

E.-In what ways are information about changes or modifications to the IMO standards or the IMO International Convention distributed in your opinion in Peru?

1 is slow 5 is fast

<table>
<thead>
<tr>
<th>Method</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>E1 Knowledge flows about the new international maritime regulations</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>2</td>
<td>9</td>
</tr>
<tr>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>E2 Knowledge flows about the new national maritime regulations</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>2</td>
<td>9</td>
</tr>
<tr>
<td>3</td>
<td>14</td>
</tr>
<tr>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>5</td>
<td>0</td>
</tr>
</tbody>
</table>

E3.-What is the reaction of the organization in which you work on putting in the new rules into
If we consolidate the results of the above two tables, we can say that over 50% of the respondents have a perception that the flow of information is slow which is directly related to the implementation process.

It also shows that with respect to the third question, there is a perception that Companies are more productive internally when put into practice.

This result shows that the primary indicator in the process is the flow of information for being slow and this does not allow the implementation of the provisions within institutions.

F.- What is the reaction of the Authority to apply the rules
1 is not effective /5 very effective

87% of those surveyed described the reaction of the Authority in implementing rules and regulations within the next three levels "not effective."

None of the respondents consider it "very effective."

This result shows that the image of the Authority may be impaired by the delay in the process of implementation.
**G) In your own words what you understand by the word "implementation" in an IMO context**

<table>
<thead>
<tr>
<th><strong>To be prepared, instructed and used.</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Apliación que se debe de cumplir poniéndose en práctica o ejecutar la acción sobre otra en beneficio ante el cambio de mejora.</strong></td>
</tr>
<tr>
<td><strong>Implementation is the act of applying a change in legislation to improve the current state of the law.</strong></td>
</tr>
<tr>
<td><strong>It is the process through which the maritime administration made compulsory, by national laws or regulations, the conventions and codes previously adopted within IMO.</strong></td>
</tr>
<tr>
<td><strong>Implementation is to create the legal frame in order to fulfill with the IMO requirements.</strong></td>
</tr>
<tr>
<td><strong>Generar el marco normativo necesario conforme lo firmado por el estado</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Run in practice regulations</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The effective execution of the rules</strong></td>
</tr>
<tr>
<td><strong>Implementation in an IMO context is the real improve of the new regulations about the Life at sea and the Environment Protection.</strong></td>
</tr>
<tr>
<td><strong>La implementación implica todos los preparativos, cambios, formación, capacitación y gestión necesarios para aplicar una determinada norma emitida por la OMI</strong></td>
</tr>
<tr>
<td><strong>Implementation.... Identifies the problems &quot;around the planet and to proceed to apply the rules for to best handling</strong></td>
</tr>
<tr>
<td><strong>It is the way it will operate the rules issued by the Organization, which will be the action and the effect these will cause the seafarer’s why IMO is concerned that the implementation of their standards is the most appropriate in all the maritime Authorities.</strong></td>
</tr>
</tbody>
</table>
A NEW RULE OR CHANGE ANYONE BEFORE STIPULATED.

THIS MEANS THAT THE NEW REGULATIONS MUST STARTING A SOON IS POSSIBLE

IMPLEMENTATION IN AN IMO CONTEXT IS ABOUT APPLYING METHODS TO REACH THE OBJECTIVE OF SOME NEW RULE OR AMENDMENT PUBLISHED BY IMO.

FIT AND ASSURE IT IS WORKING

While many of these definitions (in English and Spanish) state that the implementation is related to regulatory, many also believe that this is part of a process that includes other things.

H.- Do you know the scope of the Maritime Labour Convention

<table>
<thead>
<tr>
<th>Yes [27]</th>
<th>No [6]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes 27</td>
<td>82%</td>
</tr>
<tr>
<td>No  6</td>
<td>18%</td>
</tr>
</tbody>
</table>

H1.- Minimum requirements for seafarers to work on a ship [b) Taking current labour regulations for seafarers in Peru into account, how much do you know about :]

<table>
<thead>
<tr>
<th>Nothing</th>
<th>1  3%</th>
<th>Enough</th>
<th>20  61%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some</td>
<td>6  18%</td>
<td>All</td>
<td>6  18%</td>
</tr>
</tbody>
</table>

H2.- Conditions of employment [b) Taking current labour regulations for seafarers in Peru into account, how much do you know about :]

<table>
<thead>
<tr>
<th>Nothing</th>
<th>2  6%</th>
<th>Enough</th>
<th>21  64%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some</td>
<td>8 24%</td>
<td>All</td>
<td>2  6%</td>
</tr>
</tbody>
</table>

H3.- Accommodation, recreation facilities, food and catering [b) Taking current labour regulations for seafarers in Peru into account, how much do you know about :]
Also, over 80% of respondents said all questions have "something” or “the necessary” knowledge of the rules.

On the other hand though 18% of respondents said unknown extent of MLC, when decomposed into its sections the percentage fell. This number reflects that some respondents may relate to their work rules without knowing where they come from.

Over 89% of respondents consider that the effectiveness of the rules issued in the first three values are closer to "nothing effective."
By being appellant, this may reflect some dissatisfaction with the role and actions executed by the Authority.

**J) Do you think the implementation of the MLC Convention will improve labour laws for seafarers?**

<table>
<thead>
<tr>
<th></th>
<th>Would improve</th>
<th>Would diminish</th>
<th>Would be equal</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>26</td>
<td>1</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Percentage</td>
<td>79%</td>
<td>3%</td>
<td>12%</td>
<td>6%</td>
</tr>
</tbody>
</table>

Recorded under Other responses were: "It will improve increase very much" and "must improve increase only if all the items are applied", which would increase the first option.

In summary 85% believe that the implementation would improve the conditions of seafarers.

**K.- Do you agree with these statements 1 is completely disagree, 5 completely agree**

**K1.- The current rules are good, the problem is not implemented.**

<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Count</td>
<td>3</td>
<td>5</td>
<td>5</td>
<td>16</td>
<td>4</td>
</tr>
<tr>
<td>Percent</td>
<td>9%</td>
<td>15%</td>
<td>15%</td>
<td>48%</td>
<td>12%</td>
</tr>
</tbody>
</table>

**K2.- The signing of the MLC does not guarantee compliance**

115
We already have too many rules.

The result indicates that 48% of respondents felt that the main problem lies in the implementation of the rules. Question three of this section considers the same idea that there are not many of these.

The response option 3 on the second question reveals a certain degree of expectation with the implementation of the MLC.

Which of the following factors do you consider important for effective implementation of the Maritime Labour Convention in Peru?
1 is unimportant / 5 very important

L1.-Politics
L2.- Better laws

| 1 | 0 | 0% |
| 2 | 3 | 9% |
| 3 | 5 | 15% |
| 4 | 14 | 42% |
| 5 | 11 | 33% |

L3.- Authority control

| 1 | 0 | 0% |
| 2 | 2 | 6% |
| 3 | 3 | 9% |
| 4 | 10 | 30% |
| 5 | 18 | 55% |

L4.- Major access to education

| 1 | 0 | 0% |
| 2 | 4 | 12% |
| 3 | 7 | 21% |
| 4 | 4 | 12% |
| 5 | 18 | 55% |

L5.- Business

| 1 | 1 | 3% |
| 2 | 3 | 9% |
| 3 | 15 | 45% |
| 4 | 11 | 33% |
| 5 | 3 | 9% |

L6.- Better coordination between public and private organization
The results give preference to 55% to the issues of "control authority" and "greater access to education" as the most important, this reflects what would be the main issues that should be taken when implementing the decision to be taken MLC.

Although less important than the above but with a high vote of 75% in the sum of categories 4 and 5 are the points "better coordination between public and private bodies" and "good laws" that which is associated with existing responses in the previous section.

The business remains a factor with 45% average

### M) What kind of system is more effective for you, if you need to increase your knowledge?

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Self studies</td>
<td>5</td>
<td>15%</td>
</tr>
<tr>
<td>Attend class</td>
<td>17</td>
<td>52%</td>
</tr>
<tr>
<td>E-learning</td>
<td>13</td>
<td>39%</td>
</tr>
<tr>
<td>Conference</td>
<td>17</td>
<td>52%</td>
</tr>
<tr>
<td>Other</td>
<td>0</td>
<td>0%</td>
</tr>
</tbody>
</table>

The educational attendance activities are more accepted, followed by e-learning or mixture of both

### N) If you want you to write some additional comment-

*ESPEREMOS MEJORAR EL SISTEMA LABORAL MARÍTIMO.*

*IF YOU ARE TRYING TO HELP THE CURRENT REGULATION AT PERU TRY TO START FOLLOWING A BETTER WAY FOR ALL DOCUMENTS THAT ALL SEAFARERS AND COMPANIES MUST FOLLOW AT CAPITANIAS.*

*THIS NEW INSTRUMENT HAS BEEN DESIGNED TO ENSURE THE WIDEST POSSIBLE ACCEPTANCE AMONG GOVERNMENTS, SHIPOWNERS AND MARITIME PROFESSIONALS COMMITTED TO THE PRINCIPLES OF RESPONSIBLE WORK IN THE SEA, SO IT REQUIRES A TOTAL UNDERSTANDING OF ALL GUESTS.*
The adoption and implementation of MLC 2006 will not occur, unless that DICAPI develop as soon as possible, an aggressive policy with Ministry of Labour.

We must take timely knowledge of the changes that arise in the maritime environment if we do not want to look overwhelmed by the progress.

Thanks a lot for this research I congratulate you Mr. and please go on and keep making publish our rights and the low interest of the government about us, the seafarers. Maybe in this way they can do something more for us.

Kindly note that I live and work out of Peru.

It is very important that our Peru must improve the MLC in order to be in the same conditions with another flag, our ladies had been started to go to foreign countries and must avoid PSC detentions for no comply with the MLC.

The comments highlight the importance of the MLC, the need for its implementation and responsibility of the Administration in this project.

My thanks to all participants for their selfless support and broad range of responses to the present work.

Conclusions

Surveys were made to achieve the first two objectives of the research

- Demonstrate the effectiveness of the existing legal framework (national and international) in the field of maritime labor in Peru
- Identify actions that have been taken to date for the implementation of the Maritime Labour Convention 2006 in Peru.

Even though the survey population is small the results for the purposes of this study are valid because the group of respondents are diverse and directly participate in the maritime field.
Also the conclusions obtained are significant for this study because they provided an overview of the situation of the workplace in Peru viewed from the three areas, authority, seafarers and shipowners or companies.

Likewise although maritime safety continues to attract the most attention from the respondents, the issues relating to seafarers are in second place of interest.

Furthermore while there is acceptance of the status quo of the regulatory framework, there is expectation that Peru will eventually sign the MLC and the Administration will enhance their channels of information and education programs to ensure that implementation takes place.

Finally, the importance of Administration in leading processes has been emphasized and that there is exert adequate control at present and any future process.
Data results – Interviews

Brief introduction about yourself

1) What aspects do you know about Maritime Labour Convention?
2) Considering the implementation of other Conventions what will be the process in your country for implementing MLC?
3) In your opinion what kind of issues are present in the implementation process?
4) Do you think that one structured education and training program could help the process. If so, do you have any suggestion to what such a program could look like?
5) Do you have anything else to add?

The interviews were conducted with 5 WMU students from countries belonging to the ROCRAM and were part of the Viña del Mar MoU in order to verify the application of the Convention in those countries and implementation processes.

Five interviews were conducted, however one of them was not considered for this study because the respondent refrained from some answers, and the interview was aimed at commercial aspects of the industry.

Their participation was greatly appreciated.

Summary of responses

After a brief introduction, the following table shows some characteristics of respondents:

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>AREA</th>
<th>LAST RESPONSIBILITY</th>
<th>MARITIME EXPERIENCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colombia</td>
<td>Administration</td>
<td>Maritime Administration</td>
<td>20 years</td>
</tr>
<tr>
<td>Panamá</td>
<td>Administration</td>
<td>Flag State</td>
<td>15 years</td>
</tr>
<tr>
<td>Argentina</td>
<td>Administration</td>
<td>Flag and Port State</td>
<td>10 years</td>
</tr>
<tr>
<td>Chile</td>
<td>Administration</td>
<td>Flag and Port State</td>
<td>13 years</td>
</tr>
</tbody>
</table>

**QUESTION 1**

All respondents had a general knowledge of the MLC, even accurate in some parts. Also it became known that Panama ratified the convention in 2009 and Argentina did so this year.
Regarding the details that characterize a treaty of ILO and tripartite participation in its implementation, the responses were different.

Although it is known that the groups are part of the process (authorities, seafarers, shipowners), respondents said they had not been directly involved in such work.

However, the general commentary focused on the fact that the MLC represented a major effort of the Maritime Administration.

On the other hand, the various existing problems of individual countries was reflected. While some are focused in relation to their responsibilities as flag state for the number of ships, they have in their national register another direct more effort on Port State Control activities by the commercial movement of its ports.

**QUESTION 2**

The answers were geared to mention that implementation processes are carried out within their organizations in legal or similar areas and from there the corresponding regulation for implementation in the operational areas occurs. Some said that they were currently in the process of adopting the MLC coordination with other sectors of government (Ministry of Labour) to jointly support the advisability of signing the MLC to the Congress of the respondents country is necessary, something that was done in the countries that have already signed.

On the other hand it has been said that typically processes result in new legislation, some for work onboard experience are encouraged to describe the steps that happen on board after receiving a modification to international treaties.

In addition, after the actions of the legal side, follows a process that can take time, in which actions are performed, in which diffusion plays an important role.

**QUESTION 3**

Problems are generated based on the type of agreement. There have been agreements implementing processes that generate structural changes or addition of certain equipment on ships, which take time for adaptation and deadlines where normally serious deficiencies for compliance exist.
In the case of a country with open register, the issue is more practical through the RO. In these cases, the problem arises when trying to have a uniformity of opinion between the RO acting on behalf of the flag state.

Everyone thinks that the processes are more effective when the ships on international voyages are continuous as the respondents do not have the possibility to delay its implementation as it can affect business internationally with stops at other ports and others. Many ships in serious shipping companies taking action on these issues immediately.

However, the major drawbacks arise with ships operating in waters that are having trouble meeting.

Furthermore, the respondents stated that there are drawbacks to the side of the control work, and propagate when it involves having some additional equipment or specific knowledge which takes time to disseminate and teach courses, lectures or conferences.

In some countries this works via news, emails, regular newsletters. Also in some countries it has open instruction centers that enable the staff, and they act as multipliers.

The reality shown in other implementations suggests a slow process. This is seen during inspections where seafarers multicultural, usually, are not aware of the issue.

QUESTION 4

All respondents agreed the education is a fundamental issue in the implementation process and involves a great effort from the side of Administration and as Maritime Authority in charge of the control. They agreed that the process begins with a theoretical basis but is more effective when learning in the field with someone who knows the subject.

On the other hand, the issue must be made public which would help generate awareness and interest among stakeholders.

When the possibility of including emotional issues such as motivation for this type of implementation is suggested, responses were considered negative because shipowners in this issue involves an economic problem issue and would not have much to do with the proposal. In the case of the seafarers, the task is to try to ascertain their rights and ensure that they feel confident their complaints to provide a reliable authority, so that the image of the Authority, should be maintained to support this process.
QUESTION 5
The comments came around the spread and what the most appropriate ways to make the process quick and are public knowledge. Also about the difficulties of coordination with other state agencies such as the health and labor area where the expertise of maritime inspectors is limited.

Although the Viña del Mar Agreement does not consider the MLC as a relevant instrument, they are expected to ratify soon together with other countries, so it is advisable to be prepared.

Also, mutual acceptance is that existing technology can support processes and that cooperation can be an interesting factor to consider once this agreement has a solid foundation of mutual trust built through the years.

Conclusions

The reality in the process of implementation in member countries ROCRAM does not differ much from that in Peru. Beyond the Panamanian case which being the largest registry in the world has unique characteristics, implementation processes have presented the same problems relating to dissemination, knowledge, commitment, speed and control.

The experience of working together among stakeholders to carry out these processes under the flexibility it gives the MLC states, is not well known.

There are administrative and economic factors that may limit the implementation process, however all processes have included education as a supplementary part of the actions executed.

All respondents were in agreement that the structured education can contribute to the process and that existing technology can support the generation of new forms of instruction and control dissemination.

Finally, all agreed that ROCRAM and Viña del Mar Agreement are forums that can help the process and hopefully can support the implementation of MLC since most of its members have not already signed.
Data analysis – Secondary resources

Search and evaluation of the implementation process in countries around the world in search of education and training methods that have been applied in their processes was made.

The study had access to manuals, regulations, conferences, theses and forums which nourished the researcher's knowledge about the processes.

However, it was only available to educational material consistent presentations of lectures or classes on general knowledge regarding the MLC and implementation steps. Many of these cases correspond to the effort of the RO acting on behalf of the flag state.

The existence of the vast documentation issued by the ILO, IMO, ICS, ITF and other implementation guidance show the evidence that they have been a support to the authorities for the regulatory domain.

No evidence for the existence of structured educational material for the process of implementing plans found. However, it is necessary to accept that due to time and economic reasons it has not been possible to perform in situ observations of processes in other countries.

The following implementation processes were mainly checked:


[http://www.liscr-j.com/pickup/doc/Liberian%20Registry's%20Application%20of%20MLC,%202006.pdf](http://www.liscr-j.com/pickup/doc/Liberian%20Registry's%20Application%20of%20MLC,%202006.pdf)