

The Maritime Labor Convention 2006 – Time for International Community to Take Interests of Seafarers' Welfare!

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Abstract

The Maritime Labour Convention 2006 (MLC) was drafted under the auspice of the International Labour Organisation (ILO). Pursuant to Article VIII (3), the Convention should come into force within a year after the ratification by the thirtieth State and when the total share of the gross tonnage of ships reaches thirty-three per cent. Such goals have now achieved and the Convention is scheduled to come into force on 20 August 2013. This article aims at raising awareness of international community on this new piece of international agreement.

Keywords: Maritime law; International convention; Seafarers' rights

Introduction

The Maritime Labour Convention, 2006 (MLC) drafted under the auspice of the International Labour Organisation (ILO) has its aim as stated in its Preamble to provide 'special protection' to seafarers, bearing in mind natures of the job which require worldwide travelling and risks bearing along each voyage. As per Article VIII (3), the Convention should come into force within a year after the ratification by the thirtieth State with the total share of the world gross tonnage of ships reaches thirty-three percent. These pre-conditions to the coming into force of this Convention have since been reached with the ratification by the Philippines and the Russian Federation on 20 August 2012. As of the date of writing, there are thirty five State Parties to this Convention [1]. The Convention is coming into force on 20 August 2013 [2]. Most of these State Parties are 'flag of convenience' countries, [3] including Liberia and Panama. This appears to be a good sign for the MLC is applicable to the State Parties whose ships hoisting their flags [4]. The MLC is coming into force at the right time when acute shortage of seafarers is known to be a serious problem worldwide. As a profession, a crewman, captured for a long period of time in a metal-built, rectangular-shaped vehicle, with limited means of communication with friends and family, no longer attracts young generation. On the other hand, a carriage of goods by sea remains a blood line of international trade. Bulk cargoes, oils, chemical products are all carried by sea in ships manned by specifically-trained seafarers. The MLC, if not to attract 'new blood' of seafarers, will certainly play its part in maintaining those old bloods. Ship-owners and ship-operators can only keep the retention rate of seafarers if the working conditions on board their ships are good. The MLC is designed to impose such standard of working conditions. This article seeks to outline significant provisions of the MLC with the hope to stimulate discussions among academic community in discussing ramifications of this Convention and the author foresee that such open discussions can only be encouraged through an open-access space as the *Journal of Civil and Legal Sciences*.

The MLC contains fifteen articles. However, the focus is actually on the 'Regulations and Code of the Maritime Labour Convention' (Regulations) attached to the MLC. The Regulations are split into five significant areas, namely provisions concerning minimum requirements for seafarers working on a ship (regulations 1.1-1.4), conditions of employment (regulations 2.1-2.8), accommodation, recreational facilities, food and catering (regulations 3.1 and 3.2), health protection, medical care, welfare and social security protection

(regulations 4.1-4.5) and compliance and enforcement (regulations 5.1 - 5.3).

The Regulations set out the minimum age for seafarers as sixteen years old while only those ages eighteen or above can work at night [5]. The Member States have rights to determine seafarers' hours of work and hours of rest. However, these should not be less favourable than the prescribed standard – eight hours a day with one day rest a week and a rest on public holidays [6]. For young seafarers under the age of eighteen, their working hours should not be more than eight hours a day, with fifteen-minute rests every each two hours of continuous work [7]. The Convention also imposes that the Member States should ensure appropriate accommodations and recreational facilities on board ships flying their flags. At a minimum, for recreational facilities, there should be spaces for reading, writing, and games. Other facilities such as television, bars on board, internet and e-mail accesses at the reasonable charge are optional [8]. Seafarers should be provided with food and drinks in reasonable quality and quantity free of charge and the Member States should also inspect in order to 'collect up-to-date information on nutrition and on methods of purchasing, storing, preserving, cooking and serving food, with special reference to the requirements of catering on board a ship' [9]. The Convention also imposes size of seafarers' sleeping rooms on board ships [10]. Seafarers should only be engaged upon a fair employment agreement whereby seafarers have a chance to review and have access to appropriate advice before signing the agreement [11]. Under the Convention, the Member States shall ensure ships flying their flags, with five hundreds gross tonnage or over, carry the 'Maritime labour certificate' certifying seafarers' living and working conditions and also the 'declaration of the maritime labour compliance' stating national requirements for seafarers' working and living conditions and stipulated measures adopted by shipowners to ensure compliance with such requirements [12]. The Convention rests much power to enforce and ensure compliance with this Convention upon each Flag State. The difficulty may arise in the sense that each Flag

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State may adopt different standards in their inspections. Nevertheless, with detailed standards and guidelines, this Convention should have an impact of enhancing seafarers' morale and professionalism as well as re-enforcing shipowners' duties as reasonable employers.

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