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Master of Science in Shipping

**MARITIME LABOUR CONVENTION 2006
EFFECT ON SHIPPING INDUSTRY**

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ABSTRACT

The main purpose of this study is to examine the effect of “Maritime Labor Convention 2006” (MLC 2006), adopted by The International Labor Organization (ILO) on February of 2006, on shipping industry.

Special attention and consideration will be given to the attitudes, beliefs and perceptions held by Greek Ship-owners towards MLC and the legal defensibility it might offer to the seafarers. Ultimately, based on the analysis of the results of this project, clarifications will be given to all interested parties concerning their new role in the shipping industry once this convention will be in force.

The research methodology incorporates secondary research obtained in Greek libraries as well as the Internet. Primary research was also conducted with a combination of questionnaires distributed to Greek Ship-owning companies as well as to Filipino, Ukrainian and Russian seafarers.

Research has revealed that most of the relevant parties had not realized, until recently, the major implications of MLC and the requirements come with it. So far, legal liability of ship-owners is not an issue that has been taken seriously under consideration. Additionally, seafarers do not really perceive this convention as their guardian and as a movement towards a safe working environment but at least they realized that their right to decent work has to be asserted.

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Chapter 1 INTRODUCTION

1.1 GENERAL FORWARD

Since 1920 the ILO has adopted more than 70 Conventions and Recommendations in order to provide a comprehensive legal framework for the employment relationship between ship-owners and seafarers. The previous 37 ILO Conventions, that tried to regulate the seafarers' working and living conditions, had not been ratified from most of the ILO members and this has resulted to the absence of a legal basis, which would satisfy seamen's employment rights¹.

"Maritime Labor Convention 2006" (MLC 2006) which has been adopted by the International Labor Organization (ILO) on February of 2006 will try to set a new labor standard as a landmark development in shipping industry. The goal of the MLC 2006 is to update and consolidate the existing ILO Conventions regarding seafarers working and living conditions, to facilitate the recruitment, retention and motivation of seafarers in a very tight labor market and to be established as the 4th pillar in the international maritime regulation (together with SOLAS, MARPOL and STCW)

The MLC had to be ratified by at least 30 member States with a total share in the world gross tonnage of ships of 33 per cent. This milestone was reached on 20 August 2012. The MLC will thus come into force on 20 August 2013, 1 year after the thirtieth ratification.

The main challenges in handling the MLC 2006 are: the competence of all involved (ashore and onboard), the training requirements for seafarers, the compliance with requirements for "Private Recruitment and Placement Services" and of course the Ship-owners' liability.

¹Jesús A. MENACHO Piérola (2010), "How the "Maritime Labour Convention, 2006" will improve seafarers' conditions, related with employment rights, and safe and secure workplace"

Some of the reasons that pushed ILO to the decision of developing a new Convention are the following:

- Greater awareness of the unacceptable impact of sub-standard shipping
- Australia's Ships of Shame report (1992)
- Sinking ships and loss of human life
- Marine Pollution
- Hazardous living conditions on board to health and safety of the crew due to sub-standard ships

In response to "globalization" ILO will try through MLC 2006 to achieve universal acceptance and to provide a comprehensive instrument for the effective protection of the seafarer's rights to decent work.

ILO will combine the best of the old with the new by building upon well-established approaches such as previous ILO conventions, STCW and SOLAS in order to promote a flexible approach to implementation through national "substantial equivalences" and thus to achieve early ratification from members.

1.2 DEFINITIONS

For the purpose of this paper and in order to ensure that a common understanding is established, below definitions are considered essential.

Competent authority

«Means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned»².

²ILO (2006), Maritime Labour Convention

Each ratifying state must establish an effective system for implementation and enforcement of the standards of the Convention. Governments must enact the necessary laws and regulations or to authorize public institutions or other organizations which it recognizes as competent and independent to carry out inspections or to issue certificates or to do both. The Flag State, or the Recognized Organizations, on their behalf, must develop and implement procedures for enforcement, including resources, people and funds, training and support systems, worldwide.

Ship-owner

The majority of MLC requirements place a responsibility on the *ship-owner* for whom Article 2(1) (j) of the Convention contains the following definition:

“Ship-owner means the owner of a ship or any other organization or person such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with the Maritime Labour Convention, regardless of whether any other organization or persons fulfill certain of the duties or responsibilities on behalf of the owner”³

The obligations that will emerge from the enforcement of MLC 2006 will have definitely a financial impact on Ship-owners and also it will strive for a level playing field for them. Present paper will focus on this particular aspect and hopefully we will have some interesting findings to point to all relevant parties.

Seafarer

«Seafarer means any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies»⁴. For seafarers the new convention will

³MLC 2006 Op. cit footnote 2

⁴MLC 2006 Op. cit footnote 2

try to create a safe working environment, a fair employment relationship, medical and social protection but most of all a decent way of living.

Seafarer Recruitment and Placement service

«*Seafarer recruitment and placement service* means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners»⁵.

Within one year after the Convention enters into force, private recruitment and placement services must be licensed, certified or otherwise regulated in order to ensure compliance with requirements in the Convention. The ship-owner will be responsible for, as far as reasonable, ensuring compliance when using services in a non-ratifying state and this will include some sort of documentation/certification.

1.3 METHODOLOGY OVERVIEW

For the purpose of this study, both primary and secondary data were obtained. The collection and analysis of the data were necessary in order to explore the effect of MLC 2006 in shipping industry and to satisfy the research objectives that will be addressed later on this paper. Primary data were obtained by conducting quantitative research. The technique used for collecting quantitative primary data was by distributing structured questionnaires to shipping companies and seafarers. External secondary data were collected from sources, such as Internet resources, library books, journals and government institutes.

⁵MLC 2006 Op. cit footnote 2

Chapter 2 LITERATURE REVIEW

2.1 INTRODUCTION

The following chapter aims to review the literature and to present the existing knowledge on International Labor conventions, their impact on the shipping industry, and more specifically, how those have addressed the human element. Literature review will evidence that ILO conventions so far have not improved seafarers' conditions, related with employment rights, and that all the ILO instruments used so far have not satisfied any of the relevant parties, governments, ship-owners and more importantly the seafarers. Finally, the emerged need for a new convention which would consolidate all previous ILO conventions will be indicated and this will give a go ahead for our research on whether MLC 2006 will provide a comprehensive labor framework or it will become also an outdated instrument not reflecting the working and living conditions of seafarers.

Originally, the structure and the history of ILO will be analyzed since MLC 2006 is an ILO convention and therefore this will facilitate to understand how MLC has been produced.

ILO is a United Nations agency, which has been conceived by and for the industrial countries in 1919. Its foundation was mostly emerged due to humanitarian, political and economic reasons⁶.

The unacceptable working conditions, the workers exploitation and the employers being indifferent for their health initiated a wave of revolution. This stimulated also the political perspective since the workers, whose numbers were ever increasing as a result of industrialization, would create social turbulence. Finally economic motivation for ILO's foundation appeared since «the failure of any nation to adopt human conditions

⁶ILO (2004), "The ILO: What it is. What it does"

of labor is an obstacle in the way of other nations which desire to improve the conditions in their own countries⁷. »

ILO has a tripartite structure and therefore employers' and workers' organizations have an equal voice with governments in forming rules, regulations and policies. The ILO and its tripartite structure have assembled numerous international standards in all work-related matters. These ILO standards take the form of international Labor Conventions and Recommendations. ILO Conventions are international agreements, subject to ratification by ILO member States, which will end up being statutory requirements. Recommendations are non-binding instruments – often dealing with the same subjects as Conventions – which act as guidelines for the flag state and may or may not be included within its national laws⁸.

Since its foundation ILO has adopted more than 70 Conventions and Recommendations relating to seafarers' accommodation, rest hours, medical care and repatriation in order to ensure decent working and living conditions for seafarers. Most of them have not been ratified from the majority of the ILO Members or have become outdated.

2.2 PREVIOUS ILO CONVENTIONS

The Legal Status of the 37 ILO Conventions revised by MLC 2006 is shown in Table 1, in which we can see that most of them (26) were obsolete, due to being outdated instruments, other instrument replaced them or needed to be revised, and only 11 of them were in Up-to-date condition. This means that more than two thirds of the Conventions were in a “Not-to-date” condition⁹.

⁷ILO (2004), Opt Cit footnote 6

⁸How the ILO works

⁹Menacho (2010), Op. cit footnote 1

Table 1

37 Conventions Included in MLC-2006	Ratified	Denounced	Replaced by	Status
Minimum Age (Sea), 1920 (N° 7)	5	48	138	1
Unemployment Indemnity (Shipwreck), 1920 (N° 8)	60	0		3
Placing of Seamen, 1920 (N° 9)	34	7	179	1
Medical Examination of Young Persons (Sea), 1921 (N° 16)	82	0		3
Seamen's Articles of Agreement, 1926 (N° 22)	60	0		3
Repatriation of Seamen, 1926 (N° 23)	46	1	166	1
Officers' Competency Certificates, 1936 (N° 53)	37	0		2
Holidays with Pay (Sea), 1936 (N° 54)	4	2	91	1
Shipowners' Liability (Sick and Injured Seamen), 1936 (N° 55)	18	0		3
Sickness Insurance (Sea), 1936 (N° 56)	19	1	165	1
Hours of Work and Manning (Sea), 1936 (N° 57)	1	2	180	1
Minimum Age (Sea) (Rev.), 1936 (N° 58)	17	34	138	2
Food and Catering (Ships' Crews), 1946 (N° 68)	25	0		3
Certification of Ships' Cooks, 1946 (N° 69)	38	0		3
Social Security (Seafarers), 1946 (N° 70)	6	1	165	1
Paid Vacations (Seafarers), 1946 (N° 72)	1	4	91	1
Medical Examination (Seafarers), 1946 (N° 73)	46	0		3
Certification of Able Seamen, 1946 (N° 74)	29	0		3
Accommodation of Crews, 1946 (N° 75)	1	4	92	1
Wages, Hours of Work and Manning (Sea), 1946 (N° 76)	0	0		1
Paid Vacations (Seafarers) (Rev.), 1949 (N° 91)	18	7	146	1
Accommodation of Crews (Rev.), 1949 (N° 92)	47	0		2
Wages, Hours of Work and Manning (Sea) (Rev.), 1949 (N° 93)	5	0		1
Wages, Hours of Work and Manning (Sea) (Rev.), 1958 (N° 109)	11	4	180	1
Accommodation of Crews (Supp. Prov.), 1970 (N° 133)	32	0		2
Prevention of Accidents (Seafarers), 1970 (N° 134)	29	0		3
Continuity of Employment (Seafarers), 1976 (N° 145)	17	0		4
Seafarers' Annual Leave with Pay, 1976 (N° 146)	17	0		4
Merchant Shipping (Minimum Standards), 1976 (N° 147)	55	0		4
Protocol 1996 to the Merchant Shipping, 1976 (N° 147P)	23	0		4
Seafarers' Welfare, 1987 (N° 163)	17	0		5
Health Protection and Medical Care (Seafarers), 1987 (N° 164)	14	0		5
Social Security (Seafarers) (Rev.), 1987 (N° 165)	3	0		5
Repatriation of Seafarers (Rev.), 1987 (N° 166)	13	0		5
Labour Inspection (Seafarers), 1996 (N° 178)	15	0		5
Recruitment and Placement of Seafarers, 1996 (N° 179)	10	0		5
Seafarers' Hours of Work and the Manning of Ships, 1996 (N° 180)	21	0		5
3 Conventions Revised by MLC-2006, but not included				
Seafarers' Pensions, 1946 (N° 71)	13	0		3
Seafarers' Identity Documents, 1958 (N° 108)	61	3	185	2
Seafarers' Identity Documents, 2003 (N° 185)	14	0		5

Legend for current status:

1 : Outdated instrument

2 : Other instrument

3 : Instrument to be revised

4 : Up-to-date instrument

5 : Up-to-date instrument. This Convention was adopted after 1985 and is considered up to date

Source: Menacho (2010)

Menacho (2010), in his paper argues that previous ILO Conventions and Recommendations for seafarers were outdated; were not designed to ensure the widest

acceptance among governments, ship-owners and seafarers and that is why finally those were not implemented or enforced. Although International conventions such as SOLAS, STCW and MARPOL have been ratified from the majority of the Members most of the ILO conventions have been ratified from a very small average.

Above analysis of previous ILO Conventions served the purpose of indicating the conventions revised through MLC 2006. Next we will see how MLC 2006 has addressed the main aspects of seaman's living conditions on board as well as how it intends to safeguard his rights.

2.3 MLC 2006- COMBINING THE "BEST OF THE OLD WITH THE NEW"

The MLC 2006 convention comprises two sections. The first consists of articles and regulations, with a follow on two-part code. That code is then divided into five titles.

The five titles are:

- Title 1 – Minimum requirements for seafarers to work on a ship
- Title 2 – Conditions of employment
- Title 3 – Accommodation, recreational facilities, food and catering
- Title 4 – Health protection, medical care, welfare and social security protection
- Title 5 – Compliance and enforcement

Part A of each title is compulsory and will be a statutory requirement.

Part B of each title acts as a guideline for the flag state and may or may not be included within its national laws.

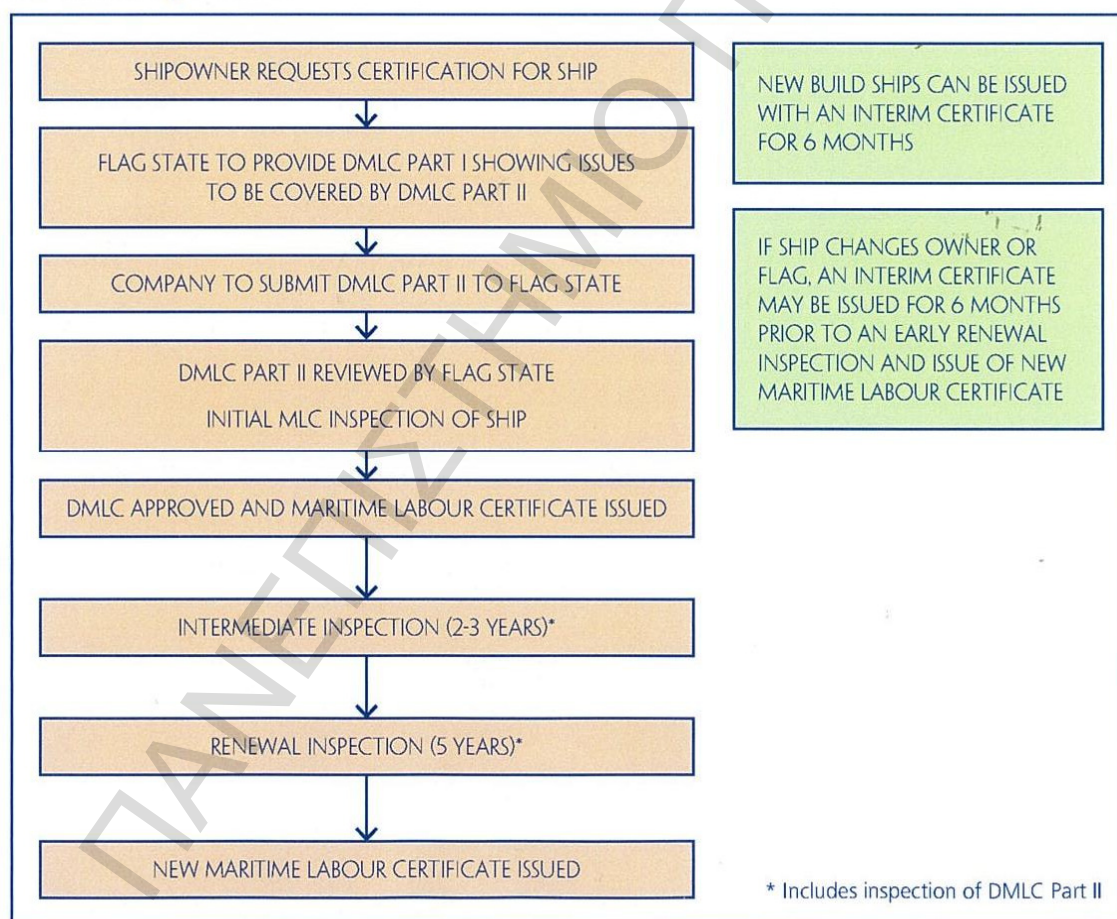
The procedure for obtaining certification under the MLC 2006 is to send a formal request to the Flag Administration for the issuance of the DMLC Part I. The DMLC Part I will be drawn up from the competent authority and shall identify the list of matters to be inspected in accordance with the Convention but also in accordance with the national and the vessel's type specific requirements. Thereafter, the Administrator

will issue the DMLC Part I which will be sent to the ship-owner in order to prepare the DMLC Part II. The DMLC Part II will be drawn up from the ship-owner and shall identify the measures adopted in order to ensure compliance with DMLC Part I. Upon completion of the DMLC (Part I and Part II) and issuance to the ship-owner, the vessel will be inspected by the Flag Administration or the Recognized Organizations (ROs) in order to obtain the ML Certificate.

Find below Certification procedure as indicated in the ISF Guidelines on the application of the ILO Maritime Labour Convention¹⁰

Table 2

Certification procedure



¹⁰ISF – Guidelines on the application of the ILO Maritime Labour Convention

In **Appendix A** you may find Marshall Islands forms:

- MSD 400A, Declaration of Maritime Labour Compliance (DMLC) – Part I
- MSD 400B, Declaration of Maritime Labour Compliance (DMLC) – Part II
- Maritime Labour Certificate as illustrated in APPENDIX A5-II of MLC 2006.

The working and living conditions of seafarers that must be inspected and approved by the flag State before certifying a ship in accordance with Standard A5.1.3, paragraph 1 are:

1. Minimum age (Regulation 1.1)
2. Medical certification (Regulation 1.2)
3. Qualifications of seafarers (Regulation 1.3)
4. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4)
5. Seafarers' employment agreements (Regulation 2.1)
6. Payment of wages (Regulation 2.2)
7. Hours of work or rest (Regulation 2.3)
8. Manning levels for the ship (Regulation 2.7)
9. Accommodation (Regulation 3.1)
10. On-board recreational facilities (Regulation 3.1)
11. Food and catering (Regulation 3.2)
12. On-board medical care (Regulation 4.1)
13. Health and safety and accident prevention (Regulation 4.3)
14. On-board complaint procedures (Regulation 5.1.5)

14 Areas

Hereunder we will compare the MLC 2006 with the previous ILO conventions by examining each one of the areas described above and how those had been regulated before MLC 2006.

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

In this Title, MLC 2006 regulates:

- Minimum age (Regulation 1.1)
- Medical certificate (Regulation 1.2)
- Training and qualifications of seafarers (Regulation 1.3)
- Recruitment and placement services (Regulation 1.4)

For the *Minimum age (Area 1)*, MLC 2006 has revised two ratified ILO conventions:

- Minimum Age (Sea), 1920 (N° 7). This convention has been ratified by five Members and denounced by forty-eight Members.
- Minimum Age (Sea) (Rev.), 1936 (N° 58). This convention has been ratified by seventeen Members and denounced by thirty-four Members¹¹.

Both conventions have been replaced by ILO with the Minimum Age Convention, 1973 (N° 138) which has not been revised by MLC 2006 since it does not regulate work only at sea.

The purpose of this regulation is to ensure that no underage persons work on a ship. MLC 2006 will introduce new points regarding minimum age such as: the minimum age of any person employed on board will be 16 years, seamen under the age of 18 onboard ships will be restricted from working at night and also the engagement or work of seafarers under the age of 18 shall be prohibited where the work is likely to jeopardize their health and safety. The competent authority may make an exception to strict compliance with the night work restriction when this concerns the effective training of the seafarers in accordance with established programs and schedules or under the condition that this engagement is not likely to jeopardize their health and safety. Above enforce ship-owners to have: age verification procedures and records, access to national

¹¹ILO Website, NORMLEX

legislation regarding seafarers under the age of 18, hours of work/rest records with seafarer's signatures, risk assessment records as well as list with training programs and hazardous works approved from the competent authority in the Flag State.

Finally, minimum age criteria are also indicated in MLC 2006, Standard A3.2, Food and catering, which will prohibit seafarers under the age of 18 to be employed or engaged or work as a ship's cook.

For the *Medical certificate (Area 2)*, MLC has revised two ratified ILO conventions:

- Medical Examination of Young Persons (Sea), 1921 (Nº. 16). This convention has been ratified by eighty-two Members and denounced by none.
- Medical Examination (Seafarers), 1946 (Nº 73). This convention has been ratified by forty-six Members and denounced by none¹².

According to MLC 2006, each flag administration shall prescribe the nature of the medical examination and certificate. Until now most of the flag administrations (Marshall Islands, Bahamas, and Liberia) have issued relevant circulars with their requirements concerning seafarers' medical examinations and certificates. Nevertheless, Members through their specific requirements will pursue to establish uniformity in the medical certificate format in order to facilitate all parties involved.

The medical certificate shall be issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate.

Seafarers that have been refused a certificate or have had a limitation imposed shall be given the opportunity to have a further examination by another independent medical practitioner. A medical certificate shall be valid for a maximum period of two years unless the seafarer is under the age of 18, in which case the maximum period of validity

¹²ILO Website, NORMLEX

shall be one year. A certification of color vision shall be valid for a maximum period of six years.

The STCW Code¹³, as amended in Part A, Chapter I, General Provisions, Section A-I/9 & Table A-I/9 as well as the Guidelines for Conducting Pre-Sea and Periodic Medical Fitness Examination for Seafarers issued by World Health Organization¹⁴ can contribute towards harmonizing the standards for medical examinations of seafarers and improve the quality and effectiveness of the medical care provided to seafarers. Above regulation enforces ship-owners to keep a list of medical practitioners, letter of authorization or recognition of the clinic by competent authority in the flag state as well as copies of temporary exemptions or extensions given to seamen.

Furthermore, for the *Training and the qualifications of seafarers (Area 3)*, MLC has revised two ratified conventions:

- Officers' Competency Certificates, 1936 (N° 53). This convention has been ratified by thirty-seven Members and denounced by none.
- Certification of Able Seamen, 1946 (N° 74). This convention has been ratified by twenty-nine Members and denounced by none¹⁵.

If a member has ratified the Certification of Able Seamen Convention, 1946 (No. 74), shall continue to carry out the obligations under that Convention unless and until mandatory provisions covering its subject matter have been adopted by the International Maritime Organization and entered into force, or until five years have elapsed since the entry into force of MLC 2006. This means that currently there are no major differences between revised conventions and MLC 2006.

Nevertheless, a new requirement concerning Training and Qualifications of seafarers is

¹³STCW Convention and STCW Code

¹⁴ILO (2011). Guidelines on the medical examinations of seafarers

¹⁵ILO Website, NORMLEX

described in MLC 2006, Standard A3.2, food and catering, paragraph (c) where it is required that each member shall ensure that catering staff shall be properly trained or instructed for their positions. The qualifications implied in this regulation for cook position can be found in Guideline B3.2.2, Ship's Cooks.

Finally, for the *Recruitment and placement services (Area 4)*, MLC 2006 revised two ratified conventions:

- Placing of Seamen, 1920 (N° 9). This convention has been ratified by thirty-four Members and denounced by seven. Finally, has been replaced by Recruitment and Placement of Seafarers, 1996 (N° 179).
- Recruitment and Placement of Seafarers, 1996 (N° 179). Ten Members have ratified this convention and it is considered as an up to date instrument¹⁶.

One of the main effects MLC 2006 will have on Seafarer Recruitment and Placement Services (SRPS) is that within one year after it enters into force, those must be licensed, certified or otherwise regulated in order to ensure compliance with requirements in the Convention. The ship-owner will be responsible for, as far as reasonable, ensuring compliance when using services in a non-ratifying state and this will include some sort of documentation/certification.

Although most of the items of Standard A1.4 were also in ILO Convention N° 179 there are some guidelines in MLC 2006 that bring many changes in the sector of recruitment and placement services.

As it has already been mentioned SRPS will have to implement a documented management system that will be certified according to Standard A1.4 in order to be able to provide its services. Furthermore, SRPS onwards must verify that labor conditions on ships where seafarers are placed are in conformity with applicable collective bargaining

¹⁶ILO Website, NORMLEX

agreements. SPRS will also have to ensure that it supplies seafarers only to ship-owners that offer terms and conditions of employment, which comply with applicable laws, and regulations.

Flag States must establish a system of protection, by way of insurance or an equivalent appropriate measure, to compensate seafarers for monetary loss that they may incur as a result of the failure of a recruitment and placement service or the relevant ship-owner under the seafarers' employment agreement to meet its obligations to them. In this case Ship-owners and/or SRPS will have to cover seafarers by purchasing insurance products that respond to key requirements of MLC 2006. Until now crews were left to fend for themselves in a medical emergency or abandoned in a port far from home. There are countries that have already established social security measures, like Norway, Italy, Brazil and Mexico, but in general most seafarers are not covered.

Above regulation enforces ship-owners and/or SPRS to keep copies of seafarer recruitment and placement service contracts, hiring records, audit reports of manning agents, copies of manning agency quality management certificates, emergency contact information, to publish seafarer's joining costs, to establish controls of exploitation and finally to define the process for handling seafarer's incompetence and indiscipline.

Ship-owners will have to provide evidence to SPRS in order to prove compliance with MLC 2006 such as: MLC certificate, Document of Compliance, Complaint procedures, Repatriation procedures, copy of Quality, Safety, Security and Environmental Policy.

Title 2 – Conditions of employment

In this Title MLC 2006 regulates:

- Seafarers' employment agreements (Regulation 2.1)
- Wages (Regulation 2.2)
- Hours of work and hours of rest (Regulation 2.3)

- Entitlement to leave (Regulation 2.4)
- Repatriation (Regulation 2.5)
- Seafarer compensation for the ship's loss or foundering (Regulation 2.6)
- Manning levels (Regulation 2.7)
- Career and skill development and opportunities for seafarers' employment (Regulation 2.8)

For Title 2 the successful inspection of Regulations 2.1, 2.2, 2.3 & 2.7 is considered most important.

For the *Seafarer's Employment Agreements (Area 5)*, MLC 2006 has revised one ratified ILO convention:

- Seamen's Articles of Agreement, 1926 (Nº. 22). This convention has been ratified by sixty Members and denounced by none¹⁷.

Seafarer's employment agreement (SEA) has always been a matter of dispute and thus it is very important to focus on how the MLC 2006 has amended it and whether this will safeguard seafarer's rights. According to MLC 2006, Seafarers' employment agreements shall in all cases contain the following particulars:

- a) the seafarer's full name, date of birth or age, and birthplace;
- b) the shipowner's name and address;
- c) the place where and date when the seafarer's employment agreement is entered into;
- d) the capacity in which the seafarer is to be employed;
- e) the amount of the seafarer's wages or, where applicable, the formula used for calculating them
- f) the amount of paid annual leave or, where applicable, the formula used for

¹⁷ILO Website, NORMLEX

calculating it

- g) the termination of the agreement and the conditions thereof, including:
- I. if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the shipowner than for the seafarer;
 - II. if the agreement has been made for a definite period, the date fixed for its expiry; and
 - III. if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged
- h) the health and social security protection benefits to be provided to the seafarer by the shipowner;
- i) the seafarer's entitlement to repatriation
- j) reference to the collective bargaining agreement, if applicable; and
- k) any other particulars which national law may require¹⁸.

Seafarers signing a seafarers' employment agreement shall be given an opportunity to examine and seek advice on the agreement before signing, as well as such other facilities as are necessary to ensure that they have freely entered into an agreement with a sufficient understanding of their rights and responsibilities.

The ship-owner and seafarer concerned shall each have a signed original copy of the seafarers' employment agreement.

Furthermore, according to MLC 2006, a SEA should identify how various branches of social security protection will be provided to the seafarers as well as any other information at the disposal of the ship owner, such as statutory deductions from the

¹⁸MLC 2006, Op. cit footnote 2

seafarer's wages and the ship owner's contributions.

The social security protection is regulated in MLC 2006, Regulation 4.5 where it is stated that it should include at least three of the following branches: medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivor's benefit.

Also, seafarer's entitlements to repatriation, which is regulated in MLC Regulation 2.5, will be included in SEA in order to indicate when they are entitled to repatriation and the costs to be borne by the ship owners.

Finally, SEA should refer to the Collective Bargaining Agreement (CBA), if this is applicable. Until now ship-owners intentionally have never disclosed information concerning the CBA implemented on board their vessels.

Above regulation enforces ship-owners to retain collective bargaining agreements on board, copies of signed employment agreements, copies of discharge certificate or book as well as copy of standard form of employment contract¹⁹.

Furthermore, ship-owners should define the process of how wages and other additional payments are made, how exchange rates are determined, documented procedures regarding compensation, benefits as well as records of reviews of flag state regulations related to collective bargaining agreements.

For the *Wages (Area 6)*, MLC 2006 has revised three ILO conventions:

- Wages, Hours of Work and Manning (Sea), 1946 (N° 76). This convention has not been ratified or denounced by any of the members.
- Wages, Hours of Work and Manning (Sea) (Rev.), 1949 (N° 93). This convention has been ratified by five Members and denounced by none²⁰.

¹⁹The Maritime Labour Convention, 2006, A Seafarers' Bill of Rights

²⁰ILO Website, NORMLEX

- Wages, Hours of Work and Manning (Sea) (Rev.), 1958 (N° 109). This convention has been ratified by eleven Members and denounced by four²¹.

As indicated above, previous ILO Conventions were ratified in a much smaller proportion of the 182 member States of the ILO and this had as a consequence seafarers to have no legal basis in order to satisfy their employment rights. With MLC 2006 seafarer's wages will be paid in full at no greater than monthly intervals. Furthermore, according to MLC the normal working hours for seafarers will have to be stated in SEA and therefore to ensure that seaman will be compensated for the overtime work.

Ship-owners will have to provide seafarers with payroll records describing the monthly account of the payments due and the amounts paid and of course the exchanged rate used which will be at the prevailing market rate or the official published rate.

Most important MLC 2006, Guideline B2.2.2, Calculation and payment, suggests to ship-owners to impose equal remuneration for work of equal value to all seafarers employed on the same ship without discrimination based upon race, colour, sex, religion, political opinion, national extraction or social origin.

For the *Hours of Work (Area 7)*, MLC 2006 has revised the same ILO conventions that have been revised for *Area 6* mentioned above as well as:

- Hours of Work and Manning (Sea), 1936 (N° 57). This convention has been ratified by one Member and denounced by two.
- Seafarers' Hours of Work and the Manning of Ships, 1996 (N° 180). This convention has been ratified by twenty-one Members and denounced by none²².

MLC 2006 requires that the table of shipboard working arrangements accepted by the Administration will be posted in an accessible place and will contain specific information. Also measures should be established that the hours of rest in any 24-hour

²¹ILO Website, NORMLEX

²²ILO Website, NORMLEX

period may be divided into no more than three periods, one of which will be at least six hours in length and neither of the other two periods will be less than one hour in length. Exceptions to the two rest periods in any 24-hours period will not extend beyond two 24-hours periods in any 7-day period and the intervals between consecutive periods or rest will not exceed 14 hours.

Finally, for the *Manning levels (Area 8)*, MLC has revised the same Conventions with *Area 7* since those two areas are counterparts. The purpose of this regulation is to address ship owners' responsibility to ensure that the ship is manned in accordance with Minimum Safe Manning. These Standards might result to more appropriate Manning levels with due regard to the safety, security and protection of the marine environment.

Title 3 – Accommodation, recreational facilities, food and catering

In this Title MLC 2006 regulates:

- Accommodation and recreational facilities (Regulation 3.1)
- Food and catering (Regulation 3.2)

For the *Accommodation and recreational facilities (Area 9 & Area 10)*, MLC 2006 has revised three ratified ILO conventions:

- Accommodation of Crews, 1946 (N° 75). This convention has been ratified by one Member and denounced by four.
- Accommodation of Crews (Revised), 1949 (N° 92). This convention has been ratified by forty-seven Members and denounced by none.
- Accommodation of Crews (Supplementary Provisions), 1970 (N° 133). This convention has been ratified by thirty-two Members and denounced by none²³.

In MLC 2006, Regulation 3.1 it is stated that:

²³ILO Website, NORMLEX

“the requirements in the Code implementing this Regulation which relate to ship construction and equipment apply only to ships constructed on or after the date when this Convention comes into force for the Member concerned. For ships constructed before that date, the requirements relating to ship construction and equipment that are set out in the Accommodation of Crews Convention (Revised), 1949 (No. 92), and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), shall continue to apply to the extent that they were applicable, prior to that date, under the law or practice of the Member concerned. A ship shall be deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction”²⁴.

This point is very important because the re-construction of vessels in order to comply with this regulation would result to very high costs for ship-owners. Re-construction would not be only be inexpedient for the “bits and pieces” that would be required but also because of the long period the vessel would stay idle. It would be very interesting to examine the influence of this regulation for the new-buildings and the inspections that will be needed onwards concerning MLC compliance and enforcement. Every vessel in order to obtain the ML Certificate will have to pass the inspections that will be carried out concerning the Accommodation and recreational facilities and more specifically to ensure:

- 1) Adequate ventilation in sleeping rooms and mess rooms.
- 2) Heating system maintain the temperature in the accommodation at satisfactory level.

²⁴MLC 2006, Op. cit footnote 2, Page 41

- 3) Lighting in the including sleeping rooms and mess rooms will be sufficient.
- 4) Limits for noise and vibration in the working and living spaces to be in conformance with ILO code of practice entitled “Ambient factors in the workplace”. Also measures should be established in order to ensure that seafarers are provided with noise protection devices as well as with hearing protection equipment.
- 5) Wash places are provided with running hot and cold potable water.
- 6) Address any fairly applied variations to facilitate seafarers having differing and distinctive religious and social practices of the seafarers.
- 7) Hospital to be used exclusively for medical purposes.
- 8) Provide appropriate seafarers’ recreational facilities at no cost to the seafarer²⁵.

Ship-owners will have to provide and retain records such as: the shipyard specifications, maintenance and construction records, records concerning any alterations of vessel’s construction, accommodation plan, and sea trials in order to track the noise and vibration survey reports as well as ambient factor surveys.

Ship-owners will have to establish procedures to verify that approved materials are used for the accommodation, documented procedures regarding the monitoring of flag regulations as well as to establish regular inspections of the sanitary facilities in order to verify compliance with MLC 2006 requirements.

Finally, ship-owners should provide recreational facilities, amenities and services in order to meet the special needs of seafarers. In MLC 2006, Guideline B3.1.11 suggestions concerning recreational facilities, mail and ship visit arrangements can be found.

²⁵MLC 2006, Op. cit footnote 2

For the *Food and catering (Area 11)*, MLC 2006 has revised two ratified ILO conventions:

- Food and Catering (Ships' Crews), 1946 (N° 68). This convention has been ratified by twenty-five Members and denounced by none.
- Certification of Ships' Cooks, 1946 (N° 69). This convention has been ratified by thirty-eight Members and denounced by none²⁶.

Main concern of this regulation is to ensure that food is provided to the seafarers free of charge and in adequate quantities taking due regards the number of seafarers and their religious requirements and cultural practices as that pertain to food.

Furthermore, the regulation focuses also to the qualifications of the training staff and especially to Ships cook. Evidences are required concerning the competency of the Ship's cook through relevant certificate, which will be of course endorsed from the competent authority. The competent authority will have to issue recommendations concerning the hygiene, educational material, manuals and brochures which will be inspected from local authorities in order to ensure compliance on board.

Ship-owners will have to verify through inspections and tests the drinking water quality. Furthermore, inspections concerning the hygiene, the garbage management as well as the storage of food must be carried out. It has to be ensured that food is protected from the risk of contamination of any kind, prevent the multiplication of organisms and promote personal hygiene through training programs and DVDs.

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

In this Title MLC 2006 regulates:

- Medical care on board ship and ashore (Regulation 4.1)

²⁶ILO Website, NORMLEX

- Ship owner's liability (Regulation 4.2)
- Health and safety protection and accident prevention (Regulation 4.3)
- Access to shore-based welfare facilities (Regulation 4.4)
- Social security (Regulation 4.5)

This paper as previously mentioned examines the Regulations (*Areas*) that will be inspected and approved by flag state or the RO before certifying a ship and not all the regulations included in MLC 2006. In this Title those regulations are 4.1 and 4.3.

For the *Medical care on board ship and ashore (Area 12)*, MLC 2006 has revised one ratified ILO convention:

- Health Protection and Medical Care (Seafarers), 1987 (N° 164). This convention has been ratified by fourteen Members and denounced by none²⁷.

The purpose of this regulation is to protect the health of seafarers and ensure their prompt access to medical care on board ship and ashore. This will have to be offered to seafarers at no cost and to be comparable as much as possible to that which is generally available to workers ashore.

Programmes of a preventive character such as health promotion and health education on board the ships such as Posters, on-board courses and information material will have to be adopted.

Also the competent authority will have to issue guidelines concerning the inspection of medical facilities and equipment as well as the publications that should be in ship's library such as the:

- International Medical Guide for Ships
- Medical First Aid Guide for Use in Accidents Involving Dangerous Goods
- Document for Guidance, 1985 – An International Maritime Training Guide

²⁷ILO Website, NORMLEX

- Medical section of the International Code of Signals

Furthermore, ship-owners may consider obtaining medical/dental insurance coverage for seafarers and of course they must provide seamen with the requisite personal protective equipment according to the types of cargoes carried. Also verification of the medical inventory must take place on a regular basis as well as competency records of qualified medical doctors.

Finally the ship-owner should incorporate the medical report from the flag state into the ship-owner's management system. Flag states have already issued relevant circulars in which they regulate the medical care on board and ashore.

For the *Health and safety protection and accident prevention (Area 13)*, MLC 2006 has revised one ratified ILO convention:

- Prevention of Accidents (Seafarers), 1970 (N° 134). This convention has been ratified by twenty-nine Members and denounced by none²⁸.

This regulation addresses the responsibilities of the ship-owner and the obligation to take reasonable precautions to prevent occupational accidents, injuries and diseases on board the ship.

Competent authority will ensure the adoption, effective implementation and promotion of occupational health and safety programmes taking into account the ILO code of practice entitled "Accident prevention on board ship at sea and port", the MSC-MEPC.2/Circ.3 entitled "Guidelines on the basic elements of a shipboard occupational health and safety programme, the IMO resolution A.884 (21) entitled "Code for the investigation of marine casualties & incidents" and all relevant international guidelines.

With the adherence to the international rules and regulations concerning the

²⁸ILO Website, NORMLEX

occupational health and safety on board the ship-owners will have to ensure, among others, that:

- 1) Where seafarers under the age of 18 years are employed on board there will be a record with the types determined as being potentially hazardous and likely to jeopardise the health and safety of young seafarers.
- 2) Tasks that require higher levels of risk assessment are incorporated into a permit-to-work system.
- 3) A structured training programme is implemented to train the crew in safe working practices.
- 4) Procedures are established for a safety committee to be formed on board, that effectively addresses health and safety matters.
- 5) Safety representatives from within the vessel have the authority to participate in inspections, investigations and review all necessary safety and health related documents, and
- 6) Regular inspections of live-saving equipment or relevant to health and safety equipment²⁹.

Title 5 – Compliance and Enforcement

Title 5 of the convention, *Compliance and Enforcement*, acts as a strong enforcement tool which establishes roles and responsibilities of flag states, port state authorities, ship-owners and masters and of course the inspection and compliance procedures.

This Title's purpose is to ensure that each Member implements its responsibilities under MLC 2006.

On-board complaint procedures (Area 14) consists the fourteenth and last area that will

²⁹MLC 2006 Op. cit footnote 2

be inspected from competent authorities or recognised organization for the issuance of the Declaration of Maritime Labour Convention. Inspections will verify that complaints' system is in operation, that complaints are being reviewed and finally that a record is made which includes also the actions taken.

More specifically, adequate procedures should be established on board for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of MLC, including seafarers' right to be accompanied or represented during the complaint procedure. Seafarers should be provided with a copy of the on-board complaint procedure and such procedures shall seek to resolve complaints at the lowest level possible³⁰.

Ship-owners and/or SPRS must provide seafarers with the contact details of the competent authority in the flag state as well as familiarization training records as evidence that seaman was aware of the complaint procedure before joining the vessel.

Conclusively, it can be argued that indeed there was a need for consolidating previous ILO conventions. A legal framework has never been offered to seamen who were left all these years exposed to a deregulated global working environment. This has not only deterred seamen to continue sailing but it has also created problems to ship-owners. The high demand in seafarers on the one side and the low supply on the other have created a scarcity that could only be tackled from the improvement of working and living conditions which will hopefully encourage seamen to continue their career at sea. In the following pages we will analyze how MLC 2006 will be enforced from Flag States and Port State Control and finally we will examine how MLC 2006 affects the main stakeholders, namely the Ship's Owners and the Seafarers.

³⁰MLC 2006, Op. cit footnote 2

2.4 MLC 2006 - FLAG STATES AND PORT STATE CONTROLS

According to Article V of MLC 2006, each Member shall implement and enforce MLC with respect to ships and seafarers under its jurisdiction. Furthermore, it shall exercise its jurisdiction over ships that fly its flag and ensure that those carry a maritime labor certificate and a declaration of maritime labor compliance. This must be achieved by establishing a system for ensuring compliance with the requirements of this Convention (inspections, reporting, monitoring), which will prohibit violations of the requirements of MLC 2006. It shall also effectively exercise its jurisdiction and control over seafarer recruitment and placement services, if these are established in its territory. Finally, each Member shall implement its responsibilities under this Convention in such a way as to ensure that the ships that fly the flag of any State that has not ratified this Convention do not receive more favorable treatment than the ships that fly the flag of any State that has ratified it.

This last responsibility of each member, of “no more favorable treatment”, borrowed from IMO conventions, ensures that Port States can monitor compliance of ships flying Flags which are non-signatories. This will motivate flag States to ratify the Convention and at the same time will guarantee that Flags Of Convenience will not become attractive to non-compliant ship-owners. Furthermore, Members, by ratifying the MLC 2006 will ensure that the ships flying their flag will not become a target for Port State Inspectors³¹. At this point it is very important to signify the development of the FOC system and its consequences for maritime labor. Today 34 countries have been declared as FOC³² when as of 2009, Panama, Liberia and the Marshall Islands, the world’s three largest registries FOC in terms of deadweight tonnage, had as registered more than 39% of the world’s

³¹MLC 2006 Op. cit footnote 2

³²FOC Countries. ITF Website

ship borne carrying capacity³³.

ITF defines the FOC as being “where beneficial ownership and control of a vessel is found to be elsewhere than in the country of the flag the vessel is flying”³⁴. Freedom of the seas has been the dominant force of the development of international maritime law and its principals are: a ship of any nation can navigate the oceans freely; the ship’s national state has exclusive dominion over the ship; and no other nation can exercise dominion over that ship³⁵. This freedom of the seas lead to the idea of FOC since Ship-owners could have their vessels flying the flag of countries with fewer restrictions, with seafarers being paid less and most important with reduced operating costs due to less national income taxation.

In general, the practices of FOC created problems associated with national security, environmental issues, immigrant/refugee movement, and labor issues.

In 1996 the ITF commissioned MORI to undertake questionnaire survey of seafarers. Over 6000 seafarers responded and answered questions on all aspects of their working lives. Seafarers on board vessels flagged to non-FOC were paid higher, had less stress level and worked less hours in a working day. It is obvious that the FOC system has resulted in de-regulation of the global labor market with its consequent effects upon the working lives of seafarers in terms of work intensification and stress levels. MLC 2006 with the requirement of “no more favorable treatment” will ensure that FOC will not be able to provide Ship-owners with “easy” registration requirements. So far 32 countries have ratified MLC 2006 and this is expressed as a 59.85% of world gross tonnage³⁶. Nevertheless, only 7 counties out of the 34 that have been declared as FOCs by the

³³Review of Maritime Transport 2009 (UNCTAD)

³⁴Flags of Convenience campaign, ITF Handbook

³⁵Tina Shaghnessy & Ellen Tobin (2006), “Flags of Inconvenience: Freedom and Insecurity on the High Sea”

³⁶ILO Website

International Transport Worker's Federation (ITF) have ratified the MLC 2006³⁷. This indicates the fact that FOCs have not enhanced this convention probably due to the fact that they are not willing to properly regulate the working and living conditions on board the vessels that fly their flag.

Member States as mentioned above will be committed to respect ILO standards in their own standards directly on each other's ships through the established maritime mechanism of Port State Control (PSC)³⁸.

The goal of creating a port state control regime is to ensure commercial vessels' compliance with all international and domestic safety requirements. An effective system would drive sub-standard shipping out of the commercial marketplace through costly detentions for non-compliance with international regulations. The involvement of PSC as a mechanism that will inspect the implementation of MLC changes the boundaries of state sovereignty in some respects. Now ships will not be regarded flag state's territories in which the only authority imposed is only the one of flag it flies. Strict PSC regimes will support flag states and ship-owners that pursue a high level of quality in the services and at the same time ships with no respect towards MLC will become undesirable³⁹. At this point we will have to stress once again that the regulatory objective of a level playing field would not be achievable without strong PSC enforcement provisions.

In this respect, ILO has issued two very important documents:

- Guidelines for Flag State Inspections under the Maritime Labour Convention, 2006.
- Guidelines for Port State control officers carrying out inspection under the

³⁷Op. cit footnote 32

³⁸Alderton, T. & Winchester, N. (2002), "Globalization and de-regulation in the maritime industry"

³⁹DeSombre, E. (2006). Flagging standards: Globalization and environmental, safety and labor regulations at sea

Maritime Labour Convention, 2006.

In these documents ILO gives guidelines to both Flag States and PSC concerning their responsibilities, the inspections those will carry out onboard vessels and what actions those should take when finding deficiencies or non-conformities. More specifically, in the guidelines for flag state inspections great importance is given for the following flag responsibilities:

- Appointment of flag State inspectors, or ROs if authorized by the flag State to carry out some flag State tasks; inspection, monitoring and other control measures;
- Issuance, renewal and withdrawal of the Maritime Labour Certificate and completion of Part I of the DMLC;
- Responding to seafarer complaints;
- Responding to requests for information about its ships from port State control authorities;
- Taking enforcement action where ships are found not to be in compliance with the requirements of the Convention⁴⁰.

In these guidelines it is also stressed that Flag State inspectors would need to be aware of any national provisions as to application or exemptions or variations that have been made by the flag State under the MLC, 2006. It is essential that this information will be communicated to flag State inspectors and any ROs that have been authorized to carry out flag State inspection responsibilities. Port State Control Officers except from the guidelines for port state control officers should also hold a copy of the guidelines for flag state inspections in order to carry an inspection. The purpose of the inspection by PSCOs will be to determine whether a ship is in compliance with the requirements of

⁴⁰ILO (2008), "Guidelines for Flag State Inspections under the Maritime Labour Convention, 2006"

the Convention.

For flag States with a high level of registered tonnage, the need to inspect and certify, if required, a large number of ships will be a challenge⁴¹. This has already been addressed through the services provided by the ROs, which have moved forward rapidly in order to ensure that they have staff that is competent to inspect and certify ships for MLC, 2006 compliance⁴². Nevertheless, the interpretation of MLC 2006 from the ROs as well as from Port State Control Officers may differ and this could definitely be one difficulty in the implementation of MLC 2006.

2.5 SEAFARERS, SHIP-OWNERS AND ILO CONVENTIONS

Seafarer as stated in MLC 2006 means any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies, literally this means the majority of seafarers engaged in domestic and international trade. If someone will consider the fact that 80% of world trade involves ocean shipping it could be easily understood the fact that seamen compose a vital part of the global economy. Nevertheless, as already discussed previously in this paper they have been working in a non-regulated environment. Seafarers working conditions have been very poor all the last decades and depended upon the laws of the flag, which as analyzed above have been means for substandard shipping.

This paper examines the effect of MLC in shipping industry. Nevertheless, the aim of MLC itself is to improve labor conditions for seafarers around the world by establishing standard rights and by providing them with the improved living conditions they have long

⁴¹Moira L. McConnell (2011). The Maritime Labour Convention, 2006 - Reflections on challenges for flag State implementation

⁴²Lillie Nathan (2008). The ILO Maritime Labour Convention, 2006: A new paradigm for global labour rights implementation in Papadakis K. (2008), Cross-border social dialogue and agreements: An emerging global industrial relations framework?

requested.

In order to stress the need of a consolidated convention like MLC 2006 we will examine the seafarers' living and working conditions. More specifically, the current working environment will be analyzed as well as the unique employment circumstances under which a seafarer works. Thereafter, we will focus on the seafarers' needs and at the end we will present how can a ship-owner address these needs in order to transform seafarers from a cost element to a competitive advantage through MLC 2006.

The non – regulated working environment of seafarers can be scrutinized by giving examples of the different working and living conditions observed in global shipping. The 1999 ISF survey⁴³ pointed that the nationality composition is evidence as far as concerns the wages of seafarers. There were large differences between the bottom and the top average AB earnings, with the top average earnings in the United States (US\$5,550) being 16 times higher than the lowest average earnings in Papua New Guinea (US\$342). Furthermore, great differences can be observed to the average earnings of officers. More specifically, a Greek Master Mariner on board a bulk carrier vessel can earn monthly 11.000-12.000 Euro, a Ukrainian 9.000 US Dollar and a Filipino 7.500 US Dollar. In MLC 2006, Guideline B2.2.2, Calculation and payment, suggests to ship-owners to impose equal remuneration for work of equal value to all seafarers.

Furthermore, the hours of work depend on the collective agreement under which a vessel is sailing. The ITF TCC collective agreement specifies that the ordinary hours of duty of all seafarers are eight hours per day, Monday to Friday inclusive. On the other side Philippines Overseas Employment Administration in the terms and conditions of seafarer's employment indicates that the seafarer shall perform not more than

⁴³K. X. LI & J. WONHAM (1999). Who mans the world fleet? A follow-up to the BIMCO/ ISF manpower survey

forty-eight (48) hours of regular work a week. MLC 2006 in Standard A2.3 regulates the minimum watch and rest hours and it aims to a harmonized system for all seamen. Also the Seafarer's Employment Agreement and the terms and conditions thereof are not the same for all nationalities. Especially where National Collective Bargaining is missing there are very important differences between the contracts of employment offered to seamen. For example there are SEAs, which might indicate that seaman is responsible for the payment of his repatriation or others that do not even refer to the compensation a seaman is entitled when his vessel is transiting in high risk areas.

Another very important element that can assist to this analysis is the standards of food and accommodation vary from ship to ship. ILO as indicated before in the paper tried in the past to regulate the minimum standards of accommodation in a number of relevant ILO Conventions. Nevertheless, only ship-owners of north European States, the United States, and Japan, tend to have high standards of accommodation. In this point it has to be stressed that the age of ship is not indicative as far as concerns the recreational facilities built in it or even more of the quality of the construction in terms of vibration or sound insulation⁴⁴.

According to the MORI survey published in 1996⁴⁵ seafarers similarly felt that the need to improve recreational facilities was greater than that to improve either accommodation or food. This can be easily explained if someone would consider that seafarers are far from their family and friends and thus recreational facilities is the only way out of the isolation they experience on board the vessels.

Another example that may indicate the non-regulated environment of shipping

⁴⁴Paul J. Bauer (2008), *The Maritime Labour Convention: An Adequate Guarantee of Seafarer Rights, or an Impediment to True Reforms?*

⁴⁵MORI & ITF (1996) *Seafarers' living conditions*, International Transport workers' Federation

employment is the fact that there are ship-owners that provide a place of worship aboard the ship and others that deny any access to those.

Lately the threat of piracy has been added to the problems faced by seafarers. Thousands of seafarers have been killed, injured, assaulted, taken hostage or threatened as piracy and armed robbery have increased dramatically. Attacks that previously were limited to Nigerian and Somali coastal waters have now expanded eastwards; across the Indian Ocean. All seafarers transiting the Gulf of Aden and Northern Indian Ocean have to live with the risk of attack. When the pirates attack ships, crews suffer the stress of being fired upon with guns and rocket propelled grenades and those captured can be held hostage for months. Following a piracy attack those involved can be seriously affected by posttraumatic stress. Even in this case the non-regulated working environment appears. There are ship-owners that respect the life of seafarer and ensure their safety no matter if this raises the insurance premiums or increases the operational costs by installing preventative measures and protection on board, employing private security personnel, etc. Nevertheless, there are ship-owners that not only do not take the measures included in Best Management Practice Version 4 but they are not even willing to compensate the seafarers when sailing in a war risk trading area with the premium described in their terms and conditions of employment.

As implied above seamen needs have not always been properly addressed and in some cases those have been even ignored. This ignorance has led to low quality standards for seafarers in terms of skills and competency. The employment of crew from countries where labor cost is low has been directly linked with the rise in the number of accidents at sea with human and navigational error argued that the role of human fatigue factor towards maritime casualties is significant⁴⁶. The investigation reports of most marine

⁴⁶Jafar Sadjadi & Stephen J. Perkins (2010). *The Human Element in International Seafaring*

accidents occurring worldwide consider fatigue as one of the main contributing factors toward these disasters leading to many fatalities. The importance of the human element in shipping accidents has been widely recognized. The most crucial element, which poses a great danger toward human performance at work, is obviously sleep and rest. In addition the shortage of qualified officers, the ageing workforce, the poor training, the stress and the unattractiveness of marine jobs have linked even more the human element with marine incidents and environmental pollution.

The MLC 2006 will try to eliminate the discrimination in the shipping industry and to wipe out all the irregularities mentioned in order to provide **decent work** for seafarers.

Decent work is a term originally coined by ILO in a report published in June 1999, when it described the goal of decent work as «not just the creation of jobs, but also the creation of jobs of acceptable quality». The ILO report recognized that all societies had a notion of decent work, but that the quality of employment could mean many things. It could relate to different forms of work, and also to different conditions of work, as well as feelings of value and satisfaction. For the ILO, decent work lies at the “heart of social progress” and has thus become one of its major strategic policy concepts. The decent work agenda is defined as being based on an integrated and gender-mainstreamed approach consisting of four pillars, which are:

- . Productive and freely chosen work;
- . Rights at work;
- . Social protection;
- . Social dialogue⁴⁷

The provision of decent work to seamen will assist ship-owners to correspond to the existing customer demands since they will have continuously to secure and retain

⁴⁷ILO Website

technological leadership. Companies are pushed to consider the value of ‘intangible assets’ and thus significant importance should be given to relations with the humans employed by them. Ship-owners should consider the need to secure, retain and elicit commitment from the seafarers in order to obtain a sustained competitive advantage. There are four criteria that must be attributable to the resource in order for it to provide a sustained capital advantage:

1) the resource must add positive value to the firm; 2) the resource must be unique or rare among current and potential competitors; 3) the resource must be imperfectly imitable; and 4) the resource cannot be substituted with another resource by competing firms. In our case the human element can become for ship-owners as central to meeting strategic competitive advantage⁴⁸.

Decent work for seafarers and the achievement of competitive advantage for Ship-owners is also pushed from MLC Regulation 4.2, ship-owners’ liability, where the responsibilities of the ship-owners concerning the economic consequences of sickness, injury or death suffered by seafarers during their engagement are addressed.

According to this regulation ship-owners will:

- Provide coverage for the costs of seafarer’s sickness or injury occurring during their engagement until the date when they are duly repatriated.
- Provide compensation in the event of death in service or long term disability caused by an occupational injury, illness or hazard occurring during their engagement.
- Defray expenses of medical care and board and lodging until the seafarer has recovered or the sickness/incapacity declared permanent. Such liability will be

⁴⁸Wright, P.M., McMahan, G.C. and McWilliams, A. (1994). “Human resources and sustained competitive advantage: a resource-based perspective.”

limited to not less than 16 weeks.

- Pay the costs of burial expenses for death occurring on board or ashore during the period of engagement.
- Pay wages in whole or in part where the sickness or injury results in seafarers' incapacity to work. Again, such liability will be limited to not less than 16 weeks.
- Pay to each seafarer on board an indemnity against unemployment arising from the ship's loss or foundering. The total indemnity payable to any one seafarer will be limited to 2 months wages.
- Provide financial security to ensure that seafarers are repatriated.

Nevertheless, MLC 2006 will also create concerns and difficulties for ship-owners. Those concerns will have to do with their possible failure to utilise flexibility, unclear instructions that might be given by the Member States, excessive bureaucracy, over-zealous inspections, unfounded complaints and wrongful detentions.

2.6 RESEARCH QUESTIONS AND OBJECTIVES

This project devotes some space to the MLC 2006 with the hope to answer the following questions:

Research questions

- I. Do seafarers consider MLC 2006 a comprehensive legal framework for the employment relationship between them and the ship-owners?
- II. Is Ship-owners liability a factor taken under consideration and at what level they have already ensured compliance with MLC 2006?

In addition to the research questions, the study will specifically try to satisfy the following research objectives that are of major significance:

- I. To determine the attitudes, beliefs and perceptions (both positive and

negative) of Greek Ship-owners for MLC 2006.

- II. To identify the degree of voluntary ratification from Ship-owners and how this is connected with FOC system.
- III. To determine the extent to which MLC 2006 will provide a legal framework for seafarer's protection.

ΠΑΝΕΠΙΣΤΗΜΙΟ ΠΕΙΡΑΙΩΣ

Chapter 3 METHODOLOGY

3.1 INTRODUCTION

In this chapter, the objectives and the research questions of the project will be reviewed, and the methods used in order to satisfy them will be described. A detailed description of both primary and secondary data used will be given. Finally, the administration of the quantitative methods, the limitations and the ethical issues faced while conducting the research will be discussed.

The main purpose of this study is to examine whether MLC 2006 will be an adequate guarantee for seafarers living and working conditions or once again an instrument that will become out-dated. Special attention and consideration will be given to the attitudes, beliefs and perceptions held by ship-owners and seafarers. Hopefully, the organizations and the seafarers will be provided with solutions and recommendations concerning MLC 2006, based on the analysis of the results of this research.

3.2 OBJECTIVES AND RESEARCH QUESTIONS

Research questions

- I. Do seafarers consider MLC 2006 a comprehensive legal framework for the employment relationship between them and the ship-owners?
- II. Is Ship-owners liability a factor taken under consideration and at what level they have already ensured compliance with MLC 2006?

In addition to the research questions, the study will specifically try to satisfy the following research objectives that are of major significance:

- I. To determine the attitudes, beliefs and perceptions (both positive and negative) of Greek Ship-owners for MLC 2006.
- II. To identify the degree of voluntary ratification from Ship-owners and how this is connected with FOC system.

- III. To determine the extent to which MLC 2006 will provide a legal framework for seafarer's protection.

3.3 RESEARCH APPROACH AND STRATEGY

The research philosophy of this project is likely to be closer to that of the interpretivist. According to Fisher (2004)⁴⁹ the interpretivist forms structures out of interpretations and then he uses them in order to explore how people understand the fact that their environment both influences and is influenced by others. In this project, this philosophy is adopted because the researcher believes that the specific situation examined is complex and unique, thus, generalisations should be avoided. The research approach is inductive because a theory will be developed after the data's collection and analysis. The inductive approach adopted helps the researcher to have an understanding of the way people interpret their world and furthermore makes the research more flexible because it allows changes during the research process (Saunders et al., 2003)⁵⁰. The research strategy of the project is maybe one of its most important parts because through this the research questions will hopefully be answered. For this project only quantitative method has been used. First a questionnaire was administered to ship-owners in order to compare the different attitudes and beliefs they have about MLC 2006. Thereafter, a questionnaire was distributed to seafarers in order to examine their understanding of MLC 2006 and more important to gather information concerning their understanding of decent living and working conditions

⁴⁹Fisher, C. (2004). Researching and writing a dissertation: for Business Students

⁵⁰Saunders, M., Lewis, P. & Thornhill, A. (2003). Research Methods for Business Students,

3.4 DATA COLLECTION

For the purpose of this study, both primary and secondary data were obtained. The collection and analysis of the data were necessary in order to explore the problem and satisfy the research objectives.

3.4.1 *PRIMARY DATA*

- Quantitative Research

The technique used for collecting quantitative primary data was by distributing structured questionnaires to ship-owners and seafarers (See **Appendix B**).

3.4.2 *SECONDARY DATA*

Special consideration was given to the collection and the analysis of the secondary data that was already available, since these data are easily accessible and quickly obtained. External secondary data, raw and compiled, were collected from sources like Internet resources; libraries; books and journals. The secondary data collected were mainly focused on the previous ILO conventions, Flag of Convenience, human element in the shipping industry and their impact on the decision taken to proceed with MLC 2006 convention.

3.5 QUESTIONNAIRE DESIGN

To ensure that the information obtained fully addresses the components of the research problem under investigation, the questionnaire was designed and developed through an information gathering process. The questionnaire used is self-administered and was delivered and returned electronically. The administration of questionnaires is a very important part of this project and the collection process of those questionnaires can determine the quality of data collected. For the purpose of this study, the questionnaires were e-mailed to the respondents. More specifically, during June 2012 the

questionnaires were distributed randomly through e-mail to ship-owners and seafarers. After briefly explaining to them the purpose of the questionnaire, they were politely asked to complete it. It was also asked from them to come in contact with the researcher in case they had any inquiries to make.

After reviewing the literature, a number of questions associated with the information needed were formed. The design of the questionnaire was based on the following principles: First to maintain the respondent's co-operation and involvement, second to help the respondent to work out his answers, third to make the interviewer's task easy and finally to provide a basis for data process (Baker, 2003)⁵¹. The questionnaire will help the project to measure the overall opinion of a sample of respondents.

3.6 PILOT STUDY

A pilot study was carried out prior to the final study. An initial questionnaire was distributed to two volunteers, who were both crew managers, in order to ensure that the questions asked were clear and to enable the researcher to remove any items that do not yield usable data. Feedback received from these two volunteers led to a number of basic changes to the design of the questionnaire and some questions were either added or removed or rephrased. This pilot study helped the research by giving to the researcher the opportunity to improve the questionnaire and to make its completion from the respondents easier.

3.7 TECHNIQUES FOR ANALYSIS

The collected data gathered from the questionnaire were analysed using Microsoft Excel. This package allowed the researcher to find out the frequencies and develop charts, so

⁵¹Baker, M G. (2003), "Data collection-Questionnaire design"

as to be able to achieve meaningful results and a more comprehensive analysis of the findings.

3.8 LIMITATIONS

The limitations confronted during the research were enough and those definitely influenced the analysis of the data and finally the results of the project. As far as the secondary data is concerned, there was a difficulty in having access to data that was very important for the research. This happened due to the fact that access was costly and sometimes it was not even available.

During the administration of the quantitative research study, some difficulties occurred which affected the way the study was undertaken. The initial target was to gather a sample size of 50 questionnaires from ship-owners and 200 from seafarers in an effort to reach more reliable and objective results related to the study. This target was not achieved due to time constraints. In order to contact the research, the researcher was in constant contact with the questionnaire sample of the research but several interviewers were unwilling to answer the survey questionnaire, possibly because they did not want to spend their time on filling in questionnaires during the overload of work they had. Finally, some questionnaires were incomplete and thus were unable to be represented in the statistical analysis. As a result of all these difficulties and limitations, the obtainable sample size was 30 questionnaires for ship-owners and 107 for seafarers.

3.9 ETHICAL ISSUES

During a research it is expected that some ethical concerns will emerge. For the specific project one of the first ethical issues that emerged was the privacy most of the respondents demanded. The researcher was asked to be careful with the information he was given and it was important that the people that have participated in this research to

remain anonymous. The researcher had to maintain the confidentiality of data provided and to be careful with how he would use and analyse them.

Questionnaires were constructed and executed with due regard to protecting participants from risk of criminal liability, or damage their social standing and emotional well being.

It was evident that a certain degree of biasness was found in being a researcher as a certain skill and training was needed in probing of questions.

ΠΑΝΕΠΙΣΤΗΜΙΟ ΠΕΙΡΑΙΩΣ

Chapter 4 RESEARCH ANALYSIS

4.1 INTRODUCTION

The most critical data resulted from the quantitative research will be analysed in this chapter. More specifically, the analysis of the MLC Compliance questionnaire that has been distributed to Ship Management Companies will follow in order to have a preliminary approach of the subject. The purpose of the questionnaire was to examine the perception of Ship-owners towards MLC 2006 and whether they have already revised their procedures in order to be in compliance with the convention. Furthermore, the analysis of the questionnaire given to seafarers will follow, in order to assess their attitude towards MLC 2006, their perspective on the living and working conditions on board and more importantly their opinion about the legal framework MLC 2006 might offer to them.

4.2 RESULTS FOR MLC COMPLIANCE QUESTIONNAIRE

4.2.1 *SAMPLE CHARACTERISTICS*

From the 30 questionnaires completed for the MLC Compliance, the majority of the respondents are Ship-Management companies (85%), while the percentage for crew management companies is much smaller (15%). As far as concerns, the educational background of the respondents most of them are ex-seafarers, mostly Master Mariners, (66%), a smaller percentage (20%) has obtained a bachelor's degree and only a very small percentage (14%) has achieved a Masters in Science. Finally the main group of respondents has more experience at sea; average 15 years, than ashore where the average was 6 years' experience.

4.2.2 *MLC RATIFICATION*

In part B of our questionnaire our respondents were asked to reply whether the flags

their ships fly have ratified the MLC 2006. The majority of the respondents replied that the flag their vessels fly has ratified the MLC 2006 (87%). Furthermore, a rather big percentage (63%) of the recruitment and placement services they use are located in a country that has already ratified the MLC 2006. Nevertheless, only a very small percentage of the respondents (7%) has already ratified the MLC 2006 on a voluntary basis.

4.2.3 MLC GAP ANALYSIS

In the main part of the questionnaire, Part C, respondents were asked to carry out an MLC Gap Analysis considering the fourteen (14) areas described in this paper and which must be inspected and approved by the flag State before certifying a ship.

DMLC Area 1 – Minimum Age

In this area respondents would identify whether their system has established procedures concerning the minimum age of the seafarers employed on board their vessels. While a big percentage (80%) prohibits the employment of seafarers under the age of 16, only half of them (53%) have taken any measures in order to prohibit the employment of seafarers under the age of 18 years in any hazardous work or to work as cooks on board their vessels.

DMLC Area 2 – Medical Certification

As expected, all the respondents (100%) answered that they have already in place the procedures required from MLC 2006 for this Area. The procedures for Medical examination initially have been established because forty-six Members have ratified the revised from MLC 2006, ILO Convention (N° 73). Thereafter, the Guidelines for Conducting Pre- Sea and Periodic Medical Fitness Examinations for Seafarers, which were published by the ILO and the World Health Organization (WHO) in 1997, have enforced all relevant parties to implement procedures for the medical examination of seamen. Finally, the P&I Clubs with their schemes for pre-employment medical

examination for seafarers and their solid requirements have made it necessary for seafarers to pass medical exams under certain standards.

DMLC Area 3 – Qualification of Seafarers

Ship-owners have established procedures required for the qualification of seafarers long before MLC 2006 since STCW is in force since 1978 and it applies to all seafarers serving on board seagoing ships entitled to fly the flag of a party of the STCW⁵². Therefore, all of the respondents (100%) answered that they have already in place procedures to ensure that the training and certification of seafarers is proper and thus they are competent to perform their duties.

DMLC Area 4 – Seafarer’s Employment Agreement

For this area the majority of respondents confirmed that there are established procedures in order to ensure compliance with MLC 2006. Nevertheless, only a small percentage (23%) confirmed that in the Seafarer’s Employment agreement in use they identify how the various branches of social security protection are provided to the seafarers. This explains also the fact that ILO published a HANDBOOK⁵³ with Guidance on implementing the Maritime Labour Convention, 2006 and Social Security for Seafarers since this issue was never regulated before.

DMLC Area 5 – Private Recruitment and Placement Services

In this area the questionnaire seeks to identify whether ship-owners have imposed any means of control to the Private Recruitment and Placement Services. Only part of the respondents (50%) replied that there are measures to ensure that Private Recruitment and Placement Services are certified for MLC 2006 requirements. A slightly higher percentage (60%) has measures through which it ensures that Private Recruitment and

⁵²STCW Convention and STCW Code

⁵³Handbook: Guidance on implementing the Maritime Labour Convention, 2006 and Social Security for Seafarers

Placement Services do not charge seafarers any fee. It seems that until recently only the conformity with a standardized system of licensing was requested from Private Recruitment and Placement Services since the majority of respondents (93%) requires relevant certification to be in place.

DMLC Area 6 – Hours of work or rest

As expected, all the respondents (100%) answered that they have already in place the procedures required from MLC 2006 for this Area. Hours of work have been regulated from previous ILO conventions and STCW, thus all the ship-management companies were obliged to be in compliance and have relevant procedures/records for the monitoring of this requirement.

DMLC Area 7 – Manning Levels of the Ship

The Manning Levels of the ships has been regulated also from the International Convention for the Safety of Life At Sea 1974, Chapter V Regulation 14 (2). Therefore, all the respondents (100%) answered that they have already in place the procedures required from MLC 2006 for this Area.

DMLC Area 8 – Accommodation

If someone considers the fact that according to MLC 2006, the convention Accommodation of Crews (Revised), 1949 (No. 92), and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), shall continue to apply to the extent that they were applicable, and the fact that those two conventions were ratified from a rather important percentage of the ILO Members then it was anticipated that all respondents would have already established relevant procedures. Standards concerning the accommodation of the vessels were being implemented since the ratification of the above mentioned conventions and thus all of them replied that procedures are already in place.

DMLC Area 9 – On board recreational facilities

All the respondents (100%) answered that they provide appropriate seafarer's recreational facilities at no cost. Nevertheless, the researcher should have also questioned whether recreational facilities even exist on board.

DMLC Area 10 – Food and Catering

In this area all respondents replied positive to the questions imposed except from the question regarding the cook certification. Only 60% replied that it is required in their management system.

DMLC Area 11 – Health and safety accident prevention

It appears that the majority of the respondents have in place an occupational health and safety policy, they implement an occupational health and safety programme and they have established a safety and health committee.

DMLC Area 12 – On board medical care

For the on board medical care only a part of the respondents (60%) replied that they have programs on board of a preventive character such a health promotion and health education.

DMLC Area 13 – On board complaint procedure

An average 70% of the respondents replied that there are no procedures in place for the on board complaints. This is mainly because until now such procedure was established from ship-owners only on a voluntary basis.

DMLC Area 14 – Payment of Wages

The payment of wages is maybe the most sensitive area in MLC 2006. Thus, all respondents replied that there are procedures for all the items referred to wages in the questionnaire. The researcher was waiting that respondents would have some sort of biasness towards those questions.

4.3 RESULTS FOR SEAFARERS' WORKING AND LIVING CONDITIONS QUESTIONNAIRE

4.3.1 *SAMPLE CHARACTERISTICS*

This questionnaire has been distributed to Deck and Engine Officers employed through Recruitment and Placement Services established in Philippines, Russian and Ukraine. We have managed to gather 107 questionnaires with Deck Officers representing 61.68% of the respondents and Engine Officers the 38.32%. Almost 70% of the respondents were below 40 years old and none was over 60. Finally, the ethnicity of the respondents was 52.34% Filipino, 21.50% Russian and 26.16% Ukrainian.

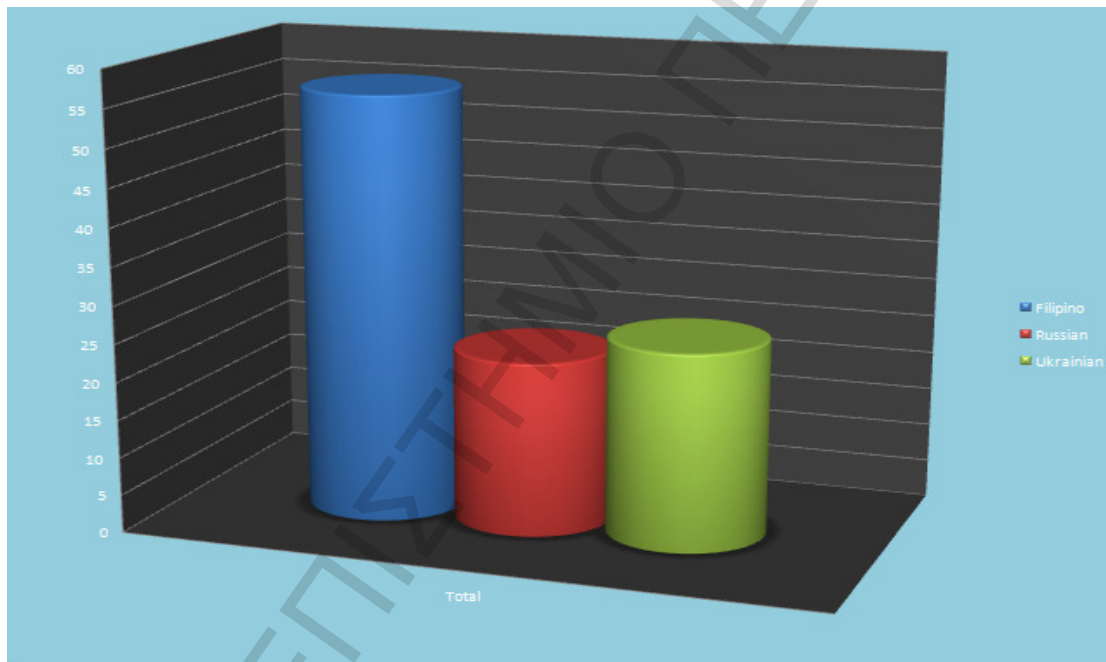


Diagram 1 - Nationality

4.3.2 *RESULTS*

4.3.2.1 DECENT WORK

In this part of the questionnaire the researcher tried to elicit seamen's point of view by requesting from them to rank in terms of importance the 14 areas as those are regulated in MLC. Initially, seamen were asked to rank the importance of the right to collective

bargaining agreement. The biggest percentage of the respondents (40.19%) has ranked the right to collective bargaining agreement as quite important. Nevertheless, there was a considerable percentage (22.43%), mostly engine officers, which ranked it as a right with little importance to them.

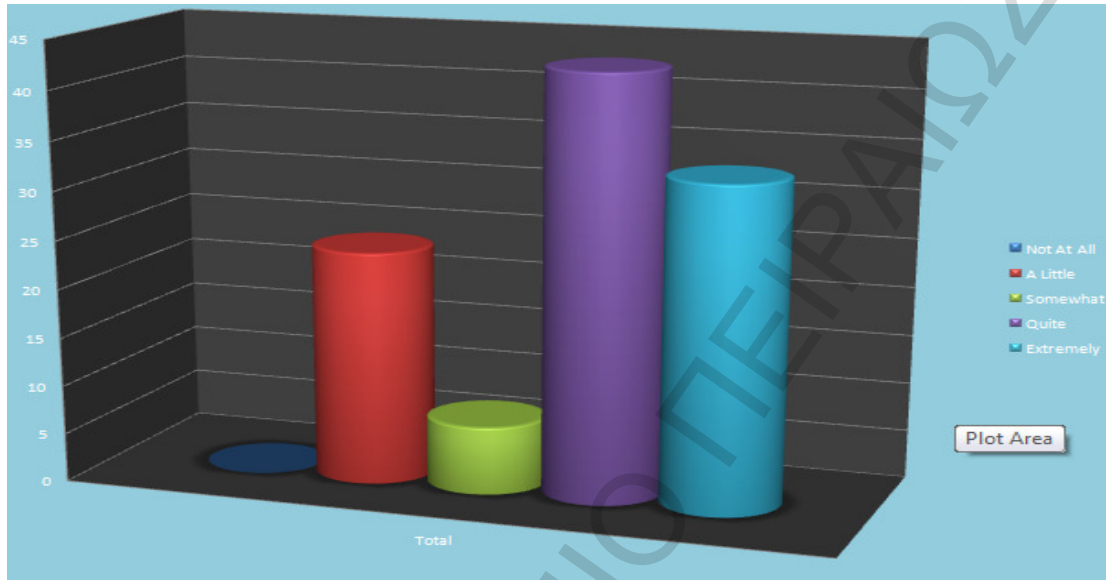


Diagram 2 – Right to Collective Bargaining Agreement

Seamen agreed in great percentage for the two issues referred to wages. More specifically, 65.42% of the respondents agreed that receiving wages regularly and in full at least monthly is extremely important. Also a 60.75% agreed that considers extremely important to receive a monthly statement with monthly wages payment. Nevertheless, a rather big percentage (50.47%) considers the establishment of International Wages Standards as somewhat important.

Furthermore, most of the respondents ranked as extremely important (43.93%) the continuity of employment. The majority replied that their tour of duty is from 2-6 months (52.43%) with a slightly smaller percentage (45.79%) stating that their tour of duty is from 6-12 months. This probably has to do with the fact that respondents were only officers and thus a contract of employment with duration from 2-6 months, more

likely 5 or 6 months, suffice for their needs. Furthermore, officers nowadays are in the position to bargain for smaller contracts due to the scarcity observed in the positions they cover.

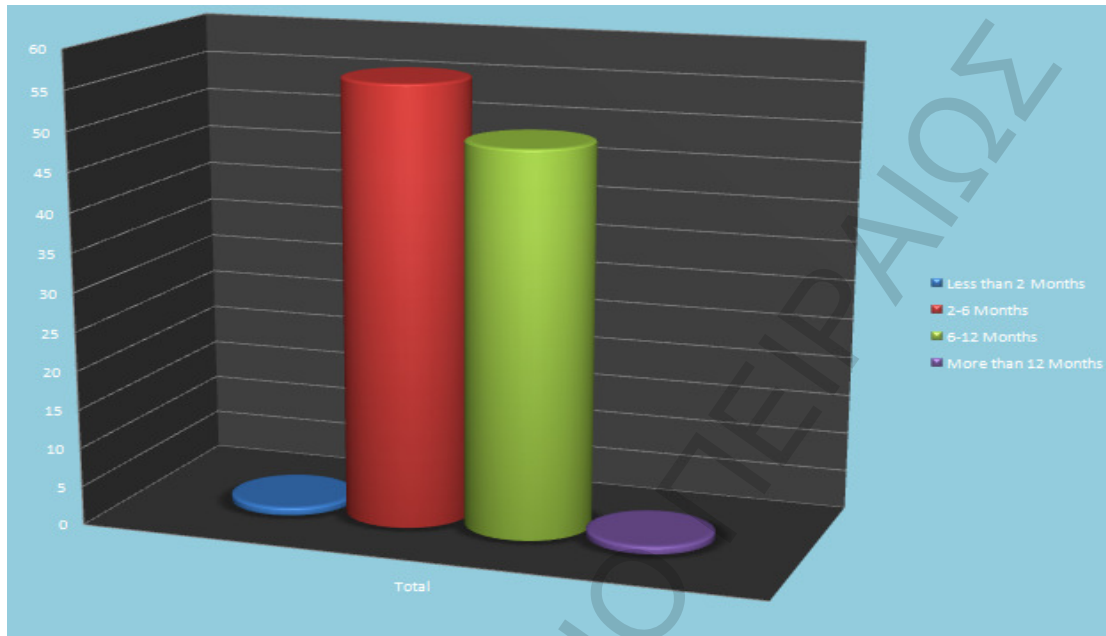


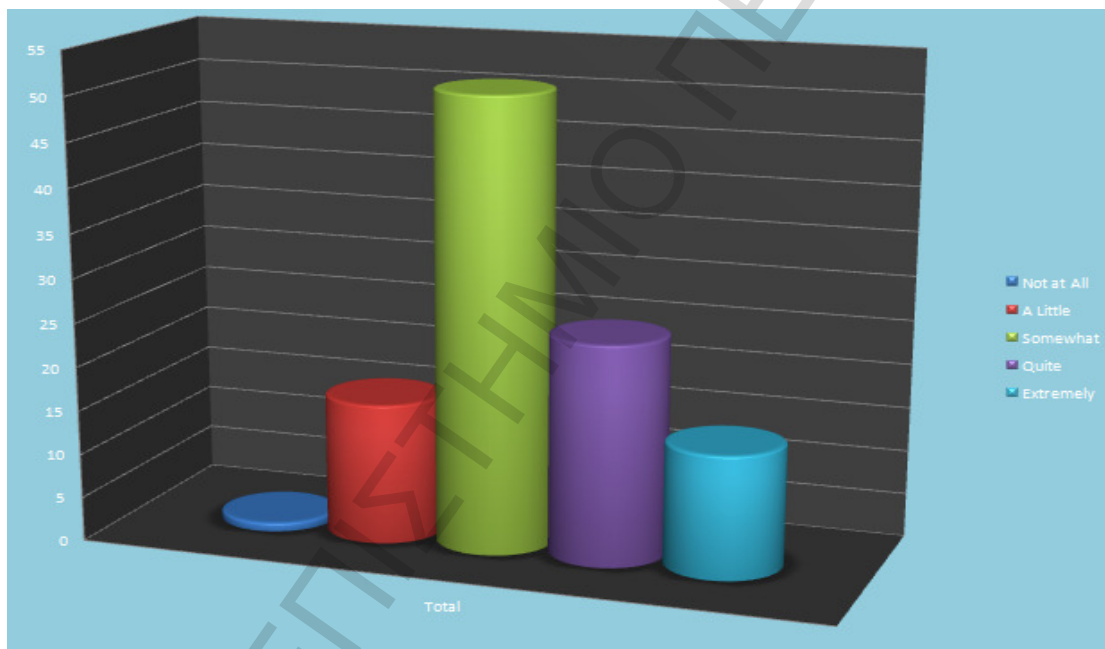
Diagram 3 – Tour of Duty

A surprising percentage (41.12%) ranked the establishment of minimum hours of rest and the maximum hours of work as somewhat important. This is probably due to the fact that the enforcement of such regulation has taken place many years ago but without really affecting the hours of work on board the vessels.

As far as concerns the establishment of standards of accommodation the greatest percentage (56.07%) agreed that it is quite important. Nevertheless, in the only ranking question used in our questionnaire where we have asked seamen to compare different accommodation standards directly to one another there were no clear results. Although “ranking questions” guarantee that each item ranked has a unique value they also force respondents to differentiate between items that they may regard as equivalent. Therefore, the accommodation standards have been evaluated equally from seamen

without assisting our research on this issue.

Additionally, the majority of the seamen have ranked as extremely important the standards for food and catering as well as the on board medical care. Seafarers have ranked as quite important the occupational health and safety along with the on board complaint procedure. Nevertheless, a quite important percentage, mostly Russian and Ukrainian seafarers, has ranked the right to provisions for worship as somewhat important. Once again this has to do with the ethnicity of the respondents. The same question would have very different results if we were asking seamen originated from countries where a special area for worship is needed.



Digram 4 – Provision to worship

4.3.2.2 PART C – LEGAL FRAMEWORK

In the final part the researcher gathered information on whether seamen consider that the existing legal framework for their employment relationship with ship-owners is sufficient or there is really a need for a more comprehensive legal framework.

Initially, seamen were asked if they believe that current legislation protects young

seafarers. The biggest percentage (37.38%) replied that it somewhat protects the young seafarers and a similar percentage (36.45%) believe that it quite protects them. Above results leave some space for discussion.

Furthermore, the quality of maritime education and training has been ranked as quite good from the biggest percentage (44.86%) with an approximate 40% ranking it as medium to low.

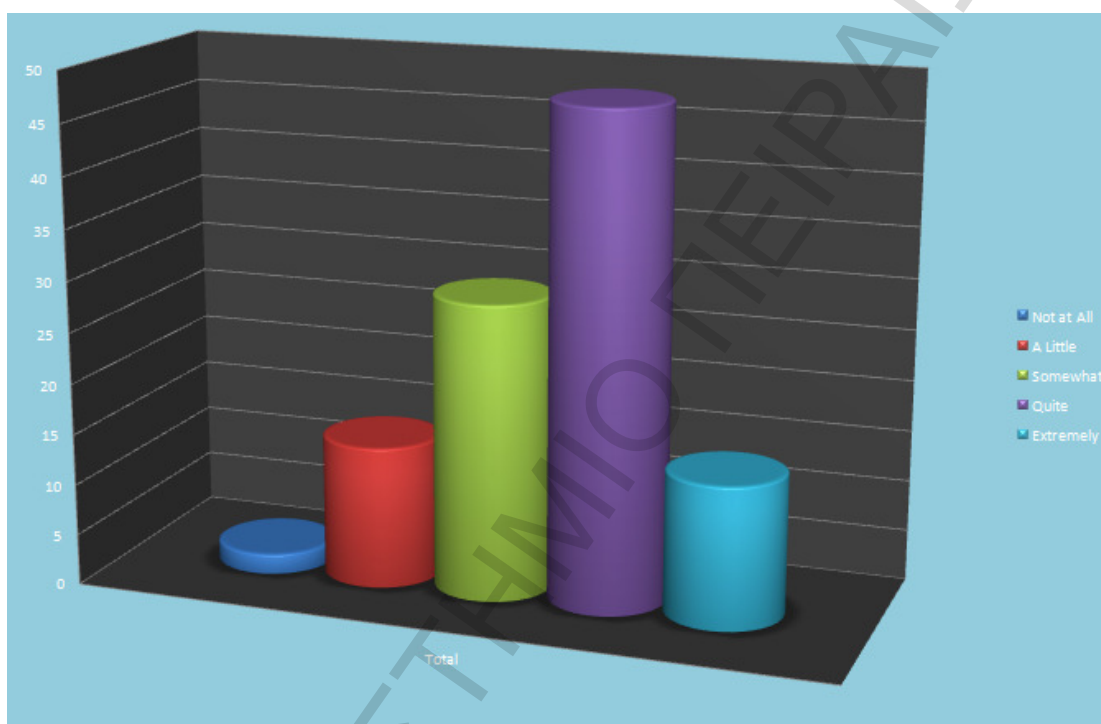


Diagram 5 – Quality of Maritime Education and Training

Additionally, the biggest percentage believes that the current national legislation somewhat provides social security protection to them. Nevertheless, considering the fact that Philippines Overseas Employment Administration (POEA) has been very considerate towards seamen's right for social protection, almost half (48.21%) of the Filipino respondents do not believe that their national legislation provides them with adequate social security protection. Also the biggest percentage of the respondents (52.34%) replied that they are not protected from being exploited from crewing agencies but on the other hand most of them (51.40%) stated that they are given the

opportunity to examine and seek advice on the Contract of Employment. Probably this means that either the terms of the Contract of Employment are not clear or that Crewing Agencies violates them.

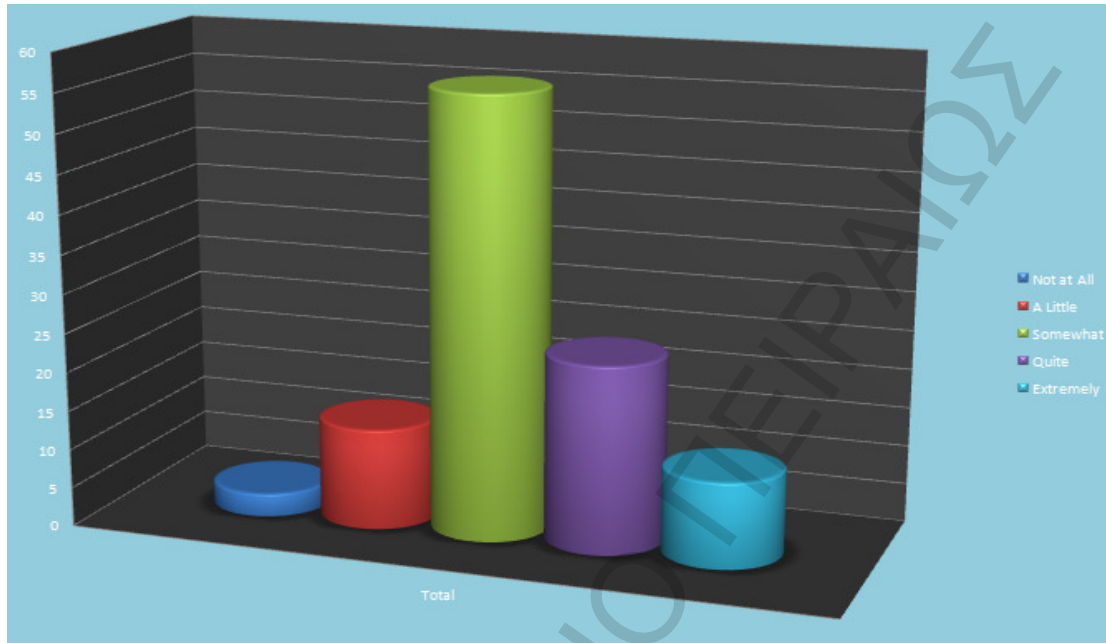


Diagram 6 – Protection from being exploited from Crewing Agencies

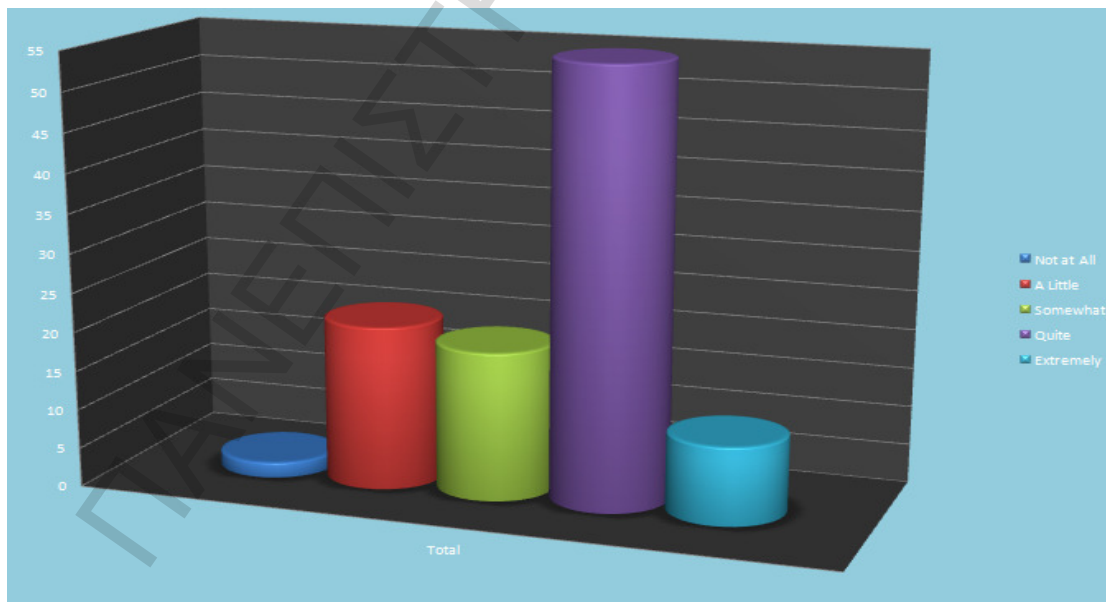


Diagram 7 – Opportunity to examine and seek advice on the Contract of Employment

The majority of the respondents (52.34%) believe that the minimum hours of rest or the

maximum hours of work standards are not implemented sufficiently on board. Considering the results of this question and the results of the question that was asking the respondents to rank the importance of establishment of minimum hours of rest and the maximum hours of work we can realize that most probably the respondents do not consider so important the establishment of this standard because they know that until now it has never been fully implemented on board.

Moreover, seamen have replied that the manning levels of the ship are quite sufficient as well as that they are quite satisfied with the food and catering on board. Nevertheless, their satisfaction with the accommodation standards and the on board recreational facilities is medium to low.

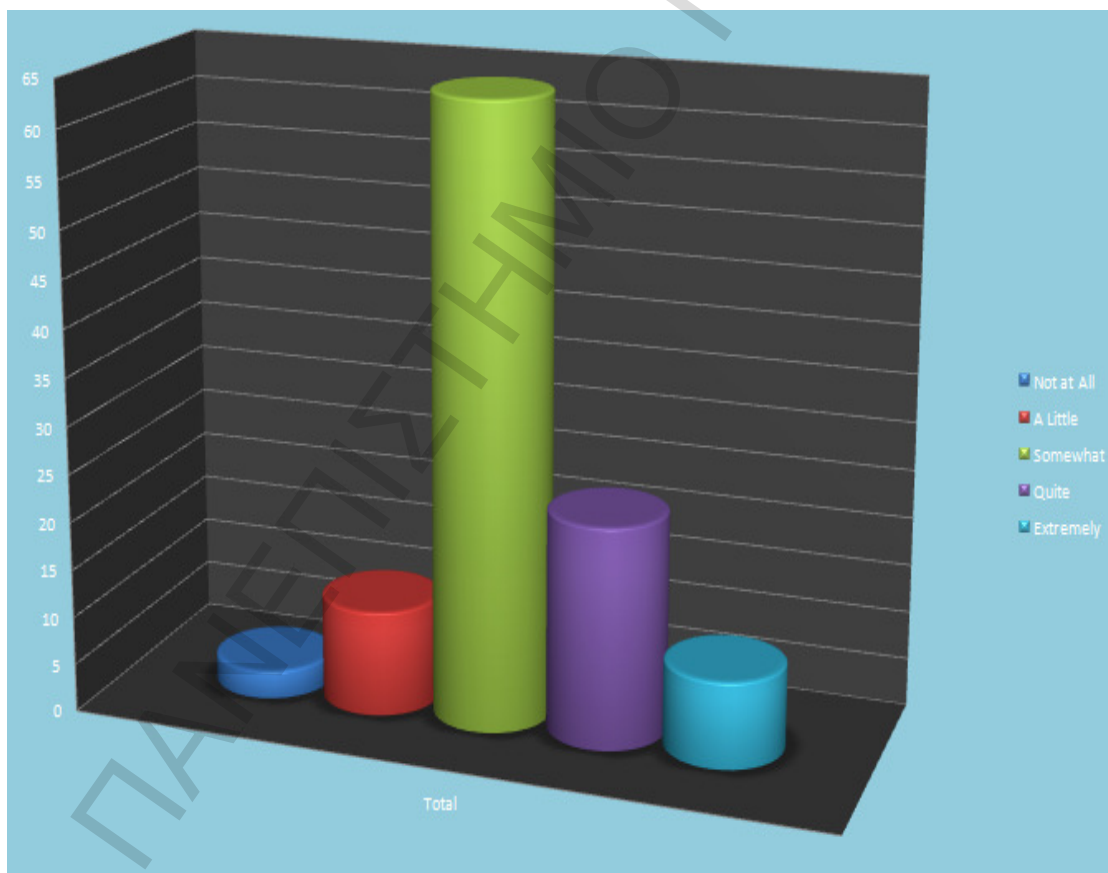


Diagram 8 – Satisfaction with the accommodation standards on board

Finally, seaman indicated (61.68%) that the current legal framework ensures Health and safety accident prevention on board. This last result is enforced from seamen’s reply on

the last question asking how long ago the most current incident on board on their ship occurred. An overwhelming percentage (66.36%) has never had an incident on board and only a small percentage had an accident during the last 12 months.

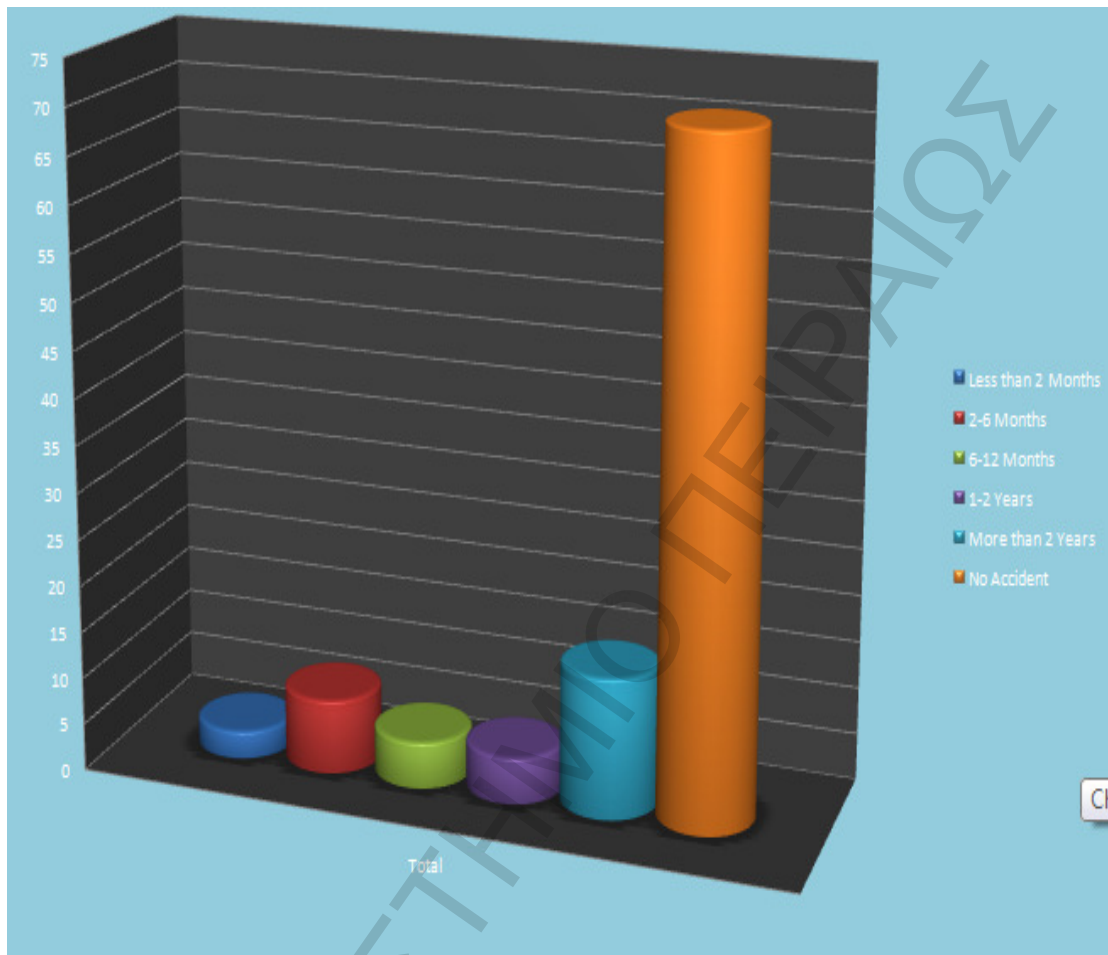


Diagram 9–Incident on board

Chapter 5 CONCLUSION

5.1 INTRODUCTION

The main purpose of this study was to examine the attitudes and beliefs of seafarers towards MLC 2006, and their opinion about the legal framework it might offer. In this chapter, the most significant research findings will be reviewed, the objectives and the research questions will be discussed and finally recommendations will be provided to the interested parties. These recommendations have been derived from the analysis of the primary and secondary data gathered during this project.

5.2 DISCUSSION OF THE RESULTS

The results of the survey indicated that the majority of the flag administrations has ratified the MLC 2006. Nevertheless, only a very small percentage of the ship-owners that completed our questionnaire have certified their vessels for MLC 2006 on a voluntary basis. The delay observed concerning the certification of the vessel can be justified due to the fact that:

1. Flag Administrations have not yet issued guidelines in order to facilitate the certification process.
2. Labour Supply States have not developed effective measures/procedures for on-going compliance.
3. Cost of the certification for the ship-owners is estimated to be rather high. In connection with the shipping industry crisis of the last years and the fact that the market will not recover until demand catches up with the supply of available tonnage, the certification is considered very expensive for many ship-owners.

According to Veganaden (2007)⁵⁴, although the shipping market is at low levels the operational expenses due to MLC 2006 will become higher. One can assume that some ship-owners are against this new convention. In our case the questionnaire was completed from shipping companies that have their fleets under FOC and as we indicated above only a 7% of the respondents have been voluntary certified.

Nevertheless, right now time is running out when it comes to finding effective solutions. If ship-owners will wait longer for the implementation of MLC 2006 time will become an enemy.

Fortunately, ship-owners seem to have already established many of the procedures required in order to be in compliance with MLC 2006 long before it was ratified. Issues that remain to be evaluated for implementation are:

1. The minimum age, probably because most of the shipping companies do not employ seamen under the age of 18.
2. The branches of social security protection that should be identified in the Seafarers' Employment Agreement. Most of the Labour Supply Countries have not implemented until now a social security protection system.
3. The certification of the Private Recruitment and Placement Services for MLC 2006.
4. The Cook certification.
5. On board programs of a preventive character such as health promotion and health education. Although the requirements for Occupational Health and Safety on board have been implemented from many shipping companies, the implementation has been voluntary and thus presently it is not as enforced as it is expected to become with MLC 2006.

⁵⁴MaunicumVeganaden (2007). The potential implications of the maritime labour convention, 2006, for policy and management in the maritime sector: a critical analysis

6. Finally, the on board complaint procedure currently is not implemented by most of the shipping companies replied to our questionnaire. The root cause analysis of this gap maybe lies with the fact that seamen until recently would never thought of submitting a complaint to a port state control or a flag administration since this would probably rule them out from any future employment in shipping industry.

The outcome of the questionnaire we have distributed to seafarers can be considered as more valuable for this research. Probably, this is because seamen replied without bias and of course because of the insight they can offer concerning the living and working conditions on board the vessels.

The first issue raised from the results of this questionnaire was the percentage of the seamen replied that the right to collective bargaining agreement is of little importance to them. Perhaps this is because seaman all these years realized that although collective bargaining agreements were in place, employers have been breaching several terms and conditions included in it. Also in many cases the fact that there was an applicable collective bargaining agreement on board a vessel was not disclosed to seamen in order to avoid future claims based on its terms and conditions.

Furthermore, a great percentage replied that the International Wages Standards is somewhat important. This could only be explained from the fact that the questionnaire was replied from officers who nowadays enjoy rather high wages and thus they are not interested in the International Wages Standards.

Furthermore, seamen ranked the establishment of minimum hours of work as somewhat important. As already explained previously in this paper, seamen do not evaluate high the standard of minimum hours of work because they know that in reality same is not implemented on board.

Also according to the results the current legislation does not protect young seafarers.

Although there were relevant ILO Conventions for their protection, young seamen would never complain about the working and living conditions on board. For them a position on board a vessel is a step towards career advancement and thus ship-owners could easily take advantage of their eager to develop their skills.

Also seamen have evaluated the current legislation concerning social security protection as insufficient. MLC 2006 desires to achieve similar working conditions on board for seamen with those provided to ashore employees. To this point very few members have established any standard for their seamen concerning medical care, sickness benefit, unemployment benefit and old-age benefit, standards that have already been addressed for ashore employees.

Similarly, a big percentage has stated that is not protected from being exploited from crewing agencies. In many cases the crewing and operations manager of the crewing agencies have made seamen pay bribe money and other miscellaneous fees to assure them that they would get hired in an international shipping firm. This abuse and exploitation of seafarers by manning agencies has also resulted in providing unfit seafarers to ships.

Finally, the satisfaction of seamen with the accommodation standards and the recreational facilities is medium to low. Ship-owners in many cases have used spaces initially constructed to become recreational facilities as storage rooms. Also many ships have been re-constructed in order to change their type or to create bigger cargo spaces and finally they have limited the space for accommodation and for recreational facilities. Of course, MLC 2006 through the inspection of these standards trusts in creating better conditions on board.

5.3 MLC 2006 – FUTURE CHALLENGES

In the following chapter we will try to identify the future challenges for MLC 2006 and its implementation. First we will present the difficulties that may arise due to insufficient crew training and knowledge about MLC 2006 requirements.

Initially, we must refer to the upcoming challenges for the catering staff and cooks. The food preparation and the galley hygiene will be inspected from Port State Control Inspectors and thus substandard situations will not be accepted anymore. Ship-owners will have to evaluate the needs for training in order to ensure effective implementation and compliance as well as to provide the living and working conditions on board that will attract and retain a committed workforce. Labor supply states will have to establish a system of training and certificating seafarers to a uniformly high standard. All these years the relevant parties were unable to deliver the required levels of training and of course the socio-economic status required by seamen.

MLC 2006 also provides significant challenges for Labour supply states. More particularly, those are related to the regulation for private seafarers' recruitment and placement services and the issue of providing social security for seafarers "ordinarily resident" in the country. Most probably, a number of departments or levels of government will have to discuss and finally agree in many issues.

Furthermore, the regulations and the provisions of the Convention relating to cultural diversity imply new responsibilities and obligations for flag states, port states, ship-owners and port state control.

Special consideration should be given to the multicultural issues and the problems those may create in the application phase. These problems will be directly related to the control of the ships during the inspection phase. At this stage the port state control will have a primary role in considering the multicultural issues that could be underestimated compared to other aspects of the Convention, which may impact directly on the

stakeholders. This consideration is not easy because there are various combinations of nationalities and in some cases personal customs and opinions could be subject to stereotypes and misunderstandings⁵⁵.

Many of the provisions in this Convention, such as the medical care and accommodations requirements, will make the shipping business much more costly for ship-owners. Shippers and ultimately consumers will bear these costs. While this result would not be inherently negative, there could be adverse side effects. For example, less wealthy ship-owners may have difficulty staying in business; to the extent that entire nations rely predominantly on less wealthy ship-owners, this could adversely affect their ability to import and export goods. Further, less wealthy shippers may no longer be able to afford shipment of the goods to foreign markets, impacting the ability to remain in business⁵⁶. These costly requirements may also make it more difficult for new ship-owners to enter the shipping industry, thereby reducing competition and driving prices even higher. Given that approximately 80 percent of world trade is shipped via ocean transportation, these consequences could prove significant.

Furthermore, areas where we so far have seen special challenges are the new building vessels, the documentation concerning the payment of wages, ship owners' liability and of course the recruitment and placement services.

5.4 RECOMMENDATIONS FOR FURTHER RESEARCH

As of today Maritime Labour Convention is fully functional and many shipping companies consider of having their vessels certified in due time. Nevertheless, some

⁵⁵Vittorio Alberto Torbianelli & Carlo, Kraskovic (2011).The “cultural diversity” in the 2006 ILO convention on Maritime Labour: what difficulties for the implementation phase?

⁵⁶Bauer, Paul J (2008).The Maritime Labour Convention: An Adequate Guarantee of Seafarer Rights, or an Impediment to True Reforms?

concerns that may not be adequately addressed must be highlighted. The seafaring community would do well to give some further thought to these matters before pushing forward with this agreement.

One first issue that maybe needs more detailed examination is the shore leave. Shore leave is very important for the well-being of seamen and MLC 2006 through Regulation 4.4, access to shore-based welfare facilities, has tried to regulate this area. Nevertheless, the approach is rather frivolous. The Convention fails to recognize that the availability of shore leave is sometimes dependent on more than the ship owner's discretion and thus it should be ensured that it is provided for not only from them but by the port countries as well.

Another issue that needs to be addressed is the yachting industry. Although according to MLC 2006 the certification requirement applies to ships of 500GRT or over, engaged in international voyages the competent authorities will have their own interpretation on how it should be applied to yachts. MLC 2006, Article II paragraph 4 states "the Convention applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities". But the word "ordinarily" is not defined in the Convention or by the ILO and is to be left to the competent authorities to define. Article II allows some flexibility to competent authorities in applying certain aspects of the code to vessels then it remain unknown how those will interpret the Convention. There are indications that the MLC 2006 will only apply to yachts of certain size. Another interesting issue when it comes to yachting is the implementation of Standard A3.1, Accommodation and recreational facilities where there are certain difficulties in re-constructing small yachts. Maybe some exemptions will be allowed for these yachts on this particular regulation without of course risking the health and safety of the seamen.

Furthermore, another industry that has to be examined individually is that of passenger vessels. In MLC 2006, Standard A3.1, Accommodation and recreational facilities there

are some distinctions between the requirements for other vessels and for passenger ships. Furthermore, principals that operate cruise ships have to consider the implementation of a Hazard Analysis and Critical Control Point (HACCP) system in order to ensure that critical control points and specific actions concerning food safety legislation are implemented. Finally, there are many queries on whether MLC, 2006 will apply to entertainers and hotel service staff. Nevertheless, in Maritime Labour Convention, 2006 (MLC, 2006), Frequently Asked Questions (FAQ) it is clearly stated that MLC 2006 covers “all workers including cabin and cleaning personnel, bar staff, waiters, entertainers, singers, kitchen staff, casino personnel and estheticians”⁵⁷.

This paper has been an ongoing process that went on for two years. Having the privilege to be in a position to evaluate the perspective of both the ship-owners, through the crew managers of the shipping companies, and the seafarers we realized that MLC 2006 is being perceived as a necessary evil from most of the stakeholders. Nevertheless, reluctance towards the implementation of any kind of regulation concerning seamen’s protection has always been an issue. We have indicated the non-ratification status of the ILO Conventions that tried in the past to regulate the employment of seamen as well as the choice of ship owners to fly FOCs in order to be able to implement lower standards concerning the living and working conditions on board.

On 20 August of 2013 the convention will be in force. Many hope that it will be partially implemented, thereafter outdated and eventually forgotten. Nonetheless, this will be an opening for all relevant parties to prove their intentions concerning seamen’s employment rights. Even more, this will be also a great opportunity for seamen to claim what is theirs. They will have to be informed about the MLC 2006 and to cascade all relevant info to their colleagues. Seamen must realize that MLC 2006 is an instrument dedicated for the

⁵⁷Maritime Labour Convention, 2006 (MLC, 2006)

promotion of their welfare its implementation will have to be supported by all possible means.

ΠΑΝΕΠΙΣΤΗΜΙΟ ΠΕΙΡΑΙΩΣ

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ΠΑΝΕΠΙΣΤΗΜΙΟ ΠΕΙΡΑΙΩΣ



REPUBLIC OF THE MARSHALL ISLANDS

OFFICE OF THE MARITIME ADMINISTRATOR

Maritime Labour Convention, 2006 Declaration of Maritime Labour Compliance – Part I

(NOTE: This Declaration must be attached to the ship's Maritime Labour Certificate)

Issued under the authority of
the Government of the Republic of the Marshall Islands

With respect to the provisions of the Maritime Labour Convention, 2006 ("MLC, 2006" or also referred to below as "the Convention"), the following referenced ship:

Name of Ship	IMO Number	Gross tonnage

is maintained in accordance with Standard A5.1.3 of the Convention.

The undersigned declares, on behalf of the abovementioned competent authority, that:

- (a) the provisions of the MLC, 2006 are fully embodied in the national requirements referred to below;
- (b) these national requirements are contained in the national provisions referenced below; explanations concerning the content of those provisions where they differ from the MLC, 2006 are provided where necessary;
- (c) the details of any substantial equivalencies under Article VI, paragraphs 3 and 4, are provided in the section provided for this purpose below;
- (d) any exemptions granted by the competent authority in accordance with Title 3 are clearly indicated in the section provided for this purpose below; and
- (e) any ship-type specific requirements under national legislation are referenced under the requirements concerned.

1. Minimum age (Regulation 1.1)

- **Maritime Act, 1990, as amended (MI-107) §826 – Minimum age at sea.**
- **Maritime Regulations (MI-108) §7.49 – Minimum Age.**
 - For the purposes of this requirement, “night” is defined as the period starting at 20:00 hrs and ending at 06:00 hrs.
 - Seafarers under the age of 18 shall be prohibited from engaging in employment or work which is considered “hazardous” as determined by the shipowner/operator in accordance with relevant international standards.
- **Marine Notice 7-049-1-Hazardous Work and Consideration of Health and Safety Issues for Seafarers under the Age of 18.**
 - Addresses and provides criteria and the international standards for the determination of “hazardous” employment or work with regard to seafarers under the age of 18.

2. Medical certification (Regulation 1.2)

- **Maritime Act, 1990, as amended (MI-107) §825 – Required documents for seafarers.**
- **Maritime Regulations (MI-108) §7.47.4 – Medical Certificates.**
 - Each seafarer employed on board a vessel registered under the Maritime Act shall be in possession of a physical examination certificate in the official form required by the Republic of the Marshall Islands, the STCW Convention 1978, as amended, or by another State Party to the ILO Convention Concerning the Medical Examination of Seafarers, attesting to the holder’s medical fitness for duty.
 - The certificate must be signed by a medical practitioner licensed in the place of examination.
 - Medical information required to be recorded on the medical certificate and the duration of validity of the certificate is the same as referred to in the Convention.
 - Provisions for urgent cases are the same as referred to in the Convention except that the term “expired medical certificate of recent date” is defined as a medical certificate which is expired for a period not greater than 6 months.
- **Marine Guideline 7-47-1 - Guidance on Medical Exams and Certificates for Seafarers.**
 - Contains model medical exam form for the physical examination and the required Physical Exam Certificate (Form MI-105M) that must be submitted to the Office of the Maritime Administrator.

3. Qualification of seafarers (Regulation 1.3)

- **Maritime Act, 1990, as amended (MI-107) §825 – Required documents for seafarers.**
- **Maritime Regulations (MI-108) §7.47.1 – Training and Qualifications.**
 - Requirements for merchant marine personnel certification (MI-118), established pursuant to Marshall Islands Maritime Act 1990, Chapter 1, Section 109 and Marshall Islands Maritime Regulation Section 1.04, comply fully with the provisions of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended.

4. Seafarers' employment agreements (Regulation 2.1)

- Maritime Act, 1990, as amended (MI-107) §830 – Grounds for discharge.
- Maritime Act, 1990, as amended (MI-107) §853 – Contracts for seafaring labor.
- Maritime Regulations (MI-108) §7.45.1 – Seafarer Employment Agreements.
- Maritime Regulations (MI-108) §7.47.3 – Seafarer's Identification and Record Books.
- Maritime Regulations (MI-108) §7.48 – Certificates of Service.
 - Records of employment are recorded in seafarer's identification and record books. Seafarers not required to possess a seafarer identification and record book are issued certificates of service, the provisions of which are the same as referred to in the Convention.

5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4)

- Maritime Regulations (MI-108) §7.45.2 – Recruitment and Placement Services.
- Marine Notice 7-045-1-Demonstrating Compliance of Recruitment and Placement Services.

6. Hours of work or rest (Regulation 2.3)

- Maritime Act, 1990, as amended (MI-107) §842 – Working hours, rest hours and overtime.
- Maritime Regulations (MI-108) §7.51 – Hours of Work and Hours of Rest.
 - Terminology used is the same as referred to in the Convention.
- Marine Notice 7-051-2 – Minimum Hours of Rest.
 - The Administration has established a minimum hours of rest standard for the regulation of Hours of Work and Hours of Rest.
 - Provides forms for the Table of Working Arrangements and for the Records of Hours of Rest.

7. Manning levels for the ship (Regulation 2.7)

- Maritime Act, 1990, as amended (MI-107) §804 – Full complement required.
- Maritime Regulations (MI-108) §7.38 – Manning Requirements for Vessels Registered under the Maritime Act.

8. Accommodation (Regulation 3.1)

- Maritime Act, 1990, as amended (MI-107) §863 – Accommodations
- Maritime Regulations (MI-108) §7.44 – Accommodations, Recreational Facilities, Food, Water and Catering.

- **Marine Notice 7-044-1 – Accommodations, Recreational Facilities, Food, Catering and Water** (sections 1 – 13 and 16 – 18).

9. On-board recreational facilities (Regulation 3.1)

- **Maritime Regulations (MI-108) §7.44 – Accommodations, Recreational Facilities, Food, Water and Catering.**
- **Marine Notice 7-044-1 – Accommodations, Recreational Facilities, Food, Catering and Water** (sections 1, 14, 16, 17 and 18).

10. Food and catering (Regulation 3.2)

- **Maritime Regulations (MI-108) §7.38.5d – Manning Requirements for Vessels Registered under the Maritime Act / Responsibility of Shipowners/Operators.**
- **Maritime Regulations (MI-108) §7.44 – Accommodations, Recreational Facilities, Food, Water and Catering.**
- **Marine Notice 7-044-1 – Accommodations, Recreational Facilities, Food, Catering and Water** (sections 1, 15, 16 and 17).
- **Marine Guideline 7-44-1, Food Handling, Storage and Preparation**
 - Complements Marine Notice 7-044-1.

11. Health and safety and accident prevention (Regulation 4.3)

- **Maritime Act, 1990, as amended (MI-107) §710 – Marine casualty investigations.**
- **Maritime Regulations (MI-108) §6.36 – Reports of Marine Casualties or Incidents.**
- **Maritime Regulations (MI-108) §7.41 – Master’s Duties and Responsibilities**
 - **.10 Accident Prevention.** The Master of each vessel shall appoint from amongst the crew a suitable person or a committee responsible for accident prevention, and such person or committee shall in addition to any other duties assigned by the Master hold safety meetings, conduct routine inspections and ensure that any conditions aboard the vessel not in substantial compliance with the applicable provisions of the accident prevention code or codes currently approved by the Administration are brought to the prompt attention of the Master.
- **Maritime Regulations (MI-108) §§7.43.1 and 7.43.2 – Health and Safety Protection and Accident Prevention.**
- **Marine Notice 2-011-13 – International Safety Management (ISM) Code.**
- **Marine Notice 7-049-1 – Hazardous Work and Consideration of Health and Safety Issues for Seafarers under the Age of 18.**
 - Addresses and provides criteria for the determination of ‘hazardous’ employment or work with regard to seafarers under the age of 18.
- **Marine Guideline 2-11-3 – Guidelines on the Basic Elements of a Shipboard Occupational Health and Safety Program.**

12. On-board medical care (Regulation 4.1)

- **Maritime Regulations (MI-108) §7.42 – Medical Care of Officers and Crew.**
 - **.2 Hospital:** Vessels carrying 15 or more seafarers and engaged in a voyage of more than three (3) days' duration shall provide separate hospital accommodation to be used exclusively for medical purposes and that will, in all weathers, be easy of access, provide comfortable housing for the occupants and be conducive to their receiving prompt and proper attention. Vessels engaged in coastal trade and capable of reaching qualified medical care and medical facilities within eight (8) hours may be exempted from this requirement.
 - **.4 Standard of Competence for Medical First Aid/Medical Care:** Vessels which do not carry a medical doctor shall be required to have one (1) seafarer on board who is in charge of medical care and administering medicine as part of their regular duties and one (1) seafarer on board competent to provide medical first aid. A single individual may serve in both capacities, provided he/she is certified for the two (2) competencies.
- **Marine Notice 7-042-1, Medical Care On Board Ship and Ashore: Medical Chest, Recordkeeping and Responsibilities and Training for Medical Care.**

13. On-board complaint procedures (Regulation 5.1.5)

- **Maritime Act, 1990, as amended (MI-107) §861 – Conciliation, mediation and arbitration of labor disputes, differences or grievances.**
- **Maritime Regulations (MI-108) §7.53 – Conciliation, Mediation and Arbitration.**
- **Marine Notice 7-053-1, On Board Complaint Procedures**
 - Contains specifics regarding the development of the on board complaint procedures.

14. Payment of wages (Regulation 2.2)

- **Maritime Act, 1990, as amended (MI-107) §827 – Payment of wages.**
- **Maritime Regulations (MI-108) §7.51.4 – Payment of Wages.**
- **Marine Notice 7-051-1, Payment of Wages – Account.**

Name: Thomas F. HeinanTitle: Deputy Commissioner of Maritime Affairs

Signature: _____

Place: Reston, Virginia

Date: _____

(Seal or stamp of the authority, as appropriate)

Substantial Equivalencies

(NOTE: Strike out the statement which is not applicable)

The following substantial equivalencies, and provided under Article VI, paragraphs 3 and 4, of the Convention, except where stated above, are noted (insert description if applicable):

No equivalency has been granted.

Name: Thomas F. Heinan

Title: Deputy Commissioner of Maritime Affairs

Signature: _____

Place: Reston, Virginia

Date: _____

(Seal or stamp of the authority, as appropriate)

Exemptions

(NOTE: Strike out the statement which is not applicable)

The following exemptions granted by the competent authority as provided in Title 3 of the Convention are noted:

No exemption has been granted.

Name: Thomas F. Heinan

Title: Deputy Commissioner of Maritime Affairs

Signature: _____

Place: Reston, Virginia

Date: _____

(Seal or stamp of the authority, as appropriate)



REPUBLIC OF THE MARSHALL ISLANDS

OFFICE OF THE MARITIME ADMINISTRATOR

Maritime Labour Convention, 2006 Declaration of Maritime Labour Compliance – Part II

Measures adopted to ensure ongoing compliance between inspections

The following measures have been drawn up by the shipowner, named in the Maritime Labour Certificate to which this Declaration is attached, to ensure ongoing compliance between inspections:

(State below the measures drawn up to ensure compliance with each of the items in Part I)

1. Minimum age (Regulation 1.1)
2. Medical certification (Regulation 1.2)
3. Qualifications of seafarers (Regulation 1.3)
4. Seafarers' employment agreements (Regulation 2.1)
5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4)
6. Hours of work or rest (Regulation 2.3)
7. Manning levels for the ship (Regulation 2.7)
8. Accommodation (Regulation 3.1)
9. On-board recreational facilities (Regulation 3.1)
10. Food and catering (Regulation 3.2)
11. Health and safety and accident prevention (Regulation 4.3)
12. On-board medical care (Regulation 4.1)
13. On-board complaint procedures (Regulation 5.1.5)

14. Payment of wages (Regulation 2.2)

I hereby certify that the above measure have been drawn up to ensure ongoing compliance, between inspections, with the requirements listed in Part I.

Name of shipowner:¹ _____

Company address: _____

Name of the authorized signatory: _____

Title: _____

Signature of the authorized signatory: _____

Date: _____

(Seal or stamp of the shipowner¹)

The above measures have been reviewed _____

(insert name of competent authority or duly recognized organization)

and, following inspection of the ship, have been determined as meeting the purposes set out Standards A5.1.3, paragraph 10(b), regarding measures to ensure initial and ongoing compliance with the requirements set out in Part I of this Declaration.

Name: _____

Title: _____

Address: _____

Signature: _____

Place: _____

Date: _____

(Seal or stamp of the authority, as appropriate)

¹ *Shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.

APPENDIX A5-II

Maritime Labour Certificate

(Note: This Certificate shall have a Declaration of Maritime Labour Compliance attached)

Issued under the provisions of Article V and Title 5 of the Maritime Labour Convention, 2006 (referred to below as “the Convention”) under the authority of the Government of:

.....
(full designation of the State whose flag the ship is entitled to fly)

by

(full designation and address of the competent authority or recognized organization duly authorized under the provisions of the Convention)

Particulars of the ship

Name of ship

Distinctive number or letters

Port of registry

Date of registry

Gross tonnage¹

IMO number

Type of ship

Name and address of the shipowner²

.....
.....

¹ For ships covered by the tonnage measurement interim scheme adopted by the IMO, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969). See Article II(1)(c) of the Convention.

² *Shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.

This is to certify:

1. That this ship has been inspected and verified to be in compliance with the requirements of the Convention, and the provisions of the attached Declaration of Maritime Labour Compliance.

2. That the seafarers' working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country's national requirements implementing the Convention. These national requirements are summarized in the Declaration of Maritime Labour Compliance, Part I.

This Certificate is valid until subject to inspections in accordance with Standards A5.1.3 and A5.1.4 of the Convention.

This Certificate is valid only when the Declaration of Maritime Labour Compliance issued

at on is attached.

Completion date of the inspection on which this Certificate is based was

Issued at on

Signature of the duly authorized official issuing the Certificate

(Seal or stamp of issuing authority, as appropriate)

Endorsements for mandatory intermediate inspection and, if required, any additional inspection

This is to certify that the ship was inspected in accordance with Standards A5.1.3 and A5.1.4 of the Convention and that the seafarers' working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country's national requirements implementing the Convention.

Intermediate inspection:
(to be completed between the second and third anniversary dates)

Signed
(Signature of authorized official)

Place

Date
(Seal or stamp of the authority, as appropriate)

Additional endorsements (if required)

This is to certify that the ship was the subject of an additional inspection for the purpose of verifying that the ship continued to be in compliance with the national requirements implementing the Convention, as required by Standard A3.1, paragraph 3, of the Convention (re-registration or substantial alteration of accommodation) or for other reasons.

Maritime Labour Convention, 2006

Additional inspection:
(if required)

Signed
(Signature of authorized official)

Place

Date
(Seal or stamp of the authority,
as appropriate)

Additional inspection:
(if required)

Signed
(Signature of authorized official)

Place

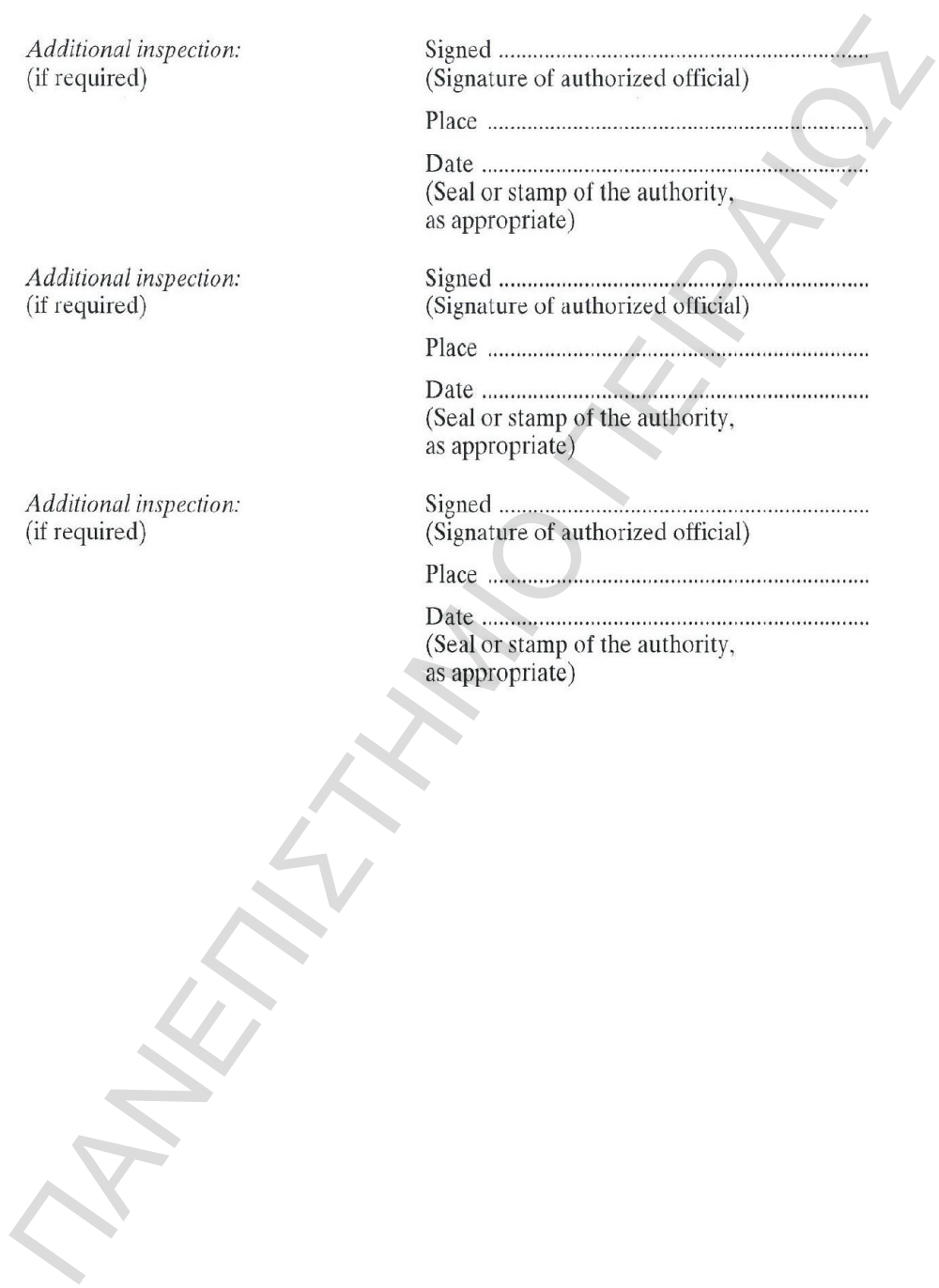
Date
(Seal or stamp of the authority,
as appropriate)

Additional inspection:
(if required)

Signed
(Signature of authorized official)

Place

Date
(Seal or stamp of the authority,
as appropriate)



MLC COMPLIANCE QUESTIONNAIRE

PART A – PERSONAL DATA

1. Please define the sector of your organization

For multiple responses tick all applicable boxes:

<input type="checkbox"/>	Ship management company/owner
<input type="checkbox"/>	Crew Management company/manning office
<input type="checkbox"/>	Employee in Maritime sector
<input type="checkbox"/>	Other (please define):

2. What is your educational background?

<input type="checkbox"/>	PhD In:
<input type="checkbox"/>	MSc in:
<input type="checkbox"/>	BSc in:
<input type="checkbox"/>	Certificate Of Competency (COC):
<input type="checkbox"/>	Other (please define):

3. Years of experience:

At sea:		Ashore:	
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PART B – MLC RATIFICATION

1. Has the competent authority of your Flag ratified the Maritime Labor Convention 2006? (In case your ships fly more than one flag please define in Remarks)

Please mark an 'X':

Yes:	<input type="checkbox"/>	No:	<input type="checkbox"/>
------	--------------------------	-----	--------------------------

REMARKS:.....
.....

2. Recruitment and Placement service is located in a country or territory in which MLC 2006 applies?

Please mark an 'X':

Yes:	<input type="checkbox"/>	No:	<input type="checkbox"/>
------	--------------------------	-----	--------------------------

3. Has your company/vessels been certified for MLC 2006 on a voluntary basis?

Please mark an 'X':

Yes:	<input type="checkbox"/>	No:	<input type="checkbox"/>
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PART C – MLC GAP ANALYSIS

The issuance of Maritime Labor Convention certification is determined by the successful inspection of the 14 Areas listed in Title 5, ‘compliance and enforcement’, regarding living and working conditions. Therefore, below you are kindly requested to indicate by a “YES” or a “NO” whether your organization has already taken the necessary measures in order to be in compliance with MLC 2006.

Please mark an ‘X’:

		AREAS
YES	NO	
		<i>DMLC Area 1 (Minimum Age)</i>
		<i>Does your management system prohibit the employment of seafarers under the age of 16 and records the measures to ensure this ashore and on board?</i>
		<i>Does your management system prohibit the employment of seafarers under the age of 18 years in any hazardous work that is likely to jeopardize their health or safety?</i>
		<i>Does your management system prohibit the employment of seafarers under the age of 18 work as cooks?</i>
		<i>DMLC Area 2 (Medical Certification)</i>
		<i>Does your management system ensure that all seafarers, prior to beginning work on a ship, hold a valid medical certificate attesting that they are medically fit to perform their duties?</i>
		<i>Does your management system ensure that medical fitness examinations will only be carried out by a duly qualified medical practitioner?</i>
		<i>Does your management system monitors the validity of the medical certificate?</i>
		<i>DMLC Area 3 (Qualifications Of seafarers)</i>
		<i>Does your management system ensure that all seafarers, prior to beginning work on a ship, are trained or certified as competent or otherwise to perform their duties?</i>
		<i>DMLC Area 4 (Seafarer’s employment agreements)</i>
		<i>Does the seafarer’s employment agreement or applicable CBA identify how the various branches of social security protection will be provided to the seafarers?</i>
		<i>Does your company ensure that prior to commencing work every seafarer holds the Seafarer Employment Agreement signed by both the seafarer and the ship-owner or a representative of the shipowner?</i>

	<i>Do you ensure that each seafarer is given the opportunity to examine and seek advice on the agreement, including any collective bargaining agreement that forms part of it?</i>
	<i>Does the Seafarer's Employment agreement provide for a minimum notice to be given by seafarers or shipowners?</i>
	<i>DMLC Area 5 (Private Recruitment and Placement Services)</i>
	<i>Do you have measures to ensure that the seafarer recruitment and placement service used by the shipowner to supply seafarers to a ship is either located in a country which has ratified the MLC 2006 or it has been certified by the Flag Administration that it conforms to the standards of MLC 2006?</i>
	<i>Do you ensure that the seafarer recruitment and placement service operates in conformity with a standardized system of licensing?</i>
	<i>Do you ensure that the seafarer recruitment and placement service does not charge seafarers any fee other than the cost of obtaining his national statutory medical certificate, the Seaman's book and a passport?</i>
	<i>DMLC Area 6 (Hours of work or rest)</i>
	<i>Does your system establish the minimum hours of rest or the maximum hours of work according to the standards of MLC 2006?</i>
	<i>Do you have the table of shipboard working arrangements accepted by the administration posted in an accessible place?</i>
	<i>Do you ensure that records of rest are maintained?</i>
	<i>DMLC Area 7 (Manning Levels of the Ship)</i>
	<i>Do you ensure that the ship is manned in accordance with Minimum Safe Manning certificate?</i>
	<i>DMLC Area 8 (Accommodation)</i>
	<i>Do you have a confirmation that your vessels are designed, constructed, and equipped according to the standards of MLC 2006?</i>
	<i>Are there provision to ensure that seafarers are instructed in the dangers to hearing and health of prolonged exposure to hazardous levels of noise and vibration?</i>
	<i>Do you provide to the seafarers laundry facilities in an appropriately situated location?</i>
	<i>Do you address fairly applied variations in order to facilitate seafarers having differing and distinctive religious and social practices?</i>
	<i>DMLC Area 9 (On board recreational facilities)</i>
	<i>Do you provide appropriate seafarer's recreational facilities at no cost?</i>
	<i>DMLC Area 10 (Food and Catering)</i>
	<i>Do you ensure that seafarers will be provided with adequate quantities of food and potable water?</i>
	<i>Does your system ensures that hygiene condition is maintained in the catering department?</i>
	<i>Do you ensure that catering staff will be properly trained?</i>
	<i>If applicable, do you ensure that Cook holds a valid approved course or a valid national</i>

	certificate?
	DMLC Area 11 (Health and safety accident prevention)
	<i>Do you have an occupational health and safety policy?</i>
	<i>Have you adopted, implemented and promoted an occupational health and safety programme taking into account ILO code of practice?</i>
	<i>Have you established, where applicable, a safety and health committee?</i>
	DMLC Area 12 (On board medical care)
	<i>Do you ensure that seafarers have access to the necessary medicine, medical equipment which is generally comparable to that provided to workers ashore?</i>
	<i>Do you have programs on board of a preventive character such as health promotion and health education?</i>
	DMLC Area 13 (On board complaint procedure)
	<i>Do you have on board procedures for the fair , effective and expeditious handling of seafarers complaining?</i>
	<i>Do you provide these procedures to the seafarers?</i>
	<i>Do you address the right of the seafarer to be accompanied or represented during the complaints procedure?</i>
	<i>Do you ensure that all complaints received along with the decisions taken will be recorded and a relevant copy be given, if requested to the seafarer concerned?</i>
	DMLC Area 14 (Payment of Wages)
	<i>Are there procedures to ensure that Seafarer's wage is paid in full at no greater than monthly intervals?</i>
	<i>Do you have a form which is given to seafarers as monthly accounts of the payments due and the amounts paid?</i>
	<i>Do you require overtime records to be maintained on board?</i>

Please express your opinion about the effectiveness of MLC 2006 for both the Seafarers and the Ship-owners:

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Seafarers' Working and Living Conditions and MLC as a legal framework for seafarers' protection

The current questionnaire will be distributed to seafarers in order to assess their perception about the working and living conditions on board and thereafter to generalize the results to the groups represented by the respondents.

More specifically, with this questionnaire we will gather information in order to answer to the following:

- What is the perception of Seafarers as far as concerns the term “Decent Work”?
- What is their experience as far as concerns the legal framework implemented until now in Seafarers Employment?
- Do seafarers consider MLC 2006 a comprehensive legal framework for the employment relationship between them and the ship-owners?

Introduction of the questionnaire

The current questionnaire has been designed in order to examine the working and living conditions on board vessels and whether same have been addressed from Flag States, Port States and Labor Supply States.

(You need about 15-20 minutes to answer the questionnaire)

Your response would be highly appreciated.

PART A – PERSONAL DATA

1) Please tick the box according to the license you hold:

Deck Officer

Engine Officer

Other, please state:

2) How old are you?

21-30

31-40

41-50

51-60

60+

3) Please State your Nationality:

Filipino

Russian

Ukrainian

Other, please state:

4) How are you employed:

Directly by the ship owner or ship operator

Through a third party ship manager

Through a crewing agency

Other, please state:

PART B – DECENT WORK

Indicate your impression gained from your life at sea by marking the appropriate box, with the respective questionnaire coding (unless different coding is indicated for a section): 5=Extremely, 4=Quite, 3=Somewhat, 2=A Little, 1=Not at All

1) Do you consider important the right to collective bargaining agreement?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

2) Do you consider important to receive your wages regularly and in full at least monthly?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

3) Do you consider important to receive a monthly statement with your wages payment?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

4) Do you consider important to establish International Wages Standards?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

5) Do you consider important the continuity of employment?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

6) How long is your normal tour of duty:

- Less than 2 months
- 2-6 months
- 6-12 months
- More than 12 months

7) Do you consider important the establishment of Minimum Hours of Rest and the Maximum Hours of Work?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

8) Do you consider important the establishment of standards of accommodation?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

9) Please rank each of the following accommodation standards in order of importance from the 1=most important through the 7=least important.

- a) Ventilation
- b) Heating System
- c) Lighting
- d) Noise Isolation
- e) Vibration Isolation
- f) Recreational Facilities
- g) Hospital

10) Do you consider important the establishment of standards for Food and Catering?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

11) Do you consider important the right to provisions for worship?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

12) Do you consider important the occupational health and safety on board?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

13) Do you consider important the establishment of an on board complaint procedure?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

14) Do you consider important the on board medical care?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

PART C – LEGAL FRAMEWORK

1) To what extent you believe that the current legislation protects young seafarers?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

2) Do you consider the quality of maritime education and training as adequate?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

3) To what extent national legislation provides to seafarer social security protection?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

4) To what extent the legal framework protects seafarers from being exploited from Crewing Agencies?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

5) Do you consider that seafarers are given the opportunity to examine and seek advice on the Contract of Employment?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

6) To what extent Minimum hours of rest or the Maximum hours of work standards are implemented on board?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

7) Do you consider the manning levels of the ships sufficient?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

8) Are you satisfied with the accommodation standards on board the vessels?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

9) Are you satisfied with the on board recreational facilities?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

10) Are you satisfied with the Food and Catering on board the vessels?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

11) To what extent the legal framework ensures Health and safety accident prevention on board?

1	2	3	4	5
Not at All	A Little	Somewhat	Quite	Extremely

12) How long ago did the most current incident on board on your ship occur:

- Less than 2 months
- 2-6 Months
- 6-12 Months
- 1-2 years
- More than 2 years ago
- No accidents