

# Maritime Labour Convention, 2006, as amended:

## the work of the Committee of Experts on Conventions and Recommendations

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# MLC, 2006 Presentation

## ➤ *I. Progress achieved*

## ➤ *II. Challenges*

- A. Challenges related to the evolution of MLC
- B. Challenges related to the treatment of the files

## ➤ *III. Main issues of concern*



# I. Progress achieved

MLC, 2006:

- **86** Contracting States, representing more than 90% of the world fleet:
  - latest arrivals: Chile, Indonesia, Jamaica, Lebanon, Sri Lanka, Tunisia
  - on the pipeline: Djibouti, Ethiopia and United Republic of Tanzania
- CEACR has examined in total: **55 first reports**
- (Out of cycle reports requested after 2 years)
- Impressive efforts to implement the MLC, 2006 both in law and in practice
- Cooperation with MOUs on Port State Control
- Informal opinions by the Office on the implementation of the Convention



## II. Challenges

- *Amendments 2014* – Entry into force: 18.1.2017
- **First examination of implementation in 2018**
- Acceptance rate : 69 States
- Awaiting declaration of acceptance from 17 member States  
Albania, Bangladesh, Belize, Cabo Verde, China, Estonia, Fiji, Gabon, India, Iran, Jordan, Kenya, Maldives, Mongolia, Portugal, Romania, Thailand
- Formal disagreement: Curaçao (The Netherlands)
- **Useful to mention:**
  - Contracting states before amendments: 56
  - In the tacit amendment period: 25
  - After the entry into force of the amendments: 5

## II. General observation 2016

- For members having ratified between approval and entry into force of the 2014 amendments: questions as to the manner in which they may accept the amendments
- The CEACR invited the STC to consider this situation (in view of future amendments)
- In the meantime: the Office informed Members concerned that they may accept the amendments by a formal declaration to the DG
- The CEACR encouraged Governments to clarify their position regarding the acceptance of the amendments to the Code.

## II. Challenges

- *Amendments 2016: (i) Harassment /(ii) Validity of DMLC*
- To enter into force in 8.1. 2019
- Period of disagreement ends on 8.7.2018
- **1 State has expressed formal disagreement (Finland)**
- Not an objection of substance





## II. Challenges : treatment of files

- Reports received late
- Incomplete information/not available in ILO working languages
- Incomplete documentation/no legal basis/no attachments
- In some cases: absence of cooperation between the Ministry of Labour and the relevant maritime authority
- 6 countries in serious failure to report (no report for  $\leq 2$  past years)
- Heavy workload due to comprehensiveness nature of the Convention:
  - for Governments, the Office and the Committee of Experts

# II. List of documents requested from Governments

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Rep. form	Document requested	Provided	Not provided	Remarks (Gov's indication, etc.)
<b>Part I</b>				
I	List of relevant laws and regulations and collective agreements			
I	Copy/internet link of those laws, regulations or collective agreements			
II	Copy of the standard Maritime Labour Certificate			
II	Copy of Part I of the DMLC			
II	Example of Part II of the DMLC			
<b>Part II</b>				
Reg 1.2	Example of the standard wording in medical certificates			
Reg 2.1	Example of the approved document for seafarers' record of employment			
Reg 2.1	Standard form example of a SEA			
Reg 2.1	Relevant portion of any applicable CBAs			
Reg 2.3	Copy of the approved standardised table for shipboard working arrangements			
Reg 2.3	Copy of the standard form for recording daily hours of work/rest			
Reg 2.3	Copy of any authorized or registered CBAs provisions that establish seafarers' normal working hours or permit exceptions to the established limits			
Reg 2.4	Copy of the provisions in CBAs on the calculation of the minimum paid annual leave on a basis that differs from a minimum 2.5 days/month			
Reg 2.5	Copy of the provisions of CBAs on seafarers' entitlement to repatriation			
Reg 2.5	An example of the kind of documentation that is accepted or issued with respect to the financial security that must be provided by shipowners.			
Reg 2.7	Typical example of a safe manning document.			
Reg 4.1	Example of the standard medical report form for seafarers			
Reg 4.1	Copy of the requirements for the medicine chest and medical equipment and for the medical guide			
Reg 4.2	Example of the kind of documentation that is accepted or issued with respect to the financial security that must be provided by shipowners.			
Reg 4.3	Example of a document (e.g. DMLC Part II) outlining a shipowner's practices or on-board programmes for preventing occupational accidents, injuries and diseases			
Reg 4.3	Copy of relevant national guidelines on occupational safety and health protection and accident prevention.			
Reg 4.3	Copy of the document used for reporting unsafe conditions or occupational accidents on board ship.			
Reg 4.4	List of all seafarers' shore-based welfare facilities and services			
Reg 4.4	Copy of a report by a welfare board, if any, on the welfare services			
Reg 5.1.1	Document on the objectives and standards established for flag State inspection and certification system, including the procedures for its assessment			
Reg 5.1.1	Information on the budgetary allocation for the administration of inspection and certification system and the total income received on account of inspection and certification services during the reporting period			
Reg 5.1.1	Statistical info: Number of ships flying your country's flag that were inspected during the reporting period			
Reg 5.1.1	Statistical info: Number of inspectors, appointed by the competent authority carrying out inspections during the reporting period			
Reg 5.1.1	Statistical info: Number of full-term (up to five years) maritime labour certificates currently in force			
Reg 5.1.1	Statistical info: Number of interim certificates issued during the reporting period			
Reg 5.1.2	Example of authorizations given to recognized organizations			
Reg 5.1.3	Copy of the national interim maritime labour certificate.			

Reg 5.1.4	Copy of the annual reports on inspection activities			
Reg 5.1.4	Standard document issued to or signed by inspectors setting out their functions and powers			
Reg 5.1.4	Copy of any national guidelines issued to inspectors on their tasks			
Reg 5.1.4	Copy of the form used for an inspector's report.			
Reg 5.1.4	Copy of any documentation available informing seafarers and interested others about the procedures for making a complaint (including seafarers' rights)			
Reg 5.1.5	Copy of model on-board complaint procedure or of typical procedures followed on ships that fly its flag			
Reg 5.2.1	Copy of any national guidelines issued to inspectors on the kinds of circumstances justifying detention of a ship (of the kind indicated in Part B of the Code)			
Reg 5.2.1	Statistical info: number of foreign ships inspected in port			
Reg 5.2.1	Statistical info: number of more detailed inspections carried out			
Reg 5.2.1	Statistical info: number of cases where significant deficiencies were detected			
Reg 5.2.1	Statistical info: number of detentions of foreign ships due, wholly or partly, to conditions on board ship that are clearly hazardous to the safety, health or security of seafarers, or constitute a serious or repeated breach of the requirements of MLC, 2006 (including seafarers' rights)			
Reg 5.2.2	Copy of a document on the onshore complaint-handling procedures			



# II. Tackling the challenges: improved report form

## V. Scope of application



Do the measures implementing the Convention cover, as a seafarer, any person who is employed or engaged or works in any capacity on board a ship to which the Convention applies?  
(Article II, paragraphs 1(f) and 2)

Please indicate the applicable national provisions and, if possible, reproduce the relevant texts.

First report: **NO**. See section 2 of MLC 2006 Cyprus ratification Law 6(III)/2012 the term seafarer.

### **Direct Request CEACR 2016**

**General questions on application. Scope of application. Article II, paragraphs 1(f) and 3. Definition of the term "seafarer".** The Committee notes that section 2 of the Maritime Labour Convention 2006, (Ratification) and for Matters Connected Therewith Law of 2012 (hereinafter the MLCL) defines the seafarer as "any person who is employed in any capacity on board a ship to which this Law applies". [...]

The Committee recalls that "seafarer" is defined under paragraph 1(f) of Article II of the Convention, as "any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies" and that, under paragraph 3 of Article II of the Convention, in the event of doubt concerning any categories of persons regarded as seafarers this shall be determined by the Member's competent authority after consultation with the shipowners' and seafarers' organizations. *The Committee accordingly requests the Government to explain whether consultations with shipowners' and seafarers' organizations have taken place, as is required under these provisions of the Convention. The Committee also requests the Government to provide information regarding the "non-marine personnel" referred to in point (iv) of section 2 of the Maritime Labour Convention 2006 (Ratification) and for Matters Connected Therewith Law of 2012, mainly the purpose of work on board, the duration of stay and the frequency of periods of work spent on board, as well as the location of such personnel's principal place of work.*

Second report: *The consultations in respect of the definition of the term "seafarer" took place during the preparation of the draft bill for the ratification of the MLC between the Department of Merchant Shipping (DMS) on behalf of the Government, the Cyprus Shipping Chamber (CSC) and the Cyprus Union of Shipowners (CUS) on behalf of the shipowners' organizations and SEGDA MELIN PEO and SEK on behalf of the seafarers' organizations. Additionally, during the examination of the draft bill for the ratification of the MLC by the parliamentary Committee on Communications and Works all the representatives of the above mentioned organizations were present and supported the draft bill. [...]*

Third report:

Fourth report:

### III. Main issues of concern

- Three groups of countries (reports)
  - Already sophisticated legislation – maritime involvement
  - Basic regulation: less maritime involvement
  - Countries having replicated the exact content of the MLC,2006 in their national legislation
  
- Two monitoring aspects:
  - On the legislative and regulatory framework
  - On the implementation of the Convention
  - Mechanism of regional MOUs on Port State Control
  - Paris MOU: inspections/ ships' detentions
  - On grounds of wages, employment agreement, procedures of complaint

### III. Main issues raised by the CEACR

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1. Consultations
  2. Scope of application of the Convention:  
Definitions of seafarers and ships
  3. Minimum age
  4. Training and qualifications
  5. Recruitment and placement
  6. Seafarers' employment agreement
  7. Hours of work/hours of rest
  8. Annual leave
  9. Repatriation
  10. Manning levels
  11. Accommodation
  12. Safety and health
  13. Social security
  14. Declaration of Maritime Labour Compliance (DMLC)
  15. Inspectors
  16. Control of the recognized organizations (ROs)
  17. Port State control



### III. Main issues raised by the CEACR concerning the implementation of the MLC, 2006

#### 1. Definitions of seafarers:

1. Protection not guaranteed to all seafarers covered by the Convention
2. Exclusion of cadets → working on board, therefore seafarers according to the Convention
3. «Non-maritime personnel» → nature of the contract is irrelevant for the definition of seafarer



### III. Main issues raised by the CEACR concerning the implementation of the MLC, 2006

#### 2. Minimum age:

- Minimum age (16 years): lack of clear prohibition;
- Prohibition of hazardous work (18 years):
  - lack of clear prohibition;
  - exceptions to prohibition not allowed by the Convention;
  - list of types of hazardous work not adopted, adopted with lack of consultations or not specific to the maritime sector.

# III. Main issues raised by the CEACR concerning the implementation of the MLC, 2006

## 3. Seafarers' Employment Agreements

- Signature by seafarer and shipowner (or representative);
- Right to seek advice before signing;
- List of matters in the SEA;
- Minimum period of notice and termination with shorter/no notice





### III. Main issues raised by the CEACR concerning the implementation of the MLC, 2006

#### 4. Hours of work or of rest:

- Issues in fixing either a maximum number of hours of work or a minimum number of hours of rest.
- Exceptions through means other than collective agreements.
- Normal working hours for seafarers not recognized → based on an eight-hour day with one day of rest per week and rest on public holidays.



### III. Main issues raised by the CEACR concerning the implementation of the MLC, 2006

#### 5. Repatriation:

- Wide definition of cases where seafarer is NOT entitled to repatriation
- Obligation of the shipowner to pay for the repatriation in the first instance
- Non-compliance with the maximum period of service on board



### III. Main issues raised by the CEACR concerning the implementation of the MLC, 2006

#### 6. Declaration of Maritime Labour Compliance (DMLC)

- Failure to fulfil its purpose:
  - Part I: Lack of reference to content of national requirements;
  - Part II: no details on measures taken





MANY THANKS  
FOR YOUR ATTENTION

