

## EVOLUTION IN MARITIME LABOR LAW REMARKS ON MARITIME LABOR CONVENTION 2006

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**Abstract.** Albeit the evolution and development in naval architecture and naval technology in shipping industry, yet the competent officers and seamen are essential components for shipping business and industry to carry out voyages on sea-going vessels. Despite the importance of competent officers and seamen is a well known topic in shipping industry, difficulties of maritime labour comparatively to other labour industries, are obstacles for maritime employees. To clear and to reduce these obstacles in maritime labour, international organizations like as United Nations (UN), International Maritime Organization (IMO), International Labour Organization (ILO) performed workshops and promulgated many conventions related with maritime labour and seafarers' rights, particularly conditions of employment. Even though all those workshops provide legal improvements for maritime employees workings on board, and there is a consensus between all States to provide framework for better living and working conditions for maritime employees, those obstacles yet cannot be solved clearly. The main matters for aforecited conventions are namely; some of these conventions are not approved or enacted by member States, so are not capable to be enforced, latter the disharmony between all those conventions. Necessities and requirements to draft a consolidated convention concluded Maritime Labour Convention 2006. This paper aims to point out and remark modifications of conditions of employment under international maritime labour law in a comprehensive legal methodology, among related former maritime labour conventions, recommendations with consolidated Maritime Labour Convention 2006, and to address conclusion remarks on enforcement of Maritime Labour Convention on the eve of entering into force.

### 1. INTRODUCTION

*"No man will be a sailor who has contrivance enough to get himself into a jail; for being in a ship is being in a jail, with the chance of being drowned.  
A man in a jail has more room, beter food, and commonly beter company."*

*Dr. Samuel Johnson*

Shipping industry comprises many parties particularly, shipowners, ship management companies, ship operators, port operators, port agencies, seafarers, seafarer suppliers etc. (Akdoğan, 1988; Kender & Çetingil, 2007). Even though all aforecited parties are crucial for shipping industry and maritime affairs, particularly for today, shipping industry cannot be thought without competent seafarers.

Working and living on board a ship has the same meaning with, dangers and threats of sea, loneliness, isolation and restriction. Beside all these matters, seafarers were and still in many circumstances are not available to reach any legal protection (Fitzpatrick & Anderson, 2005). Even though shipping was specially regulated from ancient times to modern period not many matters were regulated related to seafarers and their rights among those codifications (Çağa & Kender, 2000; Tekil, 2001).

Seafarers' isolation was not limited with physical conditions of ship, this means, legal systems ended at the edge of the territory they served such as, lakes, rivers, inland waters and at most territorial sea of the State (Shaw QC, 2003). On high seas, ship and the seafarers are out of the coverage of laws and jurisdiction authority. On the other side, particularly, leading shipping countries met complaints and claims of seafarers from medieval age to industrialization periods. Due to these complaints and claims, governments take actions and measures to provide legal framework and improve living and working conditions for seafarers on board (Christodolou-Varotsi & Pentsov, 2008). To provide legal frameworks

and improve the conditions of working and living on board, States take first steps at national levels. At first instance national level legislations particularly provided so-called private law concerns and were set up on contract relations between shipowners/charterers and seafarers. Latter, due respect to the public considerations, the matters were regulated at international level under authority of international organizations such as ILO and IMO and combined with public law (Mukherjee, 2002).

Here in this study, in second chapter evolution of seafarers' rights, relevant maritime labour conventions will be shortly examined. Third chapter will focus on Maritime Labour Convention, 2006 and will introduce fundamentals of aforementioned Convention. The coming fourth chapter will particularly introduce the conditions of employment in Maritime Labour Convention, 2006 under eight sub-chapters. In this chapter, conditions of employment will be examined in a comprehensive legal methodology and Maritime Labour Convention will be compared to former maritime labour legislations such as conventions and recommendations. The fifth, last, chapter addresses the conclusion remarks.

## **2. SEAFARERS' RIGHTS**

Albeit the evolution and development in naval architecture and naval technology in shipping industry, yet the competent officers and seamen are essential components for shipping business and industry to carry out voyages on sea-going vessels. After a ship has been acquired and matters relating to her ownership and other proprietary interests and registration process have been dealt with, the ship has to be crewed, manned and made ready for the service.

When a ship has been ready for the service, working and living conditions of seafarers on board a ship should be humanitarian. Seafarers on board a ship have more difficulties rather than employees on ashore, due to these difficulties, decent and suitable working and living conditions should be provided for seafarers on board a ship. However, seafarers, as the crucial element of ship manning, and their rights, conditions of living and working have not been explicitly regulated and protected till the 19<sup>th</sup> century at national levels and 20<sup>th</sup> century at international levels (Fitzpatrick & Anderson, 2005).

At first instance, due respect to complaints and claims of seafarers, leading shipping countries and industrialized countries such as Great Britain etc. took the first steps to regulate acts, codes, regulations etc. to provide legal framework for seafarers and to protect seafarers' rights. The British Parliament considered the situation of seafarers and adopted relevant chapters in the British Merchant Act 1850. The British Merchant Shipping Act 1850 addressed the issues of safety, lifeboats, safety in navigation, structural integrity and etc. Aforementioned Act was aimed at raising the levels and improving the conditions of masters, officers and seafarers (<http://www.mariners-l.co.uk/UKLogs,CrewLists.html>, last visit on 23<sup>th</sup> May, 2009). All over the world, States took steps, codified law, acts, regulations related to maritime labour law, seafarers' rights, working and living conditions on board a ship. Developed countries, countries engaged to international trade and shipping industry, labour supplying countries all considered the conditions of seafarers on board. States took action to regulate seafarers' rights due respect to their national legal systems, such as, some of the States regulated maritime labour matters in an independent maritime labour acts or laws such as Turkish Maritime Labour Code (Ataergin & Caner, 2004; Maritime Labour Code), some of the States regulated these matters in general principles of labour law such as Labour Contract Code of the People's Republic of China (Mo, 1999; for further informations, amendments and adoptions of codes see Maritime Code of the People's Republic of China and Labor Contract Code of the People's Republic of China), some states regulated these matters in a combination of contract law and labour law etc.

Steam power started to be used on ships late 19<sup>th</sup> century and after steam power has been used on ships, international trade spreaded to global world. This also concluded another matter related to maritime labour; crews included more seafarers from China, India, Africa, Somalia, South East Countries and

Central America on board a ship. In accordance with this situation global and more complex matters related to maritime labour took place on board (Fitzpatric & Anderson, 2005).

In 1898, transportation workers formed their international organization, the International Transport Workers' Federation (ITF) and similar to transportation workers, in 1908, the shipowners formed their international organization, the International Shipping Federation (ISF), and in 1919 the International Labour Organization was established. From then on, ILO drafted 47 Conventions (<http://www.ilo.org/ilolex/english/convdisp1.htm>, last visit 23<sup>th</sup> May, 2009) and 33 Recommendations (<http://www.ilo.org/ilolex/english/recdisp1.htm>, last visit on 23<sup>th</sup> May, 2009) relating to maritime labour matters, seafarers' rights (including Fishermen). Aforecited legal instruments promulgated by ILO, covers international standards for maritime labour matters including particularly: right to life; freedom from forced labour; freedom from torture, cruel, inhuman or degrading treatment; freedom from discrimination; child labour; right to a legal remedy and access to justice; freedom of association and the right to collective bargaining; right to strike; right to employment agreement; right to free employment services and continuity of employment; right to identification documents and shore leave; right to safe and healthy working conditions; right to fair wages; right to fair treatment; right to reasonable working hours, rest and holidays; right to health and medical care; right to social security and welfare; right to repatriation.

Beside ILO legal instruments, UN, IMO introduced legal instruments to protect seafarers' rights and improve the level of maritime labour conditions. As humanbeings, seafarers should benefit main human rights promulgated by UN Conventions particularly: International Covenant on Economic, Social and Cultural Rights, 1966 (CESCR); International Covenant on Civil and Political Rights, 1966 (CCPR) and Protocols thereto; International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (CERD); Convention on the Elimination of All Forms of Discrimination Against Women, 1979 (CEDAW) and Protocol thereto; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 (CAT) and Protocol thereto; and Convention on the Rights of the Child, 1989 (CRC) and Protocols thereto. IMO considered seafarers' rights as a human-element of maritime affairs and promulgated relevant legal instruments to provide safe and secure ship manning, particularly: the International Convention for the Safety of Life at Sea, 1974 (SOLAS) and Protocols thereto; the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW); and the International Management Code for the Safe Operation of Ships and for Pollution Prevention, 1993 (ISM Code) etc. (Ataergin & Caner, 2006). IMO Conventions' concept is particularly different from ILO legal instruments and human rights treaties etc. While ILO Conventions and human rights treaties intend to create rights for individuals, IMO legal instruments do not intend to create rights for individuals. IMO legal instruments particularly impose obligations on States which have the effect of creating benefits, rather than rights, for seafarers (Mukherjee, 2002; Gold & Kindred, 2003; Fitzpatrick & Anderson, 2005). After briefly introducing legal instruments relating to maritime labour matters, in the coming chapter, consolidated Maritime Labour Convention, 2006 will be shortly introduced.

### **3. AN OVERVIEW OF MARITIME LABOUR CONVENTION, 2006**

Legal instruments drafted by international organizations concerned with maritime labour matters and seafarers' rights exists in many different conventions, regulations and circulars. Even though, maritime labour matters and seafarers' rights were and are regulated and drafted, generally shipping industry, particularly seafarers still meet many difficulties. Main reason for these difficulties is mainly legal position of seafarers: absence of global accepted and readily enforceable regulatory regime; very uncertain and often vulnerable circumstances for seafarers; unacceptable working and living conditions; overlapping and sometimes conflicting rules, complex technical enforcement procedures; combinations of contracts involving several different parties. Beside aforecited matters, shipowners on certain easy flags and some single ship-owners enjoy the legal ambiguity among these legal instruments and find easy to evade their obligations to seafarers. Following to aforecited matters, some other reasons required changes for international maritime labour

legislations such as: extensive structural change in the shipping industry, particularly in the last 25 years; emergence of the world's first genuinely global industry and workforce; changes in ownership, financing and the rise of ship management companies resulting in significant shifts in the labour market for seafarers; development of composed mixed nationality crews in highly organized global network linking shipowners, ship managers, labour supplying agencies and training institutions; many of the existing legal instruments and labour standards need to be updated; low ratification rate for some of the key Conventions; high level of detail combined with the large number of Conventions led to problems for inspections and enforcement; a need to provide level playing field and avoid exploitation of workers; increased stress and complexity in the maritime work place has an impact on the health and social security of workers; and the expensive and long process of updating ILO maritime conventions need to be revised.

Due respect to the these considerations, ILO developed a legal instrument which brings together into a consolidated text as much of the existing ILO legal instruments as it proves possible to achieve. The new consolidated Maritime Labour Convention, 2006 intend to be globally applicable, easily understandable, readily updatable and uniformly enforced. Maritime Labour Convention, 2006 consolidated and revised all ILO maritime labour instruments (conventions and regulations), except the Seafarers' Pension Convention, 1946 and the Seafarer's Identity Documents Convention, 1958 in to a single super convention. Maritime Labour Convention, 2006, sets out seafarers' rights to decent working and living conditions on board. Consolidated Maritime Labour Convention, 2006 will be the new pillar of the international uniform regulatory regime complementing SOLAS, STCW, ISM and MARPOL.

The consolidated Maritime Labour Convention, 2006 comprises three parts: the Articles, the Regulations and the Code. The Articles and the Regulations set out the core rights, principles and also basic obligations of Members ratifying the Convention. The Code prescribes the details for the implementation of the Regulations. It comprises Part A (mandatory Standards) and Part B (non-mandatory Guidelines).

The Regulations and the Code, which includes Standards (mandatory) and Guidelines (non-mandatory), are drafted under five Titles: Title 1 "Minimum requirements for seafarers" including requirements of minimum age, medical certificate, training and qualifications, recruitment and placement; Title 2 "Conditions of employment" including requirements of employment agreements, wages, hours of work and rest, entitlement to leave, repatriation, seafarers' compensation for the ship's loss or foundering, manning levels, career and skill development and opportunities for seafarers' employment; Title 3 "Accommodation, recreational facilities, food and catering" including requirements of accommodation, recreational facilities, food and catering; Title 4 "Health protection, medical care, welfare and social security protection" including requirements of medical care on board ship and ashore, shipowner's liability, health and safety protection and accident prevention, access to shore-based welfare facilities, social security; Title 5 "Compliance and enforcement" prescribes flag State responsibilities, port State responsibilities, labour supplying responsibilities.

For this study, in fourth chapter, Title 2 "Conditions of employment" will be examined and discussed in a comprehensive legal methodology.

## **4. CONDITIONS OF EMPLOYMENT IN MARITIME LABOUR CONVENTION 2006**

### **4.1. Seafarers' employment agreements**

In accordance with MLC, 2006 Standard A2.1, each Member shall adopt laws or regulations requiring that ships that fly its flag comply with the following requirements: (a) seafarers working on ships that fly its flag shall have a seafarers' employment agreement signed by both the seafarer and the shipowner or a representative of the shipowner (or where they are not employees, evidence of contractual or similar arrangements) providing them with decent working and living conditions on board the ship as required by this Convention; (b) seafarers signing 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; (c) the shipowner and seafarer concerned shall each have a signed original of the seafarer's employment agreement; (d) measures shall be taken to ensure that clear information as to the conditions of their employment can be easily obtained on board by seafarers, including the ship's master, and that such information, including a copy of the seafarer's employment agreement, is also accessible for review by officers of a competent authority, including those in ports to be visited; and (e) seafarers shall be given a document containing a record of their employment on board the ship (MLC, 2006, Standard A2.1, paragraph 1).

MLC, 2006, Standard A2.1, paragraph 4 prescribes that, each Member shall adopt laws and regulations specifying the matters that are to be included in all seafarers' employment agreements governed by its national law. These 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 seafarers' employment agreement is entered into; (d) the capacity in which the seafarer is to be employed; (e) the amount of 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 calculating it; (g) the termination of the agreement and the conditions thereof, including (i) if the agreement has been made for an indefinite 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 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 require.

In this subchapter, changes which are prescribed by MLC, 2006 into the relevant former Convention's existing standards, as regulated by the "Seamen's Articles of Agreement Convention, 1926, No. 22 (<http://www.ilo.org/ilolex/english/convdisp1.htm>) will be addressed. First of all, MLC, 2006 in accordance with Standard A2.1, paragraphs 1 (a), (e) prescribe an explicit requirement for the ratifying Members that all seafarers working on ships flying their flags shall have a seafarers' employment agreement whereas Convention No. 22 did not have such an explicit requirement. Second, MLC, 2006 in accordance with Standard A2.1, paragraph 1(d) prescribes that clear information as to the conditions of employment, including a copy of the seafarers' employment agreement can be easily obtained on board by seafarers and is also accessible for review by officers of a competent authority, including those in ports to be visited whereas former Convention did not have any such requirement. Third, MLC, 2006, in accordance with Standard A2.1, paragraph 2 requires that, where the language of the seafarers' employment agreement and applicable collective bargaining is not in English, a copy of a Standard form of the agreement and the portions of collective bargaining agreement that are subject to a port State inspection shall be available in English (except for ships engaged only in domestic voyages), whereas former Convention did not have any such requirement. Fourth, MLC, 2006, in accordance with Standard A2.1, paragraphs 4(h), 4(i), 4(j), added the health and social security protection benefits to be provided to the seafarer by the shipowner, the seafarer's entitlement to repatriation and reference to the collective bargaining agreement (if applicable) items to the list of particulars to be included into seafarers' employment agreements. Fifth, MLC, 2006, in accordance with Standard A2.1, paragraph 5, requires that, the duration of the minimum period of notice for the early termination of a seafarers' employment agreement shall not be shorter than seven days, whereas under Convention No. 22, Article 9, paragraph 1 the period of notice shall not be less than twenty-four hours. Last of all, while Convention No. 22 in accordance with Article 14, paragraph 2, provides for the right of the seaman to obtain from the master a separate certificate as to the quality of his work, or a certificate indicating whether he has fully discharged his obligations under the agreement, MLC, 2006 does not provide any such documents.

## **4.2. Wages**

Under MLC, 2006, in accordance with Standard A2.2, paragraph 1, each Member shall require that payments due to seafarers working on ships that fly its flag are made at no greater than monthly intervals and in accordance with any applicable collective agreement. In accordance with Standard A2.2, paragraphs 3 and 4, each Member shall require that shipowners take measures to provide seafarers with a means of transmitting all or part of their earnings to their families or dependants or legal beneficiaries, including (a) system for enabling seafarers, at the time of their entering employment or during it, to allot, if they so desire, a proportion of their wages for remittance at regular intervals to their families by bank transfers or similar means; and (b) a requirement that allotments should be remitted in due time and directly to the person or persons nominated by the seafarers. In addition to these matters MLC, 2006, Guideline B2.2, contains recommendations due respect to the “calculation and payment” of wages (in accordance with Guideline B2.2.2), “minimum wages” (in accordance with Guideline B2.2.3) and “minimum monthly basic pay of wage figure for able seafarers” (in accordance with Guideline B2.2.4).

The periodicity of payment of wages has been prescribed with in the Seafarers’ Wages, Hours of Work and the Manning of the Ships Recommendation, No. 187 in accordance with section 6(d) (<http://www.ilo.org/ilolex/english/recdisp1.htm>) and the transfer of earnings to the families has been prescribed with in the Seamen’s Welfare in Ports Recommendation, No. 48, in accordance with section 10(b) (<http://www.ilo.org/ilolex/english/recdisp1.htm>). MLC, 2006, include these two respective requirements as mandatory standards whereas existing standards related to seafarers’ wages were prescribed as recommendations, not as requirements.

## **4.3. Hours of work and hours of rest**

MLC, 2006 Standard A2.3, prescribes the term of hours of work and hours of rest such as: (a) hours of work means time during which seafarers are required to do work on account of the ship; (b) hours of rest means time outside hours of work; this term does not include short breaks (in accordance with Standard A2.3, paragraph 1).

MLC, 2006 Standard A2.3, prescribes the following limits on hours of work or rest: (a) maximum hours of work shall not exceed: (i) 14 hours in any 24 hour period; (ii) 72 hours in any seven day period; or (b) minimum hours of rest shall not be less than: (i) ten hours in any 24 hour period; and (ii) 77 hours in any seven day period (in accordance with Standard A2.3, paragraph 5).

In accordance with Standard A2.3, paragraph 6, hours of rest maybe divided into no more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.

MLC, 2006, Guideline B2.3.1, provides special articles for young seafarers about hours of work and hours of rest. In accordance with Guideline B2.3.1, at sea and in port the following provisions should apply to all young seafarers under the age of 18: (a) working hours should not exceed eight hours per day and 40 hours per week and overtime should be worked only where unavoidable for safety reasons; (b) sufficient time should be allowed for all meals, and a break of at least one hour for the main meal of the day should be assured; and (c) a 15 minute rest period as soon as possible following each two hours of continuous work should be allowed.

## **4.4. Entitlement to leave**

MLC, 2006, in accordance with Standard A2.4, paragraph 1 prescribes that, each Member shall adopt laws and regulations determining the minimum standards for annual leave for seafarers serving on ships that fly its flag, taking proper account of the special needs of seafarers with respect to such leave. In accordance with paragraph 2, subject to any collective agreement or laws or regulations, providing for

appropriate method of calculation that takes account of the special needs of seafarers in this respect, the annual leave with pay entitlement shall be calculated on the basis of a minimum of 2.5 calendar days per month of employment. The manner in which the length of service is calculated shall be determined by the competent authority or through the appropriate machinery in each country. Justified absences from work shall not be considered as annual leave. Standard A2.4, paragraph 3 prescribes that, any agreement to forgo such minimum annual leave with pay, except in cases provided for by the competent authority, shall be prohibited.

MLC, 2006, takes the monthly equivalent of the annual 30 days as the basis and provides for calculation on the basis of a minimum of 2.5 calendar days per month of employment, whereas the Seafarers' Annual Leave with Pay Convention, 1976, No. 146 (<http://www.ilo.org/ilolex/english/convdisp1.htm>) provides that the leave shall in no case be less than 30 calendar days for one year of service.

#### **4.5. Repatriation**

In accordance with MLC, 2006, Standard A2.5, paragraph 1, each Member shall ensure that seafarers on ships flying its flag are entitled to repatriation in the following circumstances: (a) if the seafarers' employment agreement expires while they are abroad; (b) when the seafarers' employment agreement is terminated: (i) by the shipowner; or (ii) by the seafarer for justified reasons; and also (c) when the seafarers are no longer able to carry out their duties under their employment agreement or cannot be expected to carry them out in the specific circumstances.

In accordance with MLC, 2006, Standard A2.5, paragraph 3, each Member shall prohibit shipowners from requiring that seafarers make an advance payment towards the cost of repatriation at the beginning of their employment, and also from recovering the cost of repatriation from the seafarers' wages or other entitlements except where the seafarer has been found, in accordance with national laws or regulations or other measures or applicable collective bargaining agreements, to be in serious default of the seafarer's employment obligations.

Due respect to Standard A2.5, paragraph 5, if a shipowner fails to make arrangements for or to meet the cost of repatriation of seafarers who are entitled to be repatriated: (a) the competent authority of the Member whose flag the ship flies shall arrange for repatriation of the seafarers concerned; if it fails to do so, the State from which the seafarers are to be repatriated or the State of which they are a national may arrange for their repatriation and recover the cost from the Member whose flag the ship flies; (b) costs incurred in repatriating seafarers shall be recoverable from the shipowner by the Member whose flag the ship flies; (c) the expenses of repatriation shall in no case be a charge upon the seafarers, except where the seafarer has been found to be in serious default of the seafarer's employment obligations.

MLC, 2006 has introduced changes comparatively into the existing standards prescribed with in the relevant former Convention, Repatriation of Seafarers Convention (Revised), 1987, No.166 (<http://www.ilo.org/ilolex/english/convdisp1.htm>). First of all, MLC, 2006 obligates each Member to require that ships that fly its flag provide some form of financial security to ensure that seafarers are duly repatriated in accordance with MLC, 2006, whereas former Convention has no such requirements. Second, MLC, 2006 provides for the entitlement to repatriation only when the seafarers' employment agreement is terminated by the seafarer for justified reasons whereas former Convention prescribes in accordance with Article 2, paragraph 1, among other things for seafarers' entitlement to repatriation upon expiry of the period of notice given in accordance with the provisions of articles of agreement or the seafarer's contract of employment. MLC, 2006 prescribes the costs to be born by the shipowner for the repatriation under non-mandatory Part B of the MLC, 2006 in accordance with Guideline B2.5.1, paragraph 3, whereas former Convention prescribed aforementioned details as requirements in accordance with Article 4.

#### **4.6. Seafarer compensation for the ship's loss or foundering**

In accordance with MLC, 2006, Standard A2.6, paragraph 1, each Member shall make rules ensuring that, in every case of loss or foundering of any ship, the shipowner shall pay to each seafarer on board an indemnity against unemployment resulting from such loss or foundering. Standard A2.6, paragraph 2 prescribes that, aforesaid rules shall be without prejudice to any other rights a seafarer may have under the national law of the Member concerned for losses or injuries arising from a ship's loss or foundering.

Calculation of indemnity against unemployment has been prescribed under Guideline B2.6.1, paragraphs 1 and 2, whereas these matters were introduced in the Unemployment Indemnity (Shipwreck) Convention, 1920, No. 8 (<http://www.ilo.org/ilolex/english/convdisp1.htm>) in accordance with Article 2 as mandatory.

#### **4.7. Manning levels**

In accordance with MLC, 2006, Standard A2.7, paragraph 1, each Member shall require that all ships that fly its flag have a sufficient number of seafarers on board to ensure that ships are operated safely, efficiently and with due regard to security. Every ship shall be manned by a crew that is adequate, in terms of size and qualifications, to ensure the safety and security of the ship and its personnel, under all operating conditions, in accordance with the minimum safe manning document or an equivalent issued by the competent authority, and to comply with the Standards of this Convention. Standard A2.7, paragraph 2 prescribes that, when determining, approving or revising manning levels, the competent authority shall take into account the need to avoid or minimize excessive hours of work to ensure sufficient rest and to limit fatigue, as well as the principles in applicable international instruments, especially those of the International Maritime Organization, on manning levels.

MLC, 2006, Standard A2.7, paragraph 3 has introduced an additional requirement that, the competent authority, when determining manning levels, shall take into account all the requirements within Regulation 3.2 and Standard A3.2 concerning food and catering whereas Seafarers' Hours of Work and the Manning of Ships Convention, 1996, No. 180 (<http://www.ilo.org/ilolex/english/convdisp1.htm>) did not have any such requirements (in accordance with Article 11).

#### **4.8. Career and skill development and opportunities for seafarers' employment**

In accordance with MLC, 2006, Standard A2.8, paragraph 1, each Member shall have national policies to encourage career and skill development and employment opportunities for seafarers, in order to provide the maritime sector with a stable and competent workforce. Aforesaid policies shall aim to help seafarers strengthen their competencies, qualifications and employment opportunities. Standard A2.8, paragraph 3 prescribes that, each Member shall, after consulting the shipowners' and seafarers' organizations concerned, establish clear objectives for the vocational guidance, education and training of seafarers whose duties on board ship primarily relate to the safe operation and navigation of the ship, including ongoing training.

While MLC, 2006 addresses the aim of national policies to encourage career skill development and employment opportunities for seafarers and help seafarers strengthen their competencies, qualifications and employment opportunities, Continuity of Employment (Seafarers) Convention, 1976, No. 145 (<http://www.ilo.org/ilolex/english/convdisp1.htm>) prescribes the aim of the national policies as encouraging all concerned to provide continuous or regular employment for qualified seafarers.



## 5. CONCLUSION

International organizations, particularly, the UN and its agencies, the ILO and IMO effort to create and protect rights, provide standards for seafarers due respect to the conditions on board a ship. States have signed up aforesaid standards, conventions, recommendations etc. and committed to grant protection to seafarers on board a ship against to abuses of their human and labour rights. However, many of the ILO Conventions relating to maritime affairs and seafarers' rights have never entered into force.

In accordance with these considerations, ILO drafted a single super convention, Maritime Labour Convention, 2006, which will replace the existing conventions and recommendations relating to seafarers' rights and maritime affairs. Systematic of the new consolidated Maritime Labour Convention, 2006 provides a practical approach to regulate mandatory Standards and non-mandatory Guidelines both in one text. The new consolidated Maritime Labour Convention, 2006 intends to be globally applicable, easily understandable, readily updatable and uniformly enforced.

Maritime Labour Convention, 2006 comprises five Titles under the Regulations and the Code. Here, in this study, second chapter, conditions of employment, of the Regulations and the Code has been examined. This chapter introduces noteworthy changes into the existing standards, as prescribed in former relevant conventions and recommendations relating to seafarers' rights and maritime affairs, particularly: seafarers' employment agreements, wages, entitlement to leave, repatriation and career and skill development and opportunities for seafarers' employment. Aforesaid changes aims to provide improvement for seafarers' rights and intend to be easily enforced globally.

Even though Maritime Labour Convention, 2006 intends to be globally applicable, it has not been yet in force and efficiency of convention depends on leading shipping countries' ratifications. ILO member States' considerations on Maritime Labour Convention will determine the Convention's future. Maritime Labour Convention's first advantage is, convention comprises all matters relating to maritime labour matters and seafarers' rights such in a vertical structure. This structure enable that, member States, ratified the Maritime Labour Convention, provide fundamental rights for seafarers on board a ship in every aspect. Latter, the other advantage is the amendment process of convention. Tacit amendment process of Convention provides to be updated easily and this concludes shorter times to amend and/or change Convention rather than former conventions relating to maritime labour affairs and seafarers rights for coming situations. Last of all, in accordance with the rules relating to flag State responsibility, port State responsibility, labour supplying responsibility, enforcement of Convention will provide acceleration to improve standards of maritime labour and set up higher levels for seafarers.

**ANNEX I.**  
**INTERNATIONAL LABOUR INSTRUMENTS RELATING TO SEAFARERS**  
**AND SEAFARERS' RIGHTS**

**I. Conventions**

**Number: Name and Year**

- 7 Minimum Age (Sea) Convention, 1920.
- 8 Unemployment Indemnity (Shipwreck) Convention, 1920.
- 9 Placing of Seamen Convention, 1920.
- 15 Minimum Age (Trimmers and Stokers) Convention, 1920.
- 16 Medical Examination of Young Persons (Sea) Convention, 1921.
- 22 Seamen's Articles of Agreement Convention, 1926.
- 23 Repatriation of Seamen Convention, 1926.
- 27 Marking of Weight ( Packages Transported by Vessels) Convention, 1929.
- 53 Officers' Competency Certificates Convention, 1936.
- 54 Holidays with Pay (Sea) Convention, 1936.
- 55 Shipowners' Liability (Sick and Injured Seamen) Convention, 1936.
- 56 Sickness Insurance (Sea) Convention, 1936.
- 57 Hours of Work and Manning (Sea) Convention, 1936.
- 58 Minimum Age (Sea) Convention (Revised), 1936.
- 68 Food and Catering (Ships' Crew) Convention, 1946.
- 69 Certification of Ships' Cooks Convention, 1946.
- 70 Social Security (Seafarers) Convention, 1946.
- 71 Seafarers' Pensions Convention, 1946.
- 72 Paid Vacations (Seafarers) Convention, 1946.
- 73 Medical Examination (Seafarers) Convention, 1946.
- 74 Certification of Able Seamen Convention, 1946.
- 75 Accommodation of Crews Convention, 1946.
- 76 Wages, Hours of Work and Manning (Sea) Convention, 1946.
- 91 Paid Vacations (Seafarers) Convention (Revised), 1949.
- 92 Accommodation of Crews Convention (Revised), 1949.
- 93 Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949.
- 108 Seafarer's Identity Documents Convention, 1958.
- 109 Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958.
- 112 Minimum Age (Fishermen) Convention, 1959.
- 113 Medical Examination (Fishermen) Convention, 1959.
- 114 Fishermen's Articles of Agreement Convention, 1959.
- 125 Fishermen's Competency Certificates Convention, 1966.
- 126 Accommodation of Crews (Fishermen) Convention, 1966.
- 133 Accommodation of Crews (Supplementary Provisions) Convention, 1970.
- 134 Prevention of Accidents (Seafarers) Convention, 1970.
- 145 Continuity of Employment (Seafarers) Convention, 1976.
- 146 Seafarers' Annual Leave with Pay Convention, 1976.
- 147 Merchant Shipping (Minimum Standards) Convention, 1976.
- 163 Seafarers's Welfare Convention, 1987.
- 164 Health Protection and Medical Care (Seafarers) Convention, 1987.
- 165 Social Security (Seafarers) Convention (Revised), 1987.
- 166 Repatriation of Seafarers Convention (Revised), 1987.
- 178 Labour Inspection (Seafarers) Convention, 1996.
- 179 Recruitment and Placement of Seafarers Convention, 1996.
- 180 Seafarers' Hours of Work and the Manning of Ships Convention, 1996.
- 185 Seafarers' Identity Documents Convention (Revised), 2003.
- Maritime Labour Convention, 2006 (This Convention does not have a number)

## II. Recommendations

**Number: Name and Year**

- 7 Hours of Work (Fishing) Recommendation, 1920.
- 9 National Seamen's Codes Recommendation, 1920.
- 10 Unemployment Insurance (Seamen) Recommendation, 1920.
- 26 Migration (Protection of Females at Sea) Recommendation, 1920.
- 27 Repatriation (Ship Masters and Apprentices) Recommendation, 1926.
- 28 Labour Inspection (Seamen) Recommendation, 1926.
- 48 Seamen's Welfare in Ports Recommendation, 1936.
- 49 Hours of Work and Manning (Sea) Recommendation, 1936.
- 75 Seafarers' Social Security (Agreements) Recommendation, 1946.
- 76 Seafarers' (Medical Care for Dependants) Recommendation, 1946.
- 77 Vocational Training (Seafarers) Recommendations, 1946.
- 78 Bedding, Mess Utensils and Miscellaneous Provisions (Ships' Crews) Recommendation, 1946.
- 105 Ships' Medicine Chests Recommendation, 1958.
- 106 Medical Advice at Sea Recommendation, 1958.
- 107 Seafarers' Engagement (Foreign Vessels) Recommendation, 1958.
- 108 Social Conditions and Safety (Seafarers) Recommendation, 1958,
- 109 Wages, Hours of Work and Manning (Sea) Recommendation, 1958.
- 126 Vocational Training (Fishermen) Recommendation, 1966.
- 137 Vocational Training (Seafarers) Recommendation, 1970.
- 138 Seafarers' Welfare Recommendation, 1970.
- 139 Employment of Seafarers (Technical Developments) Recommendation, 1970
- 140 Crew Accommodation (Air Conditioning) Recommendation, 1970.
- 141 Crew Accommodation (Noise Control) Recommendation, 1970.
- 142 Prevention of Accidents (Seafarers) Recommendation, 1970.
- 153 Protection of Young Seafarers Recommendation, 1976.
- 154 Continuity of Employment (Seafarers) Recommendation, 1976.
- 155 Merchant Shipping (Improvement of Standards) Recommendation, 1976.
- 173 Seafarers' Welfare Recommendation, 1987.
- 174 Repatriation of Seafarers Recommendation, 1987.
- 185 Labour Inspection (Seafarers) Recommendation, 1996.
- 186 Recruitment and Placement of Seafarers Recommendation, 1996.
- 187 Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996.

**ANNEX II.**  
**OTHER ONTERNATIONAL LABOUR INSTRUMENTS**  
**(APPLICABLE TO MARITIME AFFAIRS)**

**I. Conventions**

<b>Number:</b>	<b>Name and Year</b>
1	Hours of Work (Industry) Convention, 1919.
14	Weekly Rest (Industry) Convention, 1921.
29	Forced Labour Convention, 1930.
30	Hours of Work (Commerce and Offices) Convention, 1930.
81	Labour Inspection Convention, 1947.
87	Freedom of Association and Protection of Right to Organize Convention, 1948.
88	Employment Service Convention, 1948.
94	Labour Clauses (Public Contracts) Convention, 1949.
95	Protection of Wages Convention, 1949.
96	Fee-Charging Employment Agencies Convention (Revised), 1949.
98	Right to Organize and Collective Bargaining Convention, 1949.
100	Equal Remuneration Convention, 1951.
102	Social Security (Minimum Standards) Convention, 1952.
103	Maternity Protection Convention (Revised), 1952.
105	Abolition of Forced Labour Convention, 1957.
106	Weekly Rest (Commerce and Offices) Convention, 1957.
111	Discrimination (Employment and Occupation) Convention, 1958.
115	Radiation Protection Convention, 1960.
118	Equality of Treatment (Social Security) Convention, 1962.
119	Guarding of Machinery Convention, 1963.
121	Employment Injury Benefits Convention, 1964 (Schedule I amended in 1980).
127	Maximum Weight Convention, 1967.
128	Invalidity, Old-Age and Survivors' Benefits Convention, 1967.
130	Medical Care and Sickness Benefits Convention, 1969.
131	Minimum Wage Fixing Convention, 1970.
132	Holidays with Pay Convention (Revised), 1970.
135	Workers' Representatives Convention, 1971.
136	Benzene Convention, 1971.
137	Dock Work Convention, 1973.
138	Minimum Age Convention, 1973.
139	Occupational Cancer Convention, 1974.
144	Tripartite Consultation (International Labour Standards) Convention, 1976.
148	Working Environment (Air Pollution, Noise and Vibration) Convention, 1977.
152	Occupational Safety and Health (Dock Work) Convention, 1979.
155	Occupational Safety and Health Convention, 1981.
157	Maintenance of Social Security Rights Convention, 1982.
158	Termination of Employment Convention, 1982.
162	Asbestos Convention, 1986.
168	Employment Promotion and Protection against Unemployment Convention, 1988.
170	Chemicals Convention, 1990.
173	Protection of Workers' Claims (Employer's Insolvency) Convention, 1992.
174	Prevention of major Industrial Accidents Convention, 1993.
181	Private Employment Agencies Convention, 1997.
183	Maternity Protection Convention, 2000.
187	Promotional Framework for Occupational Safety and Health Convention, 2006.

## II. Recommendations

No:	Name and Year
8	Hours of Work (Inland Navigation) Recommendation, 1920.
81	Labour Inspection Recommendation, 1947.
82	Labour Inspection (Mining and Transport) Recommendation, 1947.
114	Radiation Protection, Recommendation, 1960.
116	Reduction of Hours of Work Recommendation, 1962.
118	Guarding of Machinery Recommendation, 1963.
128	Maximum Weight Recommendation, 1967.
144	Benzene Recommendation, 1971.
145	Dock Work Recommendation, 1973.
146	Minimum Age Recommendation, 1973.
147	Occupational Cancer Recommendation, 1974.
150	Human Resources Development Recommendation, 1975.
152	Tripartite Consultation (Activities of the International Labour Organization) Recommendation, 1976.
156	Working Environment (Air Pollution, Noise and Vibration) Recommendation, 1977.
160	Occupational Safety and Health (Dock Work) Recommendation, 1979.
164	Occupational Safety and Health Recommendation, 1981.
167	Maintenance of Social Security Rights Recommendation, 1983.
172	Asbestos Recommendation, 1986.
177	Chemical Recommendation, 1990.
180	Protection of Workers' Claims (Employer's Insolvency) Recommendation, 1992.
181	Prevention of Major Industrial Accidents Recommendation, 1993.
188	Private Employment Agencies Recommendation, 1997.
191	Maternity Protection Recommendation, 2000.
194	List of Occupational Diseases Recommendation, 2002.
195	Human Resources Development Recommendation, 2004.
197	Promotional Framework for Occupational Safety and Health Recommendation, 2006.
198	Employment Relationship Recommendation, 2006.

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