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To:	All Surveyors/Auditors
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Subject:	MLC, 2006- General Questions A1 – A8
Reference:	MLC, 2006 – Maritime Labour Convention, 2006

MLC, 2006, General Questions A1-A8

A1. What is the Maritime Labour Convention, 2006 (MLC, 2006)?

It is a comprehensive International Labour Convention that was adopted by the International Labour Conference of the International Labour Organization (ILO), under article 19 of its Constitution, at a maritime session in February 2006 in Geneva, Switzerland. It sets out seafarers' rights to decent conditions of work and helps to create conditions of fair competition for ship-owners. It is intended to be globally applicable, easily understandable, readily updatable and uniformly enforced. The *Maritime Labour Convention, 2006* (MLC, 2006) has been designed to become a global legal instrument that will be the “fourth pillar” of the international regulatory regime for quality shipping, complementing the key Conventions of the International Maritime Organization (IMO) such as the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS), the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended (STCW) and the International Convention for the Prevention of Pollution from Ships, 73/78 (MARPOL).

The MLC, 2006 contains a comprehensive set of global standards, based on those that are already found in the maritime labour instruments (Conventions and Recommendations), adopted by the ILO between 1920 and 1996. It brings all, except four, 7 of the existing maritime labour instruments (International Labour Standards (ILS)) together in a single Convention that uses a new format, with some updating, where necessary, to reflect modern conditions and language. The Convention “consolidates” and revises the existing international law on all these matters. Why was a new Convention needed?

On ships flying the flags of countries that do not exercise effective jurisdiction and control over them, as required by international law, seafarers often have to work under unacceptable conditions, to the detriment of their well-being, health and safety and the safety of the ships on which they work. Since seafarers' working lives are spent outside the home country and their employers are also often not

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Page 1 of 5

based in their country, effective international standards are necessary for this sector. Of course these standards must also be implemented at a national level, particularly by governments that have a ship registry and authorize ships to fly their countries' flags (called "flag States"). This is already well recognized in connection with ensuring the safety and security of ships and protecting the marine environment. It is also important to understand that there are many flag States and shipowners that take pride in providing the seafarers on their ships with decent conditions of work. These countries and shipowners face unfair competition in that they pay the price of being undercut by shipowners which operate substandard ships. The decision by the ILO to move forward to create the maritime labour Convention was the result of a joint resolution in 2001 by the international seafarers' and shipowners' organizations, later supported by governments. They pointed out that the shipping industry is "the world's first genuinely global industry" which "requires an international regulatory response of an appropriate kind – global standards applicable to the entire industry". The industry called on the ILO to develop "an instrument which brings together into a consolidated text as much of the existing body of ILO instruments as it proves possible to achieve" as a matter of priority "in order to improve the relevance of those standards to the needs of all the stakeholders of the maritime sector". It was felt that the very large number of the existing maritime Conventions, many of which are very detailed, made it difficult for governments to ratify and to enforce all of the existing international labour standards. Many of the existing maritime labour Conventions were out of date and did not reflect contemporary working and living conditions on board ships. Many had low levels of ratification. In addition, there was a need to develop a more effective enforcement and compliance system that would help to eliminate substandard ships and that would work within the well established international system for enforcement of the international standards for ship safety and security and environmental protection adopted in the framework of the International Maritime Organization (IMO). The MLC, 2006 was designed to specifically address these concerns. More protection of seafarers will be achieved by the early ratification and national level implementation of the new Convention by the vast majority of ILO members active in the maritime sector.

A2. What are the two basic aims of the MLC, 2006

The basic aims of the MLC, 2006 are:

- to ensure comprehensive worldwide protection of the rights of seafarers (the Convention is sometimes called the seafarers' Bill of Rights);
- to establish a level playing field for countries and shipowners committed to providing decent working and living conditions for seafarers, protecting them from unfair competition on the part of substandard ships.

A3. How will the MLC, 2006 protect more of the world's seafarers?

In the first place, the MLC, 2006 is designed to achieve a higher level of ratification than previous Conventions [see A18. Why is the MLC, 2006 likely to achieve the aim of near universal ratification?] covering even seafarers working on ships that have not ratified the Convention [see A4. What is meant by the "no more favorable treatment" clause?]. It will also cover all persons working at sea (now estimated at over 1.2 million). Until now it had not been clear that all of these people, particular for example, those that work on board ships but are not directly involved in navigating or operating the ship, such as many personnel that work on passenger ships, would be considered seafarers [see B1. Who is protected by the MLC, 2006?].

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The MLC, 2006 also aims to establish a continuous “compliance awareness” at every stage, from the national systems of protection up to the international system [see C5. Title 5 Compliance and enforcement]. This starts with the individual seafarers, who – under the MLC, 2006 – have to be properly informed of their rights and of the remedies available in case of alleged non-compliance with the requirements of the Convention and whose right to make complaints, both on board ship and ashore, is recognized in the Convention. It continues with the shipowners. Those that own or operate ships of 500 GT and above, engaged in international voyages or voyages between foreign ports, are required to develop and carry out plans for ensuring that the applicable national laws, regulations or other measures to implement the MLC, 2006 are actually being complied with. The masters of these ships are then responsible for carrying out the shipowners' stated plans, and for keeping proper records to evidence implementation of the requirements of the Convention. As part of its updated responsibilities for the labour inspections for ships of 500 GT or above that are engaged in international voyages or voyages between foreign ports, the flag State (or a recognized organization on its behalf) will review the shipowners' plans and verify and certify that they are actually in place and being implemented. Ships will then be required to carry a maritime labour certificate and a declaration of maritime labour compliance on board. Flag States will also be expected to ensure that national laws and regulations implementing the Convention's standards are respected on smaller ships that are not covered by the certification system. Flag States will carry out periodic quality assessments of the effectiveness of their national systems of compliance, and their reports to the ILO under Article 22 of the Constitution (see [Report Form 8](#)) will need to provide information on their inspection and certification systems, including on their methods of quality assessment. This general inspection system in the flag State (which is founded on ILO Convention No. 178) is complemented by procedures to be followed in countries that are also or even primarily the source of the world's supply of seafarers [see C5.3.a. What are labour-supplying responsibilities?], which will similarly be reporting under Article 22 of the ILO Constitution. The system is further reinforced by voluntary measures for inspections in foreign ports (Port State Control).

A4. What is meant by the “no more favorable treatment” clause?

Article V, paragraph 7 of the MLC, 2006 contains what is often called the “no more favourable treatment clause”. It seeks to ensure a “level playing field” under which the ships of countries that have ratified the Convention will not be placed at a competitive disadvantage as compared with ships flying the flag of countries that have not ratified the MLC, 2006. Although it appears that Article V, paragraph 7 could conceivably apply in various situations, in practice it relates essentially to the context of port State control under Regulation 5.2.1, with respect to ships flying a foreign flag and calling at a port of a ratifying country [see C5.2. Port State responsibilities].

A5. What is new in the Maritime Labour Convention, 2006 (MLC, 2006)?

There are several novel features in the MLC, 2006 as far as the ILO is concerned. The whole structure of the Convention differs from that of traditional ILO Conventions. It is organized into three main parts: the Articles coming first set out the broad principles and obligations.

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They are followed by the more detailed Regulations and Code (with two parts: Parts A and B) provisions. The Regulations and the Standards (Part A) and Guidelines (Part B) in the Code are set out in five Titles, which essentially cover the same subject matter [see A6. What are the subjects of the “Titles”?] as the existing 37 Maritime Labour Conventions and associated Recommendations, updating them where necessary. There are a few new subjects, particularly in the area of occupational safety and health to meet contemporary concerns, such as the effects of noise and vibration on workers or other workplace risks, but in general the Convention aims at maintaining the standards in the current instruments at their present level, while leaving each country greater discretion in the formulation of their national laws establishing that level of protection. The provisions relating to flag State inspection, including the use of “recognized organizations” builds upon the existing ILO Maritime Labour Inspection Convention (No. 178). The potential for inspections in foreign ports (Port State Control) in Title 5 is based on existing maritime Conventions, in particular Convention No. 147 – the Merchant Shipping (Minimum Standards) Convention, 1976 and the Conventions adopted by the International Maritime Organization (IMO) and the regional port State control agreements (PSC MOU). However, the MLC, 2006 builds upon them to develop a more effective approach to these important issues, consistent with other international maritime Conventions that establish standards for quality shipping with respect to issues such as ship safety and security and protection of the marine environment. One of the most innovative aspects of the MLC, 2006, as far as ILO Conventions are concerned, is the certification of seafarers’ living and working conditions on board ships.

A6. What are the subjects of the “Titles”?

The Regulations of the MLC, 2006 and the Standards (Part A) and Guidelines (Part B) in its Code are integrated and organized into general areas of concern under five Titles:

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

A7. Does the MLC, 2006 directly apply to shipowners, ships and seafarers?

The MLC, 2006 is an international legal instrument and does not, therefore, apply directly to shipowners, ships or seafarers. Instead like all international law, it relies on implementation by countries through their national laws or other measures [see A.8 What measures must a country take to ensure that the MLC, 2006 is properly applied?]. The national law or other measures would then apply to shipowners, seafarers and ships. The MLC, 2006 sets out the minimum standards that must be implemented by all countries that ratify it. These standards must be reflected in the national standards or requirements and are subject to the usual oversight role taken by the Committee of Experts under the ILO supervisory system (a system established under the Constitution of the ILO) ([ILO supervisory system 9](#)).

A8. What measures must a country take to ensure that the MLC, 2006 is properly applied?

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Article IV, paragraph 5 of the MLC, 2006 provides that implementation of the seafarers' employment and social rights under the Convention may be achieved through national laws or regulations, through applicable collective bargaining agreements or through other measures or in practice, unless the Convention specifies otherwise by, for example, requiring countries to adopt national laws and regulations to implement certain provisions of the Convention.

Thus, each country is free to decide whether a particular MLC, 2006 provision should be contained in a law (such as an Act of Parliament or a Congress) or in a regulation or other subsidiary legislation, such as administrative orders or official marine notices. Or, a country may decide – in cases where the MLC, 2006 does not specifically require legislation – that certain matters could be dealt with better through other legal measures or through collective bargaining agreements. Or perhaps, where an MLC, 2006 provision essentially relates to action to be taken by the governments themselves, through internal administrative instructions. In some cases, a country might decide that no further legal measures need to be devised because, for example, a seafarer's rights under the MLC, 2006 is already adequately covered by the general law applied by the national courts.

REFERENCES:

- **MLC, 2006 – Maritime Labour Convention, 2006**

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