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IMPACT OF THE ENTRY INTO FORCE OF THE ILO MARITIME
LABOUR CONVENTION 2006

Minister, distinguished guests, Ladies and gentlemen,

I am very pleased to be speaking to you today about the ILO Maritime Labour Convention, especially because, in 2006 when agreement was reached, I had the honour of being President of the International Shipping Federation, the organisation which represented the employers, and which was instrumental in reaching agreement between the three parties, and adopt the MLC.

It was in 2001, that as a result of a joint Resolution by the International Seafarers and Shipowners organisations, supported by governments, ILO decided to move towards creating this major new Convention.

In 2006, following 5 intensive years of tripartite negotiations between employers, trade unions and governments, ILO adopted the Maritime Labour Convention - the 4th pillar of the International Maritime Regulatory Regime for quality shipping, alongside SOLAS, MARPOL and STCW. To date 35 countries have registered their ratifications and we are aware there are a further 20 countries which are likely to do so by the end of this year.

This is quite a milestone, as the MLC consolidates and updates more than 68 international labour instruments which relate to the Maritime sector, that have been adopted over the last 80 years.

The Convention sets out the Rights of the world's, more than 1.2 million seafarers, to good standards and conditions of work on a wide range of subjects, and it is globally applicable, easy to understand and uniformly enforced.

To come into force, the MLC had to be ratified by at least 30 member States, with a total share of the world's gross tonnage of ships of 33%. This was achieved on August 20th 2012, and thus the MLC will come into force on August 20th 2013.

Shipping, of course, is the world's first truly global industry and you know as well as I do that ships may be owned in one country, managed from another, registered in a third country and crewed by seafarers from many more nations. Thus the industry has struggled to function effectively when the applicable labour regulations were different each time the ship entered the port of a different country. This was why it was imperative to reach a global agreement amongst all nations for a Convention that is in effect the seafarers' bill of rights. Spending weeks on board ship presents challenges to crew and to employers, and apart from shore leave, and generous home leave, good pay and conditions provide some compensation for those making a career at sea.

Also, although not part of this Convention, employers through ISF have been working hard with port States to ensure the seafarers right to shore leave, and they have proposed a pragmatic new approach to visa requirements.

In addition, as responsible employers, we also believe that seafarers should have the same fundamental rights to:

- freedom of association and the effective recognition of the right to collective bargaining;
- the elimination of all forms of forced or compulsory labour;
- the effective abolition of child labour; and

- the elimination of discrimination in respect of employment and occupation
 - irrespective of the flag of the ship on which they serve. This is what the MLC aims to achieve.

In August of this year, when the MLC will enter into force, ship operators will need to be ready. What does this mean in practice? Provided they put in the work, most companies should not have any difficulty complying with the substance of the Convention, since it has evolved from existing ILO standards and accepted good employment practice. Without question vessels carrying the required documentation on ships of ratifying Flag states will find Port State Control easier than those which come from States which are yet to ratify.

The enforcement mechanism is new, and it will be important to avoid teething problems as some of the more detailed requirements are applied and interpreted by flag states, in consultation – as the Convention requires - with national shipowners' associations and seafarers' trade unions.

The immediate challenge for shipping companies and for other stakeholders is the certification process. An important aspect of enforcement is the issuance of the Maritime Labour Certificate to a ship, usually after a Flag State inspection possibly conducted by a Recognized Organization, such as a classification society, acting on behalf of the flag State.

In addition, there is a separate requirement for ships to prepare and maintain a Declaration of Maritime Labour Compliance (DMLC for short). Its purpose is to ensure continued compliance with MLC standards, and to help inspectors check that national requirements are properly implemented. Obtaining the DMLC is of particular importance to owners and operators.

The Maritime Labour Certificate is issued to the ship rather than the company, in the same way as the Safety Management Certificate is issued under the IMO ISM Code. The Certificate is prima facie evidence of compliance with the ILO Convention standards to the extent set out in the Declaration. Certificates will normally be valid for five years, with an intermediate inspection between two and three years after the first flag state inspection.

The Declaration of Maritime Labour Compliance (DMLC) establishes national requirements for working and living conditions on board the ship and should be issued by the flag state as an attachment to the Maritime Labour Certificate. It comprises two parts.

Part I is prepared by the flag State to identify matters for inspection, and Part II is drawn up and maintained by the company for each ship. This should identify measures adopted by the company to ensure compliance between inspections. Two such examples are:-

In the case of Minimum Age, there should be a list of seafarers that is provided by the Company and maintained as part of the safety management system. The age of any such seafarers is entered into the ISF Watchkeeper work/rest hour software used on board the ship.

In the case of Shipowner Liability under section 4.2 of the MLC and the flag state Maritime Act, the ship will have protection and indemnity insurance to protect seafarers from the financial consequences of sickness, injury and death. The P & I Club Certificate of Entry is maintained on board with the safety management system, and details of the policy can be found in the P & I club's rules, a copy of which is held onboard by the master.

The ISF Guidelines on the application of the ILO Maritime Labour Convention provide an example of how to complete the DMLC part 2 and demonstrates many more examples in this regard.

Flag States should be developing detailed advice on what is required of shipowners when preparing the DMLC, and the particular format and content required. Given the tens of thousands of ships that require MLC certification, it is vital that flag States provide this advice to shipowners now. It is important to carefully follow flag State requirements and to be cautious of generic advice offered by Classification Societies, and others, which may not match the specific flag State requirements.

The Maritime Labour declaration also sets out, where evidence of ongoing compliance with the detailed MLC requirements can be found on board the ship, the records to be taken and verified, and procedures to be followed when potential non-compliance is noted, such as a crew contract that might appear inconsistent with MLC provisions.

Much of this information can be kept alongside the Safety Management System required by the ISM code. This will hopefully simplify inspections and reduce unnecessary duplication between inspections.

Given that the Declaration will also be considered by port State control as well as flag State inspectors, it will be worthwhile for companies to thoroughly prepare the Declaration so that it demonstrates adherence to the spirit as well as the letter of the MLC requirements.

The detailed requirements for compliance should not be underestimated. Whilst several provisions are already covered by the IMO STCW Convention and the ISM Code; other things are new and I draw particular attention to the need for a properly documented complaints procedure for seafarers.

Bearing in mind that the 2010 amendments to the STCW Convention are already in force globally, it is possible that many flag administrations may use STCW requirements, such as those concerning minimum rest hours, as their primary reference point.

More specifically, there may be some overlap between the well-established enforcement of the ISM Code requirements and the MLC. Documentation relating to compliance with several MLC requirements should already be broadly covered by the ISM Safety Management System.

The requirement for inspections (or external audits) leading to certification to be conducted every five years, with intermediate inspections between the second and third years, are the same under the ISM Code and the MLC. It therefore makes sense for these inspections to be scheduled concurrently.

With careful preparation (including the provision of clear and timely advice from flag States on the national certification process) entry into force of the MLC should help deliver a level playing field of good maritime labour standards on a global basis, to which we all aspire.

Most seafarer's employment conditions already match or comfortably exceed, those in national shore based employment. Maintenance of good employment conditions is crucial to the industry's ability to attract and retain competent, well qualified seafarers on whom we all depend.

Greece has ratified the Convention this year, along with Malta and Finland. However, depositing a ratification is one thing, ensuring everything required is in place is quite another. I am confident that all States that have ratified continue to develop the appropriate measures to ensure compliance, and that ships flying their flags will have the required certification ready for inspection by Port State Control authorities across the world. This is particularly important as ratifying countries can conduct PSC checks on entry into force. In addition a European Directive enters into force on the same date. This transposes many elements of the MLC that all EU member states must honour and this has inspection implications for ships of all flags including those outside Europe. This means that even if an EU member State has not yet submitted its ratification of the MLC to ILO that State can still inspect vessels under the EU Directive.

To assist employers ensure compliance with the ILO Maritime Labour Convention (MLC), ISF have published new comprehensive Guidelines on the Application of the ILO MLC. This supersedes the first version produced by ISF in 2006 on the adoption of the Convention. It incorporates all the previous material as well as new advice from ILO guidance documents produced in the interim.

The new ISF Guide advises ship operators of all of their obligations under the ILO MLC and practical guidance on applying the standards on board their ships. ISF has also produced a detailed checklist on a CD to measure compliance and identify outstanding actions. This CD also incorporates an overview of the MLC certification process including a model Declaration of Maritime Labour Compliance.

I am sure that all companies are by now, well on their way to complying with the MLC provisions, but if they wish to, they can still obtain the Guidelines and the CD from ISF.

I hope I have given you a brief but comprehensive overview of ensuring compliance with the MLC and the role of shipping companies. Employers should be proud of what has been achieved together with seafarers organisations and governments in producing a Maritime Labour Convention that is aimed at ensuring good working conditions onboard all vessels irrespective of flag right across the board.

Thank you.
