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To:	All Surveyors/Auditors
Applicable to flag:	All Flags
Subject:	MLC, 2006- General Questions A18 – A25
Reference:	MLC, 2006 – Maritime Labour Convention, 2006

MLC, 2006, General Questions A18-A25

A18. Why is the MLC, 2006 likely to achieve the aim of near universal ratification?

There are a number of indicators suggesting that near universal ratification will be achieved: one is the unprecedented vote in favour of the Convention. It was adopted by the International Labour Conference by a record vote of 314 in favour and none against (two countries (four votes) abstained for reasons unrelated to the substance of the Convention), after detailed review by over 1,000 participants drawn from 106 countries. This almost unprecedented level of support reflects the lengthy international tripartite consultation that took place between 2001 and 2006 and the unswerving support that had been shown by the governments and workers and employers who worked together since 2001 to develop the Convention text. It has been designed to achieve near universal ratification because of its blend of firmness on rights and flexibility with respect to approaches to implementation of the more technical requirements and because of the advantages it gives to the ships of countries that ratify it. Finally, the ships of ratifying countries that provides decent working conditions for their seafarers will have an advantage as they will be protected against unfair competition from substandard ships [see A4. What is meant by the “no more favorable treatment” clause?]. By benefitting from a system of certification they will, henceforth, avoid or reduce the likelihood of lengthy delays related to inspections in foreign ports.

A19. What will happen to the Maritime Labour Conventions adopted before 2006?

The existing ILO Maritime Labour Conventions will be gradually phased out as countries that have ratified those Conventions ratify the MLC, 2006, but there will be a transitional period when some Conventions will be in force in parallel with the MLC, 2006. Countries that ratify the MLC, 2006 will no longer be bound by the existing Conventions when the MLC, 2006 comes into force for them. Countries that do not ratify the MLC, 2006 will remain bound by the existing Conventions they have

Customer Service Center

5201 Blue Lagoon Drive, 9TH. Floor,
Miami, Fl., 33126
Tel: 1 (305) 716 4116,
Fax: 1 (305) 716 4117,
E-Mail:

joel@conarinagroup.com

Technical Head Office

7111 Dekadine Ct.
Spring, Tx., 77379
Tel: 1 (281) 370 9363,
1 (713) 204 6380

E-Mail: tho@conarinagroup.com,

houston@conarinagroup.com

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ratified, but those Conventions will be closed to further ratification. Entry into force of the MLC, 2006 will not affect the four maritime Conventions that are not consolidated in the MLC, 2006 [see A20. Which ILO Conventions are consolidated in the MLC, 2006?]. They will remain binding on States that have ratified them irrespective of the MLC, 2006. The ILO maritime Conventions dealing with **fishing and dock workers** are also not affected by the MLC, 2006.

A20. Which ILO Conventions are consolidated in the MLC, 2006?

The 36 Conventions and one Protocol that are consolidated in the MLC, 2006 are listed in its Article X. This list consists of all the previous maritime Conventions, adopted since 1920, except the Convention addressing seafarers' identity documents of 2003 (Convention No. 185) and the 1958 Convention that it revises (Convention No. 108), as well as the Seafarers' Pension Convention, 1946 (No. 71) and the (outdated) Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15).

A21. How can the MLC, 2006 be updated?

The MLC, 2006 has two types of amendment procedures. Both types of amendment procedures – under Article XIV for the Convention as a whole, and Article XV for amendments only to the Code. The Article XIV express ratification procedure is close to the present ILO procedure for revising Conventions. The part of the Convention which is expected to need updating from time to time, namely the Code [see A9. What is the Code of the MLC, 2006?] relating to the technical and detailed implementation of the basic obligations under the Convention, can be amended under an accelerated procedure (“tacit acceptance”) provided for in Article XV. This procedure, which is based to a certain extent on a procedure already well-established in another agency of the United Nations, the International Maritime Organization (IMO), will enable changes to the Code to come into effect, for all or almost all ratifying countries, within three to four years from when they are proposed. This will result in a Convention that is kept more up to date than the existing ones. A ratifying Member will not be bound by an amendment to the Code entering into effect in accordance with Article XV of the Convention, if it expresses formal disagreement within a period of normally two years.

A22. What is the Special Tripartite Committee?

Article XIII of the MLC, 2006 provides for the establishment of a Special Tripartite Committee by the ILO's Governing Body. The mandate of this Committee is to “keep the working of this Convention under continuous review”. The Committee will consist of two representatives nominated by the Government of each country that has ratified the Convention, and the representatives of Shipowners and Seafarers appointed by the Governing Body after consultation with the ILO's Joint Maritime Commission (JMC 14).

The Committee has an important role with respect to amendments to the Code [see A9. What is the Code of the MLC, 2006?]. If faults are identified in the working of the Convention, or if the Convention needs to be updated, the Special Tripartite Committee will, in accordance with Article XV of the Convention, have the power to adopt amendments [see A21. How can the MLC, 2006 be updated?]. The Committee will also play an important consultative role under Article VII for countries that do not have shipowners' or seafarers' organizations to consult when implementing the MLC, 2006.

A23. What is the status of the Preamble and the Explanatory Note in the MLC, 2006?

The Preamble to the MLC, 2006, like preambles in other international instruments provides information

Customer Service Center

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Miami, Fl., 33126
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Fax: 1 (305) 716 4117,
E-Mail:

joel@conarinagroup.com

Technical Head Office

7111 Dekadine Ct.
Spring, Tx., 77379
Tel: 1 (281) 370 9363,
1 (713) 204 6380

E-Mail: tho@conarinagroup.com,

houston@conarinagroup.com

regarding the aspiration and intentions of the drafters of the Convention, however the preamble does not contain any binding legal obligations. The Explanatory Note to the Regulations and Code of the Maritime Labour Convention, which is placed after the Articles, is also not binding but is there, as its title suggests, to provide an explanation that will help countries to better understand the relationship between the differing parts of the Convention and the nature of the obligations under each part of the MLC, 2006.

A24. What is meant by the term “Member”?

The Maritime Labour Convention, 2006 (MLC, 2006) like other ILO legal instruments uses the terms “member” or “each member” throughout the MLC, 2006. The terms are used by the International Labour Organization (ILO) to refer to countries that are members of the ILO. In the context of this Convention a reference to “Member” or “Each Member” should be understood as referring to countries that have ratified the Convention, unless the Convention clearly refers to “any Member of the Organization” (as in paragraph 2 of Article XV, for example).

A25. Who is the competent authority?

The MLC, 2006 defines the term “competent authority” in Article II, paragraph 1(a) as “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”. It is a term used to indicate the department(s) of a government with responsibility for implementing the MLC, 2006. Practices could vary between countries and often more than one department or agency (e.g., labour or maritime or social security) could be involved in implementing aspects of the MLC, 2006 in a country and could therefore be the “competent authority” for the particular issue.

REFERENCES:

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

ATTACHMENTS: No.

Kindest Regards,
Cosmin Bozenovici
Naval Architect – Conarina Technical Head Office

Customer Service Center

5201 Blue Lagoon Drive, 9TH. Floor,
Miami, Fl., 33126
Tel: 1 (305) 716 4116,
Fax: 1 (305) 716 4117,
E-Mail:

joel@conarinagroup.com

Technical Head Office

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Spring, Tx., 77379
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1 (713) 204 6380

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houston@conarinagroup.com