Outlines and arrangement for the Maritime Labour Convention, 2006

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2. Outlines of the Maritime Labour Convention, 2006

2.1 Background and objectives of adopting this Convention

The International Labour Organization (ILO) has adopted as many as 68 conventions and recommendations in the maritime field alone since 1920. Although the objectives is similar and requirements are duplicated in some of the conventions and recommendations suggesting that these are not harmonized, many of the conventions have not entered into force because they have not been ratified by ILO member countries as the conventions are incompatible with the currently developed marine industry and its technologies. For this reason, these conventions have to be put in order and integrated, and their content is to be adapted to present-day needs so that effectiveness is enhanced.

ILO has established the global standard related to maritime labour, and improved the labour conditions of 1,250,000 seafarers all over the world. With the objective of ensuring fair and competitive conditions in the maritime industry, it has strived to formulate integrated and updated conventions related to the conventional maritime fields. In February 2006, about 1000, representatives of governments, seafarers', and shipowners' organization of 100 of the 178 ILO member countries assembled at the ILO Maritime Conference, and the results of the discussions

decided in the adoption of the Maritime Labour Convention. This Convention may even be called the bill of rights of the seafarers, and may be considered the fourth pillar of the International Maritime Organization (IMO) with regard to international maritime regulations, following the SOLAS Convention, the MARPOL Convention, and the STCW Convention.

2.2 Expected entry into force

This Convention will come into force 12 months after the date on which there have been registered ratifications by at least 30 Members with a total share in the world gross tonnage of ships of 33 per cent. As of end December 2010, Liberia, Bahamas, Marshall Islands, Panama, Norway, Spain, Croatia, Bosnia Herzegovina, Bulgaria, Canada and Saint Vincent and the Grenadines are the 11 countries that have ratified this Convention. The total tonnage of ships in these States has already reached 47% of the world gross tonnage. EU member States were promoting the ratification aiming for the target at the end of December 2010 but the ratification was not promoted as scheduled so the number of ratified countries did not reach to 30 by the end of 2010 but the number of ratified countries is getting increase progressively. According to general present prediction, it will be expected that the number of ratified countries reach to 30 by around March 2011. Therefore the Convention will be expected to enter into force in the early 2012.

2.3 Features and composition

2.3.1 Features

The features of this Convention are: most of the requirements are mandatory for the member country to the Convention; this Convention requires that its requirements be incorporated in the national law of the member country and then implemented.

It is to be noted that the member countries to the Convention here refers also to the Flag States, Port States. Procedures for revision have also been introduced so that codes can be quickly updated in response to the changes in the needs of the maritime industry. Furthermore, measures are being adopted to implement the Convention rigorously so as to raise the global level of working and living conditions for seafarers through supervision and inspection (Port State Control, etc.) in Port States, jurisdiction and supervisory obligations of ships by the Flag State, and regulation specifying that ships that fly the flag of any State that has not ratified this Convention do not receive more favorable treatment than the ships that fly the flag of any State that has ratified the Convention.

2.3.2 Composition

The Convention consists of three parts: a) Articles that prescribe the basic obligations, rights, rule principles, definitions and scope and field of application, b) Regulations indicating detailed requirements of the member States to the Convention, and c) Codes specifying details related to implementation of regulations. Furthermore, Codes consist of Part A (Standards) that specify mandatory requirements and Part B (Guidelines), which are non mandatory (see Fig. 1).

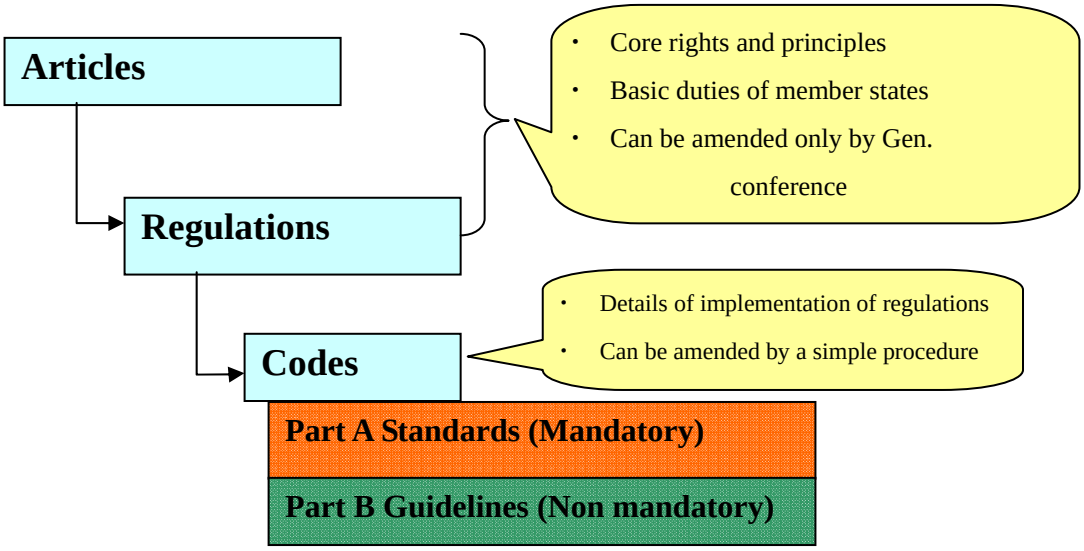

Fig. 1 Composition of the Maritime Labour Convention, 2006

The composition of Regulations and Codes is as below.

Chapter 1: Minimum requirements for seafarers to work on a ship
Chapter 2: Conditions of employment
Chapter 3: Accommodation, recreational facilities, food and catering
Chapter 4: Health protection, medical care, welfare and social security protection
Chapter 5: Compliance and enforcement

2.4 Application

This Convention applies to all ships ordinarily engaged in commercial activities other than ships engaged in fishing or in similar pursuits, and ships of traditional build, and applies to seafarers employed in those ships. All ships of 500 gross tons or above engaged in international voyages or operating between foreign ports are required to be provided with the Maritime Labour Certificate (MLC[1]) and the attached Declaration of Maritime Labour Compliance (DMLC).

[1] The Maritime Labour Certificate (MLC) is issued when at least the 14 items below related to working and living conditions of seafarers are complied with.

1. Minimum age	8. Accommodation
2. Medical Certification	9. On-board recreational facilities
3. Qualifications of seafarers	10. Food and catering
4. Seafarer's employment agreement	11. Health and safety and accident prevention
5. Use of any licensed or certified or regulated private recruitment and placement service	12. On-board medical care
6. Hours of work or rest	13. On-board complaints procedures
7. Manning levels for the ship	14. Payment of wages

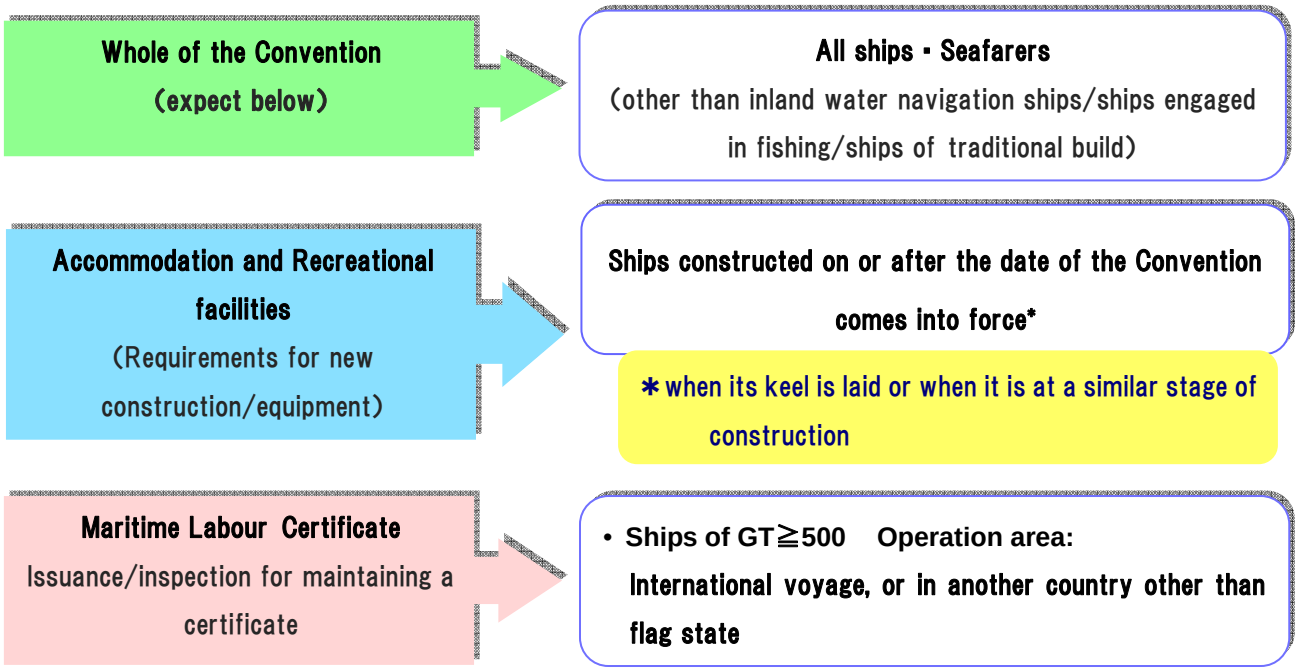

Fig. 2 Scope of application of MLC, 2006

DMLC consists of DMLC Part I, in which national laws/regulations incorporating the requirements of the Convention developed by the Flag State are listed, and DMLC Part II in which the measures and plans to be taken by the shipowner are declared for ongoing compliance with the requirements. The Master has the responsibility to implement the measures and plans stated in DMLC Part II drawn up by the shipowner, and to maintain correct records which become evidence of compliance with the Convention. The Flag State is required to review the measures and plans given in DMLC Part II and certify them, verify implementation of the measures on board the ship, and issue the certificate. The Flag State may authorize for validating and certifying the implementation of the required measures and plans on board the ship including the review and certify of DMLC Part II, and also for issuing the Maritime Labour Certificate to a recognized organization (RO).

2.5. Definitions

The definitions of terms used in this Convention are given in Article 2. The definitions of "shipowner" and "seafarer" used in the Convention are introduced below.

shipowner :means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organization or persons fulfil certain of the duties or responsibilities on behalf of the shipowner.

seafarer :means any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies;

2.6 Outlines of certification and inspection

The scheme of the relevant inspection and certification is similar to that of the ISM or the ISPS Code; the inspection itself requires to be carried out on board the ship only. Fig. 3 shows the period of issuance and period of maintenance inspection for the Maritime Labour Certificate (MLC).

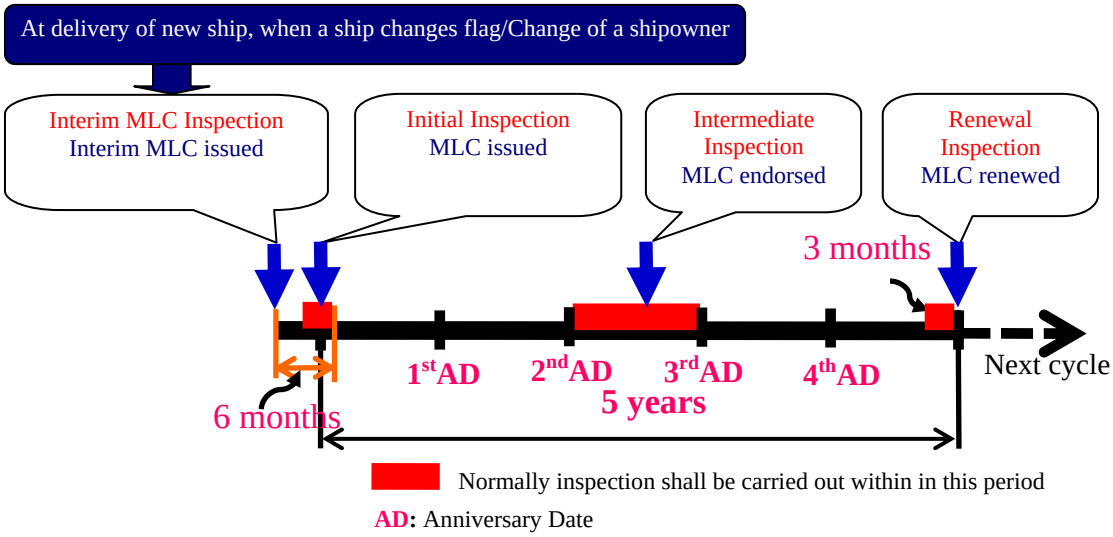

Fig. 3 Period of issuance and maintenance of the Maritime Labour Certificate (MLC).

For issuance of relevant certificates, refer to Fig. 4 and Fig. 5, which show the flow of issuance of Interim MLC at the time of delivery of new ship, when a ship change flag, or change of shipowner, until the issue of MLC based on the initial inspection (including ships having the Interim MLC).

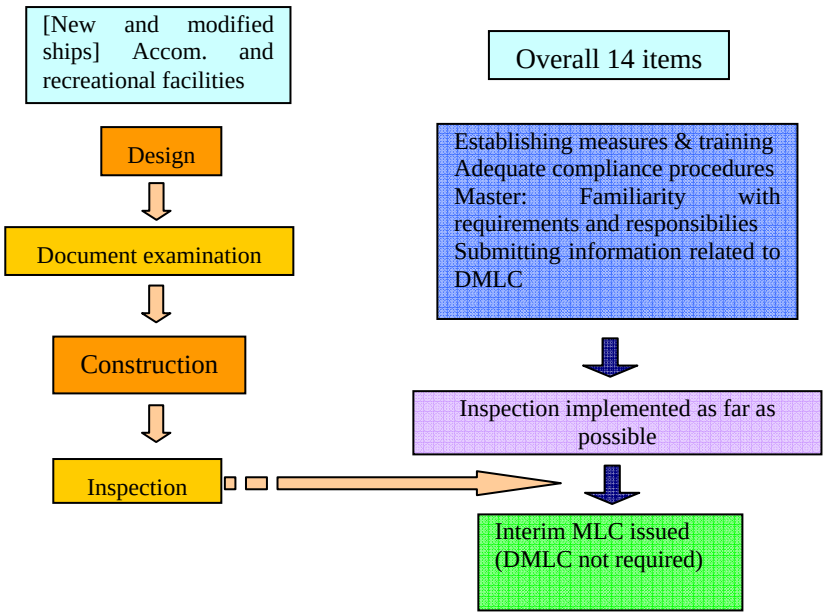

Fig. 4 Flow of issuance of Interim MLC

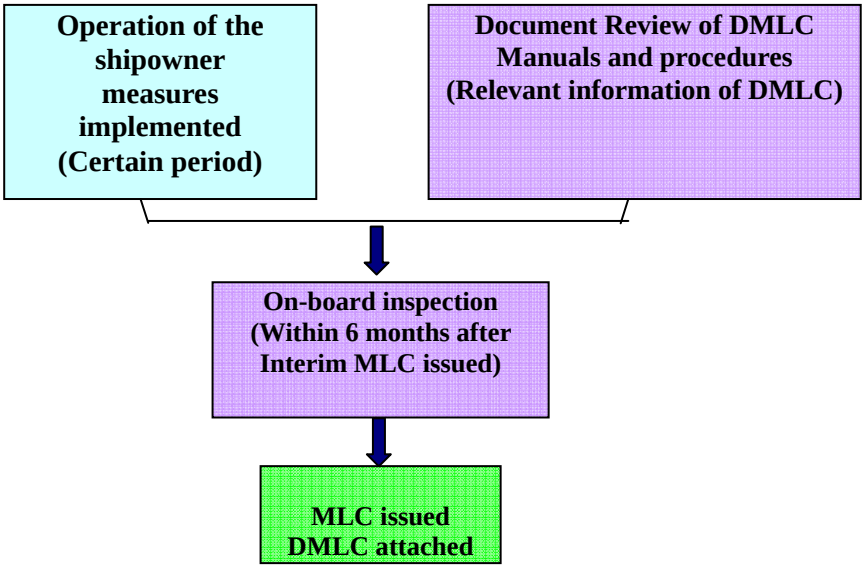

Fig. 5 Flow of issuance of MLC based on initial inspection (including ships having Interim MLC)

3. Arrangement of shipowner and ClassNK

3.1 Preparation to be taken by shipowner

The shipowner has to adopt measures to ongoing comply with the requirements for all ships to which this Convention is applicable. Particularly, in ships required to be provided with the Maritime Labour Certificate, the "Declaration of Maritime Labour Compliance Part II (DMLC Part II)" has to be drawn up by the shipowner, as declared in the measures and plans for properly and ongoing complying with the requirements prescribed in the "Declaration of Maritime Labour Compliance Part I (DMLC Part I)" issued by the Flag State as mentioned earlier, receive close-up examination by the Flag State, and properly implement the measures on board the ship (see Fig. 6).

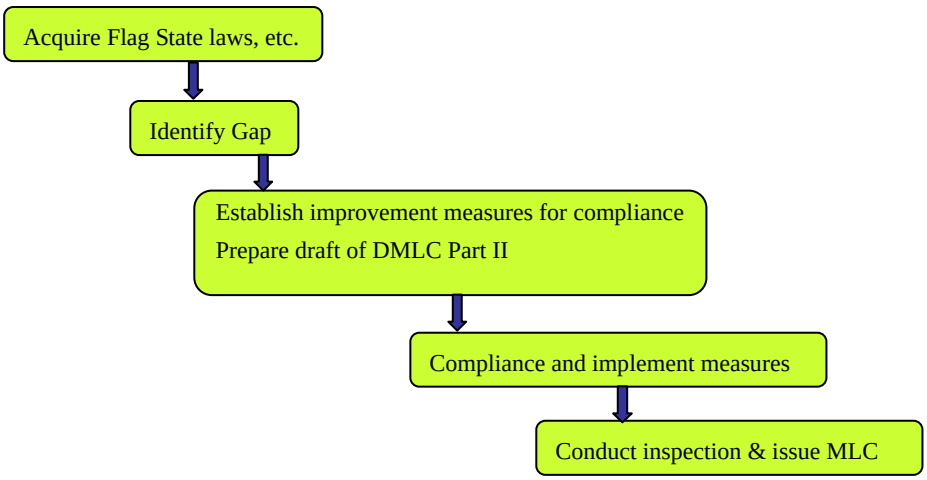

Fig. 6 Preparation to be taken by shipowner

Therefore, the main preparations for implementing this Convention by the shipowner include developing and establishing DMLC Part II. Actually acquiring the requirements of national laws and regulations of Flag State of the ship, identify the gaps between the company regulations related to seafarer management system and the national requirements, currently deployed by the shipowner (ship or seafarer management system: including manuals, procedures, forms, etc.), and providing company regulations incorporating with measures and plans related to working and living requirements of seafarers (employment agreement, working and living conditions, etc.) so that the gaps are made up for, are considered practical methods. However, except for some States (actually Marshall Islands only), practically most of Flag States are in the process of developing national laws and regulations complying with this Convention; therefore, it is rather difficult to complete DMLC Part Ⅱ by only analyzing the gaps as mentioned above at this moment.

3.2 Trend of arrangements in the industry

3.2.1 Gap analysis

In the above situation ClassNK is recommending as early as possible the implementation of gap analysis using self-check list which is provided by NK to identify the gaps between the requirements of Regulations and Code Part A of the Standards (which are mandatory requirements of the Convention) and the company regulations relating to seafarer management system currently deployed, as a practical arrangement at this moment.

After adopting measures to make up for the identified gaps during such analysis, when Flag States' national laws and regulations are completed, it is needed to acquire them as soon as possible and if there were additional requirements further measures are needed to set up. Thus, this procedure may be a realistic and effective approach at this moment.

The draft of DMLC Part II is to be prepared through this procedure, and when the measures and plans specified therein are implemented for a certain period on the ships under jurisdiction, shipboard inspection is to be carried out so that MLC can be issued.

It is to be noted that the initial inspection is to be carried out for the so-called "existing ships" (ships constructed before the entry into force of the Convention) from among the ships required to be provided with MLC under this Convention, by the date of entry into force of this Convention, and subsequently MLC must be issued.

3.2.2 Status of national legislation in major States

With regard to national legislation of major States, except for Marshall Islands, where national legislation has been completed, the legislation of other Flag States is still incomplete. Henceforth, the national laws and regulations of each Flag State are expected to be completed progressively, and the shipowners and our classNK will need to pay continued attention to the status of Flag States.

3.3 Arrangement of ClassNK

The major preparations of the Society related to inspection and certification at present are as given below.

- Inspection and certification services

Conduct inspection and issuance of MLC and as a recognized organization (RO) of the Flag State

Preparation of handbook for inspection and certification

Preparation of implementation procedure (technical rules, instructions, etc.)

- Customer services

  Holding seminars

  Publication of handbook for inspection

  Release information on the NK's website (Flag State laws and regulations, information of seminars)

- Approach to Flag State

  Application for formal authorization of RO

  Inquiries and clarifications on special requirements of each Flag State

- Training and selecting inspectors

  In-house training course for MLC inspector by core personnel who have been trained at MLC inspectors and trainers training course of ILO-hosted is holding.

For the early implementation of the initial inspection of existing ships we are ready to conduct initial inspection and issue the SOC (Statement of Compliance) which may be convertible to MLC to the Marshall Island's vessels.

And also we are progressing preparation of implementation initial inspection for the vessels of the other Flag States which national laws and regulations are completed accordingly.

4. Conclusions

Outlines of the Convention, preparation to be taken by the shipowner, trend of arrangements the industry, status of national legislation of major States, and arrangements of ClassNK have been described above. This Convention is anticipated to enter into force around in early 2012. But most of the Member States that have ratified the Convention have not completed their national laws and legislations yet, therefore it is still difficult to establish measures and plans for ongoing compliance with Flag State laws and regulations as DMLC Part Ⅰ has not been issued yet. Therefore under such circumstances, it is particularly recommended to consider measures which are made up for the identified gaps between Regulations and Standards set out in Code A (which are mandatory requirements of the Convention) and the current company's regulations relating to seafarer management system through a gap analysis as a preferable preparation at this moment.