

<b>Title:</b> <b>Merchant Shipping (Maritime Labour Convention) (Repatriation) Regulations (“2014 Regulations”)</b> <b>IA No:</b> DfT 00071  <b>Lead department or agency:</b> Maritime and Coastguard Agency (MCA) <b>Other departments or agencies:</b> Department for Transport	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 07/03/14		
	<b>Stage:</b> Final		
	<b>Source of intervention:</b> International		
	<b>Type of measure:</b> Secondary legislation		
<b>Contact for enquiries:</b> Julie Carlton Tel: 023 8032 9216			
<b>Summary: Intervention and Options</b>			<b>RPC:</b> GREEN

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as Two-Out?
NQ	NQ	NQ	No   NA

**What is the problem under consideration? Why is government intervention necessary?**

It is considered that all seafarers should be repatriated when they finish working on ships. Employment conditions at sea vary across the world. Some seafarers work under unacceptable conditions and ship operators which operate substandard ships gain a competitive advantage. Effective international standards are needed to address these issues. The Maritime Labour Convention 2006 (MLC) aims to provide minimum working conditions for seafarers that are globally applicable and uniformly enforced, including on repatriation. This requires the MLC to be ratified by governments, which requires a package of new legislation in the UK. The UK ratified the MLC on 7 August 2013, so UK legislation must be fully compliant. .

**What are the policy objectives and the intended effects?**

The purpose of the 2014 Regulations is to promote decent living and working conditions for seafarers globally and an international level playing field for shipping as part of the UK’s implementation of the MLC by a) bringing UK legislation into line with the minimum global standards for repatriation, and b) fully complying with MLC standards under UK international obligations as a ratifying country, and c) enforcing these global minimum standards for repatriation on non-UK registered ships that call at UK ports. Specific objectives for repatriation of seafarers can be found in the Evidence Base.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Doing nothing is not considered to be an appropriate course of action, as new UK legislation is required to fully comply with the MLC. Failure to ratify the MLC would have limited its effectiveness at addressing the issues on seafarer living and working conditions discussed above and UK ships would not have been able to obtain MLC certification.

The preferred policy option is therefore to introduce the 2014 Regulations (Policy Option 1) which would make the minimum changes to existing legislation to implement the provisions of the MLC on repatriation. No further measures have been deemed to be necessary and so only one Policy Option has been considered in this impact assessment.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 03/2019						
Does implementation go beyond minimum EU requirements?				N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)				<b>Traded:</b> NA		<b>Non-traded:</b> NA

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

Signed by the responsible Minister: Stephen Hammond Date: 24/06/2014

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** To implement the minimum requirements of the Maritime Labour Convention, 2006 in respect of repatriation

## FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ

COSTS (£m)	Total	Transition	Average	Annual	Total	Cost
	(Constant Price)	Years	(excl. Transition)	(Constant Price)	(Present Value)	
Low	NQ	N/A	NQ		NQ	
High	NQ		NQ		NQ	
Best Estimate	NQ		NQ		NQ	

### Description and scale of key monetised costs by 'main affected groups'

Due to the limitations of the available evidence base, it has not been possible to monetise any of the costs that have been identified in this impact assessment. Consultees were invited to submit any additional evidence on these costs at public consultation; however, no quantitative evidence was received.

### Other key non-monetised costs by 'main affected groups'

1.) Potential additional costs to some shipowners due to the changes in seafarers' rights. However, the MCA do not expect these costs would be significant, because the proposed standards reflect current best practice. 2.) Potential additional costs to seafarers dismissed for misconduct, but it is expected there would be few cases. 3.) Potential additional costs to the MCA if shipowners fail to meet their obligations. However, on the basis of past experience, the MCA do not expect these costs would be significant.

BENEFITS (£m)	Total	Transition	Average	Annual	Total	Benefit
	(Constant Price)	Years	(excl. Transition)	(Constant Price)	(Present Value)	
Low	NQ	N/A	NQ		NQ	
High	NQ		NQ		NQ	
Best Estimate	NQ		NQ		NQ	

### Description and scale of key monetised benefits by 'main affected groups':

Due to the limitations of the available evidence base, it has not been possible to quantify any of the benefits that have been identified in this impact assessment. Consultees were invited to submit any additional evidence on these benefits at public consultation; however, no quantitative evidence was received.

### Other key non-monetised benefits by 'main affected groups':

1.) Seafarers could benefit from greater transparency about their entitlements.  
 2.) Shipowners would be able to recover all repatriation costs from seafarers dismissed for misconduct, but it is expected there would be few cases.  
 3.) Ratification of the MLC requires the implementation of all the constituent Regulations (including these Regulations), and provides additional benefits (see Annex 3.)

Key assumptions/sensitivities/risks	Discount rate (%)
1.) Advice received from shipowner and seafarer organisations is that the changes to seafarers' rights largely reflect current practice. It is assumed that this is representative of the UK fleet. 2.) Given the limited available evidence, it has not been possible to monetise the costs and benefits identified. For example, the additional costs to seafarers dismissed for misconduct are very uncertain, and would depend whether repatriation costs in each case exceeded the limit on wage deductions.	N/A

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of OITO?	Measure qualifies as
Costs: NQ	No	NA
Benefits: NQ		
Net: NQ		

# **EVIDENCE BASE**

## **Key Definitions**

ILO = International Labour Organization

MCA = Maritime and Coastguard Agency

MLC = ILO Maritime Labour Convention 2006

SEA = Seafarer Employment Agreement

International Group of P&I Clubs = The thirteen principal underwriting member clubs providing liability cover (protection and indemnity) for approximately 90% of the world's ocean-going tonnage

## **TITLE OF PROPOSAL**

The Merchant Shipping (Maritime Labour Convention) (Repatriation) Regulations (“the 2014 Regulations”).

### **1. CONSULTATION ON THE PROPOSALS**

Like all Conventions of the International Labour Organisation, the Maritime Labour Convention, 2006 (MLC) was drawn up on a tripartite basis in negotiations between shipowner organisations, seafarer organisations and governments, and the UK took a leading role in all three delegations. The MCA has continued to work closely with its social partners on the implementation of the Convention, through a tripartite working group – see Annex 4.

The consultation stage draft impact assessment for these proposals, issued as part of the public consultation package, invited additional evidence on the costs and benefits of the proposed regulations. 176 organisations and companies were directly notified of the consultation exercise, including the UK Chamber of Shipping which represents a broad cross section of UK shipping companies in all sectors, and other trade associations such as the British Marine Federation and International Marine Contractors Association. In addition, a meeting was held during the consultation period for the operators of small commercial vessels such as workboats, and charter yachts, to consider the impact on smaller businesses. Seven written responses were received, from significant players in the industry. The responses on specific aspects of the proposals are included in the costs section below, but in summary, no evidence was provided of costs or benefits arising from the requirements which MCA had not foreseen. No quantified evidence of costs or benefits was provided.

### **2. PROBLEM UNDER CONSIDERATION**

It is considered that all seafarers should have acceptable employment conditions, including on repatriation. However, employment conditions for seafarers vary across the world, with some seafarers working under unacceptable conditions and shipowners operating substandard ships, thus gaining a competitive advantage. In particular, ILO (2012) suggests that “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.” In addition, ILO (2012) suggests that flag States and shipowners which provide seafarers with decent conditions of work “face unfair competition in that they pay the price of being undercut by shipowners which operate substandard ships.”

The specific problem that the 2014 Regulations would directly address is how to ensure that seafarers on ships are able to return home (or to the place where they were engaged) at the end of their contract of employment or after a period at sea.

Currently, repatriation of seafarers on UK registered ships generally takes place routinely and smoothly without the need for any involvement from the MCA. However, the MCA receives occasional enquiries from seafarers in parts of the industry outside the mainstream who are unsure about their statutory

entitlements or are in dispute with their employers over the terms for their repatriation. There have also been cases of seafarers on non-UK ships in UK ports who have not been repatriated by the shipowner when financial difficulties arise. This suggests that, in the absence of government intervention, some shipowners may not ensure that seafarers are routinely repatriated.

One potential explanation of this risk is that the existing international conventions requiring employers to provide repatriation are not well-understood and do not reflect current employment practices in the industry. In addition, where they have not been widely ratified, port states will currently be unable to enforce the requirements of these conventions. Given that there are costs of providing seafarers with decent conditions of work (e.g. repatriation), this means that shipowners operating substandard ships can potentially undercut shipowners which provide seafarers with decent conditions of work, and can consequently potentially gain a competitive advantage.

### **3. RATIONALE FOR INTERVENTION**

Given the international nature of the shipping industry, it is considered that effective international standards are needed to address the issues and risks that have been raised in the Section 2, and to provide decent working conditions and a level playing field for ships of different flags. This is why the MLC has been developed in the ILO by government, employer and seafarer representatives as a global instrument to address these issues and risks. The MLC aims to provide minimum rights for all seafarers that are globally applicable and uniformly enforced, including on repatriation. It was adopted in the ILO by a record vote of 314 in favour and none against (two countries abstained for reasons unrelated to the substance of the MLC). The ratification criteria to bring the Convention into force internationally were met on 20 August 2012, and the MLC therefore came into force internationally on 20 August 2013. It is being widely ratified. The Government's social partners, the shipping industry and the seafarer's Trades Unions (see Annex 4), strongly supported ratification of the MLC in the UK which took place on 7 August 2013.

Full compliance with the MLC in the UK requires a package of new legislation to be introduced to implement some of the provisions of the MLC in UK law, including the provisions of the MLC regarding repatriation. Doing nothing is therefore not considered to be an appropriate course of action.

Widespread ratification of the MLC, including the provisions on repatriation and the improved enforcement mechanisms introduced by the MLC, could help to ensure a level playing field between ships of different flags, and could help to ensure that seafarers – including UK nationals - have a reasonable expectation of being returned to an appropriate destination when their work comes to an end and at least annually, regardless of the flag of the ship where they work.

The Merchant Shipping (Repatriation) Regulations 1979 (SI 1979/97) (as amended) (“the 1979 Regulations”) gave effect to the ILO Repatriation of Seamen Convention 1926. The 1979 Regulations cover many of the MLC repatriation provisions. However, amending legislation is required to bring them fully into line with the MLC provisions. The 2014 Regulations will bring existing UK legislation into line with the requirements of the MLC on repatriation (Regulation 2.5 and Standard 2.5 of the MLC) and enable UK ratification of the MLC. In addition, the proposed Regulations would allow the UK to enforce the minimum global standards for repatriation on non-UK registered vessels visiting UK ports on a “no more favourable treatment” basis.

Furthermore, UK ratification of the MLC has avoided the costs of not ratifying the MLC. In particular, regardless of whether the UK had ratified the MLC, UK registered vessels would still be subject to the provisions of the MLC on a “no more favourable treatment” basis when operating in foreign ports in countries that have ratified the MLC. If the UK had not ratified the MLC, this could have resulted in UK registered vessels being delayed due to inspections to check their compliance with the MLC. UK ratification has enabled UK registered vessels to benefit from the system of MLC certification, avoiding or reducing the likelihood of delays related to inspections in foreign ports in countries that have ratified the MLC. As a ratifying country, these regulations are needed to ensure that UK fulfils its international obligations as a ratifying country, by having legislation on repatriation which is fully compliant with the MLC.

Although the primary reason for UK ratification of the MLC is the benefits it will bring to UK shipping, and to avoid the risks of not ratifying, it should also be noted that there is a European Social Partners Agreement which seeks to implement the MLC. Council Directive 2009/13/EC annexes the Agreement between the European Community Shipowners' Association (ECSA) and European Transport Workers'

Federation (ETF) on the Maritime Labour Convention 2006 and the agreement on amendments to the Agreement on the Organisation of Working Time of Seafarers dated 30 September 1998 (set out at Annex A to the Agreement). This includes MLC standards on repatriation. The Directive came into force on the date on which the MLC came into force which was 20 August 2013. The UK has a duty to implement the social partners' agreement, which in practice will mean that the UK is under a European legal requirement to implement some (but not all) MLC provisions in UK law. The transposition deadline is 12 months from the coming into force date – i.e. 20 August 2014. However, as explained above, to support the UK shipping industry the UK needed to ratify the MLC when it came into force internationally, which was earlier than the transposition deadline for the European Directive. Implementation of the minimum changes required to bring UK legislation fully into line with Title 4.3 of the MLC on repatriation will also fully implement the provisions of the repatriation aspects of Directive 2009/13/EC. The Directive is not therefore considered further in this Impact Assessment.

Further details of the requirements for and benefits of UK ratification of the MLC are provided in Annex 3 of this impact assessment.

#### **4. POLICY OBJECTIVES**

The purpose of the 2014 Regulations is to bring existing UK legislation into line with the requirements of the MLC related to repatriation in fulfilment of the UK's international obligations as a ratifying country, in order to:

- Secure decent working and living conditions for seafarers on UK registered ships and globally, including ensuring the seafarers can go home at the end of their period of employment.
- Promote a more level competitive playing field for international shipping by enforcing these standards on non-UK registered vessels that call at UK ports.
- Comply with the UK's European legislative obligations in relation to the provisions in the MLC covered by Directive 2009/13/EC, thus avoiding the risk of infraction proceedings being taken against the UK.

In particular, there are five areas where the 1979 Regulations are not in full conformity with the Regulation 2.5 and Standard A2.5 of the MLC that will be addressed by the Regulations:

- a. Standard A2.5.1 of the MLC specifies the exact circumstances in which seafarers are entitled to repatriation; the 1979 Regulations do not specify these circumstances so precisely.
- b. Standard A2.5.2 and Guideline B2.5.6 of the MLC require the ratifying state to specify the locations to which a seafarer is entitled to be repatriated; the locations specified in the 1979 Regulations vary slightly from those in the MLC.
- c. Standard A2.5.3 of the MLC provides that a seafarer may be requested to reimburse his repatriation costs where his employment under a Seafarer Employment Agreement is terminated because of his/her misconduct; there is no similar provision in the 1979 Regulations.
- d. Regulation 2.5.2 of the MLC requires that ships flying the flag of a ratifying State shall provide financial security to ensure seafarers are duly repatriated; there is no similar provision in the 1979 Regulations.
- e. Where the shipowner fails to repatriate seafarers on their ships in accordance with the MLC, Standard 2.5.5 of the MLC places duties on the flag state and port state to make arrangements for the seafarers to be repatriated, and for the costs to be recovered from the shipowner, if appropriate, via the Flag State. However, there is no provision for the UK as a port state to make arrangements to repatriate seafarers from non-UK ships in the 1979 Regulations.

In order to ensure a level playing field the MLC provides that a country which has ratified the MLC is able to enforce the same standards for repatriation on ships of other flags calling at its ports, since the Convention provides that ships of non-ratifying countries should have "no more favourable treatment" in the ports of ratifying countries. The 2014 regulations would give the UK this power. This would remove the competitive advantage to shipowners operating into UK ports of flagging with a non-ratifying country.

## **5. DESCRIPTION OF POLICY OPTIONS**

### **5.1. Do nothing**

Existing UK legislation is not currently in compliance with the MLC in respect of repatriation. A 'Do nothing' Option would not achieve the policy objectives that are outlined above, and is not therefore considered to be an appropriate course of action. The risks of not ratifying the MLC are summarised at the end of Annex 3 of this impact assessment.

One policy option has therefore been considered in this impact assessment.

### **5.2. Option 1: To implement only the minimum mandatory requirements of the MLC in respect of repatriation.**

The key minimum mandatory provisions from Regulation 2.5 and Standard A2.5 of the MLC are that seafarers should be repatriated at no cost to themselves and that shipowners should have financial security to meet the costs of repatriation for the seafarers on their ships. The 2014 Regulations (Option 1) will bring UK legislation on repatriation into line with the minimum requirement of the MLC. Under the Regulations (Option 1), seafarers will be entitled to repatriation at no cost to themselves when they are no longer required or able to work on the ship and they are abroad, and after a period of no longer than 12 months – except where seafarers are in serious default of their obligations.

Some of the provisions of the Merchant Shipping (Repatriation) Regulations 1979 do not appear in the MLC Standard A2.5, but in the supporting Guidelines B2.5 of the MLC. The ILO Constitution sets a principle that implementation of ILO Conventions should not result in the lowering of existing domestic standards, (paragraph 8 of Article 19 of the ILO Constitution). These are existing requirements for UK shipowners and so impose no additional burdens. It is therefore proposed to retain those provisions.

Therefore, the 2014 Regulations (Option 1) will involve amending the Merchant Shipping (Repatriation) Regulations 1979 to give effect to those provisions of the MLC that are not already covered by those Regulations without lowering existing levels of protection for seafarers that are already in place. The five areas where the Merchant Shipping (Repatriation) Regulations 1979 are not in full conformity with the MLC are discussed in section 4 and section 6 of this impact assessment.

Introducing the 2014 Regulations (Option 1) is the only option which would fulfil all policy objectives and is therefore the preferred option.

## **6. COSTS AND BENEFITS OF THE PROPOSED REGULATIONS**

Given the limitations of the available evidence base, it has not been possible to monetise any of the costs and benefits of the proposed Regulations (Option 1) that have been identified in this impact assessment. A full qualitative description of each of the costs and benefits that have been identified is therefore provided below.

Consultees were invited to submit additional evidence on the costs and benefits of the proposed regulations, to support further analysis and monetisation of the costs and benefits. No quantified or monetised evidence was submitted.

### **Comparison with 'Do Nothing' scenario**

The 'Do Nothing' scenario represents what would happen if the Government does not take any action. Under the 'Do Nothing' scenario, the MLC came into force in August 2013 internationally regardless of whether the UK was ready or not.

A large number of nations had ratified by the time that the MLC came into force in August 2013. Being a Convention with worldwide application, and given that any UK ships visiting ports in ratifying countries (which are expected to be most countries within a fairly short timescale) will have to be compliant, its effects will be virtually impossible to escape for ships wishing to trade internationally. Therefore, MCA expects that a proportion of any additional costs of complying with the minimum mandatory requirements of the MLC in respect of repatriation would have been incurred under the 'Do Nothing' scenario. As this proportion is uncertain, we do not know the extent to which any costs of complying with the minimum mandatory requirements of the MLC in respect of repatriation are truly additional costs of the proposed Regulations or whether they would have occurred anyway under the Do Nothing scenario.

Given these uncertainties, this impact assessment assesses the additional costs to business of complying with the minimum mandatory requirements of the MLC in respect of repatriation relative to the requirements of existing UK legislation or existing industry practice as applicable. These costs are discussed in Section 6.2 and Section 6.3 below, and on the 'Summary: Analysis & Evidence' sheet. However, as discussed above, we do not know the extent to which these costs are truly additional costs of the proposed Regulations.

## 6.1. Key Assumptions

The key assumption that has been made in this impact assessment is that the information that the MCA has received from the UK shipping industry during discussions prior to public consultation, and in responses to public consultation, is representative of the current situation for UK registered ships more generally.

It is also assumed that to a great extent the proposals reflect current good practice. This is borne out by an article in Lloyds List (17 April 2013) in which the Chamber of Shipping stated that they did not expect significant changes to current practice on repatriation as a result of the MLC. Operators of small vessels, many of which are micro- businesses or SMEs, have also confirmed to the MCA in meetings that the proposals reflect their current arrangements for repatriation of seafarers.

## 6.2. Changes due to the proposed Regulations (Option 1)

The 2014 Regulations (Option 1) will result in five key changes to UK legislation. The following table provides further details on the provisions of the proposed Regulations (Option 1) in the order that they appear in the MLC.

<u>Provisions in the 2014 Regulations (Option 1)</u>	<u>Provisions in the Merchant Shipping (Repatriation) Regulations 1979</u>	<u>Changes introduced by the 2014 Regulations</u>
<b>1.) Provisions to implement Regulation 2.5.2 of MLC</b>		
Shipowners required to provide financial security for repatriation of seafarers.	There is no current provision.	The International Group of P&I clubs has advised that, as from 20 February 2013, repatriation cover is included in standard cover. A ship's certificate of entry with an IGP&I Club will therefore provide evidence of compliance. 90% of the world fleet is entered with IGP&I Clubs. It is not therefore expected that this change would lead to additional costs in most cases. Consultees provided no evidence of any costs as a result of this requirement.
<b>2.) Provisions to implement Standard A2.5 of MLC</b>		
Seafarers to be 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 in accordance with the provisions in the agreement (by the	The employer must repatriate a seaman as soon as practicable after the seaman is left behind or brought ashore after shipwreck, and make such provision for food, lodging and other appropriate maintenance until the seafarer is repatriated, (or for three months if the seaman is absent and the employer is not aware of his whereabouts).	This change will clarify seafarers' rights and better reflect modern multinational crewing arrangements. Consultees had some queries about termination of agreements, but subject to clarification of those points, provided no evidence of any additional costs arising as a result of the provisions.

<p>shipowner, or by the seafarer for justified reasons); and (c) when seafarer can no longer carry out their duties or cannot be expected to carry them out.</p>		
<p>The maximum duration of service period before a seafarer is entitled to repatriation will be 12 months.</p>	<p>There is no explicit provision for a maximum period.</p>	<p>Annual leave regulations already ensure that seafarers cannot be required to work for longer than 11 months within one year. The maximum period will now be reinforced through the seafarer's employment agreement. It is not expected that this provision would lead to any additional costs. No comments were received from consultees on this point.</p>
<p>The Member [i.e. the country implementing the Convention] must specify seafarers' precise entitlements in respect of destination, mode of transport, items of expense to be covered and other arrangements.</p>	<p>The employer should determine the means of repatriation (by land, sea or air, (or by a combination of these), having regard to all the circumstances, including the personal circumstances of the seaman.</p> <p>The destination for repatriation will be the seaman's home or place of recruitment in the UK (whichever is nearer to the seaman's place of arrival in the UK); or for non-UK seafarers recruited outside the UK, to the place where they joined the ship or were engaged to join the ship; or to another place agreed between the seaman or the employer (we would normally expect this to be specified in the seafarer's terms and conditions of employment).</p>	<p>The provisions follow the existing UK regulations, but also take account of the guidelines in Part B of the MLC Code (B2.5).</p> <p>Guideline B2.5.6 expands on Standard A2.5.2(c) which provides that Members must lay down the seafarer's precise entitlements as regards destinations for repatriation. These should be destinations with which the seafarer has a substantial connection. This may be the place where the seafarer agreed to enter into the engagement; the place stipulated by collective agreement, the seafarer's country of residence; or any other place agreed with the shipowner.</p> <p>Where there are existing provisions in UK regulations regarding certain entitlements, these would be retained. Any additional provisions from the guidelines in B2.5.3 would be included in guidance rather than as mandatory provisions.</p> <p>The changes are relatively minor (providing greater certainty and allowing for modern recruitment practices) and industry has advised that these provisions reflect current practice, and so it is considered that that there would be no significant additional costs for shipowners. Consultees confirmed that the provision will</p>



		provide protection to shipowners from claims for repatriation to unreasonable destinations.
Prohibition on advance payment towards repatriation at the beginning of employment, and on deductions from wages, except where seafarer is found to be in serious default of their obligations. (However, the shipowner may recover costs under 3 <sup>rd</sup> party contractual arrangements provided that the seafarer does not bear any of the cost.)	Seaman's Wages and Accounts regulations (S.I. 1972/1701) authorise specified deductions from wages. No other deductions are authorised. No change is therefore required to prevent advance payment towards repatriation.  Recovery of costs where a seafarer has been in serious breach of their crew agreement is currently limited to £300 (1979 regulations amended by SI 1994 No. 791).	The limit on the amount of costs that can be recovered from seafarers in the case of serious misconduct will be removed. This creates a potential reduction in the costs to shipowners (i.e. a potential benefit), and a potential increase in the costs to seafarers, but it is considered that it would be very rare for this to occur. While employers supported the change, no evidence was submitted on this point.
There will be a duty on the UK as a flag state and a port state to repatriate seafarers when shipowners default on their obligations.	There is no current provision as a port state.	The provision for the UK as a port state to repatriate seafarers in UK ports where the shipowner and the flag state default of their obligations will be a new provision. The UK has existing powers to recover costs and so no new provision is needed to specify this.  No additional costs would be imposed on shipowners as a result of this provision – it would come into play where the shipowner was in default of their obligations. There could potentially be additional costs to the MCA, although those costs should be recoverable from the flag state or the shipowner. No comments were received from consultees on this point.
There will be a duty on shipowners to carry a copy of national provisions regarding repatriation in an appropriate language.	There is no current provision.	The provisions follow the MLC standard. No comments were received from consultees on this point.
<b>Guideline B2.5.1</b>		
Guideline B2.5.1.8 gives circumstances in which the shipowner's duty to repatriate a seafarer lapses	There are more specific provisions in the 1979 regulations.	The existing provisions are carried forward to the new regulations. Some comments were received from consultees on the scope of these provisions, but as no change is proposed from existing legislation, there is no additional cost arising to business or to seafarers.

### 6.3. Costs of the proposed Regulations (Option 1)

Given the limitations of the available evidence base, it has not been possible to monetise any of the costs of the proposed Regulations (Option 1) that have been identified in this impact assessment. The

draft impact assessment issued for public consultation invited additional evidence on the costs and benefits of the proposed regulations. The responses on specific aspects of the proposals are included below, but in summary, no evidence was provided of costs or benefits arising from the requirements which MCA had not foreseen. No quantified evidence of costs or benefits was provided.

### *6.3.1. Additional Costs to Seafarers*

The only potential additional costs to seafarers that have been identified are that there could potentially be additional costs to seafarers who are dismissed for misconduct and would be required to reimburse their repatriation costs under the proposed Regulations (Option 1).

The MCA do not expect that this change would result in significant additional costs to seafarers. This is because it is considered that the numbers of seafarers dismissed for misconduct are likely to be low and under existing UK legislation a seafarer can already be charged up to £300 towards costs incurred as a result of the breach of his/her obligations under current crew agreements. However, it should be noted that the level of any additional costs is very uncertain as this would depend on the individual circumstances of affected seafarers, such as the distance and mode of repatriation, as well as how many seafarers are affected.

No data is available on the number of cases that occur each year, nor on the costs involved. Therefore, given the limitations of the available evidence base, it has not been possible to monetise the additional costs to seafarers in this impact assessment.

Consultees were invited to submit any evidence on the number of cases where seafarers on UK ships are repatriated following serious misconduct. No evidence was provided. However, some consultees supported the removal of the limit on costs recovered.

### *6.3.2. Additional Costs to Shipowners*

Currently, repatriation of seafarers on UK registered vessels generally takes place routinely and smoothly without the need for any involvement from the MCA, so the MCA has no data on the number of repatriations occurring and the current costs of repatriation to shipowners. It is not possible to make a meaningful estimate of the cost of repatriation to shipowners, as this will depend on the frequency of repatriation (which depends on the period of engagement), and the start and finish points of individual journeys. In addition, commercial fares won't necessarily apply since large shipping companies get preferential deals with airlines.

There could potentially be additional costs to some shipowners where the 2014 Regulations include slightly different provisions than existing UK legislation (e.g. on repatriation destination, circumstances for repatriation, etc). However, advice from shipowner and seafarer organisations both prior to, and in response to consultation on the regulations, is that the provisions in the 2014 Regulations largely reflect current practice in the merchant shipping industry, and that the greater clarity in the regulations will prevent unreasonable claims for repatriation expenses. Some concerns were raised about the detailed drafting of the provisions, which could result in unintended additional costs – for example on the circumstances in which the seafarer is entitled to repatriation where the seafarer has terminated their contract (the Convention says “for justified reasons”), and how long the shipowner must keep open arrangements for repatriation if the seafarer cannot be contacted (UK existing regulations say 3 months). These will be considered and necessary changes made to clarify the draft regulations or supporting guidance in order to ensure that the implementing regulations impose no unnecessary costs..

Therefore, the MCA does not expect that there would be significant additional costs for shipowners as a result of the 2014 Regulations. This is because it is considered that none of the changes proposed would significantly affect the number of repatriations occurring, or the costs that shipowners have to cover.

No data is available on this issue, and none was provided in response to the consultation exercise. Furthermore, prior to the changes to the International Group of P&I Clubs' cover on 20 February 2013, P&I Clubs only covered costs for repatriation as a result of personal injury or illness, and their records for repatriation cases would therefore be substantially incomplete. Therefore, given the limitations of the available evidence base, it has not been possible to monetise the additional costs to Shipowners in this impact assessment.

Furthermore, it should be noted that the extent that any costs to the owners of UK registered ships would represent a cost to the UK is uncertain. These costs would only represent a cost to the UK if they fall on UK entities (e.g. UK businesses or consumers). However, UK registered ships are not necessarily UK owned, and UK registered ships do not necessarily operate to and from UK ports.

### *6.3.3. Additional Costs to Government*

In respect of the provision for the UK government, as Flag State or Port State, to meet the costs of repatriation where the shipowner defaults on their obligations, costs in respect of the change would fall initially on the MCA. Whilst, under the Arrest of Ships Convention 1999, there is provision for the MCA to recover costs from shipowners and the Convention allows that, where acting as a Port State, costs may be recovered from the Flag State of the ship concerned, there is a risk for “bad debts” to arise (i.e. the UK is unable to recover these cost).

The level of the potential costs to the MCA as a result of the proposed Regulations is uncertain. This is because there have been very few cases of seafarers being abandoned in the UK known to the MCA, and in those few cases which have arisen, the cost of repatriation has been met by welfare organisations, unions or local donations. However, the MCA does not expect that the additional costs to the MCA would be significant.

Given the limitations of the available evidence base, it has not been possible to monetise the additional costs to Government in this impact assessment.

### *6.3.4. Familiarisation Costs*

The MCA will publish information about the proposed changes. The MCA has consulted/discussed with social partners (industry and Unions) through tri-partite Working Group meetings, and other contacts outside that group, to gather data for this Impact Assessment, and there have been a number of events publicising the changes resulting from the MLC as a whole. Indeed, the MLC itself has been available for public scrutiny since 2006. These actions will minimise the costs for shipowners and seafarers of becoming familiar with the new requirements of the 2014 Regulations, the residual cost of which is not considered to be significant.

MCA surveyors have been trained in the MLC requirements on repatriation as part of their training towards the survey and inspection of the vessels. This is covered in the Impact Assessment for the ‘Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations’.

## **6.4 Costs to Non-UK ships**

As the UK has ratified the MLC, once these regulations are made, the MCA would have the authority to enforce these minimum global standards for repatriation on non-UK registered vessels that call at UK ports under the no more favourable treatment clause. The costs for non-UK registered ships are discussed in detail in the impact assessment for the ‘Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations (DfT00193)’.

## **6.5. Benefits of the proposed Regulations (Option 1)**

### *6.5.1. Benefits to seafarers*

There could potentially be some additional benefits to individual seafarers because of the greater transparency resulting from the 2014 regulations, and where the 2014 Regulations include slightly different provisions than existing UK legalisation (e.g. the responsibility of the MCA to meet the costs of repatriation where the shipowner defaults on their obligations) and provide additional clarity on seafarers’ rights. However, the MCA expect that the benefits of the 2014 Regulations (Option 1) to seafarers will be insignificant as repatriation generally already takes place smoothly and shipowners have advised that the amendments to the existing Regulations are unlikely to result in significant changes.

### *6.5.2. Benefits to shipowners*

Two potential benefits of the 2014 Regulations (Option 1) to shipowners have been identified.

(1) There could potentially be benefits for shipowners from being able to recover the full repatriation costs from seafarers dismissed for misconduct. However, it has not been possible to monetise these benefits because the level of cost incurred would depend upon the position of the ship in relation to the destination for repatriation and whether or not the repatriation cost exceeds the current level of wage deductions employers are permitted to make in respect of such costs, and no data is available on these issues. Furthermore, in many cases, it is anticipated that shipowners would simply repatriate dismissed seafarers, without worrying about the cost, in order to remove them from the vessel as quickly as possible. Consultees provided no comment on the potential benefits that may arise from this provision.

(2) Consultees commented that the clarification of repatriation destinations provided for in these regulations should prevent seafarers unreasonably seeking repatriation to locations far from where they

joined the vessel. This could potentially reduce administrative costs of resolving disagreements, and limit the costs of repatriation.

Given the limitations of the available evidence base, it has not been possible to monetise any of the benefits of the 2014 Regulations (Option1) that have been identified in this impact assessment.

Consultees were invited to submit any additional evidence on the benefits of the 2014 Regulations (Option 1). No monetised evidence was submitted.

## **6.6. Benefits of UK Ratification of the MLC**

Section 3 and Annex 3 of this impact assessment discuss the overall benefits of UK ratification of the MLC. It would be necessary to introduce the 2014 Regulations in order for these benefits to be realised. However, a range of new legislation would be required before UK ratification of the MLC would be possible. Therefore, it is not possible to determine the precise contribution of the 2014 Regulations to realising these benefits.

Consultees were invited to submit any additional evidence on these benefits. No evidence was submitted.

The competitive benefits that implementation of the MLC will bring to UK shipowners are discussed in section 10.2.

## **6.7. Costs of MLC Ratification to the owners and operators of non-UK registered ships**

Ratification of the MLC would enable the UK to enforce the minimum rights for seafarers provided for by the MLC on non-UK registered ships that call at UK ports on a 'no more favourable treatment' basis, meaning that non-UK registered ships that call at UK ports would be required to comply with the standards of the MLC. This could potentially lead to additional costs for the owners and operators of non-UK registered ships in terms of the costs of complying with the MLC and the potential to face delays when calling at UK ports. However, the extent that the 2014 Regulations would contribute to such costs is uncertain. Furthermore, such costs would only represent a cost to the UK if they fall on UK entities (e.g. UK businesses or consumers). The extent that this would be case is uncertain. The costs for non-UK registered ships are discussed in detail in the impact assessment for the 'Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations'.

Consultees were invited to submit any additional evidence on these costs. No evidence was submitted.

## **6.8. Monitoring and Enforcement**

The requirements contained in the 2014 Regulations would be monitored and enforced by the Maritime and Coastguard Agency (MCA) in the UK, and other maritime safety administrations when UK ships visit ports in other countries, as part of their maritime labour inspections. The Survey and Certification costs for UK registered ships apply across all requirements of the MLC and are investigated in the Impact Assessment for the 'Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (DfT00193)'.

## **7. RATIONALE AND EVIDENCE THAT JUSTIFY THE LEVEL OF ANALYSIS USED IN THE IA (PROPORTIONALITY APPROACH)**

The 2014 Regulations make the minimum changes to bring UK legislation into line with the MLC provisions on repatriation. The MLC was developed on a tripartite basis and is strongly supported by UK shipowner and seafarer representative organisations, which also supported UK ratification of the MLC. Discussions on the proposals for implementing the MLC provisions for repatriation at the MLC Tripartite Working Group have been non-controversial, with both sides of industry stating that they reflect current good practice. Further analysis of the impacts is not therefore considered necessary.

## **8. RISKS**

The 2014 Regulations need to be implemented in order that the UK legislation fully complies with the Maritime Labour Convention, 2006. The risks of ratifying the Convention, and of not ratifying the Convention, are explored in Annex 3 of this impact assessment.

## **9. REDUCING REGULATION POLICY**

### **9.1 Direct costs and benefits to business calculations (following OITO methodology)**

As explained in Section 3, although there is an associated EC directive requiring Member States to implement the provisions of the MLC, including those on repatriation, by August 2014, the MLC came into force internationally (enforced through Port State Control of ships) by 20 August 2013. As these requirements are international and the proposals do not gold plate the requirement (i.e. not going beyond the minimum necessary), the measure is outside the scope of OITO.

### **9.2 Copy out**

In preparing the regulations, Government policy on “copy out” has been applied as a means of transposing international legal requirements wherever possible. However, the Convention was not always drafted in a manner which facilitates this approach, and further elaboration is required in some cases. Particular difficulties are:

- Requirements which are set by reference to existing “national laws, regulations and other measures”, and
- Provisions which require the Member to determine a particular standard in consultation with shipowner and seafarer representative organisations.

In addition, where existing UK legislation is considered to meet Convention standards, changes to adopt the language of the Convention have not always been made to avoid costs to business from dealing with unnecessary changes.

### **9.3 Alternatives to regulations**

Introducing the requirements without recourse to legislation has been considered. However, as the measures are designed to mitigate the effects of the parties having unequal bargaining positions, and the Convention explicitly requires ratifying States to take action to deliver the measures, no satisfactory alternative mechanism has been identified at this stage.

### **9.4 Review clauses**

The proposed Regulations include a clause which requires a Ministerial review five years after they are made, and every five years thereafter in line with the “review policy” on introducing international obligations.

The basis of this review will be the “Article 22 report” required by the International Labour Organisation (ILO). Parties to the Maritime Labour Convention, 2006 will be required to submit a report to the ILO, under Article 22 of the ILO Constitution, providing evidence of effective implementation of the Convention. Preparing for this review will enable the UK to establish the effectiveness of the policy (enforcement action taken) and identify any necessary amendments to UK legislation or to the Convention.

The review will examine UK MLC inspection reports and any enforcement action taken under the regulations, and the port state control record of UK ships in non-UK ports. In addition, complaints from seafarers on UK Ships to the UK as a flag state, and from seafarers in non-UK ships in UK ports, and the results of MCA investigations will be analysed.

A continuously reducing number of serious breaches and deficiencies in UK MLC inspections and Port State inspections, and complaints to MCA would demonstrate that the regulations were improving the standards on ships.

Successful resolution of complaints would also demonstrate that the regulations were having a positive impact.

## **10. SPECIFIC IMPACT TESTS**

### **10.1. Equalities Assessment**

The 2014 Regulations will be applicable to all seafarers working on UK sea-going vessels to which the Regulations apply, irrespective of their age, ethnic origin, gender, nationality, race, sexual orientation or

disability. The Maritime Labour Convention, 2006 is based on the fundamental rights and principles of workers (Article III):

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

The Regulations are therefore considered to have no adverse impact as regards statutory equality duties.

## **10.2 Competition Assessment**

The 2014 Regulations will bring existing UK legislation into line with the requirements of the MLC on repatriation. The MLC aims to provide a benchmark for the decent employment of seafarers globally, and it is expected that the MLC will be very widely implemented internationally.

By introducing a set of minimum standards that apply internationally, the MLC promotes a more level competitive playing field internationally and reduce the ability of ship operators to gain a competitive advantage through poor treatment of seafarers.

It is likely that this would reduce the competitiveness of ship operators that are currently less compliant with the requirements of the MLC and improve the competitiveness of ship operators that are currently more compliant with the requirement of the MLC. However, the magnitude of this impact is uncertain.

By supporting the ratification of the MLC in the UK, it is possible that the 2014 Regulations could have an impact on competition. The precise impact would depend on how the 2014 Regulations affect relative costs.

Cost increases introduced through new Regulations that change costs of some suppliers relative to others have the potential to impact competition (for example) if they thereby limit the range of suppliers. However, industry sources have indicated an expectation that the 2014 Regulations will not cause significant additional costs for UK flagged vessels.

Internationally, the MCA consider that the MLC is more likely to provide a competitive benefit to UK firms. Ratification of the convention allows the MCA to issue MLC certification, which will ensure that UK flagged vessels are not subject to unnecessary delays when visiting ships in ports of ratifying states. The MCA consider that this should ensure that UK flagged vessels do not suffer a competitive disadvantage as a result of the introduction of the MLC globally.

Consultees were invited to offer any additional evidence on the potential for the 2014 Regulations to impact on competition. No evidence was submitted.

## **10.3. Small Firms Impact Test**

It is appropriate that the working conditions for all workers should be underpinned by common minimum standards regardless of the size of the company for which they work. Any costs arising from these 2014 Regulations would inevitably have the greatest impact on small firms with a small turnover. As the Convention sets minimum standards for “decent work”, it does not generally make concessions in those standards. The UK is making use of any flexibility in the Convention designed for smaller vessels or likely to apply to small companies, although there is no such scope in relation to repatriation.

The MCA has discussed the implications of the MLC with the Domestic Passenger Ship Steering Group and representatives of the Small Commercial Vessel sector, who represent the majority of small firms operating vessels that would be affected by the 2014 Regulations. While a large proportion of these operate on domestic voyages within 60 miles of a safe haven in the UK and are therefore not covered by the UK’s implementation of the Convention, the 2014 Regulations would apply where non-UK seafarers are employed on these vessels, as do the current UK regulations.

MCA’s consultees on the proposed Regulations include small, medium and large businesses. In addition a number of consultees including the British Chamber of Shipping, RYA and BMF have small business members, and a number of the specific consultees would be classified as small or medium enterprises.

Consultees were invited to provide any additional evidence on the potential impacts of the proposed Regulations on small firms. In addition, a meeting was held with representatives of the small commercial vessel sector (commercial yachts, charter vessels, workboats and tugs) at which operators were invited to

raise any concerns about the proposals. No concerns were raised as regards the proposals on repatriation, and those affected confirmed that there was no significant change required to current practice.

#### **10.4 Human Rights**

The 2014 Regulations will implement provisions of the International Labour Organization's Maritime Labour Convention, 2006 which requires respect for the following fundamental rights and principles of workers (Article III):

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

There are no Human Rights compatibility issues arising from these Regulations.

#### **10.5 Justice System**

The main enforcement mechanism for the 2014 Regulations will be through the inspection and certification of UK ships under the MLC by MCA surveyors. However, the Regulations will also introduce offences and penalties. These offences and penalties will be in line with the penalties in place for corresponding offences in existing Regulations. The MCA will review these offences and penalties with the Ministry of Justice to ensure a consistent approach in all sets of regulations implementing the MLC.

#### **10.6 Greenhouse Gas Emissions**

As the measure only affects seafarer repatriation and no significant additional costs are anticipated, it is not expected to affect maritime transport volume. Therefore, no change in greenhouse gas emissions is expected.

### **11. SUMMARY AND PREFERRED OPTION**

Introducing the 2014 Regulations (Option 1) represents the minimum action needed following UK ratification of the Maritime Labour Convention, without undermining existing national standards. Although these changes have relatively minor impacts on UK ships, they contributed to allowing the UK to ratify the MLC, which in turn will enable the UK to enforce the same repatriation standards on all ships calling at UK ports, whether or not they fly the flag of a country which has ratified the MLC.

Taking into account the considerations above, introducing the 2014 Regulations (Option 1) is therefore the preferred option.

### **12. IMPLEMENTATION PLAN**

The 2014 Regulations are part of a package of Regulations that are required to support UK ratification of the Maritime Labour Convention. There were two criteria for the MLC to come into force internationally: ratification by flag states representing 33% of the world's tonnage; and ratification by 30 member states. Both criteria have already been met, and the MLC came into force 12 months after both thresholds were passed, on 20 August 2013. The UK ratified the MLC on 7 August 2013.

A Marine Guidance Note will be published to accompany the Regulations which will explain the provisions and give guidance on their practical interpretation. Information will also be available on the MCA website.

The primary enforcement mechanism for the 2014 Regulations on UK ships would be through Flag State inspections for issue or renewal of a Maritime Labour Certificate. MCA surveyors will check the provisions for repatriation in the shipowners' declaration of maritime labour compliance (DMLC) Part II and in seafarer employment agreements as part of the inspection of UK ships.

Furthermore, shipowners will need to have published procedures to deal with seafarers' complaints about their working and living conditions, and seafarers also have the right to complain to an MCA

surveyor in the UK or to any port state control officer in other countries, if they are not receiving their entitlements.

Both the inspection of the DMLC Part II and the requirement for a complaints procedure are implemented in UK law by the 'Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 and is therefore not assessed in this impact assessment. The consultation document and Impact Assessment on these regulations has been consulted on separately (DfT00193).

### **13. CHANGES TO CONSULTATION STAGE IA TO ADDRESS RPC OPINION**

The RPC commented that it is essential that the MCA works proactively with industry during the consultation period to develop robust monetised costs and benefits of this measure. Further information was sought through the public consultation exercise, but no quantitative evidence was provided by consultees. The changes required by the regulations are quite subtle, providing greater clarity as to seafarers' entitlements, rather than changing those entitlements in practice. It would not therefore be a straightforward exercise to identify the associated costs and their precise impact will depend on current practice by employers and shipowner. However, as noted above, the Chamber of Shipping (Lloyds List 18 April) has stated that they do not think that UK shipowners will need to make "any drastic changes" to their existing practice as regards repatriation to comply with the MLC.

The RPC also asked for clarification regarding whether there would be transition costs associated with training enforcement staff on the new requirements of this measure. MCA surveyors have already been used to inspecting compliance with current repatriation regulations under the inspection of UK ships in compliance with ILO Convention 178. The cost of training surveyors to undertake MLC inspections is considered in the Impact Assessment for the 'Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations'. Under the MLC, repatriation requirements must be set out in the seafarer's Seafarer Employment Agreement (also a new requirement introduced by the MLC), which would simplify the inspection process. Given the limited changes to repatriation requirements as a result of these regulations, and the integration of the inspection process with inspection of other MLC requirements, it would not be possible to disaggregate the cost of training surveyors to inspect for this item in isolation.



## Annex 1: References

No.	Legislation or publication
1	Maritime Labour Convention, 2006 <a href="http://www.ilo.org/global/What_we_do/InternationalLabourStandards/MaritimeLabourConvention/lang-en/index.htm">http://www.ilo.org/global/What we do/InternationalLabourStandards/MaritimeLabourConvention/lang-en/index.htm</a> .
2	The Merchant Shipping (Repatriation) Regulations 1979 (SI 1979/97) (as amended).
3	ILO (2001) The impact of seafarers' living and working conditions of changes in the structure of the shipping industry. Report JMC/29/2001/3 <a href="http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_PUBL_9221122379_EN/lang-en/index.htm">http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_PUBL_9221122379_EN/lang-en/index.htm</a>
4	European Commission (2006) Communication from the Commission under Article 138(2) of the EC Treaty on the strengthening of maritime labour standards. <a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0287:FIN:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0287:FIN:EN:PDF</a> .
5	Council Directive 2009/13/EC implementing the agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers Federation (ETF) on the Maritime Labour Convention, 2006 and amending Council Directive 1999/63/EC. <a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:124:0030:01:EN:HTML">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:124:0030:01:EN:HTML</a>
6	ILO (2012) Maritime Labour Convention, 2006: Frequently asked questions. <a href="http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_177371/lang-en/index.htm">http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_177371/lang-en/index.htm</a>
7	ILO (2011) Advantages of the Maritime Labour Convention, 2006. <a href="http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_153450/lang-en/index.htm">http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_153450/lang-en/index.htm</a>

## Annex 2: Background on the Maritime Labour Convention (2006)

At its 94th (Maritime) Session in February 2006 the International Labour Conference adopted the Maritime Labour Convention 2006. The Convention came into force internationally on 20 August 2013.

The ILO's Maritime Labour Convention 2006 (MLC) provides comprehensive rights and protection at work for the world's more than 1.2 million seafarers. The Convention is a major tool in the furtherance of the Better Regulation objective of consolidation of existing legal instruments, as it consolidates and updates more than 65 international labour standards related to seafarers adopted over the last 80 years. The Convention sets out seafarers' rights to decent conditions of work on a wide range of subjects, and aims to be globally applicable, easily understandable, readily updatable and uniformly enforced. It has been designed to become a global instrument known as the "fourth pillar" of the international regulatory regime for quality shipping, complementing the key Conventions of the International Maritime Organization (IMO) (Safety of Life at Sea (SOLAS), prevention of marine pollution (MARPOL), and training and certification (STCW)).

The Convention's provisions are arranged in 5 Titles, as follows:

**Title 1:** Minimum requirements for seafarers to work on a ship (minimum age; medical certification; training; recruitment and placement).

**Title 2:** Conditions of employment (employment agreements; wages; hours of work; annual leave; repatriation; compensation for ship's loss; manning; career development).

**Title 3:** Accommodation, recreational facilities, food and catering.

**Title 4:** Health protection, medical care, welfare and social provision (medical care on board and ashore; shipowners' liability; health and safety; welfare facilities; social security).

**Title 5:** Compliance and enforcement

There were two criteria to be met before the MLC could come into force internationally. The first was that the Convention should be ratified by countries representing at least 33% of the world's tonnage. The second was that at least 30 countries should ratify the Convention. On 20 August 2012, the Philippines became the 30<sup>th</sup> country to ratify the MLC, which between them represent nearly 60% of the world's fleet. Both criteria have therefore now been met, and the MLC came into force internationally on 20 August 2013.

In the UK, decisions on whether or not legislative changes are desirable and should be introduced in order to comply with a particular Convention will depend on a number of factors, including their costs and benefits, impact on other government policies, the commitment of resources and whether ratification would lead to an improvement in the level of protection for the workers concerned.

In this case, the UK played an active role in developing the Convention and fully supported the measures it contains. Command White Paper 7049 indicated the UK's commitment to ratification. Order in Council 2009/1757 declares that the MLC is ancillary to the existing Community Treaties and the MLC is considered itself to be a Community Treaty under section 1(2) of the European Communities Act 1972. The European Union has exhorted member states to ratify the Convention in full. Ratification and implementation of the Convention do not constitute any surrender of sovereignty, and do not extend European Union competence.

The UK government's social partners, the shipping industry and the seafarer's Trades Unions (see Annex 4), support prompt ratification of the Convention, so the policy of UK ratification is non-controversial. The social partners wrote jointly to Mark Prisk, then Minister for Business and Enterprise, in August 2012 pressing for rapid progress on implementation of the MLC.

Resolution 17 of the Maritime Labour Conference in February 2006 provides a two year phase in period after the Convention reaches its ratification criteria. In the first year, high priority ships (passenger ships, tankers and bulk carriers) must be issued with Maritime Labour Certificates. Within two years, all other ships must be compliant and (where appropriate) certificated. The UK will not now be among the first 30 nations to ratify and so will not benefit from this transitional period. However, the MCA has introduced early voluntary inspection of ships against MLC standards, so that both industry and unions can prepare for compliance with the Convention, and the MCA can issue documentation for UK ships in preparation for issuing certificates under the Convention when the necessary UK legislation is in place.



# **Annex 3: Impacts of UK Ratification of the Maritime Labour Convention (2006)**

## **A.3.1. Context**

There would be two sets of impacts from introducing the package of legislation that is necessary to implement the Maritime Labour Convention (MLC) in the UK. Firstly, there would be the costs and benefits which would be directly attributable to each of the Regulations that are necessary to implement the specific requirements of the MLC. Secondly, there would be additional costs and benefits that would arise from UK ratification of the MLC once the entire package of legislation is in place.

The costs and benefits which would be directly attributable to each of the proposed implementing Regulations for UK registered ships are considered in their respective impact assessments. Non-UK registered ships calling at UK ports may also be subjected to the requirements of MLC due to the “no-more-favourable treatment” regime. This means that a port state which has ratified the MLC will apply the same MLC standards to all ships visiting their ports, whether or not the ship’s flag state has ratified the MLC. The overall costs and benefits to the UK that would arise from the package of legislation necessary for UK ratification of the MLC are the sum of the costs and benefits of each of the implementing Regulations, plus the additional costs and benefits that would arise from UK ratification of the MLC.

This annex contains a full qualitative description of the additional benefits of UK ratification of the MLC. However, due to various uncertainties and the limitations of the available evidence base, it has not been possible to monetise any of these benefits. A full qualitative description of each of the additional benefits to the UK has been provided. These additional benefits include:

- The general promotion of decent living and working conditions for seafarers;
- Contributing to the creation of a more level global competitive playing field for the shipping industry, which would reduce the competitive advantages gained by shipowners that operate substandard ships;
- Enabling UK registered ships to benefit from the system of MLC certification when operating internationally; and
- Avoiding the potential costs to UK registered ships of not ratifying the MLC

The key factors that have prevented the monetisation of all of the additional costs and additional benefits of UK ratification of the MLC include the uncertainty and limitations of the available evidence base surrounding the extent that UK ratification of the MLC would contribute to realising these costs and benefits (e.g. several of the impacts would depend upon which other countries ratify the MLC) and the extent that the impacts on UK registered and non-UK registered ships and the seafarers working on them would represent costs and benefits to the UK.

Despite the uncertainty around the scale of potential overall costs and benefits of UK ratification of the MLC, and the limitations of the available evidence base which mean that it has not been possible to monetise any of the additional costs and benefits of UK ratification of the MLC, it should be noted that the Chamber of Shipping and Seafarer’s unions consider the costs of implementing the MLC to be manageable and expect that the overall benefits to the UK of UK ratification of the MLC and the package of legislation necessary to implement the MLC in the UK would significantly outweigh the overall costs to UK shipowners of UK ratification of the MLC and the package of legislation necessary to implement the MLC in the UK.

## **A.3.2. Scope of impacts**

In considering the impacts of the MLC, the international nature of the shipping industry must be considered. Whilst impact assessments should assess all of the impacts of the policy options that are being considered, the focus of the impact assessment process is assessing the impacts of the policy options that are being considered on the UK, which includes the impacts on the public sector in the UK, the impacts on UK businesses and the third sector in the UK, and the impacts on UK consumers.

The proposed UK implementing Regulations would primarily apply to ships that are registered on the UK flag. However, UK ratification of the MLC would give the UK the right to inspect non-UK registered ships for compliance with the minimum global standards provided for by the MLC when they call at ports in the UK, and each set of regulations would therefore allow the UK to enforce these minimum global standards on non-UK registered ships visiting UK ports on a “no more favourable treatment” basis. It should also be noted that the costs of the MLC Survey and Certification regime would also result from UK ratification of the MLC; these costs are considered in the impact assessment pertaining to the Regulations necessary to implement the MLC Survey & inspection regime in the UK.

Data from the UK Ship Register (UKSR) has been used to assist in monetising some of the impacts of some of the proposed UK implementing Regulations on UK registered ships.

However, the nationality of the registration of a ship does not necessarily relate to the nationality of its owner or operator, the geographical locations that it operates, and the origins and destinations of the goods and passengers that are carried. Therefore, it should be noted that ships registered on the UK flag are not necessarily “UK owned”, and “UK owned” ships are not necessarily registered to the UK flag, and it should be noted that UK imports and exports and passengers are not necessarily transported on UK registered ships. Similarly, when considering the impacts on seafarers, it should be noted that both UK nationals and non-UK nationals work on UK registered ships, and that UK nationals also work on non-UK registered ships.

Therefore, it should be noted that the extent that the impacts on UK registered ships and non-UK registered ships and the seafarers working on them would represent costs and benefits to the UK is uncertain. For example, costs to the owners and operators of UK registered ships would not necessarily represent costs to the UK, and some of the costs to the owners and operators of non-UK registered ships could potentially represent costs to the UK.

Estimating the overall costs and benefits of UK ratification of the MLC is further complicated by the fact that the scale of potential costs and benefits depends upon the number of other countries who ratify the MLC. The main impacts on UK registered ships of UK ratification of the MLC and ratification of the MLC in other countries are illustrated in Table 1. This table also illustrates the impacts on non-UK registered ships. For the purposes of interpreting Table 1, as explained above, it should be noted that:

- UK registered ships may be UK owned or non-UK owned;
- Non-UK registered ships may be UK owned or non-UK owned; and
- Seafarers working on UK registered ships and non-UK registered ships may be UK nationals or non-UK nationals.

**Table 1 – Main impacts of MLC ratification**

<b>Impacts of...</b>	<b>Impacts on...</b>	<b>Type of impact</b>	<b>Direct impact falls on...</b>
UK Ratification of the MLC	UK registered ships	Survey & Certification Costs Compliance Costs Benefits of MLC provisions	Shipowners, MCA Shipowners Seafarers and Shipowners
	Non-UK registered ships	Costs of PSC inspections in UK ports, and potential compliance costs if non-compliant Benefits of PSC inspections	Shipowners, MCA Seafarers and Shipowners
Ratification of the MLC in other countries	UK registered ships	Benefits of MLC certification when calling at ports in these countries	Shipowners
		Cost of delays caused by PSC inspections in ports in these countries if not MLC-certified	Shipowners
		Costs of compliance if non-compliant with MLC standards	Shipowners
	Non-UK registered ships	Survey & Certification Costs Benefits of MLC provisions	Shipowners Seafarers and Shipowners
Compliance Costs		Shipowners	

Whilst it is expected that the MLC will indeed be widely ratified internationally, it is not possible to predict precisely to what extent it will be ratified. Consequently, the scale of the costs and benefits of UK ratification is uncertain. For example, the benefits to UK registered ships of the system of MLC certification would mainly apply to UK registered ships that call at ports in MLC-ratifying states.<sup>1</sup> Monetising this impact would require additional evidence on which to base assumptions regarding the operational patterns of UK registered ships, and the extent of MLC ratification amongst the port states that these ships call at. The associated risks are discussed in section A.3.4 of this annex.

### **A.3.3. Additional benefits of UK ratification of the MLC**

This section outlines the key additional benefits that it is expected would arise as a result of UK ratification of the MLC.

1.) UK ratification of the MLC would promote decent living and working conditions for seafarers globally.

- Employment conditions for seafarers vary across the world, with some seafarers working under unacceptable conditions.
- ILO (2001) discusses some of the problems faced by seafarers globally, including poor standards of crew accommodation, nutritionally inadequate food, and not receiving the same quality of medical care as available to land-based workers.
- By providing minimum rights for all seafarers that are globally applicable and uniformly enforced, the MLC promotes decent working and living conditions for seafarers globally, with the European Commission (2006) suggesting that the MLC “can help to bring about more homogeneous employment conditions for the benefit of seafarers”.
- One of the ILO fundamental rights and principles on which the MLC is based is to eliminate discrimination in respect of employment and occupation (MLC Article III(d)). One of the underlying principles of the MLC is therefore to ensure that seafarers, as far as practicable, are not discriminated against but enjoy the same living and working conditions as employees ashore

<sup>1</sup> The MLC Certification regime, together with the “no more favourable treatment” clause, will bring competitive benefits to all UK ships to the extent that they are competing globally, as explained in A3.3. section 3.

enjoy. This benefit would mainly accrue to seafarers whose current employment conditions fall short of the MLC standard, and would therefore have to be improved as a result of the MLC.

- ILO (2011) discusses the mechanisms that would ensure that the benefits of the MLC for seafarers would be realised, including that the MLC provides improved “enforcement of minimum working and living conditions” and the right “to make complaints both on board and ashore”.
- As UK registered ships already broadly comply with most of the standards required by the MLC, it is expected that seafarers working on non-UK registered ships would benefit to a greater extent. UK nationals working on non-UK ships would be among those to benefit in this way, although no data is available to quantify the magnitude of this potential benefit.
- The MLC requires wide international implementation (which it is expected to get) in order to be fully effective for all seafarers, and hence UK ratification could drive further benefits by providing additional incentives for other countries with ships calling at UK ports to ratify the MLC.

2.) UK ratification of the MLC would enable UK registered ships to benefit from the system of MLC certification.

- ILO (2011) notes that one of the benefits of the MLC is that it protects “against unfair competition from substandard ships through ‘no more favourable treatment’ for ships of non-ratifying countries”.
- Regardless of whether the UK ratifies the MLC, UK registered ships would still be subject to the provisions of the MLC on a ‘no more favourable treatment’ basis when visiting foreign ports in countries that have ratified the MLC. This means that UK registered ships operating internationally would be required to comply with the standards of the MLC when visiting ports in ratifying countries whether the UK has implemented the MLC or not.
- The ILO Guidelines on Port State Control state that possession of a valid Maritime Labour Certificate should be considered as prima facie evidence that the ship complies with the MLC. MLC certification is only available through a vessel’s flag state administration, hence non-ratification of the MLC in the UK would be expected to put UK Registered ships at a disadvantage as they would lack MLC certification which is a deficiency under the MLC even if they are otherwise in compliance with the MLC standards.
- Under the ILO Guidelines on Port State Control, failure to hold such a certificate, and the accompanying documentation, would give the Port State sufficient reason to subject the vessel to a more detailed inspection – although if conditions on board are found to be good then the inspection may not need to be extensive (this would be at the discretion of the PSC officer). Part of the documentation is a record of the national legislation applying to the vessel concerned. Where there is no documentation, the Port State Control inspectors may apply inappropriate standards from their own national interpretation of the MLC standards – particularly where the MLC standards are expressed in general terms.
- Therefore, the absence of an MLC certificate could potentially subject UK registered ships to longer delays in port than they would otherwise face as port states verify compliance with the MLC through port state control procedures. The benefits of UK ratification, in terms of the costs of non-ratification thereby avoided, would only apply when calling at ports of MLC-ratifying states.
- Furthermore, it should be noted that serious or repeated non-compliance with the MLC could also result in UK registered ships being detained in foreign ports in countries that have ratified the MLC.
- When the new EC directive on port state control is fully in force, ships would be considered as high, medium or low risk. UK ships are currently considered as low risk, minimising the frequency of inspection under PSC in Europe. If the UK does not ratify the MLC and so UK ships have no MLC documentation, this may over time affect the ranking of UK ships for PSC purposes, potentially leading to increases in the frequency of inspections.

3.) UK ratification of the MLC would promote a more level competitive playing field for shipping globally.

- At present, ship operators which operate substandard ships can gain a competitive advantage. This is because shipowners operating substandard ships can potentially gain a cost advantage and undercut shipowners which provide seafarers with decent conditions of work.
- UK ships generally have reasonably good employment conditions, and therefore operate with higher operating costs than ships registered on many other flags. UK ratification of the MLC would therefore benefit UK shipowners by ensuring that ships registered on other flags that call in UK ports would need to apply the minimum global standards of MLC and so lose some of their competitive advantage on costs.
- ILO (2011) reports that a benefit of the MLC would be a “more level playing field to help ensure fair competition and to marginalize substandard operations”.
- By enabling countries that ratify the MLC to enforce the minimum global standards provided for in the MLC on foreign registered ships that call at their ports on a “no more favourable treatment” basis, the MLC will help to create a more level competitive playing field and help to ensure fairer competition by limiting the scope for ship operators to gain a competitive advantage through operating substandard ships.
- As a consequence, the European Commission (2006) suggests that the MLC “should help to stabilise the maritime transport sector in the face of global competition and reduce the double gap between, firstly, European and third country operators and, secondly, between the different flags which favours *de facto* those maritime nations and operators with the least stringent social legislation.”
- The impacts of each set of proposed UK implementing Regulations on competition are fully discussed in the competition assessment contained in their respective impact assessments.

#### **A.3.4. Risks of UK ratification of the MLC**

The MLC will come into force in August 2013, after ratification by 30 flag states representing at least 33% of the world fleet tonnage. The benefits arising from ratification of the MLC will depend on how widely the MLC is implemented. Therefore, the main risk associated with ratifying the MLC is that the UK introduces new legislation to implement the MLC, but that subsequently the MLC only achieves a low take-up internationally. This would reduce the potential benefits and could potentially put UK-registered ships at a competitive disadvantage. However, it is likely that the MLC will be widely ratified internationally due to the high level of commitment from all sides.<sup>2</sup>

#### **A.3.5. Risks to the UK of not ratifying the MLC**

There are a number of risks to the UK associated with not ratifying the MLC. These include:

- The risk of EU infraction proceedings;
- The risk of negative impacts on the competitiveness of UK registered ships; and
- The risk of negative impacts on the competitiveness of the UK Ship register.

Failure to implement the Social Partners Agreement on the MLC which is annexed to Council Directive 2009/13/EC within 12 months of the coming into force date of the MLC would leave the UK open to infraction proceedings. This risk would apply to most of the UK implementing Regulations. The Social Partners Agreement covers the MLC provisions on minimum age, medical certification, seafarer employment agreement (SEAs), repatriation, hours of work, annual leave, shipowner liability and

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<sup>2</sup> See Question A18 in ILO (2012).

And : ILO Maritime Labour Convention, 2006 A Guide for the Shipping Industry Page 8, Coverage



seafarer compensation, food and catering, medical care, health and safety, and complaint procedures. However, it should be noted that the Social Partners Agreement does not cover all of the MLC provisions, such as on wages, social security and most of the technical standards relating to crew accommodation.

If the UK does not ratify the MLC, there would be some short term cost savings to shipowners and to government by not having to implement the revised standards in the MLC. However, regardless of whether the UK ratifies the MLC, UK registered vessels would still be subject to the provisions of the MLC on a “no more favourable treatment” basis when operating in foreign ports in countries that have ratified the MLC. Consequently, there could potentially be a risk that UK ships operating in foreign ports would be inspected for MLC compliance as part of Port State Control regime inspections in countries that have ratified the MLC, and would be unable to evidence their compliance with MLC due to the UK not being able to issue MLC Certificates of Compliance.

Since 2006, MLC has been widely recognised in the shipping community as the fourth pillar of quality shipping (alongside the IMO Conventions on Safety of Life at Sea (SOLAS), prevention of marine pollution (MARPOL), and training and certification (STCW)). It is anticipated that MLC certification would become a sign of quality for shipowners in the early years of international implementation. There could be a disincentive to shippers to charter non-MLC certified ships, thus potentially damaging the business won by ships on the UK ship register if the UK does not ratify the MLC.

There would also be an impact on the reputation of the UK’s shipping industry and the UK ship register if the UK does not ratify the MLC, as this could be seen as a rejection of modern standards agreed by the global shipping industry. Since both the UKSR and UK shipping market themselves on grounds of quality, this impact could be severe.

Over time, the UK’s inability to issue statutory MLC documentation may discourage shipowners from registering their ships with the UK, and they may be more likely to choose a flag which can provide them with a certificate of MLC compliance, particularly if their ship already broadly meets the requirements of the MLC. Existing UK shipowners may also transfer to other flags if the UK cannot issue them with the documentation they need to operate efficiently, and to demonstrate that they operate quality ships.

Delay in the UK’s ratification of the MLC continues to reduce the time available to UK shipowners and to the UK and Red Ensign Group administrations to ensure that ships are prepared for and certified in accordance with the MLC before it comes into force internationally.

As the UK is not among the first 30 flag states to ratify the MLC, the transitional period between UK ratification and the MLC coming into force, which is the time available for UK shipowners to bring their ships into compliance with the MLC, is very limited. This also limits the time available for the MCA, as the competent authority, to survey and certify UK flagged ships, putting a strain on limited resources. There is a risk that, if the period between UK ratification and the international coming into force of the MLC is short, the MCA will be unable to complete certification within the time available.

### **A.3.6. Conclusion**

1. Due to various uncertainties and the limitations of the available evidence base, it has not been possible to monetise any of the overall costs and benefits of UK ratification of the MLC.
2. Key additional benefits of UK ratification of the MLC include promoting decent living and working conditions for seafarers globally, enabling UK registered ships to benefit from the system of MLC certification and promoting a more level competitive playing field for shipping globally.
3. Despite the various uncertainties and limitations of the available evidence base, the UK Chamber of Shipping and Seafarer’s unions expect that the benefits to the UK of ratification of the MLC would significantly outweigh the costs to the UK.
4. The key risk to the UK of ratifying the MLC before it comes into force internationally is that the UK introduces new legislation to implement the MLC but that subsequently the MLC only achieves a low take-up internationally. This would reduce the potential benefits and could potentially put UK-registered ships at a competitive disadvantage. However, this is thought to be a low risk.

5. The key risks to the UK of not ratifying the MLC include the risk of EU infraction proceedings, the risk of negative impacts on the competitiveness of UK registered ships and the risk of negative impacts on the competitiveness of the UK Ship register.

## **Annex 4 - Shipowner and seafarer representatives**

As the MLC, 2006 is an ILO Convention, it was negotiated on a tripartite basis between Governments, and representatives of the two sides of industry (shipowner and seafarer representatives).

In implementing the Convention, governments are also required to work in a tripartite manner. In the UK, the MCA has consulted with a Tripartite Working Group (TWG) to develop policy for its regulations and guidance.

The members of the TWG are:

### Government Representatives

Department for Transport (Maritime Employment, Pensions and Training Branch)

The Maritime and Coastguard Agency

A representative of the other administrations of the Red Ensign Group (UK Crown Dependencies and UK Overseas Territories)

### Shipowner representatives

The British Chamber of Shipping

The British Tugowner Association

### Seafarer representatives

Nautilus International

National Union of Rail Maritime and Transport Workers

Unite

Other organisations have been invited to attend on an ad hoc basis.

### **P&I Clubs**

P&I stands for **P**rotection and **I**ndemnity. P&I is insurance in respect of third party liabilities and expenses arising from owning ships or operating ships as principals. An insurance mutual, a Club, provides collective self insurance to its Members. The membership is comprised of a common interest group who wish to pool their risks together in order to obtain "at cost" insurance cover.

## Annex 5 - Glossary of Terms

This glossary defines terms as they are used in this Impact Assessment and may not fully align with any legal definition. Where the definition is an exact legal definition, the source is quoted.

**Ship** includes any description of vessel used in navigation (*Merchant Shipping Act 1995 s.313*) other than one which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply. (*Article II.1(i)*) The Convention applies to all ships which are ordinarily engaged in commercial operations (*Article II.4*)

The UK therefore proposes to apply the provisions of the Convention to:

- all UK vessels which operate either on international voyages, or from a foreign port; and
- all UK vessels operating on UK domestic voyages which operate more than 60 miles from a safe haven in the UK;

**UK ship [also UK-registered ship, UK flagged ship]** : a ship on the UK Ship Register or an unregistered ship which is wholly owned by British or British Dependent Territories citizens or British Overseas citizens, or by a body corporate established under the laws of any part of the UK. (*Merchant Shipping Act 1995 s.85(2)*)

**Non-UK [registered, flagged] ship:** a ship registered to or flying the flag of a country other than the United Kingdom.

**Shipowner:** means the owner of a 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 (*Maritime Labour Convention Article II .1(j)*)

**UK shipowner** means the shipowner of a UK registered/flagged ship.

**Seafarer** means any person who is employed or engaged or working in any capacity on board a ship.

**UK seafarer** means a seafarer of any nationality working on a UK ship.

**Fishing vessel:** means any ship or boat, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for the purpose of commercial fishing.

**Fisherman** means every person employment or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch, but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers.

**Flag State:** the authority under which a country exercises regulatory control over commercial vessels operating under its flag.

**Port State:** the authority under which a country exercises regulatory control over commercial vessels operating under the flags of other countries which call at ports in its territory.

**The International Labour Organization (ILO):** the tripartite UN agency which brings together governments, employers and workers of its members states in common action to promote decent work. (*From ILO website: [www.ilo.org](http://www.ilo.org) )*

**The Maritime and Coastguard Agency (MCA):** an Executive Agency of the Department for Transport, responsible for implementing throughout the UK the government's maritime safety policy. The MCA is responsible for implementing the legislation required to allow the UK to ratify the MLC, and will have the primary role in enforcing MLC standards on UK ship and on non-UK ships calling at UK ports.

**Gross Tonnage:** a measurement of volume (not weight) relating to a ship's enclosed spaces

**Draught:** the depth of water necessary to float a ship, or the depth a ship sinks in water

**PSC deficiencies :** Where specific aspects of the living and working conditions on board a ship do not conform to the requirements of the MLC and deadlines for their rectification have been set by an inspecting officer.

**PSC ( Flag State) detention :** Where conditions on board a ship are clearly hazardous to the safety, health or security of seafarers or the non-conformity constitutes a serious or repeated breach of the requirements of the MLC, including seafarers' rights.

**ISM :** International Safety Management Code is the SOLAS system for managing the safe operations of ships and for pollution prevention.

**Paris MOU :** A memorandum of understanding signed by 27 participating maritime Administrations who cover the waters of the European coastal States and the North Atlantic basin from North America to Europe. It seeks to eliminate the operation of sub-standard ships through a harmonized system of port State control inspections.

**“sea-going” in relation to a UK ship:**

“sea-going” in relation to a United Kingdom ship means—

- (a) a ship which operates outside the waters specified as Category A, B, C and D waters in Merchant Shipping Notice 1837(M),
- (b) a ship to which the Merchant Shipping (Survey and Certification) Regulations 1995 apply and in respect of which no exemption granted under regulation 2(2) of those Regulations applies,
- (c) a ship to which regulation 4 of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998 applies and which falls within the description given in paragraph (3) of that regulation, or
- (d) a high speed craft in respect of which a permit to operate outside waters of Categories A, B, C or D has been issued in accordance with regulation 8 of the Merchant Shipping (High Speed Craft) Regulations 2004. (*Merchant Shipping (Maritime Labour Convention)(Survey and Certification) Regulations 2013*)