

<b>Title:</b> Merchant Shipping (Maritime Labour Convention) (Shipowner Liability) Regulations ("the proposed Regulations") <b>IA No:</b> DFT00028 <b>Lead department or agency:</b> Maritime and Coastguard Agency <b>Other departments or agencies:</b> Department for Transport	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 25/02/2014		
	<b>Stage:</b> Final		
	<b>Source of intervention:</b> International		
	<b>Type of measure:</b> Secondary legislation		
<b>Contact for enquiries:</b> Matt Giacomini Tel: 023 8032 9538			

<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 One-Out?
NQ	NQ	NQ	No
			NA

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

Arrangements for shipowner liability are inconsistent across the shipping industry. Employment conditions for seafarers vary globally, with some seafarers working under unacceptable conditions and ship operators which operate substandard ships gaining a competitive advantage. Effective international standards are therefore needed to address this. The ILO Maritime Labour Convention 2006 (MLC) aims to provide minimum living and working conditions for seafarers that are globally applicable and uniformly enforced, including on Shipowner Liability. Achieving this requires a package of new legislation in the UK. The UK ratified on 7 August 2013, so UK legislation must be fully compliant.

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

The purpose of the proposed Regulations is to promote decent living and working conditions for seafarers globally and a more level competitive playing field for shipping by bringing existing legislation for UK ships into line with the minimum global standards for shipowner liability provided for in the MLC, fully complying with MLC standards under UK obligations as a ratifying country and enabling the MCA to issue MLC certification to UK-flagged ships, reducing potential delays at ports in ratifying countries; and to enforce these minimum global standards for shipowner liability on non-UK registered ships that call at UK ports. Specific objectives for the new shipowner liability Regulations 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)**

The Government's social partners, the British Chamber of Shipping and the seafarers' Trades Unions, support prompt ratification of the MLC. Doing nothing is not therefore considered to be an appropriate course of action, as new 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, which will reduce potential delays at ports in ratifying countries.

The preferred policy option is therefore to introduce the proposed Regulations (Policy Option 1) which would make the minimum changes to existing legislation to implement the provisions of the MLC on shipowner liability. 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> March 2019					
Does implementation go beyond minimum EU requirements?			No		
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> N/A	<b>Non-traded:</b> N/A	

**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:** Introduce the proposed Regulations to amend existing legislation in order to bring it into line with Regulations and Standards of Titles 2.6 and 4.2 of the MLC on Shipowners' Liability.

## 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 (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
	Low	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 (e.g. no quantitative evidence was submitted by consultees), it has not been possible to monetise any of the potential costs that have been identified in this impact assessment.

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

The owners of UK registered ships could potentially face increased costs (e.g. higher insurance premiums and paying wages to incapacitated seafarers for up to 16 weeks). However, given current practice, the impacts of the changes to insurance coverage are likely to be minimal; and information received from industry indicates most UK shipowners habitually pay wages to an incapacitated seafarer for 13 weeks or more. Therefore, MCA considers that the costs to the UK shipping industry would likely be negligible.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
	Low	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 (e.g. no quantitative evidence was submitted by consultees), it has not been possible to monetise any of the potential benefits that have been identified in this impact assessment.

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

1.) There could be a benefit to seafarers not already enjoying the level of protection mandated by the MLC. However, industry sources suggest many UK shipowners already provide the necessary level of cover, and that most UK shipowners habitually pay wages to an incapacitated seafarer for 13 weeks or more. 2) Ratification of the MLC is dependent on the implementation of all the constituent Regulations (including the proposed Regulations), and would provide additional benefits (see Annex 3).

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate (%)</b>	N/A
1.) Due to the limitations of the available evidence base, it has not been possible to monetise any of the costs and benefits that have been identified, and several assumptions had to be made for the purposes of this impact assessment. 2.) In particular, the key assumption that has been made in this impact assessment is that the information that the MCA has received from the UK industry shipping to date is representative of the current situation for UK registered ships more generally.		

## BUSINESS ASSESSMENT (Option 1)

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

# Evidence Base (for summary sheets)

## Title of proposal

The draft Merchant Shipping (Maritime Labour Convention) (Shipowner Liability) Regulations (“the Regulations”).

## 1. Consultation on the Proposals

Like all Conventions of the International Labour Organisation (ILO), 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 Impact Assessment for these proposals, issued as part of the public consultation package, invited consultees to submit 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 bodies such as the International Group of Protection and Indemnity Clubs (IGPI) and the International Association of Classification Societies (IACS). Ninety six comments were received from a total of 8 organisations. Some comments related to the clarity of the draft regulations and associated guidance, and these comments have been considered and acted upon where appropriate. No consultees offered figures to refute the assertions made in the Impact Assessment. Neither were any of the assumptions challenged – one consultee said they agreed with the assumption, which the MCA received from industry sources and cited in the Impact Assessment, that most UK shipping companies have arrangements to pay compensation for the seafarer in the event of death or long term disability due to occupational reasons already in place, albeit as part of a wider policy which UK shipowners choose to put in place to cover a number of eventualities, provided the MCA Protection and Indemnity (P&I) coverage is determined to be acceptable proof of insurance coverage – which the MCA is. In summary, there was no opposition in principle to implementation of the MLC standards, and no evidence was provided of costs or benefits arising from the requirements which MCA had not foreseen.

Conflicting comments were received on the form which financial security should take – some suggesting that shipowner “self insurance” should be permitted, others arguing that only policies of insurance should be permitted to meet this obligation. The government has not ruled out alternatives to policies of insurance to meet the financial security requirement, and specifically addressed the matter of self insurance in the consultation, asking whether consultees thought it should be permitted, and if so, how they would envisage this working in practice and being verified by a surveyor. Whilst some consultees did offer the view that self insurance should be permitted, others offered the opposite view. None of the proposals in favour offered suggestions on how this would be achieved in practice, which was specifically requested in the consultation. The government has therefore taken the decision that self-insurance will not be permitted, although any other innovative solutions which are proposed will be considered on a case by case basis.

There were some concerns raised on details of UK implementation which can be addressed through improved guidance, rather than substantive changes to the requirements. 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 shipowner liability. 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 problems under consideration which the proposed Regulations would directly address are how to ensure that seafarers working on ships receive compensation in respect of injury, loss or unemployment arising from the loss or foundering of their ship, and that shipowners have financial

security to assure compensation in the event of the death or long term disability of the seafarer due to an occupational injury, illness or hazard.

In the absence of government intervention, shipowners may not ensure that seafarers receive that compensation. Given that there is currently no obligation on the shipowner to provide compensation in respect of death or long term disability, no data is held on this. However, there is an anecdotal example from within recent years where a seafarer on a commercial yacht was electrocuted. He survived, received medical treatment which was funded by his employing shipowner, but after more than a year he was still unable to work, and was not entitled to compensation for this. There is also no provision in current UK regulations which requires a shipowner to compensate a seafarer for the loss or injury should the ship be lost or founder.

One potential explanation of this risk is that shipowner liability for compensation in various forms is spread across a number of existing conventions, not all of which have been universally ratified. Given that there are costs of providing seafarers with decent compensation arrangements, 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 Section 2. 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 shipowner liability for various types of compensation. 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 seafarers' Trades Unions (see Annex 4 of this impact assessment), pressed for ratification of the MLC in the UK and have wrote to Ministers explaining their reasons for supporting it and the importance of prompt ratification by the UK to UK shipping operators. Ratification of 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 shipowner liability for various types of compensation. Doing nothing is therefore not considered to be an appropriate course of action.

Failure to ratify the MLC in the UK would have limited its effectiveness at addressing the issues and risks raised in section 2 of this impact assessment.

The proposed Regulations would ensure that the requirements of Regulation 2.6, Standard A2.6, Regulation 4.2 and Standard A4.2 of the MLC (except part of A4.2.1, which will be covered by the proposed Merchant Shipping (Maritime Labour Convention) (Medical Care) Regulations 2014 are met on UK registered ships. This includes requiring the shipowner to compensate the seafarer for injury, loss or unemployment arising from the ship's loss or foundering of their ship, and imposing liability on the shipowner to provide financial security to assure compensation in the event of the death or long term disability of the seafarer due to an occupational injury, illness or hazard.

In addition, once the entire package of legislation is in place, the Regulations will allow the UK to enforce these minimum global standards 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 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.

Further details of the requirements for and benefits of UK ratification of the MLC, and the costs to the UK of not ratifying the MLC are discussed in Annex 3 of this impact assessment.

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 Annex). This includes the MLC standards for shipowner liability. Member States are required by virtue of Directive 2009/13/EC to implement the European social partners' agreement on the MLC. The Directive came into force on the date on which the MLC came into force, 20 August 2013, and the deadline for Member States transposing the Directive is 12 months later, 20 August 2014. At that point the UK will have 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. Implementation of the minimum changes required to bring UK legislation fully into line with Title 4.2 of the MLC on shipowner liability 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.

#### **4. Policy objectives**

The purpose of the proposed Regulations is to bring existing UK legislation into line with the requirements of the MLC related to shipowner liability for compensation to the seafarer in fulfilment of the UK's obligations as a ratifying country, in order to:

- Secure decent working and living conditions for seafarers on UK registered ships globally, including on the shipowner's obligation to meet the Convention standards laid down in the MLC to compensate the seafarer for injury, loss or unemployment arising from the ship's loss or foundering of their ship, and to provide financial security to assure compensation in the event of the death or long term disability of the seafarer due to an occupational injury, illness or hazard;
- Promote a more level competitive playing field for international shipping by enforcing these standards on non-UK registered vessels that call at UK ports;
- Enable the MCA to issue MLC certification to UK registered vessels, removing the potential for UK flagged vessels to experience delays in foreign ports in countries that have ratified the MLC; and
- 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, the proposed Regulations would bring UK legislation into line with Regulation 2.6, Standard A2.6, Regulation 4.2 and Standard A4.2. The main changes that would result from the proposed Regulations are summarised below:

- a) statutory shipowners' liability for loss or injury suffered by the seafarer as a result from the loss or foundering of the ship. The MLC also provides for continuation of Seafarers' wages, but this is already covered by Section 38(1) of the Merchant Shipping Act (MSA) 1995;
- b) statutory requirement for shipowners to provide financial security to assure compensation in the event of death or long-term disability of seafarers due to an occupational injury, illness or hazard;
- c) extending the existing requirement for shipowners to meet costs of burial/cremation of seafarers who die during the course of their employment, to cover burial/cremation in the UK. This not only implements Convention requirements, but also recognises the international nature of the modern shipping industry, and the fact that there are many non-UK nationals working on UK ships; and
- d) introduction of shipowners' liability to pay wages to an incapacitated seafarer, whether or not he/she remains onboard, for up to 16 weeks during the time they remain onboard until repatriated, or until the seafarer recovers and to the extent they are not entitled to cash benefits.

A country which has ratified the MLC is able to enforce the same standards for shipowner liability on ships of other flags calling at its ports, since the MLC provides that ships of non-ratifying countries should have "no more favourable treatment" in the ports of ratifying countries. The proposed 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 options considered**

### **5.1. Do nothing**

Existing UK legislation is not currently in compliance with the MLC in respect of shipowner liability for compensation. 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 as the UK government's social partners, the shipping industry and the seafarer's Trades Unions, supported ratification of the MLC.

No further measures have been deemed to be necessary, and so only one Policy Option has been considered in this impact assessment.

### **5.2. Option 1: Introduce proposed Regulations to implement only the minimum mandatory requirements of the Maritime Labour Convention, 2006 in respect of shipowner liability for compensation**

The minimum mandatory provisions from Regulation 2.6 and Standard A2.6 of the MLC and Regulation 4.2 and Standard A4.2 of the MLC are as follows. Firstly, Regulation 2.6 and Standard A2.6 of the MLC requires the shipowner to compensate the seafarer for injury, loss or unemployment arising from the ship's loss or foundering of their ship. Secondly, Regulation 4.2 of the MLC and Standard A4.2 of the MLC imposes liability on the shipowner to provide financial security to assure compensation in the event of the death or long term disability of the seafarer due to an occupational injury, illness or hazard.

Introducing the proposed Regulations (Option 1) would bring UK legislation into line with the minimum requirements of the MLC on shipowners' liability.

Some additional UK legislation already exists on shipowners' liability, concerning the payment of two month's wages following the loss of the ship and burial/cremation costs, as outlined in the Table in section 6 of this impact assessment, and that would remain in force.

This option would achieve the main policy objectives outlined above. Introducing the proposed Regulations (Option 1) is the only policy option which would fulfil all policy objectives and is therefore the preferred option.

## **6. Costs and benefits of the proposed Regulations (Option 1)**

Given the limitations of the available evidence base (e.g. there was no data available on the insurance coverage that the owners of UK registered ships currently hold), it was not possible to monetise any the potential costs and benefits of the proposed Regulations (Option 1) that were identified in the consultation-stage impact assessment. Following the consultation, consideration has been given to whether further analysis could be undertaken to attempt to monetise any of the costs and benefits of the proposed Regulations (Option 1) that have been identified. However, although consultees were invited to submit any additional evidence on the costs and benefits of the proposed Regulations (Option 1), no quantitative evidence was provided by consultees. Therefore, it is still not possible to monetise any of the potential costs and benefits of the proposed Regulations (Option 1) that have been identified.

A full qualitative description of each of the potential costs and benefits that have been identified is provided below. However, as explained below, the MCA considers that the additional costs to the UK shipping industry would likely be negligible.

For example, the mutual Protection and Indemnity (P&I) Clubs which are a feature of the maritime sector, have indicated an intention to make any necessary adjustments to cover to include mandatory MLC financial security in their existing schemes, and many have already done so. As compensation for death and long term disability is already included in the cover, this just needs to be extended to cases of the shipowner's insolvency, which has not previously been covered. However, the Clubs do not think there will be any increase in premiums, at least in the short term, as risk is assessed more on the basis of the shipowner's record than marginal differences in the extent of cover. No additional attempt to cost this has therefore been deemed necessary.

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

The 'Do Nothing' scenario represents what would happen if the Government does not take any action.

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 are virtually impossible to escape for ships wishing to trade internationally.

Therefore, the MCA expects that a proportion of the additional costs of complying with the minimum mandatory requirements of the MLC 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 shipowner liability 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 shipowner liability relative to the requirements of existing UK legislation or existing industry practice as applicable. However, as discussed above, we do not know the extent to which the additional costs of complying with the minimum mandatory requirements of the MLC would truly be additional costs of the proposed Regulations.

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

The proposed Regulations would apply to UK ships wherever they may be. They would also provide the UK with some inspection powers for non-UK ships. The main changes to existing UK legislation which would be required to comply with the requirements in the Regulations and Standards of Titles 2.6 & 4.2 of the MLC on shipowners' liability and which would be introduced by the proposed Regulations are outlined below:

- a) statutory shipowners' liability for loss or injury suffered by the seafarer as a result from the loss or foundering of the ship. The MLC also provides for continuation of seafarers' wages in the event of the loss or foundering of the ship, but this provision is already covered by Section 38(1) of the Merchant Shipping Act (MSA) 1995;
- b) a statutory requirement for shipowner to provide financial security to assure compensation in the event of death or long-term disability of seafarers due to an occupational injury, illness or hazard would be introduced by the proposed Regulations;
- c) the proposed Regulations would extend the existing shipowner duties to meet the costs of burial or cremation of seafarers who die during the course of their employment, to cover the costs of burial or cremation in the UK. This would not only implement the MLC requirements, but would also recognise the international nature of the modern shipping industry, and the fact that there are many non-UK nationals working on UK ships; and
- d) the proposed Regulations would introduce shipowners' liability to pay wages to an incapacitated seafarer, whether or not he or she remains onboard, for up to 16 weeks during the time they remain onboard until repatriated, or until the seafarer recovers and to the extent they are not entitled to cash benefits.

### **6.2. 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 potential costs of the proposed Regulations (Option 1) that have been identified in this impact assessment. Consultees were invited to submit any additional evidence on these costs at public consultation. No additional evidence was supplied by consultees.

A number of potential costs to the owners of UK registered ships have been identified in this impact assessment. It should be noted that the extent that the 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.

#### **6.2.1. Costs to the owners of UK registered ships of providing compensation for financial consequences of injury, loss or unemployment in the event of loss or foundering of the ship**

The proposed Regulations would apply the statutory shipowners' liability in MLC Standard 2.6 for loss or injury suffered by the seafarer as a result from the loss or foundering of the ship. Liability for losses other than personal injury or death would be limited by any amount specified in the Seafarer's Employment Agreement. Liability for unemployment following the wreck or loss of a ship already exists in UK law (section 38, Merchant Shipping Act 1995 (MSA 1995)) in respect of wages, and the MSA 1995 limits this

to 2 months from the date of the event. MLC Guideline B2.6.1 allows a member state to apply a limit of 2 months to this liability to pay wages. Social partners agreed that the UK should implement this Guideline – to do otherwise would be to “gold plate” the requirements of the Convention. The MCA do not expect that the added liabilities of providing compensation for loss and injury would be financially significant for the owners of UK registered ships. This is because the MCA expect that most owners of the UK registered ships already have insurance policies in place which cover the risks attached to the loss or foundering of the ship. The mutual Protection and Indemnity (P&I) Clubs which are a feature of the maritime sector, have indicated an intention to make any necessary adjustments to cover to include any aspects of mandatory MLC financial security which are not already included in their existing schemes, and many have already done so. As compensation for death and long term disability is already included in the cover, this just needs to be extended to cases of the shipowner’s insolvency, which is not currently covered. However the Clubs do not think there will be any increase in premiums, at least in the short term, as risk is assessed more on the basis of the shipowner’s record than marginal differences in the extent of cover. The overwhelming majority of ships covered by this impact assessment are covered by P&I Club cover, MCA does not therefore expect that any additional cover will be required for these ships. Given that the P&I Clubs have said that they do not expect any increase in premiums because of the MLC, the MCA does not consider there to be any significant costs related to the additional requirements.

There is evidence that other financial security providers are entering the market with a view to picking up additional business from shipowners seeking to be MLC compliant. This indicates that, if the cost of P&I Club cover were to rise at some time in the future, there will be alternatives on the market. There may be shipowners, as at present, which will wish to provide more benefits to their seafarers than the minimum statutory obligation, and these are considered the most likely purchasers of new policies, which may go considerably wider than the mandatory aspects of the MLC. Any costs to shipowners associated with providing more benefits to their seafarers than the minimum statutory obligation will not be attributable to the MLC or these implementing Regulations.

Informal contact between the MCA and industry sources has indicated that some of the reputable owners of UK registered ships already provide the level of compensation required by the MLC. Industry sources did not highlight any UK shipowners which do not, and hence the MCA consider that many owners of UK registered ships would not incur any additional costs as a result of the proposed Regulations. However, it should be noted that there is no data available on this issue. For example, there is no data available on the number of owners of UK registered ships that do not have insurance policies in place which cover the risks attached to the loss or foundering of the ship. Consultees were invited to submit any additional evidence, however no evidence was provided, therefore, given the limitations of the available evidence base, it has not been possible to monetise these costs in this impact assessment.

### **6.2.2. Costs to the owners of UK registered ships of the provisions on shipowners’ liability in the event of death or long term disability due to occupational reasons**

It is possible that the costs of insurance for the owners of UK registered ships could, in certain cases, increase as some owners of UK registered ships could have to increase their insurance coverage to meet the requirements of the MLC as a result of the proposed Regulations.

However, informal communication from industry received by the MCA indicates that most UK shipping companies have arrangements in place to pay compensation for the seafarer in the event of death or long term disability due to occupational reasons already in place, albeit as statutory employer’s liability insurance or part of a wider policy which UK shipowners choose to put in place to cover a number of eventualities. The MCA therefore expect that the additional costs imposed on the owners of UK registered ships by the proposed Regulations would be negligible.

This assertion is based on the MCA’s industry engagement, although this engagement has been mainly with UK shipping companies that are operating large vessels. Therefore, it is possible that the costs could differ for other firms that are operating smaller vessels or those firms that do not already have arrangements in place to pay compensation to seafarers in the event of death or long term disability.

The MCA is not aware of any evidence being available on this point which would allow the extent or scale of these costs to be quantified, by industry sources have indicated the amount is expected to be negligible. For example, there is no data available on the insurance coverage that the owners of UK registered ships currently hold. Therefore, given the limitations of the available evidence base, it has not been possible to monetise these costs in this impact assessment.

### **6.2.3. Costs to the owners of UK registered ships of the providing wages whilst incapacitated**



Standards A4.2.3(a) and (b) of the MLC require a shipowner to pay wages for an incapacitated seafarer until the seafarer is repatriated, and to pay wages to the seafarer in whole or part as prescribed by national laws or regulations or as provided for in collective agreements from the time the seafarer is landed until recovery or, if earlier, until entitled to cash benefits under the legislation of the country concerned. Standard A4.2.4 of the MLC states that this liability may be limited to 16 weeks. (Unlike the obligations in Standard A2.6.2 of the MLC, these obligations do not depend on the ship being lost or foundering.)

There is currently no such liability in UK law, but there is a minimum of 16 weeks specified in the *ILO Shipowners' Liability Convention (Sick and Injured Seamen) Convention 1936 (No.55)*, which the UK has not ratified. Information received by the MCA from the UK shipping industry indicates that most owners of UK registered ships already habitually pay wages of 13 weeks or more in these circumstances. The MCA therefore expect that there would be no significant additional costs to the owners of UK registered ships through the implementation of Standard A4.2.3 and A4.2.4 of the MLC since existing arrangements are in many cases either already aligned with the requirements of the MLC or not significantly different from the requirements of the MLC. This expectation was not challenged by consultees at public consultation.

No evidence is available on the number of incidents in recent years which have required shipowners to pay wages to incapacitated seafarers. Therefore, given the limitations of the available evidence base, it has not been possible to monetise these costs in this impact assessment.

#### **6.2.4. Costs to the owners of UK registered ships of provisions regarding burials and cremations**

Convention Standard 4.2.1(d) requires burial expenses to be met in the event of the seafarer's death during the period of engagement, so it is mandatory to extend the existing provision for burial in the s45(2) Merchant Shipping Act 1995, which requires the shipowner to fund burial or cremation outside the UK, but currently excludes burial/cremation in the UK, to include burial, and possibly cremation, in the UK. It could be argued that the use of the word "burial" in the Convention means that a shipowner's obligation to fund burial, but not cremation, is imposed by the Convention. However, this is not considered to be a reasonable interpretation, and this is supported by the approach taken by other governments where this is known, which are interpreting the MLC term "burial" to include cremation. The result of not doing so in UK law would arguably result in a nonsensical situation, where the shipowner need not fund cremation (but must fund burial) where death occurs in the UK, but must fund burial or cremation where death occurs anywhere else. There is also a risk that, due to the fact that religious and cultural practices of some seafarers dictate they must be cremated rather than buried, that not to include cremation could be considered discriminatory against those seafarers and their families.

It is proposed therefore to include an obligation for the shipowner to fund both burial and cremation wherever death occurs, to close this loophole. It is, in any case, considered that the cost difference between these interpretations is negligible. At consultation, two consultees commented in support of this approach, and two offered comments that the drafting should make clearer the circumstances in which the obligation arises, but none disagreed with this approach.

It may be argued, depending upon whether the word "burial" is interpreted to include "cremation", that this exceeds the EU requirement in Directive 2009/13/EC which reproduces much of the MLC, at Annex, including Standard 4.2.1(d). However, this is the case only if a narrow interpretation is put on the word "burial", which is considered unlikely in other EU and non-EU member states.

The frequency of seafarers dying in service does not appear to be high. Seafarers must be of working age and hold certification that they have achieved a reasonable standard of medical health. According to the Marine Administrations' Implementations Group Report of Indicators for 2007, the proportion of seafarers dying in service was 0.03% on UK ships worldwide in 2007. The marginal cost of extending the ship owner's responsibility to meet the costs of burial/cremation expenses to include burial/cremation in the UK would therefore be very slight. However, given the limitations of the available evidence base, including a lack of numbers of seafarers who die in the UK and other various countries and funeral and cremation costs in foreign countries, which vary greatly, it has not been possible to monetise these costs in this Impact Assessment.

#### **Summary of proposed additional requirements to be introduced by the proposed Regulations**

Existing	MLC requirements	Remarks	Additional
----------	------------------	---------	------------

requirements			requirements imposed by the proposed Regulations
<p>s38(1) MSA 1995 – liability to pay wages for up to 2 months unemployment following the loss of the ship, provided seafarer does not unreasonably refuse employment.</p>	<p>Reg/Standard 2.6 – Shipowners must pay seafarers indemnity for injury, loss or unemployment due to loss or foundering of ship.</p> <p>There are no specific requirements in MLC that seafarer takes alternative employment if available during the 2 months.</p> <p>However, Guideline B2.6 (non-mandatory) allows unemployment cover to be limited to 2 months.</p>	<p>Existing requirements limit employer liability for unemployment cover to 2 months, so it is intended to implement MLC optional Guideline B2.6.1.1 to maintain the status quo.</p> <p>The MSA does not specifically mention medical cover in connection with loss of ship (although Section 45 of the MSA 1995 provides that employers meet the cost of medical treatment during a voyage, and the proposed Regulations implementing the MLC provisions on repatriation would cover medical treatment between loss of ship and repatriation).</p> <p>Section 38((3)(b) of the MSA 1995 provides that a shipowner is not liable for wages for a seafarer if they have been offered reasonable alternative employment. Arguably this safeguard is not provided for in B2.6.1. However, as a general principle in UK law, where losses are to be compensated, it is standard to expect the person seeking compensation to have done their best to mitigate the loss, and it is not proposed to amend the legislation on this point.</p>	<p>The proposed Regulations would specify the shipowners' liability for loss or injury resulting from loss or foundering of ship.</p>
<p>There is no requirement for financial security to be provided in respect of death, injury or long-term disability due to occupational injury.</p>	<p>Standard 4.2.1(b) of the MLC requires shipowners to put in place financial security for death, injury or long-term disability of seafarer due to occupational injury</p>		<p>The proposed Regulations would require shipowners to put in place financial security to assure compensation for death, injury or long-term disability of seafarer due to occupational injury, illness or hazard.</p>
<p>Section 45(2) MSA 1995 provides the employer is liable for burial or cremation expenses if this takes place outside the UK.</p>	<p>Standard 4.2.1(e) of the MLC provides the ship owner is liable for burial expenses, but does not specify any geographical criteria.</p>	<p>It is considered that, as the MLC does not put geographical limits on the ship owner's liability to pay for burial, UK law must reflect this. This change would also update UK law to reflect the realities of international</p>	<p>The proposed Regulations would extend shipowners' liability for cost of burial/cremation expenses to the UK.</p>

		shipping industry, where not all seafarers on UK ships are UK nationals.	
There is no requirement in UK law for a shipowner to pay wages for incapacitated seafarers. There is a minimum of 16 weeks specified in the ILO Ship owner Liability Convention (Sick and Injured Seamen) Convention 1936 (No.55), which the UK has not ratified.	Standards A4.2.3(a) and (b) of the MLC require shipowners to pay wages for incapacitated seafarer during time onboard until repatriated. However, Standard A4.2.3(b) of the MLC provides that this liability is limited by cash benefits payable, and Standard A4.2.4 of the MLC states that this liability may be limited to 16 weeks.	Unlike the obligations in Standard A2.6.2, these obligations do not depend on the ship being lost or foundering.	The proposed Regulations would introduce shipowners' liability to pay wages during seafarer incapacity, onboard and when landed, up to a maximum of 16 weeks, and the provision that this would be reduced by any amount of entitlement to cash benefits.

### **6.2.5 Familiarisation Costs**

The MCA will publish information about the proposed changes. The Agency 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 proposed Regulations, the residual cost of which is not considered to be significant.

### **6.2.6 Overview of costs**

The MCA considered that the only potentially significant additional costs related to these requirements would be derived from the financial security (insurance) for the items which are required to have mandatory financial security by the MLC, but information received informally from industry prior to consultation were that most shipowners already have such cover in place. This assumption was outlined in the IA at consultation and was not challenged. The conclusion is that any marginal costs related to these, or other items, are expected to be negligible. The mutual Protection and Indemnity (P&I) Clubs which are a feature of the maritime sector have indicated an intention to make any necessary adjustments to cover to include mandatory MLC financial security in their existing schemes, and many have already done so. As compensation for death and long term disability is already included in the cover, this would just need to be extended to cases of the shipowner's insolvency, which is not currently covered. However the Clubs do not think there will be any increase in premiums, at least in the short term, as risk is assessed more on the basis of the shipowner's record than marginal differences in the extent of cover.

### **6.3. Benefits of the Proposed Regulations (Option 1)**

The additional requirements which would be put in place by the proposed Regulations plug the gap between the existing UK legislation and requirements of the MLC on shipowners' liability.

The proposed Regulations would therefore provide seafarers with assurance that they would receive compensation in respect of injury or loss in the event of a ship's loss or foundering.

The proposed Regulations would also ensure the seafarer is assured that compensation would be provided to them or their family, as appropriate, in the event of their death or long-term disability due to an occupational injury, illness or hazard, and extend ship owner responsibility to pay for seafarers' burial or cremation to include burial or cremation in the UK.

Given the limitations of the available evidence base, it has not been possible to monetise any of these benefits in this impact assessment. Consultees were invited to submit any additional evidence on these benefits at public consultation. However, no evidence was received.

#### **6.4. 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 proposed 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 proposed Regulations to realising these benefits. Consultees were invited to submit any additional evidence on these benefits at public consultation, but none was provided.

The competitive benefits that implementation of the MLC will bring to UK shipowners are discussed in Section 10.2. These have been forcefully conveyed by UK industry in a letter to the then Better Regulation Minister, which states: “The shipping industry believes that the compliance costs [of the MLC] are manageable. By contrast, the costs to the UK shipping of not ratifying the MLC will be considerably higher. UK ships will be subject to detailed port state control inspections in other countries, without the flexibility that UK implementation will bring, and the UK will miss an opportunity to be seen as a leading advocate of decent living and working conditions for all seafarers. Until we ratify, the UK will also be denied the use of our own port state control procedures to ensure that ships visiting these islands comply with the standards of the MLC, and do not gain competitive advantage by ignoring them.”

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

As the UK has ratified the MLC, this enables 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 will 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 proposed 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’ (IA Number DFT 00193).

Consultees were invited to submit any additional evidence on these benefits at public consultation, however, no evidence was received.

#### **6.6. Monitoring and Enforcement**

The requirements contained in the proposed 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 would 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’.

### **7. Rationale and evidence that justify the level of analysis used in the IA**

The proposed Regulations make the minimum changes to bring UK legislation into line with the MLC provisions on shipowner liability.

Given the limitations of the available evidence base following the consultation, it has not been possible to quantify the costs associated with introducing the proposed Regulations, but MCA considers that these costs would be insignificant (see Section 6.2 of this impact assessment).

The MLC was developed on a tripartite basis and is strongly supported by UK shipowner and seafarer representative organisations, which also support the ratification of the MLC. Discussions on the proposals for implementing the MLC provisions for shipowner liability at the MLC Tripartite Working Group have been generally non-controversial, and welcomed by social partners, notwithstanding the issue of self insurance. As discussed above, no workable arrangements have been identified to facilitate self insurance. Further analysis of the impacts is not therefore considered necessary.

## **8. Risks and assumptions**

### **8.1 Risks**

The proposed Regulations need to be implemented in order to allow the UK to meet its obligations as a ratifying state.

### **8.2 Assumptions**

The key assumption that has been made in this impact assessment is that the information that the MCA has received from the UK industry shipping to date is representative of the current situation for UK registered ships more generally. This assumption was not challenged at public consultation.

## **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 shipowner liability, by August 2014, the MLC came into force internationally on 20 August 2013, and UK ships have been required to hold MLC documentation under international law (enforced through Port State Control of ships) since then.

It may be argued, depending upon whether the word “burial” is interpreted to include “cremation”, that this exceeds the EU requirement in Directive 2009/13/EC which reproduces much of the MLC, at Annex, including Standard 4.2.1(d). However, this is the case only if a narrow interpretation is put on the word “burial”, which is considered unlikely in other EU and non-EU member states. Therefore, as these requirements are international and it is considered that a narrow interpretation of the word “burial” is unlikely in other EU and non-EU member states, the proposals do not gold plate the requirements (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 proposals without recourse to legislation has been considered but would not adequately implement EC Directive 2009/13/EC which includes the provisions of the Social Partners agreement on the MLC relating to seafarer compensation and shipowner liability. The new requirements would not be enforceable, and will not be considered by either the ILO or the EU to have been transposed, without legislation.

## **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 proposed Regulations would 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 proposals include an obligation for the shipowner to fund both burial and cremation wherever death occurs, so closing a loophole, potentially allowing discrimination against seafarers of certain religions and/or races in current legislation (see Section 6.3.4 of this impact assessment).

### **10.2. Competition Assessment**

The proposed Regulations would bring existing UK legislation into line with the requirements of the MLC. 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 should promote 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.

Following the UK’s ratification of the MLC, it is possible that the proposed Regulations could have an impact on competition. The precise impact would depend on how the proposed 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 proposed Regulations would not cause significant additional costs for UK flagged vessels.

Internationally, it is considered that the MLC is more likely to provide a competitive benefit to UK firms. As the UK has ratified the MLC, this allows the MCA to issue MLC certification, which would ensure that UK flagged vessels are not subject to unnecessary delays when visiting ships in ports of ratifying states.

This should ensure that UK flagged vessels do not suffer a competitive disadvantage as a result of the introduction of the MLC globally.

At public consultation, consultees were invited to offer any additional evidence on the potential for the proposed Regulations to impact on competition. No comments on this were received.

### **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 proposals will 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. There are no specific relaxations available regarding shipowners’ liability. However, the MCA consider that by their nature, many small firms operate vessels which do not fall under the MLC definition of a ship and would therefore not be subject to the proposed Regulations anyway, as outlined below.

The MCA has discussed the implications of the Convention 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 proposed Regulations. A large proportion of small ships operate on domestic voyages within 60 miles of a safe haven in the UK and would therefore not be covered by the UK’s implementation of the Convention. The 60 miles, agreed with the Tripartite Working Group, is the widest interpretation it is reasonably possible to give the definition in the Convention, and is considerably less strict than some flag States.

At public consultation, consultees were invited to offer any additional evidence on the potential for the proposed Regulations to impact on small firms. No comments on this were received.

### **10.4. Health Impact Assessment**

The objective of the Maritime Labour Convention is to provide all seafarers with decent employment by setting minimum global standards for living and working conditions, providing an effective regime to ensure that those standards are enforced, and a framework for continuous improvement.

### **10.5. Human Rights**

The proposed Regulations would 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.

The proposals regarding the shipowner’s obligation to fund both burial and cremation wherever death occurs is arguably a human rights benefit (see Section 6.3.4 of this impact assessment).

### **10.6. Justice System**

The main enforcement mechanism for these proposed Regulations would be through the inspection and certification of UK ships under the MLC by MCA surveyors. There would however also be offences and penalties laid down in the proposed Regulations. These would be in line with the penalties in place for corresponding offences in existing Regulations, where these exist. The MCA has reviewed these offences and penalties with the Ministry of Justice to ensure a consistent approach in all sets of regulations implementing the MLC. However, most of the requirements of the proposed Regulations are new, and offences and penalties have also been discussed with the Ministry of Justice.

## **11. Summary and preferred option**

Introducing the proposed Regulations (Option 1) to amend UK legislation to fully implement the MLC requirements on shipowners’ liability with no significant enhancement is the preferred policy option, as it is against government policy to “gold plate” international and European legislation. Failure to implement

the mandatory provisions would result in the UK shipping industry and the taxpayer incurring costs of non-ratification discussed in Annex 3.

### **11.1. Implementation plan**

The 2014 Regulations are part of a package of Regulations that are required to allow the UK to ratify the MLC. The MLC came into force internationally on 20 August 2013.

A Marine Guidance Note will be published to accompany the 2014 Regulations which will explain the provisions and give guidance on their practical interpretation. Information will also be available on the DfT/MCA website.

The primary enforcement mechanism for the 2014 Regulations on UK ships will be through flag State inspections for issue or renewal of a Maritime Labour Certificate. MCA surveyors check the provisions for ship-owner liability in the shipowners' declaration of maritime labour compliance Part II and in seafarer employment agreements, and by reviewing any relevant documents onboard the ship as part of the inspection of UK ships. Further details about this regime are given in the consultation documents on the proposed 'Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations', which have been consulted on separately.

Furthermore, shipowners must have published procedures to deal with seafarers' complaints about their working and living conditions, and seafarers will 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. This requirement will be implemented in UK law by the draft 'Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations' and is therefore not assessed in this impact assessment.

## **12. Regulatory Policy Committee (RPC) Opinion on the Consultation Stage Impact Assessment**

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, extending existing seafarers' entitlements to reflect best practice, rather than making significant changes. 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, industry has confirmed that they do not think that UK shipowners will incur additional costs for medical care 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 accustomed to inspecting compliance with current maritime labour requirements 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, the ship-owner liability requirements will be evidenced by means of checking one or two documents. Given the limited changes to shipowner liability 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.



## References

No.	Legislation or publication
1	Maritime Labour Convention, 2006 <a href="http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_090250/lang--en/index.htm">http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_090250/lang--en/index.htm</a>
2	Merchant Shipping Act 1995. <a href="http://www.legislation.gov.uk/ukpga/1995/21/contents">http://www.legislation.gov.uk/ukpga/1995/21/contents</a>
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	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>
6	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 will come 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, 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.

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

---

<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:**

(a) a ship in respect of which a certificate is required to be in force in accordance with-

- (i) the Merchant Shipping (Load Line) Regulations 1998
- (ii) the Merchant Shipping (Vessels in Commercial Use for Sport or pleasure) Regulations 1998 or
- (iii) the Merchant Shipping (Small Work boats and Pilot Boats) Regulations 1998,

(b) a passenger ship of class I,II,II(A), III, VI or VI(A) in respect of which a certificate is required to be in force in accordance with the Merchant Shipping (Survey and Certification) Regulations 1995, or

(c) a high speed craft in respect of which a permit to operate outside waters of Categories A,B,C or D is required to be in force in accordance with the Merchant Shipping (High Speed Craft) Regulations 2004(5). (*Merchant Shipping (Maritime Labour Convention)( Medical Certification) Regs 2010*)