CHAPTER TWO

THE STORY OF THE MARITIME LABOUR CONVENTION, 2006

AUTHOR’S NOTE

This chapter is a narrative recounting of the sequence of events and concerns, as recalled by its author drawing on the reports of meetings that she attended and her continuing engagement with the development of the MLC, 2006 from its beginning. I have used the word ‘story’ to capture the sense of a particular purpose, perhaps even a mission, that accompanied and captured all who were involved in this effort. Certainly the period between 2001 and 2006 indelibly imprinted and shaped the lives of all who were engaged in the process to produce this major new international ‘bill of rights’—the seafarers’ representatives, the shipowners’ representatives, key government representatives, and staff and advisors of the International Labour Office. It had all the elements of a heroic journey with numerous challenges and successes, from which many lessons might be learned. While it is not possible to name all outstanding personalities it is equally unwise to venture to name a few key people. This is not because they did not exist, but because of a fear of overlooking one of the many who contributed, at differing stages, to the final text of the MLC, 2006. Nevertheless the text of the Convention stands now as a legacy marking, albeit without individual attribution, the significant combined efforts of so many over so many years.

1 The views expressed in this chapter are the personal views of its author, Dr. Cleopatra Doumbia-Henry and are not to be understood as the views of the International Labour Office or the International Labour Organization. The author of this chapter, one of the co-authors of this book, is the Director of the International Standards Department, International Labour Office, ILO, Geneva. As an ILO official she was directly involved with, and variously responsible for legal advice (in the late 1990s as Senior Legal Officer, Legal Office of the Secretariat) and guidance to the social partners in their examination of the issues and options and, ultimately, in her role first as the Director of the Sectoral Activities department and then the International Labour Standards Department, the carriage of the MLC, 2006 from its initiation until its adoption in 2006. She is now responsible for the ILO’s role in ensuring follow-up, in cooperation with other ILO departments, to ensure that the Convention enters into force. As the Director responsible for the operation of the ILO supervisory system (see Chapter 4), she is also responsible for the operation of the supervisory bodies of the ILO that will review national implementation of the Convention, once it enters into force.

2 This term is used to indicate the more reflective, experiential, even personal, approach to this chapter.
Seafarers Have Always Been a Concern for the ILO

From its first days, the Members of the ILO realized that in the world of work, seafarers and shipowners were different. Not land-based but working on the seas, they not only moved huge amounts of world trade even 90 years ago, they were the most fluid and wide-ranging workforce on the planet.

When the first ILC convened in June of 1919, the year the Organization was created, and began discussing the regulation of working hours, the need for a special approach to living and working conditions in the maritime sector became apparent. A year later, in 1920, the second ILC, held in Genoa, Italy, was devoted to seafarers. It adopted\(^3\) the *National Seamen’s Code Recommendation, 1920* with its single substantive provision stating:

> In order that, as a result of the clear and systematic codification of the national law in each country, the seamen of the world, whether engaged on ships of their own or foreign countries, may have a better comprehension of their rights and obligations, and in order that the task of establishing an International Seamen’s Code may be advanced and facilitated, the International Labour Conference recommends that each Member of the International Labour Organisation undertake the embodiment in a seamen’s code of all its laws and regulations relating to seamen in their activities as such.\(^4\)

Since 1920, it has been the practice of the ILC to convene a special Maritime Session to deal exclusively with seafarers’ living and working conditions. The bipartite Joint Maritime Commission (JMC),\(^5\) established in 1920, has advised the ILO’s Governing Body on maritime questions, especially on the selection of

\(^3\) See also Chapter 3 and *infra*. It is also notable that in an era when social security schemes were not well developed for any sector that this Session also adopted a recommendation, *Unemployment Insurance (Seamen) Recommendation, 1920* (R10), “with a view to securing the application to seamen of Part III of the Recommendation concerning unemployment adopted at Washington on 28 November 1919. It recommended that each Member of the ILO establish for seamen an effective system of insurance against unemployment arising out of shipwreck or any other cause, either by means of Government insurance or by means of Government subventions to industrial organisations whose rules provide for the payment of benefits to their unemployed members.” See also: *Unemployment Indemnity (Shipwreck) Convention, 1920* (No. 8), Genoa, 9 July 1920, available at [http://www.ilo.org/ilolex/english/convdisp1.htm](http://www.ilo.org/ilolex/english/convdisp1.htm). However, as discussed in Chapter 10 in connection with Regulation 4.5, in 2006 the issue of social security coverage for all seafarers remained a difficult matter.


\(^5\) The JMC is a standing bipartite body established by the ILO Governing Body. It provides advice to the Governing Body on maritime questions including standard setting for the shipping industry. It is composed of 40 titular members, 20 representing shipowners and 20 representing seafarers, and four deputy members for each of the two groups. They are all nominated by the ILC. The meetings of the JMC are chaired by the Chairperson of the Governing Body.