

National Interest Analysis [2010] ATNIA 58

with attachment on consultation

**International Labour Organization Convention No. 186: Maritime Labour Convention,
done at Geneva on 7 February 2006**

[2010] ATNIF 44

Regulation Impact Statement

NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

SUMMARY PAGE

International Labour Organization Convention No. 186: Maritime Labour Convention, done at Geneva on 7 February 2006

[2010] ATNIF 44

Nature and Timing of Proposed Treaty Action

1. The proposed treaty action is ratification of International Labour Organization (ILO) *Maritime Labour Convention, 2006* (No. 186) (the Convention).
2. The Convention was adopted by the 94th (Maritime) Session of the International Labour Conference on 7 February 2006. Article VIII of the Convention provides that it will enter into force 12 months after the date on which instruments of ratification have been registered by at least 30 ILO Members with a total share in the world gross tonnage of ships of 33 per cent. The tonnage requirement has been met (see paragraph 16) and, as at 14 September 2010, 10 ILO member states have ratified the Convention (see [Annexure 1](#)). In 2009, the European Union (EU) Council of Ministers directed EU members to ratify the Convention by the end of 2010. The ILO believes that the further 20 ratifications needed for entry into force are likely to be received by the end of 2010, resulting in the Convention entering into force by December 2011.
3. It is proposed that the Convention be ratified as soon as possible by Australia. It is not possible to make 'reservations' with respect to ILO Conventions. As the ILO is a body in which governments and organisations of employers and workers are voting members, it is considered that making 'reservations' or 'declarations' would undermine the tripartite efforts that have gone into the development of those Conventions and therefore the ILO precludes them from being made.
4. The Convention provides for a period of 12 months to elapse between the date of registration of a State's instrument of ratification and the entry into force of the Convention for that State. The International Labour Office has advised that in an ideal situation, States should be in a position to issue valid documentation to its ships immediately following ratification. Therefore, Australia may not have to wait 12 months after ratification to issue the required documentation necessary to certify Australian-flagged ships as compliant with the Convention so that they are not at risk of detention in overseas ports. It would also enable the Australian Maritime Safety Authority (AMSA) to inspect foreign-flagged ships against the provisions of the Convention. This is currently being explored in consultation with the Australian Government Solicitor and the Office of International Law.

Overview and National Interest Summary

5. The Convention sets minimum requirements for seafarers to work on ships. Ratification will ensure decent working and living conditions for seafarers on foreign-flagged ships entering Australian ports and on Australian ships.
6. Failure to ratify the Convention may have significant implications for Australian ships trading internationally. Article VIII of the Convention provides that it is binding only upon ILO Members that ratify the Convention. However, even if Australia does not ratify the Convention, once it enters into force, its terms will be applied to Australian ships entering the ports of States that have ratified it. Should Australia not ratify the Convention, Australian-flagged vessels will not be carrying the necessary documentation to show prima facie compliance with the Convention and may be subject to detention in foreign ports. Additionally, failure to ratify the Convention would also diminish Australia's status as a leading port State and would make it difficult for Australia to assist developing nations in our region to become compliant with the Convention.

Reasons for Australia to take the proposed treaty action

7. Australian ratification will ensure decent working and living conditions for seafarers on foreign-flagged ships entering Australian ports and on Australian ships. Australian-flagged ships will consequently be protected from unfair competition from foreign ships on which crews have substandard living and working conditions.

8. Article V of the Convention provides that ships must not be placed at a disadvantage because their flag State has ratified this Convention and other flag States have not. In this way, the Convention seeks to create a level playing field by removing incentives to operate ships with poorly qualified crew and who are not afforded decent living and working conditions.

9. The practical implication of Article V is that once the Convention comes into force generally, Australian-flagged ships entering a port of a foreign State which has ratified the Convention - regardless of whether or not Australia ratifies the Convention - will be treated in the same way and will be required to conform to the same standards, as the ships of States that have ratified.

10. The effect of Article V could increase costs for Australian ship owners trading internationally if Australia does not ratify the Convention. Regulation 5.1.3 of the Convention requires ships of 500 gross tons or over to hold a Maritime Labour Certificate and a Declaration of Maritime Labour Compliance. Unless Australia ratifies the Convention and puts in place compliance measures, Australia will lack the authority to inspect and certify these ships. The likely consequence would be additional costs to Australian shipowners, who would be subject to enforcement measures in other countries due to incapacity to provide certification of Australian compliance. Also, the additional costs could encourage Australian shipowners to flag their ships off-shore, in turn affecting seafarers and other workers in the industry, as more Australian-based jobs are lost and those who choose to stay in the industry compete for fewer jobs. Another possible consequence is that Australian shipowners may be forced to pass increased costs onto consumers, diminishing the commercial competitiveness of the Australian shipping industry as it will not be able to compete with ships flagged under a State that has ratified the Convention.

11. Additionally, failing to ratify the Convention would diminish Australia's status as a leading port State and would make it difficult for Australia to assist developing nations in our region to become compliant with the Convention.

12. A key strategic objective of Australia's engagement with the ILO is to provide policy leadership within the Asia-Pacific region in promoting labour standards. Ratification by Australia would encourage other Asia-Pacific countries to consider the merits of applying and enforcing international maritime labour standards.

13. Australia has been a member of the ILO since 1919 and has ratified 59 out of the ILO's 188 Conventions. Forty-seven of these Conventions remain in force for Australia.

Obligations

14. The Convention consolidates 37 separate ILO maritime labour conventions adopted since 1920 and replaces them with a single, coherent instrument. Of the 37, Australia has ratified 13 (see Annexure 2).

15. The Convention is the most complex and lengthy ILO Convention in history. It is designed to reflect the demands on shipping in a globalised world and has three purposes: (a) to lay down, in its Articles and Regulations, a firm set of rights and principles; (b) to allow, through the Code, a considerable degree of flexibility in the way Members implement those rights and principles; and (c) to ensure that the rights and principles are properly complied with and enforced by Member States.

16. The Convention comprises three different but related parts: the Articles, the Regulations and the Code. The Articles and Regulations set out core rights and principles, while the Code provides the details for their implementation. The Regulations and the Code are organised into general areas under five Titles:

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

17. The obligations prescribed by each of these Titles are described in greater detail at [Annexure 3](#).

18. Article II of the Convention limits the scope and application of the Convention to particular ships. The Convention applies to all ships other than:

- ships which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters (Article II(1)(i));
- ships which navigate exclusively in areas where port regulations apply (Article II(1)(i));
- ships engaged in fishing or in similar pursuits (Article II(4));
- ships of traditional build such as dhows and junks (Article II(4));
- warships or naval auxiliaries (Article II(4)); and
- ships not ordinarily engaged in commercial activities (Article II(4)).

19. Article II(6) allows the competent authority of a Member State to exclude ships of less than 200 gross tonnage not engaged in international voyages from the obligations of the Convention. The Australian Government intends to exclude relevant ships in this way. This would mean that in Australia, the Convention would cover ships of 200 gross tons or over regardless of whether they are making international voyages or not. Similarly, ships less than 200 gross tons engaged in international voyages will be covered by the Convention.

20. On this basis, it is estimated that the Convention would apply to around 100 ships in Australia.¹ While these ships represent only a small proportion of total Australian shipping, they are critical to Australia's international and domestic trade and commerce.

21. Under Article 22 of the ILO Constitution, member States that have ratified an ILO Convention or Protocol must submit a report on the implementation of the Convention to the ILO Committee of Experts on the Application of Conventions and Recommendations on a two- or five-yearly basis. Only the eight key Conventions as defined under the ILO *1998 Declaration on the Fundamental Principles and Rights at Work* must be reported against on a two-yearly basis. The Convention is not one of these instruments. Australia will be required to report against the Convention on a five yearly basis should the Convention be ratified. The first report would be due on 1 September in the first 12 months immediately following the Convention coming into force for Australia.

Implementation

22. Australian law and practice largely complies with the Convention, which means that ratification will have a low regulatory impact on the Australian shipping industry and on Australia's current port State control processes. The AMSA will have responsibility for exercising Australia's flag and port State responsibilities under the Convention and is the competent authority to certify Australian ships and inspect ships against the Convention.

¹ Source: National Maritime Safety Committee, National Data Set, October 2009

23. The implementation of the Convention is shared between the Commonwealth, State and Territory governments. It is also regulated by a range of legislation in all jurisdictions in areas such as maritime, occupational health and safety, workplace relations and compulsory education laws.

24. All jurisdictions have completed, or are close to completing, a comprehensive assessment of relevant legislation and practice. To date, only minor technical amendments will be required in order to comply with the Convention. In some jurisdictions (for example, Tasmania), no legislative amendments will be required.

25. At the Commonwealth level, minor technical amendments to the *Navigation Act 1912* (Navigation Act) and Marine Orders (delegated legislation made under the Navigation Act) will be required. This will include an extended port State control system for the inspection and certification of maritime labour conditions on board ships with a gross tonnage of 500 tons and over on international voyages. These amendments are being progressed and are intended to be in place in the first half of 2011.

26. Marine surveyors from AMSA routinely inspect foreign ships at *Australian ports* to ensure that those ships comply with relevant safety and environmental protection standards. These inspections will be extended to include inspections to ensure compliance with the Convention. For ships that are registered in a ratifying State, this will generally mean checking to see if the ship is carrying a Maritime Labour Certificate and a Declaration of Maritime Labour Compliance issued by its flag State. Ships may be required to undergo a full inspection in relation to the Convention as a whole if they are found not to have the certificates.

27. The Convention provides for a period of 12 months to elapse between the date of registration of a State's instrument of ratification and the entry into force of the Convention for that State. The International Labour Office has advised at Australia's request that "a Member would, and, indeed, ideally, should be in a position to issue valid documentation to its ships following ratification even if the Convention is not yet legally binding (in force) for the country concerned. The 12 month period following ratification is to allow Members, which may need the time, to complete the process of national implementation before they are held accountable under international law and under the ILO supervisory system for their obligations under the Convention". This could mean that Australia may not have to wait 12 months after ratification to be able to fulfil its obligations under the Convention, including issuing the required documentation and enabling AMSA to inspect foreign-flagged ships against the provisions of the Convention when they enter Australian ports.

28. Under the 1998 *Labour Ministers' Council Resolution for a Framework Concerning Cooperation on ILO Matters*, the Commonwealth Government will not normally ratify an ILO Convention or Protocol unless compliance has been established in all jurisdictions and the relevant governments have provided individual formal agreement to ratification.

29. As of 2 February 2010, all state and territory governments with the exception of Western Australia have provided in-principle support for ratification of the Convention. The Commonwealth Government expects to receive formal advice on compliance with the Convention from each jurisdiction by the end of 2010.

Costs

30. There are no significant costs associated with the ratification of the Convention as Australia already substantially complies with the provisions of the Convention.

31. There will be some minor costs incurred in drafting minor technical amendments to existing legislation.

32. There will be some costs associated with training the AMSA marine surveyors and costs associated with foreign-flagged ship inspections required for compliance with port State obligations

under the Convention. However, this will not result in significant costs to Australia as such costs will be fully recovered by way of the quarterly levy currently imposed on ships entering Australian ports. Where ships are found to be non-compliant with the requirements of the Convention further inspections to verify rectification will be cost recovered from the ship.

33. A system of regular inspections, monitoring and other control measures will be established in accordance with the Convention.

34. There will be an additional charge by recognised organisations (which already carry out a number of functions relating to Australia-flagged ships on behalf of AMSA) to cover inspection of ships to determine if they comply with the Convention. While the actual charge will vary from one recognised organisation to another, indications are that it could be up to \$7,500 per ship in each five year inspection cycle. It is estimated that this would impact on 35 Australian registered ships.

Regulation Impact Statement

35. A Regulation Impact Statement is attached (ID 1139).

Future Treaty Action

36. Article XIV provides that future amendments to the Convention may be adopted by the annual General Conference of the ILO in the framework of Article 19 of the Constitution of the ILO and its rules and procedures for the adoption of Conventions. Amendments to the Code may also be adopted following a proposal by the Director-General of the ILO, the government of an ILO member State, the group of Shipowner representatives or the group of Seafarer representatives, in accordance with the procedures in Article XV. Proposals to amend existing labour standards occur very rarely.

37. Any proposal to take binding treaty action in respect of an instrument arising out of a revision of the Convention would be subject to Australia's treaty-making procedures, including tabling and consideration by the Joint Standing Committee on Treaties.

Withdrawal or denunciation

38. Article IX permits denunciation by a ratifying Member State within a one-year period following ten years after the Convention comes into force. A denunciation shall not take effect until one year after the date on which it is registered.

39. If the Convention is not denounced within that period, the Convention remains in force for that Member State for another ten years. The ten-yearly interval for denunciation of an ILO Convention is a standard period and is included in all ILO Conventions.

40. Action to denounce the Convention would be subject to Australia's treaty-making procedures.

Contact details

International Labour and Research Branch
Workplace Relations Policy Group
Department of Education, Employment and Workplace Relations

ATTACHMENT ON CONSULTATION

International Labour Organization Convention No. 186: Maritime Labour Convention, done at Geneva on 7 February 2006 [2010] ATNIF 44

CONSULTATION

Consultation with States and Territories

41. There has been consultation with State and Territory governments on this Convention at both the Ministerial and officials levels.
42. States and Territories were provided with the opportunity in 2004 to comment on the draft text and to provide information for inclusion in the briefing for the Australian delegation to the ILO Preparatory Technical Maritime Conference (PTMC) to consider the draft text for a consolidated maritime labour Convention.
43. States and Territories were also provided with the opportunity in 2005 to comment on the draft text of the Convention and to provide information for inclusion in the briefing for the Australian delegation to the 94th (Maritime) Session of the International Labour Conference (which was the meeting at which the Convention was adopted).
44. The status of Australia's compliance with the Convention and prospects for ratification have been regularly considered at annual meetings of Commonwealth, State and Territory officials responsible for ILO matters. Specifically, the Convention was discussed at meetings held in August 2005, April 2006, July 2007, September 2008 and September 2009. The Convention has further been discussed at the High Level Officials' Group on 23 November 2009, 26 February 2010 and 30 April 2010. Furthermore, the Commonwealth has also convened discussions on the Convention with ILO Technical Officers in each State and Territory in February 2010, May 2010, June 2010 and July 2010.
45. On 22 December 2008, the then Minister for Employment and Workplace Relations, the Hon Julia Gillard MP, wrote to her State and Territory counterparts seeking their views on ratification of the Convention by 30 June 2009. Law and practice reports were sought from the State and Territory governments.
46. The Convention was also discussed at the Workplace Relations Ministers' Council (WRMC) on 3 April 2009, where Members agreed that consideration of ratifying the Convention will be pursued as a priority, subject to resolution of any compliance issues. Further discussion on the Convention took place at the WRMC meetings of 25 September and 11 December 2009.
47. Briefing on the Convention was provided to the Standing Committee on Treaties on 17 November 2009.
48. Officials from the Department of Education, Employment and Workplace Relations and the Australian Maritime Safety Authority have attended inter-agency meetings of every State government as well as the Northern Territory Government to assist in undertaking a thorough assessment of compliance gaps with the Convention. The dates on which these meetings were convened are listed below.
- New South Wales Government, on 11 February 2010
 - Tasmanian Government, on 17 March 2010
 - Victorian Government, on 18 March 2010

- Queensland Government, on 19 March 2010
- Northern Territory Government, on 22 March 2010
- Western Australian Government, on 8 April 2010
- South Australian Government, on 9 April 2010

49. As at 2 February 2010 all State and Territory Governments with the exception of Western Australia have provided in-principle support to ratify the Convention, subject to the resolution of all compliance issues. The dates on which this advice was provided is also listed below.

- New South Wales - 2 February 2010
- Victoria - 21 September 2009
- Queensland - 18 December 2009
- South Australia - 29 July 2009
- Tasmania - 9 June 2009
- Northern Territory - 21 December 2009

50. On 10 July 2009, the Australian Capital Territory Government Solicitor advised that the Convention does not apply within the territorial area of the Australian Capital Territory.

51. On 11 December 2009, the Hon Troy Buswell MLA, the then Western Australian (WA) Minister for Commerce, wrote to the then Minister for Employment and Workplace Relations, the Hon Julia Gillard MP, advising that the WA Government could not support ratification before compliance is achieved in its jurisdiction. Minister Buswell further advised that it was Western Australia's intent to continue with steps to achieve full compliance and could only advise of their views on ratification at that time.

52. On 11 June 2010, the Hon Simon O'Brien MLC, WA Minister for Transport, wrote to Minister Gillard, advising that no significant marine safety compliance issues had been identified in Western Australia. Further to this letter, the WA Minister for Commerce, the Hon Bill Marmion MLA, wrote to Minister Gillard on 16 June to advise that they were still not at the stage of seeking advice from the State Solicitor's Office and were therefore unable to advise as to whether it would meet the deadline for putting in place compliance measures by the end of 2010. Minister Marmion further advised that it was WA's intention to take the necessary steps to achieve compliance before supporting ratification of the Convention.

Other consultation

53. On 22 December 2008, the then Minister for Employment and Workplace Relations, the Hon Julia Gillard MP, wrote to the Maritime Union of Australia (MUA), the Australian Shipowners Association (ASA), the Australian Chamber of Commerce and Industry (ACCI), the Australian Council of Trade Unions (ACTU) and the Australian Industry Group (Ai Group) seeking their views on ratification of the Convention by 30 June 2009.

54. The MUA wrote to the Minister for Employment and Workplace Relations on 19 February 2008 seeking ratification the Convention by August 2008. The MUA wrote again to the Minister on 17 August 2009 confirming its support for ratification.

55. The ASA wrote to the Minister for Employment and Workplace Relations on 13 August 2009 strongly urging the Australian Government to ratify the Convention.

56. The Department of Education, Employment and Workplace Relations has held meetings with the MUA and ASA to progress consideration of Australia's ratification and implementation of the Convention. These meetings were convened on 23 July 2009, 11 May 2010 and 17 August 2010.

57. The ACTU, ACCI and Ai Group have advised of their support for ratification of the Convention through the International Labour Affairs Committee (ILAC) of the National Workplace Relations Consultative Council. Discussion at the ILAC meetings on 3 March and 31 October 2008, 2 March and 23 October 2009 and 1 March 2010 have focussed on the progress of the ratification process and resolution of compliance issues.

**CURRENT STATUS LIST
as at November 2010**

RATIFYING COUNTRIES AND DATE OF RATIFICATION

Bahamas	11:02:2008
Bosnia and Herzegovina	18:01:2010
Bulgaria	12:04:2010
Canada	15:06:2010
Croatia	12:02:2010
Liberia	07:06:2006
Marshall Islands	25:09:2007
Norway	10:02:2009
Panama	06:02:2009
Spain	04:02:2010

CONVENTIONS RATIFIED BY AUSTRALIA THAT ARE REVISED BY THE MARITIME LABOUR CONVENTION

The Maritime Labour Convention was adopted by the 94th (Maritime) Session of the International Labour Conference (the Maritime Conference) on 7 February 2006. It consolidates 37 separate ILO maritime labour conventions adopted since 1920 and replaces them with a single, coherent instrument. Of these, Australia has ratified 13. Nine of these ratifications are still in force – they are briefly described below. Ratified Conventions that are no longer in force are also listed below.

A full copy of each Convention is online at <http://www.ilo.org/ilolex/english/convdisp1.htm>.

1. Repatriation of Seafarers (Revised), 1987 (No. 166)

Convention 166 specifies the circumstances under which seafarers are to be entitled to repatriation and requires that national laws or regulations or collective agreements prescribe the maximum periods of service on board following which a seafarer is entitled to repatriation.

2. Accommodation of Crews (Supplementary Provisions), 1970 (No. 133)

Convention 133 applies to all sea-going ships engaged in the transport of passengers or cargo, or employed for any other commercial purpose, as defined by national laws or regulations. The requirements for crew accommodation include provisions for sleeping rooms, mess rooms and recreation facilities.

3. Accommodation to Crews (Revised), 1949 (No. 92)

Convention 92 applies to every sea-going mechanically propelled vessel engaged in the transport of cargo or passengers for the purpose of trade and registered in a territory for which Convention 92 is in force. It does not apply to vessels of less than 500 tons.

4. Medical Examination (Seafarers), 1946 (No. 73)

Convention 73 provides that no seafarers shall be employed on a sea-going vessel unless they produce a certificate attesting to their fitness for work at sea, signed by a medical practitioner or, in the case of sight testing, by an authorised person. Convention 73 does not apply to vessels of less than 200 gross registered tons or to fishing vessels.

5. Certification of Ships' Cooks, 1946 (No. 69)

Convention 69 provides that every ship's cook must hold a certificate of qualification which may not be granted unless they have reached a prescribed minimum age, served at sea for a minimum period decided by the competent authority and passed an examination as prescribed.

6. Minimum Age (Sea) (Revised), 1936 (No. 58)

Convention 58 provides that persons under the age of 15 years of age shall not be employed on vessels, other than vessels upon which only members of the same family are employed. National laws or regulations may provide for the issue of a certificate permitting children not less than 14 years of age to be employed in cases where the appropriate authority is satisfied that such employment will be beneficial to the child. Convention 58 does not apply to fishing vessels.

7. Seamen's Articles of Agreement, 1926 (No. 22)

Convention 22 provides that articles of agreement shall be signed by the shipowner or its representative and by seafarers under conditions which ensure adequate supervision.

8. Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)

Convention 16 provides that employment of young persons of less than 18 years of age on any vessel, other than vessels in which only members of the same family are employed, shall be conditional upon the production of a medical certificate attesting to fitness for work.

9. Unemployment Indemnity (Shipwreck), 1920 (No. 8)

Convention 8 ensures that seafarers who become unemployed as a result of the loss of certain types of vessels are paid an indemnity for the period of unemployment by the owner of the vessel of the person who contracted them for employment (limited to two months' wages).

Ratified Conventions that are no longer in force or did not come into force are:

Placing of Seamen Convention, 1920 (No. 9)

Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15)

Hours of Work and Manning (Sea) Convention, 1936 (No. 57)

Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76)

KEY OBLIGATIONS OF THE MLC REGULATIONS AND CODE

Title 1: Minimum requirements for seafarers to work on a ship

The purpose of Title 1 is to ensure that:

- no under-age persons work on a ship;
- all seafarers shall hold medical certificates attesting that they are medically fit to perform their duties at sea;
- seafarers are trained or qualified to carry out their duties on board ship; and
- seafarers have access to an efficient well regulated seafarers recruitment and placement system

Title 2: Conditions of employment

The purpose of Title 2 is to ensure that seafarers:

- are employed under written, legally enforceable employment agreements that contain prescribed details and particulars;
- are paid for their services in accordance with their employment agreements;
- have regulated hours of work and hours of rest;
- have adequate annual and shore leave entitlements;
- are able to return home at no cost to themselves in prescribed circumstances;
- are compensated for injury, loss or unemployment when a ship is lost or has foundered; and
- work on board ships with sufficient personnel for the safe, efficient and secure operation of the ship.

Title 2 also promotes career and skill development and employment opportunities for seafarers.

Title 3: Accommodation, recreational facilities, food and catering

The purpose of Title 3 is to ensure that seafarers:

- have decent accommodation and recreational facilities on board; and
- have access to good quality food and drinking water provided under regulated hygienic conditions.

Title 4: Health protection, medical care, welfare and social security protection

The purpose of Title 4 is to ensure that seafarers:

- have prompt access to adequate medical care on board ship and ashore;
- have the right to material assistance from shipowners for the financial consequences of sickness, injury or death while they are serving under an employment agreement
- are provided with occupational health and safety protection
- have access to shore-based welfare facilities where they exist
- have access to social security protection

Title 5: Compliance and enforcement

The purpose of Title 5 is to:

- ensure that each Member implements its responsibilities under the MLC with respect to ships that fly its flag;
- enable each Member to implement its responsibilities under the MLC regarding international cooperation in the implementation and enforcement of MLC standards on foreign ships; and

- ensure that each Member implements its responsibilities under the MLC pertaining to seafarers' recruitment and placement and the social protection of seafarers.

Flag State inspection system responsibilities

The flag State is required to establish an effective system for inspection and certification of maritime labour conditions on ships that fly its flag (Regulation 5.1, paragraph 2). This involves a wide range of matters including:

- drawing up the Maritime Labour Certificate and Declaration of Maritime Labour Compliance required by the Convention;
- providing a sufficient number of qualified inspectors (training and competence) to conduct inspections at least once every three years;
- developing rules or regulations providing for inspectors' powers, status and independence;
- guidelines regarding inspectors' tasks and confidentiality;
- identification (credentials) for inspectors;
- reporting responsibilities;
- delegation of some aspect of the inspection system to Recognised Organisations (if a Recognised Organisation is used);
- establishing a process for receiving and responding to complaints or requests for information.

Port State inspection and monitoring responsibilities

Every foreign ship calling in the port of a Member State in the normal course of its business or for operational reasons may be subject to inspection. The main aspect of the obligation to have effective port State inspection and monitoring systems (Regulation 5.2.1, paragraph 4) is the need to ensure that the port State has an adequate number of qualified officers trained to carry out port State control under the MLC. As Member States are required to accept maritime labour certificates and declarations of maritime labour compliance, port inspections will in most cases be limited to a review of the certificate and declaration (Article 5.2.1 paragraph 2). More detailed inspections may be carried out if the certificates and declarations are not in order, there are clear or reasonable grounds to suspect infringements of the Convention on the ship, or where there has been a complaint about conditions on the ship (Standard A5.2.1 paragraph 1).