HISTORICAL BACKGROUND

The International Labour Organisation (ILO) was founded in Geneva in 1919, as a consequence of the post first World War Treaty of Versailles. Albert Thomas, a French diplomat, was its first Director General, from 1919 to 1932. The ILO was then an autonomous organisation of the Société des Nations (SDN). It became the first specialised Agency of the UN, when this Organisation was created, in 1946, after the second World War.

THE ILO IS UNIQUE AMONG U.N. AGENCIES

The ILO ’s originality resides in its tripartite structure. The ILO has (in 2005) 178 member States and is constituted by:

- Governments,
- Employers,
- Workers.

These constituents are naturally represented in the Governing Body of the Organisation, which is the highest decision-taking body. The Employers are represented by the International Organisation of Employers (IOE), and the Workers by the International Confederation of Free Trade Unions (ICFTU).

Every year, in June, the International Labour Conference takes place in Geneva. It adopts the International Labour Standards whenever necessary. The Secretariat of the ILO is the International Labour Office, based in Geneva (Switzerland). It works under the direction of an elected Director General.

THE ILO AND INLAND NAVIGATION
The ILO has already worked in the field of Inland Navigation, and has adopted the Hours of Work (Inland Navigation) Recommendation, No. 8, in 1920. The ILO keeps itself informed of social developments in this sector of activity. The harmonisation of social conditions in Inland Navigation should naturally take place through the ILO, which has much experience in this domain. Consultations with the ILO can be undertaken at any time.

THE MARITIME SPECIFICITY OF THE ILO

The first maritime Conventions were adopted as early as 1920, a year after the foundation of the Organisation, thereby giving a clear indication that shipping was a specific activity. It is remarkable that the Recommendation on Inland Navigation was also adopted in 1920.

Today, 30 Conventions (out of 185), one Protocol, and 29 Recommendations (out of 192) are specific to the maritime industry.

A Convention is an International Treaty (an international agreement between States parties) open to ratification, whilst a Recommendation merely represents either Guidelines or a recommended practice (usually of a technical nature that may [or may not] be enforced by law). It is not open to ratification.

There is a specific maritime machinery within the ILO:

a) The Joint Maritime Commission (JMC)

It takes place roughly every five years (The 29th session took place in January 2001). It is unique in the ILO system. It consists of 20 shipowners and 20 seafarers. The International Shipping Federation (ISF), and the International Transport Workers’ Federation (ITF) act as Secretaries for the employers’ and seafarers’ delegates. Its work is based on reports prepared by the Office. The JMC is the first step towards the possible adoption of new or revised standards. A discussion between professionals is much easier, and will produce better results, than between generalists. Inland Navigation possesses active employers and crew representatives.

b) Preparatory Technical Maritime Conference (PTMC)

Sometimes called the Tripartite Meeting on Maritime Labour Standards (TMMLS) follows the JMC, if necessary. A questionnaire is sent to the constituents by the Office, which in turn publishes a « law and practice » report prepared on the basis of the responses to the Questionnaire. The PTMC will then propose the Agenda items of the next International Maritime Labour Conference to the Governing Body.

c) The International Maritime Labour Conference (IMLC)

It can replace or supplement the annual International Labour Conference. Maritime activities are the only sector to benefit of a specific Conference. The IMLC adopts or revises International Maritime Labour Standards, with a necessary majority of 2/3. It takes place roughly every ten years,
THE CURRENT MARITIME STANDARDS

The most important ILO Maritime Labour Standard (IMLS) currently is the Merchant Shipping (minimum standards) Convention No. 147. It was adopted in 1976. A complementary Protocol, extending its coverage, was adopted in 1996. This Convention contains in Annex a number of other, more specific, maritime instruments. Convention No. 147 is a legal basis for Port State Control. The Port State Control mechanism enables national inspectors to arrest a vessel on the basis of defective social criteria, as well as on safety and environment grounds. Convention No. 147 has been ratified by 51 States (August 2005), covering more than 53% of the world fleet. Port State Control is the only efficient manner to ensure a level playing field for the industry, as well as decent working and living conditions for boats’ crews. An equivalent system could be imagined on a regional basis.

The ILO has also adopted a number of Maritime Labour Conventions, covering many aspects of shipping, such as Minimum Age, Medical Examination, Repatriation, Articles of Agreement (or employment contracts), Food and Catering, Accommodation, Recruitment and Placement, Sickness and Injury, Prevention of Occupational Accidents, Welfare, Social Security, and Working Hours.

Many of these instruments contain provisions that are of importance for Inland Navigation, and that could be adapted to this mode of transport.

The International Maritime Labour Standards also include:

- Seven instruments on maritime fishing,
- Four instruments concerning work in ports, and
- One instrument concerning inland navigation, as mentioned above.

It should be noted that Conventions Nos. 87 and 98, on freedom of association, are part and parcel of the IMLS. These last two Conventions are of universal application.

TOWARDS A CONSOLIDATED CONVENTION.

The recent past has determined the constituents of the ILO to try a new approach regarding International Labour Instruments, in order to get a wider ratification and a better implementation of these instruments.

A set of objectives was fixed, regarding in particular the maritime industry. One should vie for:

- An all-encompassing single instrument,
- Incorporating, as far as possible, all relevant standards,
- Draft in easily understandable language,
- Easy to update,
- Attractive to ratify to secure widest possible acceptability (wide-scale ratification),
- Easy to monitor and to enforce, in order to establish a real level playing field.

These objectives should be readily adaptable to Inland Navigation.
The basic approach underlined two primary purposes:

- To bring the system of protection contained in existing standards closer to the workers concerned, in a form that is consistent with this rapidly developing, globalised sector;
- To improve the applicability of the system so that shipowners and governments interested in providing decent conditions of work would not have to bear an unfair share of the burden in ensuring seafarers protection.

THE STRUCTURE OF THE NEW CONVENTION

The new Convention will be vertically articulated around the following:

- Articles
  - Fundamental principles and rights
  - Employment and social rights
  - Procedural and final clauses
  - New amendment procedure
  - Tripartite Committee

- Regulations
  - Substantive rights and obligations
  - Articles and Regulations establish framework of basic obligations

- Code A and B, giving details for the implementation of the Regulations: mandatory standards and non-mandatory guidelines.

Horizontally, it will include 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 protection

*Title 5:* Compliance and enforcement

Such a structure of the Convention text is adaptable to a future Inland Navigation instrument.

A NEW APPROACH TO ENFORCEMENT

A specific title on Enforcement (Title 5) clearly shows the importance of having a realistic instrument. It insists on the following:

- Responsibilities and measures
- Chain of enforcement
- Integrating international and national level
- A certification system for labour standards: a maritime labour certificate and a declaration of labour compliance
- Quality control procedures
- No more favourable treatment clause for ships of non-ratifying Members.
A CHANGED MARITIME LANDSCAPE FOR THE FUTURE

The new instrument will be addressing fair competition in the maritime industry through:

- Decent employment and social conditions to attract and retain seafarers, especially young people to the industry: social competitiveness, applicable also to domestic shipping,
- A level playing field through no more favorable treatment to ensure a healthy development of the industry based on fair terms.

The advantages of an ILO instrument for Inland Navigation would be of the same magnitude.

Jean-Yves Legouas