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# The Human Factor in Maritime Safety Compliance with International Standards MLC 2006 and STCW 2010 by Colombia

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*ABSTRACT*

Efforts to prevent maritime accidents caused by human errors have been directed, at the international level, towards the establishment of a system to ensure adequate working conditions for personnel on board vessels and the necessary rigor with respect to their training, professional qualifications, and certification. To accomplish these goals, recent provisions were established by the International Labour Organization (ILO), specifically the Maritime Labour Convention of 2006 (MLC 2006), and by the International Maritime Organization (IMO), specifically the STCW Convention of 2010 (STCW 2010). Colombia has not yet incorporated the MLC 2006; therefore, Decree 1015 of 1995 remains in force, which in turn incorporates international measures in this area that have been in force since the first third of the past century. Thus, urgent reform is necessary to bring compliance up to date. Regarding the provisions of STCW 2010, although Colombia has not ratified the emendations of 1995 and 2010, despite having ratified the original convention, we can state that this set of norms (including the emendations noted) is in force, given the tacit acceptance of these reforms used by the IMO for their implementation.



## 1. Introduction

According to estimates by the International Maritime Organization (IMO), 90% of the proper safety conditions in maritime commerce are directly related to the professionalism and qualifications of the personnel aboard vessels used in international maritime transport.

This argument is reinforced by the evidence that a large portion of maritime accidents are caused by human errors. Because the human factor has been recognized as an especially sensitive element in the prevention of accidents, regulation has focused on its permanent control and improvement.

With respect to maritime safety, there are two areas in which governments and international organizations have acted with the intent of reducing, as much as possible, the risks of maritime accidents: labor protection for workers, which ensure they can perform their activities in safe conditions, and the necessary professional qualifications, certifications and requirements for training, which all crew members on board a vessel should possess to carry out their work tasks in an effective way.

We will examine these two areas below:

## 2. Potection of Labor Rights of Personnel on Board Vessels

In his Traité Général de Droit Maritime (R. Rodière, 1978), Rodière emphasizes the specificity of the work that is performed on board a vessel. The tasks of a worker on board (article II of the ILO) are technically different from those of any work performed on land. Furthermore, the fact that they are performed during navigation and in conditions of isolation demands ”specific” treatment in terms of French doctrine, or ”autonomous” treatment, as Italian authors would say.

Whatever the qualification may be, we cannot deny that arrangements relative to workdays and rest, vacation time, health, social security, and many other aspects should have different and special treatment within labor law.

Thus, in this section, we hope to present the general outline of the specificity of Colombian legal regulation, within the

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framework of its international context. Also, we hope to highlight the eminently international character of this regulation, given that maritime transport is conducted, to a great extent, between different countries with different laws and regulatory models. In maritime labor law, it has been necessary to construct a uniform law to guarantee the minimal working conditions of personnel aboard vessels that navigate in the national waters of various countries and jurisdictions.

The development of international labor norms has also coincided with increased pressure from governments and the public to establish a set of rules to guarantee safety in maritime navigation. The tight link between the existence of a set of adequate labor norms for the crews of vessels and for the prevention of maritime mishaps or accidents has been clearly demonstrated.

The application of the principle of the flag state, through which the labor norms that apply to crews are those of the state under which the vessel is flagged, has generated an extraordinary diversity of norms at the international level and, at the same time, a serious weakening of international standards protecting this class of workers.

This problem is particularly evident when the flag of the vessel is used to avoid compliance with labor standards, a phenomenon known as a flag of convenience.

For a considerable length of time, the International Labour Organization (ILO) has demonstrated its concern regarding this situation. In April 1933, at the meeting of the Joint Maritime Commission, this organization denounced ship-owners from traditional maritime nations who had begun to flag their vessels in nations with social security and labor regulations unfavorable to the workers.

In 1947, at the $14^{th}$ meeting of the Joint Maritime Commission, concerns were raised once again about the transfer of vessels to nations that had not signed any ILO Convention (J. Iriarte, 1993).

The international problem represented by the so-called flags of convenience, denounced by the ILO, not only affected compliance with minimal technical maritime safety standards at the international level but also led to a diversity of and relaxation of labor norms, generally obstructing guarantees of proper working conditions for seafarers.

For example, it has been recognized that many labor contracts for seafarers incorporate a contractual clause that manages to elude the application of labor regulations from both the country of nationality of the worker and the country where the hiring occurred, changing the forum to more favorable legislation.

Thus, in many contracts for crew aboard vessels, clauses are included that seriously weaken the stability and working conditions of the personnel. For example, many contracts limit the duration of the contract to 5 or to 8 months, at the end of which period the labor relation is terminated. Also, many contracts establish the right to transfer the worker to another vessel, independently of the flag, subject possible labor disagreements to tribunals of a particular country with reference to the judicial rulings of that country, and sometimes even include procedural norms for resolving individual and collective conflicts related to employment on board. With respect to hiring, this is normally performed by the captain of the vessel himself as a representative of the ship-owning company, or a national organization may be used that acts as a representative of foreign shippers. Normally, in these contracts, there is no possibility of discussing individual clauses, making them authentic contracts of adhesion (J. Iriarte, 1993) .

In recommendation number 107 of 1958, the ILO suggests that member states do what they can to ensure that seafarers from their territory do not form part of the labor force of foreign vessels unless they comply with international standards. Likewise, member states should guarantee the repatriation of seafarers who remain ashore in foreign ports against their will and provide them with medical assistance and support if the disembarkation occurs in a foreign port due to illness or injury suffered in service on board the vessel[2]

Likewise, in recommendation number 108 of 1958, the ILO proposes to member states that they effectively exercise control and jurisdiction regarding vessels flying their flag to protect the safety and well-being of seafarers. They should especially 1) prepare and adopt regulations to guarantee that all vessels under their registry observe internationally accepted norms of safety; 2) have a service for the inspection of vessels; 3) create organizations that oversee the hiring of seafarers; 4) guarantee freedom of unions and collective organizing; and 5) establish measures for the examination of candidates and require certificates of ability[3] .

Unfortunately, the initiatives above remained at the level

[2]Recommendation number 107 of May 15, 1958: "1. Each Member should do everything in its power to discourage seafarers within its territory from joining or agreeing to join vessels registered in a foreign country unless the conditions under which such seafarers are to be engaged are generally equivalent to those applicable under collective agreements and social standards accepted by bona fide organisations of shipowners and seafarers of maritime countries where such agreements and standards are traditionally observed. 2. In particular, each Member should have regard to whether proper provision is made–(a) for the return of a seafarer employed on a vessel registered in a foreign country who is put ashore in a foreign port for reasons for which he is not responsible to–(i) the port at which he was engaged; or (ii) a port in his own country or the country to which he belongs; or (iii) another port agreed upon between the seafarer concerned and the master or shipowner, with the approval of the competent authority or under other appropriate safeguards; (b) for medical care and maintenance of a seafarer employed on a vessel registered in a foreign country who is put ashore in a foreign port in consequence of sickness or injury incurred in the service of the vessel and not due to his own willful misconduct."

[3]Recommendation number 108 of the ILO of May 14, 1958: "...The Conference recommends that the following provisions should be applied: The country of registration should accept the full obligations implied by registration and exercise effective jurisdiction and control for the purpose of the safety and welfare of seafarers in its sea-going merchant ships and in particular should– (a) make and adopt regulations designed to ensure that all ships on its register observe internationally accepted safety standards; (b) make arrangements for a proper ship-inspection service adequate to the requirements of the tonnage on its register and ensure that all ships on its register are regularly inspected to ensure conformity with regulations issued under (a) above; (c) establish both in its territory and abroad the requisite government-controlled agencies to supervise the signing on and signing off of seafarers; (d) ensure or satisfy itself that the conditions under which the seafarers serve are in accordance with the standards generally accepted by the traditional maritime countries; (e) by regulations or legislation if not already otherwise provided for, ensure freedom of association for the seafarers serving on board its ships; (f) ensure by regulations or legislation that proper repatriation for the seafarers serving on board its ships is provided in accordance with the practice followed in traditional maritime countries; (g) ensure that proper and satisfactory arrangements are made for the

of recommendations for the member states. From convention number 147 on, the ILO began to enforce regulations for the member states. This convention established, among other things, the requirement for the member states to implement procedures for receiving complaints relative to hiring personnel on foreign vessels.

If a member state receives a complaint or has evidence that a foreign vessel that arrived at one of its ports does not comply with the norms of the convention, it can send a report to the government of the country in which the vessel is flagged, with a copy to the International Labour Office, and it can also take the necessary measures to remedy any situation on board that is clearly dangerous to the safety or health of the crew.

## 3. The Maritime Labour Convention, 2006 (ILO).

The ILO Maritime Labour Convention of 2006 is a more current and elaborate set of regulations. This convention was adopted with the intention of establishing minimal criteria for the international protection of the rights of workers. However, upon reading the provisions of the code, it might seem that its rules only establish basic labor rights. Yet, we should understand this reading within the existing context, which is characterized by a great diversity of international regulations, with many flag states having very low or even zero standards for the protection of workers' rights. Thus, this set of norms can be regarded as an important advance in this area.

The convention establishes, first, the commitment of all member States to give full effect to its provisions and to guarantee the right of all seafarers to decent employment (article I.1). Article V establishes the requirement of member states to apply and control their national legislation in compliance with the content of the convention, to effectively exercise state jurisdiction and control over vessels flying their flags, to create proper mechanisms for the inspection of vessels that pass through their waters or arrive at their ports, and to effectively sanction non-compliance with the norms of the Convention.

These first requirements are fundamental because they establish a duty on the part of member states to create a modern normative framework in the area of the protection of the rights of the workers who serve aboard the vessels flying their flags, as well as the obligation to establish adequate mechanisms for compliance with labor laws.

In turn, article III of the Convention establishes freedom of association, unionization and collective bargaining, the commitment to eliminate forced labor, the abolition of child labor, and non-discrimination in work and occupation as fundamental rights.

The general objectives and principles noted above form the basis of the Convention, which also regulates other areas. For example, the Convention established the prohibition against employing persons younger than 16 years of age (18 years of age for night work), except in special circumstances (Rule 1.1).

With respect to hiring, workers must provide a medical certificate of health as well as information regarding their level of training and professional qualification. The hiring of workers should be conducted through properly organized offices.

With respect to compensation (Rule 2.2), the seafarers should be remunerated periodically at intervals no greater than one month. Although a minimum salary is not established, it is recommended that a minimum salary is regulated.

A maximum number of hours of work and a minimum number of hours of rest should be fixed. According to the convention (Rule 2.3), the workday should be based on 8 hours per day with one weekly day of rest and official holidays. The workday should include no more than 14 hours for each period of 24 hours and 72 hours for each period of 7 days. The period of rest should include a minimum of 10 hours for each period of 24 hours and 77 hours for each period of 7 days.

The convention also makes reference to vacation time, which should be calculated on the basis of a minimum of 2.5 days off per month of employment. There should be a regulation that establishes permissions for going ashore.

One of the most serious problems found in the area of maritime labor relates to the repatriation of crew members. This problem is resolved through the guarantee of repatriation under specific circumstances[4] and without any cost for the workers.

There are also provisions that require member states to establish mechanisms for indemnification for unemployment in case of the loss of the vessel or of shipwreck. National policies for the promotion of employment should also be established.

For the adequate development of labor functions, ship owners should provide the vessel with sufficient crew to guarantee the safety, efficiency, and proper realization of operations in maritime navigation. Also, the crew should have decent quarters and recreation services, and proper nourishment, including potable water and catering services, with norms that guarantee an adequate quantity and quality of food, according to the religious and cultural requirements of the members of the crew (Rules 2.7 y 3.1).

In addition, there should be proper services on board for medical attention, with regulations regarding safety, health, and the prevention of workplace accidents. The ship owner will be legally responsible in the event of illness and workplace accidents.

With respect to social security, the convention requires that member states, at the moment of ratification, regulate and require the provision of at least three of the following: insurance for medical care, illness, unemployment, old age, professional injuries, family care, maternity, disability, and survival (Rule 4.5).

Flags of convenience continue to pose a difficult challenge for the uniform recognition of the rights of seafarers at the in-

examination of candidates for certificates of competency and for the issuing of such certificates".

[4] Rule 2.5 establishes that seafarers will have the right to be repatriated in the following circumstances: a) when the labor agreement with the seafarer expires when he is abroad; b) when the labor agreement with the seafarer is terminated: and i) the ship owner, or ii) the seafarer, for justified causes, and c) when the seafarer cannot continue to perform his functions within the framework of the labor agreement that he has signed, or cannot expect to comply with the agreement under specific circumstances.

ternational level. To address this situation, the text of the convention emphasizes that member States need to establish norms that allow them, through proper legal channels, to oversee compliance with their labor norms in the vessels that pass through their waters or arrive at ports of member states.

To this end, the Maritime Labor Convention of 2006 establishes that member states should create an effective system for inspecting and certifying the conditions of maritime labor. To perform this task, they may designate "recognized organizations", the list of which should be sent to the ILO. The work of inspection should be conducted periodically, and it should be coordinated with mechanisms for the transmission of complaints and the investigation of maritime accidents.

Rule 5.2.1. establishes that "in accordance with international law" any ship "may be inspected by a Member other than the flag State, when the ship is in one of its ports, to determine whether the ship is in compliance with the requirements of this Convention."

The resource recognized in this norm is very important because it grants international legal standing to maritime states to inspect the vessels that stop in their ports to check that they are in compliance with labor norms.

In the event of noncompliance, the maritime state should inform seafarers' associations and ship-owners' associations, notify a representative of the state under whose flag the vessel is registered, and provide information to the authorities of the next port of call.

If, after a detailed inspection, it is believed that conditions on board constitute an evident danger to the safety, health, or protection of the seafarers or that the conditions constitute a grave or recurring infraction, state authorities of the shore or port can take measures that they consider appropriate so that the vessel does not navigate until the situation has been corrected or until the owner offers a plan of action to rectify these failings. The flag state requesting a response and the seafarers' and ship-owners' associations of the state of the port should immediately be notified of the prohibition on weighing anchor. Member states are required to avoid unduly immobilizing or delaying the vessel.

Finally, rule 5.2.2 of the convention establishes the possibility for seafarers to present complaints in the ports of member states regarding their labor situations so that they may be rapidly resolved. Once complaints are presented to the relevant official, he or she should initiate the corresponding investigation, trying to resolve the conflict aboard the vessel. If the proven facts should constitute a danger to safety, the official may initiate the process outlined in rule 5.2.1 noted above.

## 4. Regulation in Colombia: Decree 1015 of 1995.

Unfortunately Colombia still has not ratified the ILO MLC 2006. Ratification of this convention would certainly represent a substantial improvement in the working conditions of our seafarers.

The regulation in force in this area continues to be Decree 1015 of 1995, which regulates Law 129 from 1931, approving convention number 22 of the ILO regarding contracts for the employment of seafarers. This norm is subsidiary to the Substantive Labor Code (*Código Sustantivo del Trabajo*).

First, I think that it is surprising that in 1995, Colombia would enforce a convention from 1931, which incorporates content for labor laws in accordance with that historical moment but remains far removed from current labor protection standards. In this sense, as we will see below, the existing norms, long since antiquated, do not fit with currently accepted criteria regulating labor relations. We expect that a reform of these norms, or even better, the ratification of the ILO MLC 2006, will bring us to this point in the twenty-first century.

Decree 1015 begins by defining the contract of employment as that through which a person who belongs to the classification of seafarer requires himself to provide personal service on a vessel, through continuing dependence or subordination to the employer, and with remuneration. Applying the flag state doctrine, the norms of the decree will apply to all work contracts implemented in Colombia and those implemented abroad for providing services on vessels under the Colombia flag.

Those who perform functions in maritime work will need to have a navigation license, that is, a document that guarantees that the person is able to fulfill a particular task aboard a vessel. The personnel onboard may be contracted in various ways, including by voyage and by determinate or indeterminate duration. Unless expressly stipulated in the contrary, the work contract is understood to be signed for voyage out and back.

By virtue of article 7 of the decree, a contract of indeterminate duration may be terminated by either of the parties in a port where the vessel takes on or offloads cargo, *as long as written notice has been given at least 24 hours in advance*. If we analyze this norm, we can state the text of article 7 establishes a brief deadline for the giving of notice and does not expressly require just cause for the termination of this type of labor contract. This provision opens the possibility, an unfortunate possibility in my opinion, for the free dismissal of seafarers, unnecessarily generating instability in labor relations. Also, it is possible to terminate the contract in the event of the suspension of service of the vessel through lack of use of the vessel, as long as this suspension is greater than 90 days.

Finally, Decree 1015 of 1995 establishes a series of just causes for the termination of contract, in addition to those established at a general level by the Substantive Labor Code. There is a just cause for termination when 1) the worker is not found on board the vessel at the moment when the contract requires it or the captain requires it; 2) when the worker commits serious acts against property; 3) when the worker causes serious material damage to machinery, installations, equipment, the structure of the vessel, or the cargo; 4) when the worker compromises the safety of the vessel; 5) when the worker disobeys orders without just cause; and 6) when the worker refuses to temporarily fulfill functions different from those appropriate to his title, category, profession, or degree in case of necessity.

## 5. Oversight of Training, Certification, and Watchkeeping of Seafarers.

The education, training, and certification of crews constitute the other major axis for guaranteeing the proper conducting of operations of navigation and maritime transport in safe conditions. There has been a longstanding concern at the international level regarding the qualification and professionalism of maritime personnel who work on board vessels because it is understood that the human factor is fundamental with regard to preventing the occurrence of maritime accidents.

Therefore, the IMO has promoted the implementation of international conventions that regulate this area. The goals of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) of 1978 were to promote life at sea, to protect the marine environment, and to establish standards for training, certification and watchkeeping so that seafarers could be hired and retain their working positions aboard vessels.

This convention was incorporated into Colombian legislation through Law 35 of 1981 and was regulated through Decree 1597 of 1988, through which this norm is in force in our country. The convention establishes, in detail, regulations regarding the training and certification of seafarers. In the terms of the convention, the parties should, when required, report to the General Secretary of the IMO with the complete text of the rules, details, course, and requirements for certifications that they have adopted to comply with the norms established in the convention.

However, the STCW 1978 was criticized for its weakness with respect to establishing effective mechanisms that require uniform and unique compliance in the countries that had ratified it. By establishing that the awarding of titles and certifications would be performed to the satisfaction of the administration of the flag state, article VI of the convention leaves compliance with international standards to the will of the member states. It is thus left to the discretion of each country to establish the criteria for the recognition of certification of seafarers. Unfortunately, this provision has led to a lack of uniformity in rules and to deficiencies in the implementation of the rules of the convention within the international community (G. H. Sperling, 1998 ).

Precisely for this reason, in addition to those of a more technical nature, it was necessary to reform the 1978 version of the convention, using a system of tacit approval, established by the IMO, that allows for emendations of conventional international instruments to be in force to the extent that these modifications are not rejected by at least one third of the signatory countries.

This simple mechanism allowed, in this case, for reform of the initial convention to make technical adjustments that take into account new circumstances. By virtue of this instrument, we could affirm that the reform enacted in 1995 has likewise been incorporated into Colombian law, for which, at present, the convention in its 1995 form is in force.

Thus, the STCW Convention 78/95 includes various sets of norms: the text of the convention, a set of emendations, the additions, the STCW code (parts A and B), and various resolutions. All of the documents of the convention, except for the resolutions, are obligatory for all parties. The agreed-to text establishes the requirement for the parties to give the Convention a complete and total implementation and to ensure that seafarers are properly qualified to perform their duties. In this sense, governments take on the obligation of issuing certificates according to the requirements established in the additions, which demonstrate compliance with the physical conditions, training, and knowledge of members of the crew of a vessel.

As with the case of the MLC 2006, in this case, states are allowed to verify that seafarers on board vessels that arrive at their ports have the necessary qualifications. In general, certificates must be accepted by other member states, unless there are reasons to suspect fraud in their issuance or for their holder.

In the case that noncompliance is found, the port authority should inform the captain of the vessel and the flag state regarding the situation, with details explaining why, in its opinion, noncompliance constitutes a danger to maritime safety and thus should be corrected. In the event that these corrections are not performed, the port state may take necessary measures so that the vessel does not leave port, reporting this situation to the General Secretary of the IMO.

In general, as we have noted, all states must accept the certificates issued by flag states that are party to the convention and must thoroughly document and report compliance with the standards required by the convention. Based on this information, the IMO prepares a list of party states in compliance with the requirements of the convention, known internationally as The White List, whose task it is to inform port authorizes and national and international watchdogs of guarantees of compliance with the norms established in the convention 78/95.

In 2010, the convention underwent an important reform (known as the Manila[5] amendments) considered necessary to modernize the text of the convention and to bring it into harmony with the new realities and technologies of maritime transport. This reform was also necessary to continually perfect the system and to create an effective and uniform model of education, training, and certification for seafarers.

The convention continues the trend of previous reforms by focusing on necessary competencies for seafarers rather than on the evaluation of their knowledge. Certification will be issued by member States of the convention with respect to the demonstration of these competencies by maritime personnel. As with the emendations of 1995, the modifications introduced in 2010 were made through the tacit acceptance by party states. In the case of Colombia, we may say that these amendments are in force, to the extent that our country has not made any movement against the application and force of these provisions.

The modifications made to the Convention went into effect on January 1, 2012, although there is a probationary period that will last until January 1, 2017, from which time all seafarers in active service will be required to comply with the norms established in the STCW 2010.

[5]Fruit of the Conference of States signatory to the Convention on Standards of Training, Certification and Watchkeeping for Seafarers STCW 1978, held in Manila (Philippines), June 21-25, 2010, STWC/CONF.2/32, 33 and 34.

One of the most important points was the prevention of fraud in the certification and titling of seafarers. To that end, the Manila amendments made important modifications to Rule I/2 (certification and accreditation) to make these procedures more rigorous. Only the public administrations of the member states can carry out the accreditation of foreign certifications and titles. To do so, they must prove the authenticity of the documents supporting the request for accreditation (Rule I/10). The requirement to present the original title or certification requested for accreditation is established.

According to the STCW 2010, member states may perform the necessary checks to verify the authenticity of these titles and the requirements needed for the titles. Thus, the convention requires member states to establish a reliable database to record these certifications and titles and allow for the sharing of this information with other member states.

Captains of vessels, first officers on the bridge, engineering chiefs, and first officers in engineering should demonstrate knowledge in the maritime laws of the flag state.

Training programs should have the authorization of the public administrations of member states and comply with the norms established in the STCW convention. The supervisors or evaluators in these training programs should have the necessary qualifications, whether technical or pedagogical. Simulators may be used (Rule I/13), and for issuance of the corresponding title, a period of embarkation, which will vary depending on the class of title, is necessary.

The convention also establishes that all officials entrusted with watch (for navigation or engineering) should have good knowledge of spoken and written English. Every superior officer with management functions should also speak and write English. Seafarers who form part of the navigation watch should be able to comply with orders given in English to the helmsman. Members of the crew who provide assistance to passengers in emergency situations should also be able to communicate about subjects related to safety in English or in the language spoken by the passengers and other personnel on board[6] .

According to Rule I/14, shipping companies will be responsible for the proper competence of their crews. Likewise, these companies will have to provide the vessels with the necessary and appropriate crew for the performance of all activities required by maritime navigation.

According to the 2010 amendment, all vessels must have a qualified safety official, delegated by the shipping company, who will be responsible for ensuring that the other members of the crew are familiar with and trained in safety protocols for the vessel, particularly with respect to the ISPS Code.

Although prior to 2010 the Convention only required that the crew be in good health and with relatively good physical aptitude (with the member states being able to establish these conditions), with the reform minimal conditions of physical aptitude with which all seafarers must comply have been stipulated, although, with respect to certain guidelines, criteria for compliance are left to the discretion of the administrations of each state.

[6]International Transport Workers Federation (2010) STCW Guide for seafarers, containing the emendations from Manila, 2010. London, International Transport Workers Federation. Available from: http://www.itfglobal.org/seafarers/pubs.cfm/detail/38187 [Accesed 5 September 2014]

## 6. Conclusions

1. To prevent maritime accidents caused by human errors, the international community has opted to improve working conditions for crews, creating a minimum protective labor regime instead of establishing a uniform system to establish conditions for proper training and titling.
2. International criteria for labor regulation for maritime personnel based on the state of the flag have produced a diversity of norms and also a significant reduction in standards of labor protection, which, added to the problem of flags of convenience, has seriously affected maritime safety at the international level.
3. In this sense, international organizations, principally the International Labour Organization (ILO), have for some time called for global attention to solve this situation, which has become unsustainable.
4. The Maritime Labour Convention (MLC) of 2006, organized through the initiative of the ILO, constitutes a realistic and suitable instrument, in the light of developments in international transport, for consolidating a minimum of labor protections for crews at sea.
5. Unfortunately, Colombia still has not ratified this important international instrument, and thus, legal decisions remain linked to norms such as Decree 1015 of 1995, which incorporates standards dating back to the first third of the past century, causing anachronisms that should be corrected.
6. In turn, the International Maritime Organization (IMO) drove the implementation of conventions establishing minimum norms for the training, titling, and certification of personnel aboard vessels. The most important of these initiatives was made concrete in the Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) 1978, which was amended principally in 1995 and 2010.
7. Although the STCW Convention 1978 was criticized for leaving it to the administrations of the member states to establish to their satisfaction the criteria for compliance for the recognition of titles and certification, this situation was corrected through later amendments, which established a more rigorous and concrete system that allowed for an increasingly professional scheme for on-board personnel at the international level.
8. Colombia ratified the STCW Convention of 1978. However, although it did not expressly ratify the amendments of 1995 and 2010, we can state that these amendments are in force and incorporated into the Colombian legal system, given that we can apply the system of tacit acceptance on the part of the member states of the initial

convention. Thus, as is the case for Colombia, if amendments are not expressly rejected, successive modifications made to the original convention are understood to be accepted.

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