I am very privileged to have been invited by Cardinal Vegliò to share some thoughts with you about the Maritime Labour Convention, 2006 (or MLC, 2006) at this XXIII World Congress of the Apostleship of the Sea. The theme for this Congress with its focus on new evangelization and looking at new ways and means to carry out the AOS mission, is particularly relevant to the MLC, 2006. From the perspective of the International Labour Office, the MLC, 2006 is an international legal instrument - a Convention - that has specifically adopted new - some might even say experimental - "ways and means" but like the news to be discussed here it is based on an approach that combines the best of the old with the new. That is, the Convention adopts some new ways and means - such as an emphasis on a strengthened compliance and enforcement system including certification, to try to better ensure an improvement in working and living conditions of the world’s seafarers, but the basic message is one that dates back to the beginning of the International Labour Organization (ILO) in 1919. It retains the core ideas and values that have been central to the ILO’s work in the maritime sector but also embraces other, possibly more effective approaches to achieve these goals. In the case of the MLC, 2006 - often called the "seafarers' bill of rights" - the goals are decent work for all seafarers and a level playing for the quality shipowners.

My task today is to speak to you about the importance of the MLC, 2006 and how it might be used to enhance welfare services for seafarers. Before moving to that topic I should like to take a few minutes to reflect on the wider context of the MLC, 2006 and the social justice work of the ILO and role of international labour standards as instruments that can help to achieve social justice.

I am very aware of the history of "Stella Maris" and its commitment to the "People of the Sea", with a special interest in ship visiting. Although the activities of the early stages of the AOS preceded the establishment of the ILO by about 20 years, both arose from, and continue to share similar concerns, particularly in the aftermath of the first and second world wars, about the human costs of rapid economic growth, initially based on industrialization and increased international trade and movement of people, and now on the phenomenon we call "globalization".

When the ILO was established in 1919, in the aftermath of the first World War, as a uniquely tripartite international organization, forming part of the League of Nations, the predecessor of the United Nations, it was based on the shared belief that "universal and lasting peace and belief can be established only if it is based on social
justice". Specifically the concern was that "...conditions of labour exist involving such injustice hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperiled; and an improvement of those conditions is urgently required"... Importantly, even in 1920, the founders of the ILO identified the need to take responsibility for the welfare - the well-being - of all workers, particularly those who we would now call "global workers". They noted the need for "protection of the interests of workers when employed in countries other than their own". The ILO was also founded on the belief that "the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries...". In other words the importance of taking responsibility for helping to protect that welfare for all workers irrespective of nationality and national borders and the operation of the international economic system including the risk of an unsustainable "race to the bottom" where this protection is not provided, has been a preoccupation of the ILO from the beginning.

Twenty five year later, in 1944 in the aftermath of the second World War, the members of the ILO adopted the Declaration of Philadelphia which confirmed that "experience has fully demonstrated the truth" of the importance of social justice for peace and also spoke of the relationship between the ILO's work, human dignity and the right of all to "pursue material well-being and spiritual development". In setting out the core ILO beliefs or values it said:

(a) all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity;

(b) the attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy.

These values were again confirmed in June 2008, more than 60 years later, when the ILO adopted its Declaration on Social Justice for a Fair Globalization, which was concerned with the 21st century’s social and economic issues. In 2008 the ILO member States stated their shared conviction that:

...in a world of growing interdependence and complexity and the internationalization of production:
– the fundamental values of freedom, human dignity, social justice, security and non discrimination are essential for sustainable economic and social development and efficiency;... 

The 2008 Declaration goes on to speak of the importance of building social cohesion and the rule of law including "among other means, international labour standards". The MLC, 2006 is an international labour standard - that is - it is a "means" or an instrument that plays a key role in building social cohesion and

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1 Constitution of the International Labour Organisation, Preamble.
2 97th Session of the International Labour Conference
respect for the rule of law. It also reflects those deeply held beliefs articulated in 1919 about the need for special protection for workers particularly those working outside their home countries. Indeed the preamble to the MLC, 2006 states:

... that, given the global nature of the shipping industry, seafarers need special protection, and

The concern for seafarers' as a special category of workers also dates back to the early days of the ILO. In 1920, one year after the ILO was created, the ILO adopted its first set of maritime labour instruments - three maritime labour Conventions and two maritime labour Recommendations. One of these Recommendations is the National Seamen's Code Recommendation, 1920, No. 9 which provides as follows:

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.

Since 1920, the ILO has adopted 42 international maritime labour Conventions and related Recommendations, the last Convention being the MLC, 2006. The adoption of the MLC, 2006 in February 2006, and its entry into force in 2013 will in my view finally achieve the initial aspiration for a true international maritime labour code. The preamble to the MLC, 2006 also speaks directly to this aspiration and the objectives of the shipowners and seafarers organizations and when they called for this new instrument in 2001 in the now famous "Geneva Accord". The constituents were:

Determined that this new instrument should be designed to secure the widest possible acceptability among governments, shipowners and seafarers committed to the principles of decent work (translate "lavoro dignitoso"), that it should be readily updateable and that it should lend itself to effective implementation and enforcement.

The ILO spends each day looking at questions of implementation and the impact of the 189 Conventions and related instruments adopted since 1920. All of these instruments are aimed at achieving something the ILO calls "decent work" ("lavoro dignitoso") - giving reality to the concept proclaimed in the Declaration of Philadelphia that "labour is not a commodity". I think this is really the core of the MLC, 2006. It is a clearly a Convention concerned with establishing the minimum standards, agreed on an international tripartite basis, to promote seafarers' human dignity and welfare or well-being. But it goes further than promoting these standards and seeks to enforce them also. This is a very important element of the Convention which is really the root of its claim that it will place social and labour standards on
ships - the hidden human element in the maritime system - on the same footing as ship safety, security and pollution prevention.

The working environment for seafarers, the earliest of the world’s "global workers” has changed somewhat since 1920 with the move away from national merchant fleets and the growth in the number of flag States and the practice of "flagging out". It has also involved the development of very complicated corporate arrangements for operating and managing ships and also for recruitment and placement of seafarers. These changes have created some challenges for regulation to avoid exploitation of seafarers and ensuring that shipowners live up to their responsibilities. The working conditions and risks have also altered significantly with risks increasing - some are very old risks such as piracy, abandonment and some are newer, such as the criminalization of seafarers for environmental incidents. This is combined with a deterioration in working conditions with shorter time in ports, increased port and ship security and border control requirements which make it difficult, even impossible, to go ashore in some ports. All of these, as well as the increased social and spiritual isolation that comes from working on ships with multi national crews with many different languages and cultures, make seafaring appear to be a less than attractive occupation. At the same time world trade is highly dependent on the work of seafarers.

**Will the MLC, 2006 address all these problems? The answer is both yes and no.**

As I mentioned earlier my task here is discuss the MLC, 2006 as an instrument to promote seafarers’ welfare. The words "instrument" and "promote", are in my view, very important as they capture the essence of the MLC, 2006 and indeed all international conventions. They are international law for countries that have ratified them, when they enter into force. However even then they remain, at best, only an instrument - a tool that can achieve desired results if carefully and wisely implemented with the necessary will or desire - including for example provision of resources and capacity - to make changes. But if not used or improperly used may be of little consequence - the so called "paper tiger"; or they may even cause harm, if only because it is then very difficult to mobilize the political will to replace an international instrument. Therefore the adoption after 5 years of intensive international consultation of the major new instrument, covering all most every issue related to seafarers’ working and living conditions and replacing 37 Conventions and related Recommendations, is only a starting point. The real work relates to implementation at the national level by all maritime actors, to make real the promise of the Convention. This is where the work of the national social partners and important welfare organizations such as Stella Maris is vital to the MLC, 2006 and seafarers’ welfare. Your work is in fact a part of the implementation of the Convention by countries that ratify and you can also play a key role in helping governments that have not yet ratified to move forward. You are the "front line" of
those who will have an insight into what is occurring at the individual or human-
level.

The current status of the MLC, 2006

I am pleased to note that the MLC, 2006 has so far been ratified by countries responsible for about 60 per cent of world shipping and will enter into force in August next year, 20 August 2013.

Many other countries expect to ratify in the next twelve months. Even if a country has not yet ratified by the time the Convention enters into force, the clause in the Convention called "no more favourable treatment" will apply. This means that every ship will be potentially subject to port State control inspection for compliance with the MLC, 2006 requirements when it enters the port of country that has ratified the Convention, even though its flag State has not yet ratified it. At the level of the broader international maritime law regime, some elements of the MLC, 2006 have strongly influenced the text of the Manila amendments that were adopted by the IMO for its STCW convention. These amendments entered into force this year. This means that, even before the MLC, 2006 comes into force, its requirements relating to medical examinations and certificates, minimum age and hours of rest will already be mandatory for seafarers covered by the STCW. In addition the regional port State control MOUs, particularly the influential Paris MOU, have already developed their regional guidance in readiness for entry into force and training activities are underway.

Finally one of the more interesting developments from my perspective is that, despite the rather slow government action in some regions, there has been an unexpected level of industry action and take up of the MLC, 2006. This is very unusual - perhaps unprecedented for a labour Convention. Overall there is a much greater awareness of the MLC, 2006 which touches on so many matters ranging from the minimum age for seafarers to social security to occupational safety and health and to food and catering. Clearly capacity to operationalize the MLC, 2006 inspection system is being developed by many actors in the maritime sector.

Promotion of seafarers' welfare and welfare services - what does the MLC, 2006 require?

As I mentioned, the MLC, 2006 covers a wide range of topics and also clearly covers a wider range of workers as seafarers, including those traditionally regarded as hotel staff in the cruise ship sector, as well as seafarers working on commercial yachts and others. It covers seafarers working on all ships, as defined in the Convention, that are ordinarily engaged in commercial activities, whether the ships are big or small, with a few exceptions, which are all minor ones, except for fishers, who are covered by another ILO Convention.

Almost every topic in the Convention including minimum age, medical examination, hours of work or rest, manning levels, social security, leave, standards
for seafarers' accommodation or food and catering or medical care or occupational safety and health could be understood as relating to seafarers' welfare. I could, with pleasure, speak all day on these various aspects; however in my short session today I will deal specifically with the provisions most directly relevant to this Congress, the requirements under Regulation 4.4 - Access to shore-based welfare facilities and the related Standard A4.4 and Guideline B4.4 and a few complementary provisions.

The purpose of these provisions is stated in "plain language" in the Convention: "To ensure that seafarers working on board a ship have access to shore-based facilities and services to secure their health and well-being". As this indicates the connection with "health and well-being" - wording that is also found elsewhere in the Convention, mainly in connection with flag State obligations regarding shipowners' responsibilities, is explicit. These provisions are based upon, and, therefore, consolidate the obligations already found in an earlier ILO Convention, the Convention concerning Seafarers' Welfare at Sea and in Port known as the Seafarers' Welfare Convention, 1987 (No. 163), and in two Recommendations, the Seamen's Welfare in Ports Recommendation, 1936 (No. 48) and the Seafarers' Welfare Recommendation, 1970 (No. 138). As its full name suggests Convention No. 163, covers welfare matters onboard ship and ashore. The onboard elements of the Convention and also Recommendation No. 138 are also reflected in others provisions of the MLC, 2006 directed to flag States regarding for example, recreational facilities onboard ship. The provisions dealing specifically with welfare facilities in port are now found in Regulation 4.4 and the Code provisions and have been updated or modernized to a large extent.

These provisions, which are directed to countries with ships coming into their ports, emphasize the importance of access to shore-based facilities for seafarers' welfare but the provisions in Regulation 4.4 and the Code do not require that the port State take responsibility for operating or providing such services. Nevertheless they do have some important obligations as set out the mandatory provisions in Regulation 4.4 and Standard A4.4. The basic obligations under these provisions are:

- to ensure that shore based-facilities, where they exist, are easily accessible;
- to promote the development of welfare facilities;
- to designate appropriate ports for services after consultation with shipowners' and seafarers' organizations;
- to require that welfare services, where they exist in their country, are available for the use of all seafarers, irrespective of nationality, race, colour, sex, religion, political opinion or social origin, or the flag State of the ship on which the seafarer is working;
- to encourage the establishment of welfare boards to regularly review welfare facilities and service for appropriateness in light of changes in the needs of seafarers resulting from developments in the shipping industry.

These basic provisions are supported by detailed provisions in Guideline B4.4. The MLC, 2006 guidelines are not binding on ratifying countries, but they are required to
give the guidelines "due consideration", which means that they may have to explain to the ILO supervisory authorities why they have decided not to apply a particular guideline. Governments may for example be called upon to explain why they have not taken any steps to ensure that their welfare facilities include, where appropriate, facilities for religious observances and for personal counseling (Guideline B4.4.2) or why they have made no effort to provide, or to seek the necessary funding for, the establishment of welfare facilities in their ports (Guideline B4.4.4).

This last point, relating to financing, brings me to a very important observation ..., which is that the MLC, 2006 greatly relies on private, social or religious endeavours, such as that of Stella Marrs, in ports where necessary seafarers' welfare facilities have not yet been established. Once those facilities are established, they become subject to the strong mandatory obligations, relating to access to those facilities, availability to all seafarers without discrimination, and proper management and organization. Because of the financial implications for governments however, it was not possible to reach agreement on a mandatory obligation on them actually to establish such facilities in their ports, but rather to "promote the development of welfare facilities in appropriate ports of the country". This obligation to promote the development is nevertheless not an empty aspiration. A country that takes no action in this respect - especially where governmental or non-governmental resources are available - will be in clear breach of its obligations under the MLC, 2006.

The International Labour Office is developing some tools\(^3\) to assist in raising awareness of these issues and to advise Governments on how to properly implement the requirements of the MLC, 2006 relating to welfare facilities and seafarers in foreign ports. We hope that these tools will be useful to institutions like Stella Maris in promoting this issue with governments. The ILO for its part is also relying on numerous excellent promotional materials already developed by Stella Maris and related port welfare service providers, particularly as they speak directly to seafarers or service providers.

I would like to say, once again, Grazie for inviting me here and I wish the present meeting the success that it deserves.

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\(^3\) This include an online Frequently Asked Questions” (FAQ) and Model National legal provisions that include examples of provisions that could be easily adapted by governments needing assistance with rafting text, to implement aspects of Regulation 4.4 and the related provisions. These and other resources are freely available on the ILO’s MLC, 2006 website http://www.ilo.org/global/standards/maritime-labour-convention/lang–en/index.htm. With the support of the ITF Seafarers’ Trust, the ILO is in the process of developing a handbook on the MLC, 2006 provisions on access to shore-based services.