



# **Requirements for Inspection of Seafarers' Working & Living Conditions**

**Based on the Resolution XVII concerning the practical implementation of  
the issue of certificates on entry into force, adopted on 22 February 2006  
by the International Conference at its 94<sup>th</sup> (Maritime) session; and  
Taking into account the provisions of the MLC, 2006**

**Voluntary Certification**

## **Introduction**

Maritime Labour Convention, 2006 is designed to become a global instrument known as the fourth pillar of the international regulatory regime for quality shipping, complementing the key Conventions of the International Maritime Organization (IMO), i.e., SOLAS, LOAD LINES, MARPOL, STCW, etc; therefore minimum requirements on working and living condition for seafarers who work on board a ship are provided in this Convention, namely the provisions on the minimum requirements for seafarers to work on a ship, conditions of employment, hours of work and hours of rest, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection are included in this Convention.

Following the ratifications by Russia and the Philippines in August 20, 2012, the Maritime Labour Convention (MLC 2006) has now reached the required threshold (30 signatures and 33% of the world's fleet tonnage) and will enter into force in August 20, 2013.

Accordingly by coming into force of this Convention, ships which are 500 gross tonnages or over, engaged in international voyage are requested to take an inspection by a flag state or a RO recognized by the flag state to verify compliance with the requirements of the flag state's national laws and regulations implementing MLC, 2006 and to issue Maritime Labour Certificate (hereafter, MLC) and the Declaration of Maritime Labour Compliance (hereafter, DMLC) which is attached to MLC shall be kept on board the ship.

Since it is expected that applications for inspection and certification of the MLC, 2006 will flood just before enforcement of the Convention therefore taking into account such situation ship-owners who completed preparation for the Convention are strongly recommended to take this voluntary inspection and certification in advance in accordance with these requirements.

A Documents of Compliance (DOC) will be issued after the verification of compliance, as far as reasonable and practicable, upon completion of this voluntary inspection successfully carried out by an authorized ICS inspector.

## **Resolution concerning the promotion of the Maritime Labour Convention, 2006<sup>(1)</sup>**

The General Conference of the International Labour Organization, having adopted the Maritime Labour Convention, 2006, noting that the success of the Convention will depend upon its being widely ratified and the effective implementation of its requirements, mindful that the core mandate of the Organization is to promote decent working and living conditions;

Confirming the resolution concerning technical cooperation to strengthen the capacities of the national administrations responsible for maritime labour inspection, adopted by the Preparatory Technical Maritime Conference of the International Labour Organization (Geneva, 13-24 September 2004);

Invites the Governing Body of the International Labour Office to request the Director-General to give due priority in the allocation of resources to conducting the outstanding tripartite work required for effective implementation of the Convention,

Further invites the Governing Body to request the Director-General to give due priority in the allocation of the resources of the Organization's technical cooperation programme to promoting the ratification of the Convention and to assisting countries which request assistance in its implementation in such areas as:

- Technical assistance for Members, including on capacity building for national administrations and the drafting of national legislation to meet the requirements of the Convention;
- The development of training materials for inspectors and other staff;
- The training of inspectors;
- The development of promotional materials and advocacy tools for the Convention; and
- National and regional seminars, as well as workshops on the Convention.

<sup>(1)</sup> Adopted on 22 February 2006.

**Resolution XVII concerning the practical implementation of the issue of certificates on entry into force<sup>(1)</sup>**

The General Conference of the International Labour Organization, having adopted the Maritime Labour Convention, 2006, recalling Article VIII, paragraph 3, concerning the entry into force 12 months after the date on which the required number of ratifications have been registered,

Noting that flag States and recognized organizations would not be in a position to recruit, train and have in place a sufficient number of inspectors until there is a good degree of confidence as to the probable date of entry into force;

Noting that even when a sufficient number of inspectors is in place to ensure a continuing level of inspection and enforcement, it will not be possible to review, inspect and certify all the ships (possibly 40,000 ships) required to carry a maritime labour certificate and declaration of maritime labour compliance within the 12 months before entry into force,

Noting also that should this certification effort be accomplished notwithstanding, these inspectors will be largely idle until the next peak of inspections two years after entry into force;

Recognizing the practical difficulties in providing a maritime labour certificate and a declaration of maritime labour compliance to all ships immediately following entry into force;

Requests governments to develop plans, which will ensure the phasing in of certification requirements starting with bulk carriers and passenger ships no later than 12 months after the date on which there have been registered ratifications by at least 30 Members with a total share in the world gross tonnage of ships of at least 33 per cent,

Requests further that, during a period of one year following the initial entry into force of the Convention, Members (both flag and port States) give due consideration to allowing ships to continue to operate without the certificate and declaration referred to, provided that their inspectors have no evidence that the ships do not conform to the requirements of the Convention.

<sup>(1)</sup> Adopted on 22 February 2006.

## 1. Abbreviations of terms

MLC, 2006: Maritime Labour Convention, 2006

MLC: Maritime Labour Certificate

DOC: Document of Compliance

## 2. Definitions of Terms

“*Seafarer*” means any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies;

“*Seafarers’ employment agreement*” includes both a contract of employment and articles of agreement;

“*Seafarer recruitment and placement service*” means any person, ship-owner, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of ship-owners or placing seafarers with ship-owners;

“*Ship*” means a ship other than one which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;

“*Shipowner*” means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organization or persons fulfill certain of the duties or responsibilities on behalf of the ship-owner.

## 3. Explanatory note to the regulations and code of the MLC, 2006

- (1) This explanatory note, which does not form part of the Maritime Labour Convention, is intended as a general guide to the Convention.
- (2) The Convention comprises three different but related parts: the Articles, the Regulations and the Code.
- (3) The Articles and Regulations set out the core rights and principles and the basic obligations of Members ratifying the Convention. The Articles and Regulations can only be changed by the Conference in the framework of article 19 of the Constitution of the International Labour Organization (see Article XIV of the Convention).
- (4) The Code contains the details for the implementation of the Regulations. It comprises Part A (mandatory Standards) and Part B (non-mandatory Guidelines). The Code can be amended through the simplified procedure set out in Article XV of the Convention. Since the Code relates to detailed implementation, amendments to it must remain within the general scope of the Articles and Regulations.
- (5) The Regulations and the Code are organized 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*

- (6) Each Title contains groups of provisions relating to a particular right or principle (or enforcement measure in Title 5), with connected numbering. The first group in Title 1, for example, consists of Regulation 1.1, Standard A1.1 and Guideline B1.1, relating to minimum age.
- (7) The Convention has three underlying 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, through Title 5, that the rights and principles are properly complied with and enforced.
- (8) There are two main areas for flexibility in implementation: one is the possibility for a Member, where necessary (see Article VI, paragraph 3), to give effect to the detailed requirements of Part A of the Code through substantial equivalence (as defined in Article VI, paragraph 4).
- (9) The second area of flexibility in implementation is provided by formulating the mandatory requirements of many provisions in Part A in a more general way, thus leaving a wider scope for discretion as to the precise action to be provided for at the national level. In such cases, guidance on implementation is given in the non-mandatory Part B of the Code. In this way, Members which have ratified this Convention can ascertain the kind of action that might be expected of them under the corresponding general obligation in Part A, as well as action that would not necessarily be required. For example, Standard A4.1 requires all ships to provide prompt access to the necessary medicines for medical care on board ship (paragraph 1(b)) and to “carry a medicine chest” (paragraph 4(a)). The fulfillment in good faith of this latter obligation clearly means something more than simply having a medicine chest on board each ship. A more precise indication of what is involved is provided in the corresponding Guideline B4.1.1 (paragraph 4) so as to ensure that the contents of the chest are properly stored, used and maintained.
- (10) Members which have ratified this Convention are not bound by the guidance concerned and, as indicated in the provisions in Title 5 on Port State Control, inspections would deal only with the relevant requirements of this Convention (Articles, Regulations and the Standards in Part A). However, Members are required under paragraph 2 of Article VI to give due consideration to implementing their responsibilities under Part A of the Code in the manner provided for in Part B. If, having duly considered the relevant Guidelines, a Member decides to provide for different arrangements which ensure the proper storage, use and maintenance of the contents of the medicine chest, to take the example given above, as required by the Standard in Part A, then that is acceptable. On the other hand, by following the guidance provided in Part B, the Member concerned, as well as the ILO bodies responsible for reviewing implementation of International Labour Conventions, can be sure without further consideration that the arrangements the Member has provided for are adequate to implement the responsibilities under Part A to which the Guideline relates.

#### 4. Applicability

Ships which are required complying with MLC, 2006, and to hold Maritime Labour Certificate (MLC) and Declaration of Maritime Labour Compliance (DMLC), are as follows:

- .1 500 gross tonnage or over, engaged in international voyages; and
- .2 500 gross tonnage or over, flying the flag of a Member and operating from a port, or between ports, in another country.

#### 5. Types of Document of Compliance (DOC) and Validity

DOC is issued to a ship; there is no DOC issued to the ship-owner. The types of DOC are explained below:

1. **MLC/DOC/IC: Interim Document of Compliance (DOC)** to verify compliance with Resolution XVII concerning the practical implementation of the issue of certificates on entry into force adopted on 22 February 2006 by the International Conference at its 94<sup>th</sup> (Maritime) session, under a voluntary inspection and certification carried out based on these requirements. It is provided that its validity shall not exceed six (6) months, this certificate can be issued by ICS inspector duly authorized to MLC, 2006 inspection and certification.
2. **MLC/DOC/FT: Full Term Document of Compliance (DOC)** issued by ICS-Head Office only after the completion of a Voluntary Inspection. It is provided that the validity shall not exceed one (1) year from the date of inspection on which the MLC/DOC/IC is based.

#### 6. Voluntary Inspection and Certification

Voluntary inspection and certification consists on a completion of **MLC-Shipboard Inspection-Checklist for Voluntary Inspection**. This checklist is to be used during voluntary inspection and certification including the matters listed in Appendix A5-I to the Convention, as far as reasonable and practicable. The following ICS forms are also applicable during a voluntary inspection and certification:

- **Shipboard Inspection Plan for MLC, 2006 Certification**
- **Shipboard Inspection Report for MLC, 2006 Certification**
- **Non-Conformity Report**

#### 7. Application for Voluntary Inspection & Certification

The application (*Request for MLC, 2006 inspection*) should be submitted to the Operations Department of the ICS-Head Office for quotations and authorizations under case by case basis.

#### **7.1.1 Documents to be submitted to ICS-Head Office after the completion date of the Voluntary Inspection**

1. MLC/DOC/IC
2. MLC-Shipboard Inspection-Checklist for Voluntary Inspection
3. MLC-Shipboard Inspection Plan
4. MLC-Shipboard Inspection Report
5. MLC-Non-Conformity Report
6. Crew List + Navigation Patent + DOC (company) + SMC (ship) + CICA
7. Other additional documents and information required by ICS-Head Office.

#### **7.1.2 Shipboard inspection**

ICS Inspector(s) in charge to attend the ship shall verify whether the measures/plans have been implemented onboard the ship effectively by studying relevant documents/records, crew interview and ship tour according to the shipboard inspection plan.

ICS Inspector(s) shall take an active role in ensuring compliance with the working and living conditions and the rights of seafarers. The ICS inspectors review and ensure consistency and efficiency in confirming compliance with these requirements and inspections on the ship.

Upon the satisfactory completion of the Voluntary Inspection, the **MLC/DOC/IC** valid for six (6) months will be issued including other applicable ICS forms and information mentioned on item 7.1.1.

If non-conformities or major non-conformities are found during this Voluntary Inspection, rectification is requested by ICS inspector including the confirmation of the remedial action of the non-conformities or major non-conformities found.

If non-conformities or major non-conformities are not rectified immediately, re-inspection is to be carried out before the issuance of the **MLC/DOC/IC** valid for six (6) months. After all rectification measures have been taken, and after confirming completion of all remedial actions of the non-conformities or major non-conformities the **MLC/DOC/IC** valid for six (6) months will be issued.

#### **8. Issuance and maintenance of MLC/DOC (Interim & Full Term)**

Issuance and maintenance of MLC/DOC is treated under case by case basis and under special requirements by the Flag State Administration of the ship that shall be followed. The type of certification, inspection and other scenarios as describe on the “***Request for MLC, 2006 Inspection***” may be different depending on various conditions of the ship or the timing of inspection. For any particular case, please contact ICS-Head Office for further details and instructions.