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129**
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Guidance on DMLC Part II review, inspection and certification under the Maritime Labour Convention, 2006

Disclaimer

All the information found in this guidance, including the objective evidence examples described, shall be considered as additional data to assist the RO inspectors in conducting MLC, 2006 inspections, and should not be taken as a rule.

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**No.
129**

(cont)

Section 1: Introduction**1.1 Scope and Application**

This guidance is intended for use by IACS Member Societies' inspectors when performing inspection and certification service under the Maritime Labour Convention, 2006 (the Convention) unless the relevant Administration has provided special instructions that indicate otherwise.

This document is also intended to promote inspection consistency and uniformity of inspection among IACS members by providing examples and guidance, which, however, are not to be interpreted as prescriptive solutions or checklists.

Reference is made to the following documents adopted by the International Labour Organization (ILO):

- (a) Maritime Labour Convention, 2006 adopted by the 94th (Maritime) Session of the International Labour Conference of the International Labour Organization (ILO) in February 2006;
- (b) Resolutions adopted by the International Labour Conference at its 94th (Maritime) Session of the International Labour Conference of the International Labour Organization (ILO) in February 2006;
- (c) The Guidelines for flag State inspections under the Maritime Labour Convention, 2006, adopted by the ILO in September 2008, for implementing flag State responsibilities under the Convention.

1.2 The Maritime Labour Convention, 2006 and how it is intended to operate

The Convention was developed by a tripartite committee made up of ILO member states, shipowners' organisations and seafarers' representatives. It sets out a number of provisions relating to the employment, working and living conditions of seafarers.

Ratifying member states are obliged to adopt and implement laws that give full effect to those provisions, some of which are detailed and prescriptive while others are more broadly expressed. Many simply refer to the need for measures to be, for example, "adequate", "acceptable" or "sufficient", leaving it to individual member states to specify appropriate criteria in each case. Examples include the requirement that mess rooms be "of adequate size and comfort and properly furnished and equipped" and the need for "appropriately situated and furnished laundry facilities".

Consequently, it is the national requirements developed to implement the Convention with which shipowners must comply, and many of the Convention's provisions have been drafted in such a way as to permit member states a degree of flexibility when deciding on the precise criteria to be applied. However, exemptions, substantial equivalences or other variations may be adopted only after consultation with the shipowners' and seafarers' representatives concerned.

The RO inspectors are expected to verify that the seafarer's working and living conditions specified in the Appendix A5-I of the Convention correspond to the relevant flag State's national requirements implementing the Convention. A Maritime Labour Certificate is issued to the vessel after the vessel has been inspected and verified to be in compliance with the requirements of the Convention, and the provisions of the flag State's Declaration of Maritime

No. 129 (cont)

Labour Compliance Part I and shipowner's Declaration of Maritime Labour Compliance, Part II.

1.3 Certification process

The verification of compliance with mandatory rules and regulations, required as part of the MLC, 2006 inspection neither duplicates nor replaces the audits or surveys required by the other statutory certificates. Compliance with the MLC, 2006 does not relieve the Company, the master or any other entity or person involved in the management or operation of the ship of their responsibilities.

The inspection process involves review of shipowner measures for seafarer working and living conditions onboard as described in the Declaration of Maritime Labour Compliance Part II, and onboard verification of those measures through review of documentation and records, visual observation, general discussion and private interviews with seafarers. Any inspection is a sampling process and inspectors use their professional judgment and expertise when determining the depth of inspection for each requirement subject to inspection under the MLC, 2006. The inspection is not exhaustive in nature and is merely a snapshot of the working and living conditions onboard at the time of inspection.

Issuance of certification is based upon verification that the sample is in compliance with the Convention, and the national requirements of the relevant flag State. Where non-conformities have not been found and reported, it does not mean that none exist.

1.4 Situations where there are not adequate national requirements

Regulation 5.1.4 "Inspection and enforcement" of the Convention requires that Members should verify, through an effective and coordinated system of regular inspections, monitoring and other control measures, that ships flying its flag comply with the Convention's requirements as implemented within the national laws and regulations of the member state.

Where RO has been authorized to carry out MLC inspections on behalf of the flag State, the RO may face a situation where the national legislation does not fully address an inspection requirement or appropriate criteria for expressions such as sufficient, adequate or proper has not been defined. In such situations, RO should seek clarification from the flag Administration to avoid inconsistent application of the national requirements.

1.5 Shipowner

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 fulfil certain of the duties or responsibilities on behalf of the shipowner.

This definition is taken to mean that the shipowner is the same entity as the Company as defined in the ISM Code, unless specified otherwise by the flag Administration.

1.6 Editorial principles

For convenience, this document incorporates the actual text from Chapter 3 of the Guidelines for flag State inspections under the Maritime Labour Convention, 2006, followed by the relevant recommended guidance for IACS inspectors. The document will be updated as necessary consistent with IACS Member Societies' experience in the inspection process.

LIST OF CONTENTS

**No.
129**
(cont)

Part I
Review of the DMLC Part II and inspection

Inspection and certification items

1. Minimum age
2. Medical certification
3. Qualifications of seafarers
4. Seafarers' employment agreements
5. Use of any licensed or certified or regulated private recruitment and placement service
6. Hours of work or rest
7. Manning levels for the ship
8. Accommodation
9. On-board recreational facilities
10. Food and catering
11. Health and safety and accident prevention
12. On-board medical care
13. On-board complaint procedures
14. Payment of wages

Inspection only items

15. Entitlement to leave
16. Repatriation
17. Shipowners' liability
18. Social security
19. General principles

Part II
General guidance

20. Inspection process
 - 1) Review of the DMLC Part II and inspection
 - 2) How to conduct the interview
 - 3) Sampling
21. Interim certification
22. Handling of seafarer complaints by ROs
23. Handling of technical deficiencies
24. Grading of deficiencies
25. Confidentiality
26. Ad hoc certification scenarios

Part I

Review of the DMLC Part II and inspection

Inspection and certification items

Scope of Inspection

This paragraph is intended to assist an inspector in determining the scope of inspection.

The table below identifies areas that must be “Inspected and Certified” (Appendix A5-I of the Convention). These areas are identified as “I/C”. In addition, five areas which must be “Inspected”, as required by the ILO Guidelines for flag State inspections under the Maritime Labour Convention, 2006, are identified as “I”.

The Competent Authority in the flag State is required to address “Inspected and Certified” areas (items 1-14) in the DMLC Part I, hence the shipowner must address these items in their DMLC Part II.

The inspector should not expect to find “Inspected” areas in the DMLC Part I.

Regardless, the inspector is required to verify these items during on-board inspections. Inspectors should note that items 15-18 are normally addressed in the seafarer employment agreement (SEA) and/or collective bargaining agreement (CBA) and information regarding these items should be readily available on board during inspections.

Item	Topic	Inspection / Certification
1	Minimum age	I/C
2	Medical certification	I/C
3	Qualification of seafarers	I/C
4	Seafarers' employment agreements	I/C
5	Use of any licensed or certified or regulated private recruitment and placement service	I/C
6	Hours of work or rest	I/C
7	Manning levels for the ship	I/C
8	Accommodation	I/C
9	On-board recreational facilities	I/C
10	Food and catering	I/C
11	Health and safety and accident prevention	I/C
12	On-board medical care	I/C
13	On-board complaint procedures	I/C
14	Payment of wages	I/C
15	Entitlement to leave	I
16	Repatriation	I
17	Shipowners' liability	I
18	Social security	I
19	General principles (copy of MLC, 2006 on board)	I

No. 129

(cont)

1. Minimum age (Reg. 1.1)

General

Regulation 1.1 sets out requirements for minimum age of seafarers. The purpose of this regulation is that no under-age persons work on board a ship. The Convention requires that the minimum age of the seafarer be at least 16 years of age at the time of employment. A higher minimum age is required for certain category of personnel such as cooks.

Inspected and certified

Basic requirements

- *Persons below the age of 16 shall not be employed or engaged or work on a ship (Standard A1.1, paragraph 1).*
- *Seafarers under the age of 18 shall not be employed or engaged or work where the work is likely to jeopardize their health or safety (Standard A1.1, paragraph 4).*
- *Special attention must be paid to the safety and health of seafarers under the age of 18, in accordance with national laws and regulations (Standard A4.3, paragraph 2(b)).*
- *Night work* for seafarers under the age of 18 is prohibited, except to the extent that an exemption has been made by the competent authority under Standard A1.1, paragraph 3, in the case of training programs (Standard A1.1, paragraph 2).*
- * *“Night” is defined in accordance with national law and practice. It covers a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m. (Standard A1.1, paragraph 2).*

How to check the basic requirements

- *Check a crew list, or passports or other official documents confirming seafarers’ birth dates.*
- *Check work schedule with respect to seafarers under the age of 18 to determine hours and nature of work.*
- *Check to see that types of work on board that are likely to jeopardize the safety of seafarers under the age of 18 have been identified.*
- *Check recent accident reports and safety committee reports to determine whether seafarers under the age of 18 were involved.*
- *Confirm information through interviews, in private, with a representative number of seafarers.*

Examples of deficiencies

- *Person under the age of 16 working as a seafarer.*
- *Seafarer under the age of 18 working at night (and not as part of a training program).*

**No.
129**
(cont)

- *Seafarer under the age of 18 carrying out tasks that are likely to jeopardize their safety or health.*

Items for review of DMLC Part II

Check that the DMLC Part II has measures to ensure initial and on-going compliance with the requirements in accordance with the flag State's DMLC Part I for:

- Minimum age;
- Night work periods are specified, including handling of exemptions, if any;
- Hazardous work is identified, including control measures for assignment of such work;
- Any other relevant requirements of the flag State, including substantially equivalent provisions, if any.

Guidance for Inspection

While carrying out the MLC inspection, the inspector should review the national requirements and the company's own criteria for the minimum age of seafarers. Minimum age for seafarers is 16 years (or higher if required by competent authority of the flag State). Ship cooks must not be less than 18 years of age. A check should also be made of the shipowner's measures for ensuring that the age verification is performed before the seafarers are employed on board.

Seafarers between the age of 16 and 18 are considered young seafarers under the Convention. The inspector should verify through sampling of records and private interviews of seafarers that young seafarers are not engaged in night work unless authorized by the competent authority as part of their training program. Additionally, a check should be made to ensure that the young seafarers are not engaged in any work which is likely to jeopardize their health and safety. Types of work that are considered hazardous for young seafarers are normally identified by the competent authority in their national laws or the DMLC Part I.

No. 129

(cont)

2. Medical certification (Reg. 1.2)

General

Regulation 1.2 sets out requirements for medical certification of seafarers. The purpose of this regulation is that seafarers should not work on a ship unless they are certified as medically fit to perform their duties.

Inspected and certified

Basic requirements

- *Seafarers are not allowed to work on a ship unless they are certified* as medically fit to perform their duties.*
- *For seafarers working on ships ordinarily engaged on international voyages the certificate must be provided in English (Standard A1.2, paragraph 10).*
- *The medical certificate must have been issued by a duly qualified medical practitioner and must be still valid.*
- *The period of validity for a certificate is determined under national law in accordance with the following:*
 - *two-year maximum for medical certificates except for seafarers under 18; then it is one year;*
 - *six-year maximum for a colour vision certificate.*
- * *Certificates issued in accordance with, or meeting the substance of the applicable requirements, under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), as amended, are to be accepted as meeting these requirements (Standard A1.2, paragraph 3).*

How to check the basic requirements

- *Check the crew list.*
- *Check for valid medical certificates stating that seafarers are medically fit to perform their duties.*
- *Check for valid colour vision certificates, where appropriate.*
- *Check (by reviewing work schedules and interviews, in private) that medical restrictions on work for individual seafarers are being respected and that seafarers are not assigned to or carrying out work contrary to these restrictions.*
- *In urgent cases where the competent authority of the flag State has permitted a seafarer to work without a valid or with an expired certificate, the authorization or permit should be checked to ensure it is still valid (subject to a three-month maximum).*
- *In cases where a medical certificate has expired while at sea, the certificate must be obtained within a maximum of three months.*

No. 129 (cont)

- *Check that the medical certificates of seafarers on ships ordinarily engaged in international voyages are in English.*
- *Check that the medical certificate has been issued by a duly qualified medical practitioner.*

Examples of deficiencies

- *Seafarer on board without a valid medical or colour vision certificate (where appropriate) or authorization from the competent authority in urgent cases.*
- *Seafarer working on the ship or performing tasks contrary to a restriction on a medical certificate.*
- *Seafarer's medical certificate not in the English language on a ship ordinarily engaged in international voyages.*
- *A medical certificate that has not been issued by a qualified medical practitioner.*

Items for review of DMLC Part II

Check that the DMLC Part II has measures to ensure initial and on-going compliance with the requirements in accordance with the flag State's DMLC Part I for:

- Control of seafarers' medical and colour vision certificates and their validity;
- Format of medical certificate, and language;
- Any other relevant requirements of the flag State, including any substantially equivalent provisions, if any.

Guidance for Inspection

The inspector should verify during shipboard inspection that all seafarers are holding medical certificates relevant to their duties on board and that these certificates are valid in accordance with the requirements of its flag State. For example, the medical certificates for young seafarers are considered valid for up to one year from the date of issuance, the medical certificates for seafarers of 18 or higher may be valid for up to two years except in cases where the flag Administration limits the validity of the medical certificates to less than two years.

The certificates solely concerning eyesight / colour vision may be issued by a person recognised by the competent authority other than a duly qualified medical practitioner. In such cases, the inspector should verify that the validity of colour vision certificates is not greater than six years.

Where restrictions are stated on the seafarers' medical certificates, the inspector should review on-board work schedules for the seafarers in question to confirm that such restrictions are observed during the shipboard work assignments, and the shipowner's measures for controlling such restrictions are effective.

The medical certificates are required to be issued in English language if the ship is ordinarily engaged in international voyages. Inspectors should be mindful that for a ship engaged in domestic voyages only, the seafarers' medical certificates may be in languages other than English. The medical certificates should be issued by duly qualified medical practitioners. In

**No.
129**

(cont)

some cases, the flag State may have published a list of duly qualified medical practitioner. The flag States may also recognize medical practitioners who are duly qualified by the other members states.

Certificates complying with the Medical Examination (Seafarers) Convention, 1946 (ILO No. 73), or International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) are generally considered acceptable by most flag States. In case of seafarers not covered by STCW Convention, a medical certificate meeting the substance of those requirements may be accepted.

The inspector should be mindful of any national provisions related to the issuance and the validity of the medical certificates as stated in DMLC Part I, including any specific flag State authorizations for urgent cases or special provisions for certificates which expire at sea during the course of a voyage.

No. 129

(cont)

3. Qualifications of seafarers (Reg. 1.3)

General

Regulation 1.3 sets out requirements for training and qualifications of seafarers. The purpose of this regulation is to ensure that seafarers are trained and qualified to carry out their duties on board ship. The Convention states that seafarers should not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties, and have successfully completed training for personal safety on board ship.

Inspected and certified

Basic requirements

- *Seafarers must be trained or certified* as competent or otherwise qualified to perform their duties in accordance with flag State requirements.*
- *Seafarers must have successfully completed training for personal safety on board ship.*
- * *Training and certification in accordance with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), as amended, is to be accepted as meeting these requirements.*

How to check the basic requirements

- *Check the minimum safe manning document (SMD) to verify the required qualifications of the seafarers.*
- *Check certificates and endorsements for STCW personnel confirming seafarers' competency with respect to their duties (check crew list to determine duties).*
- *Check documentary evidence (from a shipowner or, if relevant to the position concerned, a national authority or otherwise) confirming that seafarers have any qualifications that may be required under national law for those performing other duties on board ship (for example, ships' cooks – see below, Regulation 3.2).*
- *Check for evidence confirming that all seafarers have successfully completed training for personal safety on board ship.*
- *Check a copy of the appropriate training material that is available to the crew.*
- *Confirm training through interviews, in private, with a representative number of seafarers.*

Examples of deficiencies

- *Seafarer's qualifications not in accordance with the SMD.*
- *Seafarer working on the ship who is not trained or certified or otherwise qualified to perform required duties.*
- *Certificates or endorsements are not up to date or have expired.*
- *Seafarer working on the ship who has not successfully completed personal safety training.*

**No.
129**
(cont)**Items for review of DMLC Part II**

The inspector should check shipowner's measures in DMLC Part II to ensure initial and on-going compliance with the relevant requirements in accordance with the flag State's DMLC Part I for:

- Training and Qualifications of seafarers and their validity;
- Any other relevant requirements of the flag State, including any substantially equivalent provisions, if any.

The inspector should review whether the implementation and control measures for Training and Qualifications of seafarers have been identified in the DMLC Part II or associated documentation.

Guidance for Inspection

The inspector should review the minimum safe manning document (SMD), crew list, training records, certificate of competencies, including relevant endorsements, for each seafarer to confirm that they are appropriate to their position on board, and that these documents are valid and comply with the requirements of the flag State and the shipowner's DMLC Part II.

No. 129

(cont)

4. Seafarers' employment agreements (Reg. 2.1)

General

Regulation 2.1 set out requirements to ensure that seafarers have a fair employment agreement. Where allowed by the national law and practice, a collective bargaining agreement (CBA) complementing the seafarer employment agreement (SEA), may incorporate one or more elements from Regulation 2.1.

Inspected and certified

Basic requirements

- *All seafarers must have a copy of their seafarers' employment agreement (SEA) signed by both the seafarer and the shipowner or shipowner's representative (or, where they are not employees, other evidence of contractual or similar arrangements).*
- *A SEA must, as a minimum, contain the matters set out in Standard A2.1, paragraph 4(a)–(k) of the MLC, 2006 (Standard A2.1, paragraph 4).*
- *Seafarers must also be given a document containing a record of their employment on the ship (such as a discharge book) (Standard A2.1, paragraph 1(e)).*
- *Where a collective bargaining agreement (CBA) forms all or part of the SEA, the agreement must be on board the ship with relevant provisions in English (except for ships engaged only in domestic voyages) (Standard A2.1, paragraph 2).*

How to check the basic requirements

- *Check a copy of the SEA and any applicable CBAs for seafarers and, at a minimum, a standard form of the SEA (in English) for the ship.*
- *Check, where possible, given the timing of the inspection relative to employment period, possession by seafarers of a record of their employment (or request that such records are submitted to the inspector at a later date).*
- *Check that seafarers' records of employment do not contain statements as to the quality of their work or as to their wages.*
- *Interview, in private, a representative number of seafarers to confirm that, on signing a SEA, seafarers were given an opportunity to examine and seek advice and freely accepted the agreement before signing.*

Examples of deficiencies

- *A seafarer without a SEA working on the ship.*
- *A seafarer with a SEA that does not contain all the items in Standard A2.1, paragraph 4(a)–(k).*
- *A seafarer with a SEA that is inconsistent with the national requirements.*
- *No system or provisions for seafarers to have their employment recorded.*

No. 129

(cont)

- *Seafarers are not given a record of their employment on the ship on completion of engagement.*
- *A CBA that forms all or part of the SEA is either not on board or, if on board, not in English on a ship that engages in international voyages.*
- *Standard form SEA is not in English.*
- *The SEA contains clauses that violate seafarers' rights.*

Items for review of DMLC Part II

The inspector should check that the shipowner's measures in the DMLC Part II are in accordance with the relevant requirements of the flag State relating to the SEA and Record of Employment, as identified in the DMLC Part I, ensuring that:

- The SEA, as a minimum, contains the matters set out in Standard A2.1, paragraph 4(a)–(k) of the MLC, 2006 and is consistent with the national requirements;
- The SEA and relevant parts of CBA, if applicable, are available in English (except for ships engaged only in domestic voyages);
- Notice period, both for the seafarer and for the shipowner, is at least 7 days. National legislation may define circumstances to ensure the need of the seafarer to terminate, without penalty, the employment agreement on shorter notice or without notice taken into account urgent reasons;
- The SEA should not contain any clauses that violate the following fundamental, employment and social rights of seafarers stated in Article III and IV of the Convention
 - (a) freedom of association and the effective recognition of the right to collective bargaining;
 - (b) the elimination of all forms of forced or compulsory labour;
 - (c) the effective abolition of child labour;
 - (d) the elimination of discrimination in respect of employment and occupation;
 - (e) the right of every seafarer to:
 - safe and secure workplace that complies with safety standards,
 - fair terms of employment,
 - decent working and living conditions on board ship,
 - health protection, medical care, welfare measures and other forms of social protection.
- Seafarers are given Records of Employment and that it does not include any statement on the quality of their work or to wages;
- Any other relevant requirements of the flag State, including any substantially equivalent provisions.

Guidance for Inspection

The inspector should verify that the SEA is signed by both the seafarer and the shipowner (or a representative of the shipowner) and that it satisfies national requirements. The inspector should also confirm through interviews that the seafarers are given an opportunity to review

**No.
129**
(cont)

and seek advice on the agreement before signing. Clear information as to the conditions of employment should be readily available on board.

If the SEA is signed by a recruitment and placement service (RPS) or other representatives, a (copy of) document confirming the representative's right to sign SEA on behalf of the shipowner should be demonstrated (manning agreement or power of attorney, etc).

Irrespective of whether the seafarers on board are employed directly by the shipowner or indirectly via sub-contractors, the inspector should confirm that all contractual or similar arrangement provide the same level of protection required by the Convention. Alternatively, the "contractual or similar arrangement" may make a reference to a SEA used by the shipowner, in order to fill the gaps. In this case the SEA to be annexed to the "contractual or similar arrangement" in order to demonstrate compliance.

The inspector should verify that the Seafarers are given a Record of Employment at the end of their contract and that it does not contain any statement related to the quality of work or to wages. Also, the inspector should confirm that such document is issued in the format specified by the flag State, if applicable. Such record may be given in the seafarer's discharge book or as a separate document.

No. 129 (cont)

5. Use of any licensed or certified or regulated private recruitment and placement service (Reg. 1.4)

General

Regulation 1.4 sets out requirements to ensure that seafarers have access to an efficient and well regulated seafarer recruitment and placement system.

Inspected and certified

Basic requirements

- *Where a shipowner has used a private seafarer recruitment and placement service (RPS),* it must be licensed or certified or regulated in accordance with the MLC, 2006.*
- *Seafarers shall not be charged for use of these services.*
- *Shipowners using services based in States not party to the MLC, 2006, must ensure, as far as practicable, that these services meet the requirements of the MLC, 2006 (Standard A1.4, paragraph 9).***
- * *If private recruitment and placement services are operating in their territory, flag States are responsible for establishing an effective inspection and monitoring system with respect to those services (Regulation 5.3; Standard A5.3, paragraph 1).*
- ** *Flag States are responsible for ensuring that shipowners have a proper system for verifying that the recruitment and placement services conform to the national requirements implementing Standard A1.4 if they use recruitment and placement services based in States not party to the MLC, 2006. This responsibility may be fulfilled by continuously monitoring shipowners' compliance with those requirements, by monitoring recruitment and placement services in relevant non-MLC countries through a quality management system, and by providing information on the extent to which services in such countries have been found to meet the requirements of Standard A1.4.*

How to check the basic requirements

- *Check the national web sites of the competent authority regarding the licensing or regulation of seafarer recruitment and placement services (manning agencies).*
- *Check documentation or other information to allow the inspector to ascertain the following:*

1. *Direct engagement*

Seafarers were recruited and engaged by the shipowner. If this is the case, this fact should be noted and no further action is necessary.

2. *Recruited through a public service*

Seafarers were engaged through a public seafarer recruitment and placement service in either the flag State or in another State to which the MLC, 2006, applies. If this is the case, this should be noted and no further action is necessary.

No. 129

(cont)

3. *Recruited through a private service (or a service operated by a seafarers' organization) in a country that has ratified the MLC, 2006*

A. *If the seafarers were engaged through a private seafarer recruitment and placement service in the flag State, check for documentary evidence confirming that the service concerned is operating in accordance with the national laws or regulations or other measures implementing the MLC, 2006, requirements. Where the supervision of such services is entrusted to another national authority in the flag State, a statement by that authority that the service has been found to be operating in accordance with the relevant law is sufficient for this purpose.*

B. *If the seafarers were engaged through a private seafarer recruitment and placement service in another State that has ratified the MLC, 2006, no action need be taken unless the inspector has received a clear indication that basic rights have been violated (such as charging seafarers for use of services).*

4. *Recruited through a service that is based in a country that has not ratified the MLC, 2006*

If the seafarers were engaged through a seafarer recruitment and placement service based in a country that has not ratified the MLC, 2006, check documentation showing that the shipowner has, as far as practicable, verified through a proper system that the service is operated consistently with the MLC, 2006. This system may, for example, take account of information collected by the flag State, as well as any audits or certifications concerning the quality of services operating in countries that have not ratified the MLC, 2006. Other evidence which shipowners could provide might be checklists against the MLC, 2006 requirements or an RO audit of a recruitment and placement service based in a country that has not ratified the MLC, 2006.

- *Check, through interviews, in private, with a representative number of seafarers, that they have not paid a fee or other charge to a recruitment or placement service and have been informed of their rights and duties.*
- *Check, through interviews, in private, with a representative number of seafarers, that the recruitment and placement service used does not operate a blacklist.*

Examples of deficiencies

- *No documentary evidence available to indicate that the service or agency is operated in accordance with the MLC, 2006.*
- *A seafarer who was recruited through a private seafarer recruitment and placement service that was not licensed or certified or regulated in accordance with the MLC, 2006, or whose licence or certificate or any other similar document is no longer valid.*
- *Use of a recruitment and placement service requiring the seafarer to pay a fee or otherwise making a charge for employment services (if this is a possibility then it should also be reported to the competent authority in the State where the service is based).*
- *A seafarer working on board who was recruited by a recruitment and placement service operating in a country that has not ratified the MLC, 2006, in cases where the shipowner cannot support its conclusion of consistency with the MLC, 2006.*

**No.
129**
(cont)**Items for review of DMLC Part II**

Check that the DMLC Part II has measures to ensure initial and on-going compliance with the requirements in accordance with the flag State's DMLC Part I for:

- Selection and recruitment of qualified and medically fit seafarers, and how such seafarers are sourced;
- Verifying that the private RPS operating in the flag state's territory is licenced or certified as appropriate;
- Verifying that the RPS operating in a non ratifying country, as applicable, are operating in accordance with the requirements of the Convention;
- Any other relevant requirements of the flag State, including any substantially equivalent provisions.

Guidance for Inspection

As a first step the inspector should ascertain how the seafarers on board were recruited and placed. Since types of recruitment and placement may vary depending upon the nationality and position of the seafarers onboard, the inspector should use his professional judgement in deciding the samples to be checked.

If the shipowner has used a private RPS located in the flag State's territory or a RPS in a non-ratified country, the inspector should verify appropriate documentary evidence that the shipowner has taken measures to ensure that the RPS meets the requirements of this Convention and the national requirements of the competent authority in the flag State.

No. 129

(cont)

6. Hours of work or rest (Reg. 2.3)

General

Regulation 2.3 requires that seafarers have regulated hours of work or hours of rest in order to provide adequate rest to the seafarers taking into account dangers posed by the fatigue.

Inspected and certified

Basic requirements

- *The minimum hours of rest* must not be less than 10 hours in any 24-hour period and 77 hours in any seven-day period, if the relevant national law relates to hours of rest, or, if the relevant national law relates to hours of work, the maximum hours of work** must not exceed 14 hours in any 24-hour period and 72 hours in any seven day period (Standard A2.3, paragraph 5, as implemented in national standards).****
- *Hours of rest may be divided into no more than two periods, one of which must be at least 6 hours; the interval between consecutive periods of rest must not exceed 14 hours (Standard A2.3, paragraph 6, as implemented in the national standards).****
- *Account must be taken of the danger posed by the fatigue of seafarers (Standard A2.3, paragraph 4).*

* *"Hours of rest" means time outside hours of work; this term does not include short breaks (Standard A2.3, paragraph 1(b)).*

** *"Hours of work" means time during which seafarers are required to do work on account of the ship (Standard A2.3, paragraph 1(a)).*

*** *With respect to the national standards implementing Standard A2.3:*

Standard A2.3, paragraph 3 provides that "Each Member acknowledges that the normal working hours' standard for seafarers, like that for other workers, shall be based on an eight-hour day with one day of rest per week and rest on public holidays. However, this shall not prevent the Member from having procedures to authorize or register a collective agreement which determines seafarers' normal working hours on a basis no less favourable than this standard."

Standard A2.3, paragraph 13 provides that "Nothing in paragraphs 5 and 6 of this Standard shall prevent a Member from having national laws or regulations or a procedure for the competent authority to authorize or register collective agreements permitting exceptions to the limits set out. Such exceptions shall, as far as possible, follow the provisions of this Standard but may take account of more frequent or longer leave periods or the granting of compensatory leave for watchkeeping seafarers or seafarers working on board ships on short voyages."

How to check the basic requirements

- *Check that there is an approved standardized table of shipboard working arrangements setting out the national requirements for maximum hours of work or the minimum hours of rest and the schedule for service at sea and in port, posted in an easily accessible place on the ship.*
- *Check the working arrangement listed in the table.*

No. 129

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- *Check documents (the SEA or the relevant collective agreement and other documents, such as the bridge and engine room logbooks, that can also be checked) to confirm compliance with the basic requirements concerning minimum hours of rest or maximum hours of work.*
- *Check for a table of working arrangements or schedule in the working language or language of the ship and in English.*
- *Check that there are up to date records of work or rest, as required under national standards, for each seafarer serving on the ship.*
- *Check for seafarer fatigue, possibly indicated by hours of work that are consistently at the upper limits and by other contributory factors, such as disrupted rest periods. If there are seafarers that show symptoms such as lack of concentration, irrelevant and inconsistent replies to questions, yawning and slow reaction times, further investigation may be considered.*

Examples of deficiencies

- *A seafarer's work schedule does not conform to the applicable standards.*
- *Table of working arrangements is not posted or does not contain required information.*
- *Table of working arrangements is not in English and the working language(s) of the ship.*
- *Records of work or rest are not available or are not maintained.*
- *Evidence of exceeding the limits of work and no record of suspension of the schedule, in accordance with Standard A2.3, paragraph 14, has been noted in a logbook or other document.*

Items for review of DMLC Part II

Check that the DMLC Part II has measures to ensure initial and on-going compliance with the requirements in accordance with the flag State's DMLC Part I for:

- Minimum hours of rest or maximum hours of work;
- Table of working arrangements;
- Young seafarers under the age of 18, as applicable;
- Compensatory rest period;
- Any other relevant requirements of the flag State, including any substantially equivalent provisions, if any;
- Exceptions, if any.

Guidance for Inspection

The inspector should verify that the maximum number of hours of work or minimum number of hours of rest criteria established in the National Requirements, or DMLC Part I has been implemented on board through sampling of records, log books, and private interviews, etc.

**No.
129**
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The inspector should verify that a table of shipboard working arrangements setting out the national requirements with the schedule for service at sea and in port, is posted in an easily accessible place on the ship. This table should be in a standardized format and in the working language or languages of the ship and in English.

Inspectors should verify that short breaks are not counted towards rest periods. Any authorized exceptions to the hours of rest criteria or suspension of the work schedule are properly recorded in the log book or similar document, and compensatory rest given to the seafarers, as applicable.

Inspectors should be aware that repeated breaches of the requirement of hours of work and rest or an accident that has occurred due to the seafarer's fatigue may be indicative of inadequate manning on board.

No. 129

(cont)

7. Manning levels for the ship (Reg. 2.7)

General

Regulation 2.7 requires that all ships have a sufficient number of seafarers employed on board to ensure that ships are operated safely, efficiently and with due regard to security under all conditions, taking into account concerns about seafarer fatigue and the particular nature and conditions on the voyage.

Inspected and certified

Basic requirements

- *Ship must have a sufficient number of seafarers employed on board to ensure that ships are operated safely, efficiently and with due regard to security under all conditions, taking into account concerns about fatigue and the particular nature and conditions of voyage.*
- *Ship must comply with the manning levels listed on the Safe Manning Document (SMD) or equivalent issued by the competent authority (Standard A2.7, paragraph 1).*

How to check the basic requirements

- *Check safe manning document (SMD) or applicable equivalent.*
- *Check crew list for number, category (such as cooks and those responsible for food preparation and those who are responsible for medical care) and qualifications of seafarers working on board.*
- *Check on-board table of working arrangements to confirm that safe manning requirements are being implemented.*
- *Interview, in private, a representative number of seafarers to confirm that requirements are met.*

Examples of deficiencies

- *Number and/or categories of seafarers working on board does not correspond with those stated in the SMD.*
- *No SMD or equivalent on board.*

Items for review of DMLC Part II

Check that the DMLC Part II has measures to ensure initial and on-going compliance with the requirements in accordance with the flag State's DMLC Part I for:

- Manning levels;
- Qualification and certification of seafarers;
- Any other relevant requirements of the flag State, including any substantially equivalent provisions, if any.

**No.
129**
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Guidance for Inspection

The inspector should verify that the ship is manned in accordance with the Safe Manning Document (SMD) issued by the flag State.

No. 129

(cont)

8. Accommodation (Reg. 3.1)

General

Regulation 3.1 requires that seafarers are provided with decent accommodation and recreational facilities for promoting the seafarers' health and well-being, while on board.

Inspected and certified

Basic requirements

- *Ships must be in compliance with the minimum standards established by the MLC, 2006, providing and maintaining decent recreational facilities for seafarers working or living on ships, or both, consistent with promoting seafarers' health and well-being.*
- *Seafarer recreational facilities must be safe and decent and must meet national requirements implementing the MLC, 2006 (Standard A3.1, paragraph 1).*
- *Frequent inspections of seafarer recreational facilities are carried out by the master or a designate (Standard A3.1, paragraph 18) and are recorded and the records are available for review.*

Notes:

For ships coming into service:

- *The attending inspector should be aware of the plan approval process undertaken during the construction of the ship with respect to the seafarer accommodation arrangements. As part of the first inspection of a ship the inspector will need to verify that the recreational facilities have been constructed in accordance with the approved drawings. The same applies to ships that have been substantially altered. This process need not be repeated for subsequent inspections.*

For ships that were in existence before entry into force of the MLC, 2006, for the flag State:

- *Account must be taken of any national provisions that may have been adopted with respect to this issue. These ships will still need to be inspected in connection with seafarers' accommodation and recreational facilities to verify that the ship:*
 - *meets the standards set out in either ILO Conventions Nos. 92, 133, 147 or the Protocol of 1996 to Convention No. 147 (if applicable in the flag State); and/or*
 - *provides and maintains decent recreational facilities for seafarers working or living on board, or both, consistent with promoting the seafarers' health and well-being in accordance with national legislation.*

How to check the basic requirements

- *Check the construction plan of the ship that shows dimensions and identifying the use to be made of each room or other area.*
- *Check the crew list compared to the number of sleeping rooms and berths.*

No. 129

(cont)

- *Carry out a visual observation of seafarers' on-board recreational facilities with particular attention paid to the following requirements in the MLC, 2006:*
 - *general requirements (Standard A3.1, paragraph 6);*
 - *the size of rooms and other accommodation spaces (Standard A3.1, paragraphs 9 and 10);*
 - *heating and ventilation (Standard A3.1, paragraph 7);*
 - *noise and vibration and other ambient factors (Standard A3.1, paragraph 6(h));*
 - *sanitary and related facilities (Standard A3.1, paragraphs 11 and 13);*
 - *lighting (Standard A3.1, paragraph 8);*
 - *hospital accommodation (Standard A3.1, paragraph 12);*
 - *recreational facilities (Standard A3.1, paragraphs 14 and 17);*
 - *occupational safety and health and accident prevention requirements on ships, in light of the specific needs of seafarers who both live and work on ships (Standard A3.1, paragraphs 2(a) and 6(h));*
- *Check the on-board records to confirm that frequent inspections are carried out by, or under the authority of, the ship's master, as well as (for ships that carry a Maritime Labour Certificate) that other inspections or actions provided for in the shipowners' approved measures found in the DMLC Part II, have been carried out.*
- *Check that measures are being taken on the ship to monitor noise and vibration levels in seafarers' working and living areas.*

Examples of deficiencies

- *Location of sleeping rooms on the ship does not conform to national standards implementing the MLC, 2006.*
- *Number and/or size (including height) of sleeping rooms does not conform to national standards implementing the MLC, 2006.*
- *More than one seafarer per berth.*
- *Recreational facilities do not conform to national standards implementing the MLC, 2006.*
- *Heating, lighting or ventilation is inadequate or not functioning correctly.*
- *Fittings and fixtures within seafarer accommodation areas, including the hospital, mess rooms and recreational rooms, do not conform to national standards implementing the MLC, 2006.*
- *Separate sleeping rooms are not provided for males and females.*
- *Separate sanitation facilities are not provided for males and females.*

No. 129

(cont)

- *Sanitary facilities are inadequate and not functioning.*
- *Hospital is being used to accommodate persons who are not sick.*
- *Seafarer recreational facilities are not being maintained in a clean and tidy condition.*
- *Regular inspections of seafarer recreational facilities are not being carried out by the master or another designated person.*
- *Laundry facilities are inadequate or not functioning correctly.*
- *Exposure to hazardous levels of noise and vibration and other ambient factors and chemicals in the seafarer accommodation or recreational or catering facilities.*

Items for review of DMLC Part II

Check that the DMLC Part II has measures to ensure initial and on-going compliance with the requirements in accordance with the flag State's DMLC Part I for:

- Providing and maintaining decent accommodation facilities on board for seafarers working or living on board, or both, and consistent with promoting the seafarers' health and well-being;
- Frequent inspection of accommodation under the authority of the master and that records are maintained.

In addition, the inspector should request documentary evidence (i.e. certificate/Statement of Fact/survey report, or a letter from the Administration) attesting to the fact that the vessel was built to the applicable standards and its accommodation design and construction has been accepted by the Administration.

Documentary evidence for existing ship should be as follows:

- meets the standards set out in either ILO Conventions Nos. 92, 133, 147 or the Protocol of 1996 to Convention No. 147 (if applicable in the flag State);
- where ILO Convention Nos. 92, 133, 147 are not applicable for the existing ship, because, for example the flag State has not ratified any of those Conventions or there is no national legislation, a confirmation from flag State should be obtained indicating that the flag State has accepted the accommodation arrangement as it is.

Documentary evidence for the new ship should be as follows:

- meet the standards set out in MLC, 2006 Standard A3.1.

RO responsible for MLC, 2006 certification may accept a Certificate/Statement of Compliance or other form of evidence confirming compliance with design and constructions requirements with ILO Conventions 92/133 or Regulation 3.1 of the MLC, 2006 provided it is issued by the flag State or an authorized RO of the flag State.

Guidance for Inspection

On existing ships or at the first inspection following a new building, the inspectors should verify that documentary evidence confirming compliance with the requirements of Regulation 3.1 which relate to ship construction and equipment is available on board.

**No.
129**
(cont)

During subsequent inspections, the inspectors should perform visual inspections of the accommodation spaces and sample the approved arrangements to confirm that no alterations or modifications have been made resulting in non-compliance, and that the accommodation continues to be maintained in safe and hygienic condition and in accordance with the national requirements. Additionally, records of frequent inspections by or under the authority of the master should be verified on board.

According to Regulation 3.1 all ships should provide and maintain decent and safe accommodation for seafarers, working or living on board.

Regulation 3.1 contains elements related to construction and equipment as well as those which relate to “operational” matters.

For elements related to design and construction, the inspector should verify that the existing vessel has some documentation (i.e. certificate/Statement of Fact/report, etc) attesting to the fact that the vessel was built to C 92 and/or C 133, or national requirements as applicable. Similarly, for new vessels constructed after the MLC, 2006 enters into force, the documentation indicating that the vessel was built to the MLC, 2006 should be verified during MLC inspections.

Items related to “operational” matters should be inspected during each regular inspection and include:

- Lighting, hot and cold water supply, drainage, heating and ventilation arrangements in the accommodation with respect of state of repair and functionality;
- Furniture and equipment in the sleeping rooms is in a good state of repair to ensure reasonable comfort and to facilitate tidiness. Separate sleeping rooms for men and women and a separate berth for each seafarer is provided in all circumstances;
- Mess rooms, sanitary facilities, hospital, recreational and catering facilities with respect to cleanliness and hygiene;
- Measures implemented for monitoring and maintenance of conditions in respect of noise and vibration levels as specified in the national requirements;
- Laundry facilities with respect of maintenance and equipment;
- Mosquito protection devices on ships regularly trading to mosquito-infested areas with respect of state of repair and functionality;
- Recreational facilities, amenities and services provided as required by the flag Administration;
- Records of inspections carried out on board ships, by or under the authority of the master, to ensure that seafarers’ accommodation is clean, decently habitable and maintained in a good state of repair and results of these inspections.

**No.
129**

(cont)

9. On-board recreational facilities (Reg. 3.1)**General**

Regulation 3.1 requires that decent recreational facilities on board are provided for seafarers working or living on board, consistent with promoting the seafarers' health and well-being.

Refer to section 8 (Accommodation) for basic requirements for inspection, how to check basic requirements, and examples of deficiencies in recreational facilities.

Items for review of DMLC Part II

Check that the DMLC Part II has measures to ensure initial and on-going compliance with the requirements in accordance with the flag State's DMLC Part I for:

- Provision of on-board recreational facilities;
- Frequent inspection of on-board recreational facilities under the authority of the master and the records to be maintained.

Guidance for Inspection

When carrying out on-board inspection, the inspector should ascertain that on-board recreational facilities are maintained in a clean and hygienic condition, and maintained in a good state of repair. The inspector should sample records of shipboard inspections, by the master or his designee, to confirm ongoing compliance with the national requirements relative to these facilities is being maintained.

No. 129

(cont)

10. Food and catering (Reg. 3.2)

General

Regulation 3.2 requires that seafarers have access to free of charge good quality food and drinking water provided under regulated hygienic conditions and that they are of appropriate nutritional value and quantity that adequately covers the requirements of the ship and takes into account the differing cultural and religious backgrounds. The ships' cooks employed with the responsibility for food preparation should be trained and qualified for their position.

Inspected and certified

Basic requirements

- *Food and drinking water must be of appropriate quality, nutritional value and quantity, taking into account the requirements of the ship and the differing cultural and religious backgrounds of seafarers on the ship.*
- *Food is to be provided free of charge to seafarers during the period of engagement.*
- *Seafarers employed as ship's cooks* with responsibility for preparing food must be trained and qualified for their positions.*
- *Seafarers employed as ship's cooks* must not be less than 18 years old (Standard A3.2, paragraph 8).*
- *Frequent and documented inspections of food, water and catering facilities are carried out by the master or a designate (Standard A3.2, paragraph 7).*
- * *"Ship's cook" means a seafarer with responsibility for food preparation (Regulation 3.2, paragraph 3; Standard A3.2, paragraphs 3 and 4)*

How to check the basic requirements

- *Check documents (see Regulation 1.1 on minimum age) to confirm that ship's cooks are 18 years old or older and that the ship's cooks are trained, qualified and competent for their positions in accordance with national requirements. In cases where a fully qualified cook is not required, check that seafarers processing food in the galley are trained or instructed on food and personal hygiene and handling and storage of food on board ships.*
- *Check on-board records to confirm that frequent and documented inspections are made of:*
 - *supplies of food and drinking water;*
 - *spaces used for handling and storage of food;*
 - *galleys and other equipment used in the preparation and service of meals;*
 - *visual observation of catering facilities, including galleys and store rooms, to check that they are hygienic and fit for purpose.*
- *Check that food and drinking water are of an appropriate quality (for example, not out of date) and quantity and nutritional value by:*

No. 129

(cont)

- *checking drinking water quality and ascertaining how the quality is monitored;*
- *reviewing menu plans together with visual observation of food supplies and storage areas to ensure that the food supplied is varied in nature.*
- *Check, by interviewing, in private, a representative number of seafarers, that they are not charged for food and are provided with drinking water and that food and drinking water are of appropriate quality and quantity.*

Example of deficiencies

- *Food and drinking water are not of appropriate quality, nutritional value and quantity, for the seafarers on the ship.*
- *Seafarer is charged for food and/or is not provided with drinking water.*
- *Seafarer who has responsibility for preparing food or water or the preparation /storage/handling areas are not being carried out.*
- *Ship's cook is not trained and qualified.*
- *Ship's cook is under 18 years of age.*
- *Frequent and documented inspections of the food or water or the preparation /storage/handling areas are not being carried out.*
- *Catering facilities are not hygienic or are otherwise unfit for purpose.*

Items for review of DMLC Part II

Check that the DMLC Part II has measures to ensure initial and on-going compliance with the requirements in accordance with the flag State's DMLC Part I for:

- Quantity, nutritional value, quality and variety of food and water;
- Organization and provision of suitable equipment;
- Age verification of cooks and training and qualifications of catering staff;
- Frequent documented inspections;
- Any other relevant requirements of the flag State, including any substantially equivalent provisions, if any.

Guidance for Inspection

The following areas should be inspected, and compliance with the national requirements ascertained by means of private interviews, review of documentation and physical inspection of facilities, as appropriate to verify proper implementation of the convention requirements on board:

- Inventory of food and drinking water and related records;
- Drinking water quality tests and schedule of the inspections and their records;

**No.
129**

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- Seafarers menus to verify that the food supplied is varied in nature;
- Inspection records (accommodation, mess-rooms, galleys, food storage areas, etc);
- Galley and mess-rooms maintenance records;
- Training certificates and records for the ship's cook and catering staff;
- Records for demonstrating age of ship's cook.

Inspectors should be aware that a cook is required to be on board where the prescribed manning is 10 or more seafarers. In exceptional cases, the flag State may issue a dispensation permitting a non-qualified cook for a limited period, not to exceed one month. Where such permission is granted, the inspector should verify that the dispensation issued by the flag State is valid and relevant personnel have been trained or instructed in handling and storage of food, and personnel hygiene.

No. 129

(cont)

11. Health and safety and accident prevention (Reg. 4.3)

General

Regulation 4.3 sets out requirements to ensure that seafarers' work environment on board ships promotes occupational safety and health. The purpose of this regulation is to ensure that seafarers on ships are provided with occupational health protection and live, work and train on board ship in a safe and hygienic environment.

Inspected and certified

Basic requirements

- *The working, living and training environment on ships must be safe and hygienic and conform to national laws and regulations and other measures for occupational safety and health protection and accident prevention on board ship. Reasonable precautions should be taken to prevent occupational accidents, injuries and diseases on board ship, including measures to reduce and prevent the risk of exposure to harmful levels of ambient factors and chemicals as well as the risk of injury or disease that may arise from the use of equipment and machinery on board ships (Standard A4.3, paragraph 1(b)).*
- *Ship must have an occupational safety and health policy and program to prevent occupational accident injuries and diseases, with a particular concern for the safety and health of seafarers under the age of 18 (Standard A4.3, paragraphs 1(c) and 2(b)).*
- *A ship safety committee, that includes participation by the seafarer safety representative, is required (for ships with five or more seafarers) (Standard A4.3, paragraph 2(d)).*
- *Risk evaluation is required for on-board occupational safety and health management (taking into account relevant statistical data) (Standard A4.3, paragraph 8).*

How to check the basic requirements

- *Check relevant documents, such as the on-board occupational accident reports, and the reports of risk evaluations undertaken for the management of occupational safety and health on the ship.*
- *Check documents evidencing membership and meetings of the safety committee (e.g. records and minutes of the meetings, etc) if the ship has more than five seafarers.*
- *Check documents related to the ship's on-board ongoing occupational safety and health policy and program, to confirm that:*
 - *it is available to seafarers;*
 - *it is consistent with national provisions;*
 - *it includes risk evaluation, training and instruction for seafarers;*
 - *it pays special attention to the health and safety of young seafarers;*
 - *adequate preventive measures are being taken;*

No. 129

(cont)

- *appropriate personal protective equipment is being used and maintained correctly.*
- *Check that relevant occupational safety and health and accident prevention notices and official instructions with respect to particular hazards on the ships are posted on the ship in a location that will bring it to the attention of seafarers (Standard A4.3, paragraph 7).*
- *Check that appropriate protective equipment is available for seafarers to use.*
- *Check that a reporting procedure for occupational accidents is in place.*
- *Interview, in private, a representative number of seafarers to confirm on-board occupational safety and health programs and practices.*
- *Check that, with respect to health and safety protection and accident prevention, special consideration is given to any national requirements covering:*
 - *the structural features of the ship, including means of access and asbestos related risks;*
 - *machinery;*
 - *the effects of the extremely low or high temperature of any surfaces with which seafarers may be in contact;*
 - *the effects of noise in the workplace and in shipboard accommodation;*
 - *the effects of vibration in the workplace and in shipboard accommodation;*
 - *the effects of ambient factors (other than noise and vibration) in the workplace and in shipboard accommodation, including tobacco smoke;*
 - *special safety measures on and below deck;*
 - *loading and unloading equipment;*
 - *fire prevention and fire-fighting;*
 - *anchors, chains and lines;*
 - *dangerous cargo and ballast;*
 - *personal protective equipment for seafarers;*
 - *work in enclosed spaces;*
 - *physical and mental effects of fatigue;*
 - *the effects of drug and alcohol dependency;*
 - *HIV/AIDS protection and prevention;*
 - *emergency and accident response.*

No. 129

(cont)

Examples of deficiencies

- *Conditions exist on board which may impair efforts to prevent accidents.*
- *No evidence of an on-board policy and/or programs for the prevention of occupational accidents, injuries and diseases.*
- *No established or functioning ship's safety committee when there are five or more seafarers working on board.*
- *Personal protective equipment is in poor condition or being incorrectly used or not being used.*
- *Risk assessments are missing.*
- *Seafarers are unaware of the measures adopted by the management to provide OSH and to prevent accidents.*
- *Risks posed to young seafarers have not been addressed.*
- *Occupational accidents are not being investigated or reported in accordance with the ship's procedures.*

Items for review of DMLC Part II

Check that the DMLC Part II has measures to ensure initial and on-going compliance with the requirements in accordance with the flag State's DMLC Part I for:

- Occupational safety and health policies;
- On-board program for the prevention of occupational accidents, injuries and diseases with special attention being paid to the safety and health of seafarers under the age of 18;
- Investigating and reporting on-board occupational accidents;
- Risk evaluation in relation to management of occupational safety and health;
- List of hazardous works;
- Appointment of safety representative on board the ship;
- Ship's safety committee;
- Any other relevant requirements of the flag State, including any substantially equivalent provisions, if any.

Guidance for Inspection

The inspector should verify that the shipowner has carried out a risk assessment of all possible hazards, and the seafarers are provided with appropriate occupational health protection, and a safe and hygienic environment.

**No.
129**

(cont)

The inspector should verify that health and safety policy, and occupational health and safety programs are implemented on board with special attention being paid to seafarers under the age of 18.

When dangerous goods are carried on board, the inspector should verify that adequate additional protection equipment is available on board in accordance with the national requirements.

The inspectors should verify that the shipowner has undertaken investigations into the causes and circumstances of all occupational accidents, injuries and diseases, and they are reported in accordance with the company's procedures and national requirements.

During inspection, the inspector should pay special attention to the following areas:

- Machinery is adequately guarded where necessary;
- Safe operating instructions are clearly displayed;
- Safety signs are clearly displayed;
- Permits-to-work system is used when necessary;
- Seafarers are wearing necessary protective clothing, and have proper equipment suitable for the task;
- Protective clothing and equipment are in good condition and being correctly used;
- Activities of the safety committee to confirm that it is functional.

No. 129

(cont)

12. On-board medical care (Reg. 4.1)

General

Regulation 4.1 sets out requirements for medical care of seafarers while they are employed on board ship. The purpose of this regulation is to protect the health of seafarers and ensure their prompt access to medical care on board ship and ashore.

Inspected and certified

Basic requirements

- *Seafarers must be covered by adequate measures for the protection of their health and have access to prompt and adequate medical care, including essential dental care, whilst working on board.*
- *Health protection and care are to be provided at no cost to the seafarer, in accordance with national law and practice.*
- *Shipowners are to allow seafarers the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable (Standard A4.1, paragraph 1(c)).*

How to check the basic requirements

- *Check documents (such as the SEA) to confirm that, to the extent consistent with national law and practice, medical care and health protection services while seafarers are on board ship or landed in a foreign port, are provided free of charge (see Standard A4.1, paragraph 1(d)).*
- *Check documents (such as the SEA) to confirm that seafarers are given the right to visit a qualified medical doctor or dentist, without delay, when calling at a port, where practicable (see Standard A4.1, paragraph 1(c)).*
- *Check records and equipment to confirm that general provisions on occupational health protection and medical care are being observed (Standard A4.1, paragraph 1(a)).*
- *Undertake visual observation to confirm that the ship is equipped with sufficient medical supplies including a medicine chest and equipment, including either the most recent edition of the International Medical Guide for Ships or a medical guide as required by national laws and regulations.*
- *Check documents (such as the SMD and crew list) to confirm that a qualified medical doctor is working on board ships that carry 100 or more people and that are ordinarily engaged in voyages of more than three days' duration.*
- *Check that, where ships are not required to carry a medical doctor, they have at least one seafarer on board (who is trained and qualified to the requirements of STCW) to be in charge of medical care or is competent to provide medical first aid as part of their regular duties.*
- *Check that medical report forms are carried on board the ship.*
- *Interview, in private, a representative number of seafarers to confirm that seafarers have access to medical care on board without charge and are given leave to obtain medical and dental care services when calling in a port, where practicable.*

No. 129

(cont)

- *Check that procedures are in place for radio or satellite communications for medical assistance.*

Examples of deficiencies

- *A seafarer working on the ship is denied, without justification, shore leave by the master and/or shipowner to go ashore for medical or dental care.*
- *A seafarer is not provided with appropriate health protection and medical care on board ship.*
- *Medical personnel, with appropriate qualifications, as required by national laws or regulations, are not on board.*
- *Medical chest or equipment does not meet national standards and/or no medical guide is on board.*
- *No medical report forms are on board.*
- *Evidence that a seafarer is being charged for medical or dental care, contrary to national law or practice.*

Items for review of DMLC Part II

Check that the DMLC Part II has measures to ensure initial and on-going compliance with the requirements in accordance with the flag State's DMLC Part I for:

- Coverage of medical care including dental care (reference could be made in SEA(s) and complementary documents);
- Use of medical report form;
- Maintenance of medical chest and equipment in accordance with the national requirements;
- Any other relevant requirements of the flag State, including any substantially equivalent provisions, if any.

Guidance for Inspection

The inspector should verify that the shipowner provides medical and essential dental care for seafarers in accordance with the national requirements of its flag State and the SEA/CBA. These services are generally provided free of charge when the seafarer is on board or landed in a foreign port.

The inspector should sample SEA, qualifications and required number of medical care providers on board, medical logs, medical chest, medical equipment, ship's hospital, medical publications, medical reports, radio and satellite communication procedures, etc. to confirm that the flag State requirements have been complied with.

No. 129

(cont)

13. On-board complaint procedures (Reg. 5.1.5)

General

Regulation 5.1.5 sets out requirements for on-board complaint procedure for seafarers that are employed on board a ship. The purpose of this regulation is to provide a mechanism by which seafarers can file their grievances and complaints to the master, shipowner, and relevant external authorities such as the competent authority in the flag State.

Inspected and certified

Basic requirements

- *Ships must have on-board procedures for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of the MLC, 2006 (including seafarers' rights).*
- *All seafarers must be provided with a copy of the on-board complaint procedures applicable on the ship. This should be in the working language of the ship.*
- *Victimization of seafarers for filing complaints under the MLC, 2006, is prohibited.*

How to check the basic requirements

- *Check the document outlining the on-board complaint procedures to confirm that the procedures are functioning on the ship, paying particular attention to the right of representation and to the required safeguards against victimization.*
- *Check that seafarers are provided with a copy of the on-board complaint procedures in the working language of the ship.*
- *Check a document outlining the on-board complaint procedures to confirm that seafarers are able to complain directly to the ship's master or an external authority.*
- *Interview, in private, a representative number of seafarers to confirm that seafarers are given a copy of the procedures and that they are able to complain directly to the ship's master or an external authority and that there is no victimization.*

Examples of deficiencies

- *No document setting out the on-board complaint procedures.*
- *Ship's on-board complaint procedures are not operating.*
- *Victimization of a seafarer for making a complaint.*
- *Seafarer is not provided with a copy of the complaint procedures in the working language of the ship.*

Items for review of DMLC Part II

Check that the DMLC Part II has measures to ensure initial and on-going compliance with the requirements of the flag State relative to on-board complaint procedures.

**No.
129**
(cont)

A copy of on-board complaint procedure should be requested at the time of DMLC Part II review to verify that it:

- Seeks to resolve complaints at the lowest possible level;
- Provides the right of the seafarer to complain directly to the master and/or external authorities;
- Provides the right of the seafarer to be accompanied or represented;
- Provides for safeguards against the possibility of victimization;
- Includes contact information of the competent authority in the flag State and where different, in the seafarer's country of residence;
- Includes names/positions of person or persons who can, on confidential basis, provide seafarers with impartial advice and assist them in following the complaint procedures;
- Any other relevant requirements of the flag State, including any substantially equivalent provisions, if any.

Guidance for Inspection

The inspector should verify that the seafarers are provided with a copy of on-board complaint procedures in the working language of the ship, and that the seafarers are familiar with these procedures, including their rights and responsibilities. The inspector should confirm, through private interviews, that seafarers are aware of their ability to complain directly to the master and/or external authorities.

No. 129

(cont)

14. Payment of wages (Reg. 2.2)

General

Regulation 2.2 sets out requirements for payment of seafarers wages. All seafarers should be paid for their work regularly in full and in accordance with their employment agreements. Seafarers must be paid at no greater than monthly intervals.

Inspected and certified

Basic requirements

- *Seafarers must be paid at no greater than monthly intervals and in full for their work in accordance with their employment agreements.**
- *Seafarers are entitled to an account each month indicating their monthly wage and any authorized deductions such as allotments.*
- *No unauthorized deductions, such as payments for travel to or from the ship.*
- *Charges for remittances/allotment** transmission services must be reasonable and exchange rates in accordance with national requirements.*
- * *Flag States may wish to consider requiring shipowners to carry on board their ships' documents such as a copy of payroll or electronic record sheets.*
- ** *An allotment is an arrangement whereby a proportion of seafarers' earnings are regularly remitted, on their request, to their families or dependants or legal beneficiaries whilst the seafarers are at sea (Standard A2.2, paragraphs 3 and 4).*

How to check the basic requirements

- *Check the SEA and documentation, such as the payroll records to confirm wages are being paid at intervals no greater than one month as specified in their SEA or relevant collective agreements.*
- *Check relevant documents showing service charges and exchange rates applied to any remittances made to the seafarers' families or dependants or legal beneficiaries at their request.*
- *Check relevant documents to confirm the payment of wages including the requirement that a monthly account (such as a wage slip) is provided to the seafarers. Copies of individual accounts should be available to inspectors at their request.*
- *Check that the wages set out in the SEA are consistent with national wages for seafarers, if national laws or regulations or collective bargaining agreements governing seafarers' wages have been adopted.*
- *Interview, in private, a representative number of seafarers to confirm compliance with requirements on the payment of wages.*

Examples of deficiencies

- *A seafarer is not paid regularly (at least monthly) and in full in accordance with the national legislation (DMLC Part I), SEA or CBA.*

**No.
129**
(cont)

- *A seafarer is not given a monthly account (such as a wage slip) of wage.*
- *Allotments are not being paid or are not being paid in accordance with the seafarer's instructions.*
- *Charge for converting and transmitting currencies is not in line with national requirements.*
- *More than one set of wage accounts is in use.*

Items for review of DMLC Part II

Check that the DMLC Part II has measures to ensure initial and on-going compliance with the requirements in accordance with the flag State's DMLC Part I for:

- Procedure for payment of wages, including intervals at which they are paid;
- Remittance/allotment requested by seafarers and application of exchange rate/service charge(s), if any;
- other relevant requirements of the flag State, including any substantially equivalent provisions, if any.

Guidance for Inspection

The inspector should check through documentary evidence and private interviews with representative number of seafarers that seafarers receive their wages regularly at the specified interval. The amount of the paid monthly wage should correspond to the agreed sum or as per calculation method defined in the SEAs.

The inspectors should verify through documentary inspection and private interviews that all seafarers are given wage slips at least monthly, either in hard copy or in electronic form, indicating all allotments and deductions, if any. No unauthorized deductions are allowed.

The inspector should verify that the requirements of national laws, SEAs and CBAs regulating the wages are met.

**No.
129**

(cont)

Inspection only items**General guidance**

“Inspections only” items are not required to be addressed in DMLC Part I, but must be inspected as per the Guidelines for the flag State inspections under the Maritime Labour Convention, 2006. Where a flag State has included “inspection only” items in their DMLC Part I, the inspector should verify that the corresponding requirements of the flag State have been addressed in the shipowner’s DMLC Part II.

No. 129

(cont)

15. Entitlement to leave (Reg. 2.4)

General

Regulation 2.4 sets out requirements for ensuring that the seafarers have adequate leave, and that they are granted shore leave to benefit their health and well-being.

Inspected

Basic requirements

- *Seafarers must be allowed paid annual leave* in accordance with national laws and regulations implementing the MLC, 2006.*
- *Unauthorized agreements to forgo the minimum annual leave with pay are prohibited (Standard A2.4, paragraph 3).*
- *Seafarers are to be granted shore leave to benefit their health and well-being and consistent with the operational requirements of their positions.*
- * *The MLC, 2006, allows for differing calculations but establishes a minimum annual paid leave calculated on the basis of 2.5 calendar days per month of employment. In addition to the minimum period of annual leave, seafarers may also be entitled to a number of public and customary holidays recognized by the flag State. This is regardless of whether they fall within the individual seafarer's period of annual leave. For additional guidance see Guideline B2.4.1, paragraph 4.*

How to check the basic requirements

- *Check documents, such as the national legislation (DMLC Part I), SEA or the relevant collective agreement, to confirm that seafarers are provided with the annual leave with pay entitlement required by the flag State (at a minimum, to be calculated on the basis of 2.5 calendar days per month of employment).*
- *Check that seafarers' employment and wage records confirm that this requirement is met.*
- *Interview, in private, a representative number of seafarers to confirm that they receive paid annual leave and are allowed an appropriate level of shore leave by the shipowner.*

Examples of deficiencies

- *Seafarer is not given paid annual leave.*
- *Seafarer who has an annual leave entitlement that is less than the national requirement (if more than 2.5 calendar days per month) or less than 2.5 calendar days per month of employment.*
- *Seafarer does not have an entitlement to paid annual leave in the SEA.*
- *Seafarer has agreed to forgo minimum annual leave with pay (and the competent authority has not authorized the agreement) (Standard A2.4, paragraph 3).*

**No.
129**
(cont)

- *Seafarer not allowed shore leave (although leave would be consistent with operational requirements of the seafarer's position).*

Guidance for Inspection

Inspectors should verify that seafarer employment agreements have provisions of paid annual leave in their SEA/CBA which cannot be less than the entitlement to leave prescribed under the national requirements of the flag State. Inspectors should note that the Convention prohibits agreements to forgo the minimum annual leave except in cases where such arrangements are authorized by the competent authority in the flag State. In such cases, inspectors should verify that proper documentation authorizing such agreements is available on board.

No. 129

(cont)

16. Repatriation (Reg. 2.5)

General

Regulation 2.5 sets out requirements and entitlement for repatriation of seafarers, and obligation of the shipowner for seafarers' repatriation and provision of financial security.

Inspected

Basic requirements

- *Seafarers are to be repatriated, at no cost to themselves, in accordance with the national provisions implementing the MLC, 2006.*
- *Shipowners are required to provide financial security to ensure that repatriation will occur.*
- *A copy of the applicable national provisions regarding repatriation must be carried on ships and available to seafarers in an appropriate language (Standard A2.5, paragraph 9).*
- *At a minimum seafarers are entitled to repatriation in the following circumstances:*
 - *if the SEA expires while they are abroad;*
 - *when their SEA is terminated:*
 - *by the shipowner; or*
 - *by the seafarer for justified reasons; and*
 - *when the seafarers are no longer able to carry out their duties under their employment agreement or cannot be expected to carry them out in the specific circumstances (Standard A2.5, paragraphs 1 and 2).*

How to check the basic requirements

- *Check relevant documents confirming that shipowner has provided financial security.*
- *Check that a copy of the national provisions or SEA or relevant CBA regarding repatriation is available (in an appropriate language) to seafarers.*
- *Check for compliance with any national provision that seafarers under the age of 18 are to be repatriated after a prescribed period if it is apparent that they are unsuited to a career at sea (Guideline B2.5.2, paragraph 3).*

Examples of deficiencies

- *Seafarer is not repatriated in accordance with national requirements, or SEA or CBA.*
- *Ship does not have a copy of the national provisions on repatriation on board and accessible to seafarers.*
- *No evidence that financial security for repatriation has been provided.*
- *No provision for seafarer repatriation is in place.*

**No.
129**
(cont)**Guidance for Inspection**

Repatriation is not listed in the 14 areas of Appendix A5-I which identifies areas for inspection and certification of working and living conditions for seafarers on board. However, repatriation is addressed by paragraph (i) of Standard A2.1.4 of the Convention which requires that the seafarer's entitlement to repatriation be identified in the SEA. Additionally, the repatriation is required to be inspected under the Flag State Guidelines for Maritime Labour Convention, 2006.

Inspectors should note that repatriation may not be separately addressed in the DMLC Part I or Part II as it is not a certification and inspection item. The inspectors should review that the flag State's requirements implementing Regulation 2.5 and Standard A2.5 of the Convention concerning repatriation and the SEA to determine compliance with relevant requirements.

No. 129

(cont)

17. Shipowners' liability (Reg. 4.2)

General

Regulation 4.2 sets out requirements for protecting the seafarers from the financial consequences of sickness, injury or death occurring in connection with their employment.

Inspected

Basic requirements

- *Seafarers have a right to material assistance and support from the shipowner with respect to the financial consequences of sickness, injury or death occurring while they are serving under a SEA or arising from their employment under such agreement.*
- *Shipowners are liable to defray the expense of medical care, including medical treatment and the supply of the necessary medicines and therapeutic appliances, and board and lodging away from home until the sick or injured seafarer has recovered, or until the sickness or incapacity has been declared of a permanent character (Standard A4.2, paragraph 1(c)).*
- *Shipowners are to provide financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard, as set out in national law, the SEA or CBA (Standard A4.2, paragraph 1(b)).*
- *Measures are to be taken to safeguard the property of seafarers left on board by sick, injured or deceased seafarers (Standard A4.2, paragraph 7).*

How to check the basic requirements

- *Check the SEA and/or relevant CBA to verify that seafarers have the coverage required by national law implementing the MLC, 2006.*
- *Check documents confirming that the shipowner has provided financial security to assure compensation as required.*
- *Check for on-board procedures with respect to property that is left on board by sick, injured or deceased seafarers.*

Examples of deficiencies

- *No evidence that financial security has been provided.*
- *No information on coverage in the SEA or relevant CBA.*
- *Provisions in the SEA or CBA are not consistent with national requirements implementing the MLC, 2006.*
- *No procedures are in place to safeguard seafarers' property left on board.*

Guidance for Inspection

Inspectors should be aware that the Shipowners' liability is not listed in the Appendix A5-I which identifies 14 areas that must be inspected and certified on board. However, this item

**No.
129**
(cont)

must be inspected on board in accordance with the Flag State Guidelines for the Maritime Labour Convention.

The inspector should verify that the measures for protecting seafarers from financial consequences of sickness, injury or death occurring in connection with their employment are in accordance with the national requirements, and that the measures are in place for protecting properties left on board by sick, injured and deceased seafarers.

No. 129

(cont)

18. Social security (Reg. 4.5)

General

Regulation 4.5 requires that measures are taken with a view to providing seafarers with access to social security protection as specified under the national requirements. This protection is considered complementary to protection provided under other areas of the Convention.

Inspected

Basic requirements

- *Seafarers who are subject to the flag State's social security legislation, and, to the extent provided for in its national law, their dependants, are entitled to benefit from social security protection no less favourable than that enjoyed by shore workers.*

Note: The MLC, 2006, requires that all seafarers be provided with social protection. This covers a number of complementary requirements including prevention-based approaches in connection with occupational safety and health, medical examinations, hours of work and rest and catering. Social protection is mainly addressed in the Title 4 with respect to Medical care (Regulation 4.1); Shipowners' liability (Regulation 4.2); and Social security (Regulation 4.5). Regulation 4.5 and the related Standard A4.5 reflect an approach that recognizes the wide range of national systems and schemes and differing areas of coverage with respect to the provision of social security. Under Standard A4.5, paragraph 3, a ratifying country is required to "take steps according to its national circumstances to provide the complementary social security protection referred to in paragraph 1 of this Standard to all seafarers ordinarily resident in its territory". The resulting protection must be no less favourable than that enjoyed by shore workers resident in its territory. The main responsibility of flag States is to ensure that the shipowners' social security obligations are respected for seafarers on their ships, particularly those set out in Regulations 4.1 and 4.2 (see Standard A4.5, paragraph 5). A more general duty, referred to in Standard A4.5, paragraph 6, and Guideline B4.5, paragraph 5, is also applicable to flag States. ILO member States are to give consideration to ways in which comparable benefits could be provided to seafarers who do not have adequate social security coverage and to possibly themselves arrange for the needed protection to be provided. This responsibility reflects the fact that all States have an important role in promoting the protection of all seafarers and in cooperating to help ensure such protection. In this way flag States can make an important contribution to the achievement of adequate social security protection for seafarers worldwide. In the context of flag State inspection of ships the main concern lies with confirming the complementary protection to be provided by shipowners and stated in the SEA (Standard A2.1, paragraph 4(h)).

How to check the basic requirements

- *Check for evidence that, for seafarers covered by the national social security system, the appropriate contributions are being made if it is a contributory system.*
- *Check the SEA to confirm the protection to be provided by the shipowner.*
- *Interview, in private, a representative number of seafarers to confirm that mandatory contributions, if any, are made.*

Examples of deficiencies

- *No information on protection in the SEA.*

**No.
129**

(cont)

- *Mandatory contributions are not being made.*

Guidance for Inspection

The inspector should be aware that social security protection is primarily the responsibility of the labour supplying country for seafarers ordinarily resident in their territory and is complementary to the benefits provided under Regulation 4.1 (Medical care) and Regulation 4.2 (Shipowners' liability). The flag State may elect to provide certain social security protection benefits to those seafarers who serve on their ships in the absence of adequate coverage regardless of their residence in accordance with its national law and practice. In such cases, the inspector should verify that the social security protection benefits as specified by the flag State and/or in the SEA/CBA are being provided and any contributions, if applicable, are being made.

**No.
129**

(cont)

19. General principles (Reg. 5.1.1)**General**

Standard A5.1.1 of the Maritime Labour Convention, 2006 requires that all ships have a copy of the Convention available on board.

Inspected***Basic requirements***

- *Ships are required to have a copy of the MLC, 2006, available on board.*

How to check the basic requirements

- *Check to confirm that there is a copy of the MLC, 2006, on board.*

Examples of deficiencies

- *No copy of the MLC, 2006, on board.*

Guidance for Inspection

Inspector should verify that the current copy of the Convention is available on board, either in hard copy or electronic format and accessible to all seafarers on board.

Part II**General guidance****20. Inspection process****1) Review of the DMLC Part II and inspection****Background**

The Maritime Labour Convention, 2006, Regulation 5.1.3 requires a DMLC to be established for each ship and it must be reviewed and certified by a flag Administration or RO on behalf of the Administration.

The DMLC consists of two parts. The Part I is drawn up by the flag State and states the national requirements implementing the Maritime Labour Convention, 2006 and any substantial equivalent provision and exemption adopted by the Administration. The DMLC Part II is drawn up by the shipowner and describes the measures the shipowner has established to implement the national requirements identified in the DMLC Part I. The DMLC Part I and II must be attached to the Maritime Labour Certificate.

Paragraph 84 of Guidelines for flag State inspections under the Maritime Labour Convention, 2006, states that “a full inspection, including the document review, must be completed before the Maritime Labour Certificate and the attached DMLC can be issued”.

The review of DMLC Part II is typically conducted prior to the inspection to ensure that all national requirements are fully addressed in the DMLC Part II and associated documentation, but certified only after satisfactory completion of the inspection on board. This procedure ensures that focus of inspection is on the verification of implementation of measures already reviewed by the flag State or RO inspector and facilitates the inspection process.

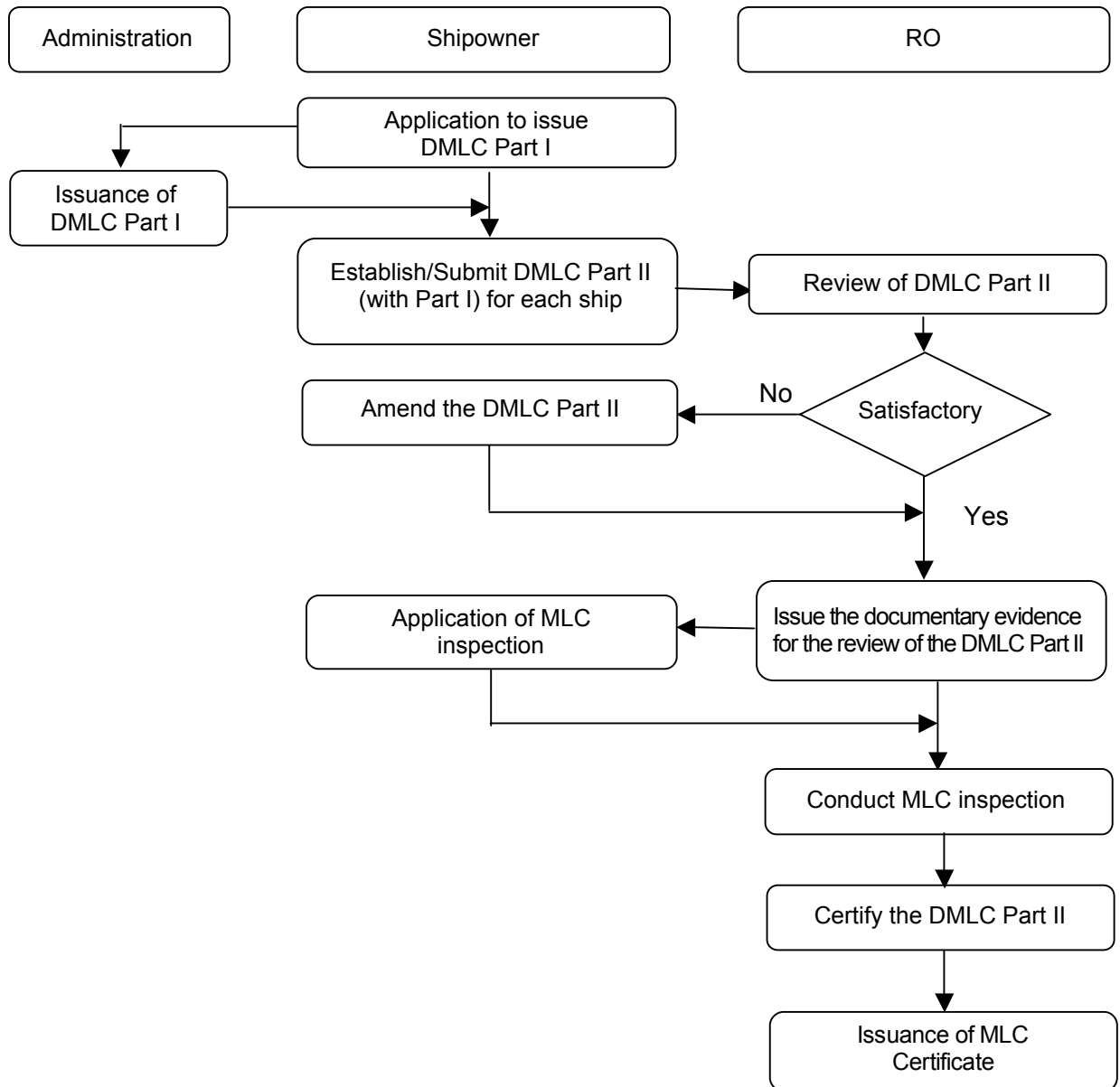
In some cases, RO may be fully authorized to carry out the DMLC Part II review and inspections. However, in other cases, a flag State may only provide partial authorization to the RO. Prior to performing any work, RO inspector should confirm the extent of authorization provided to the RO. Some examples of types of authorizations and relative review and/or inspection process are described in the flow charts below:

No. 129

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1. RO is authorized to review the DMLC Part II, carry out inspections, and issue relevant certifications.

Flow Chart

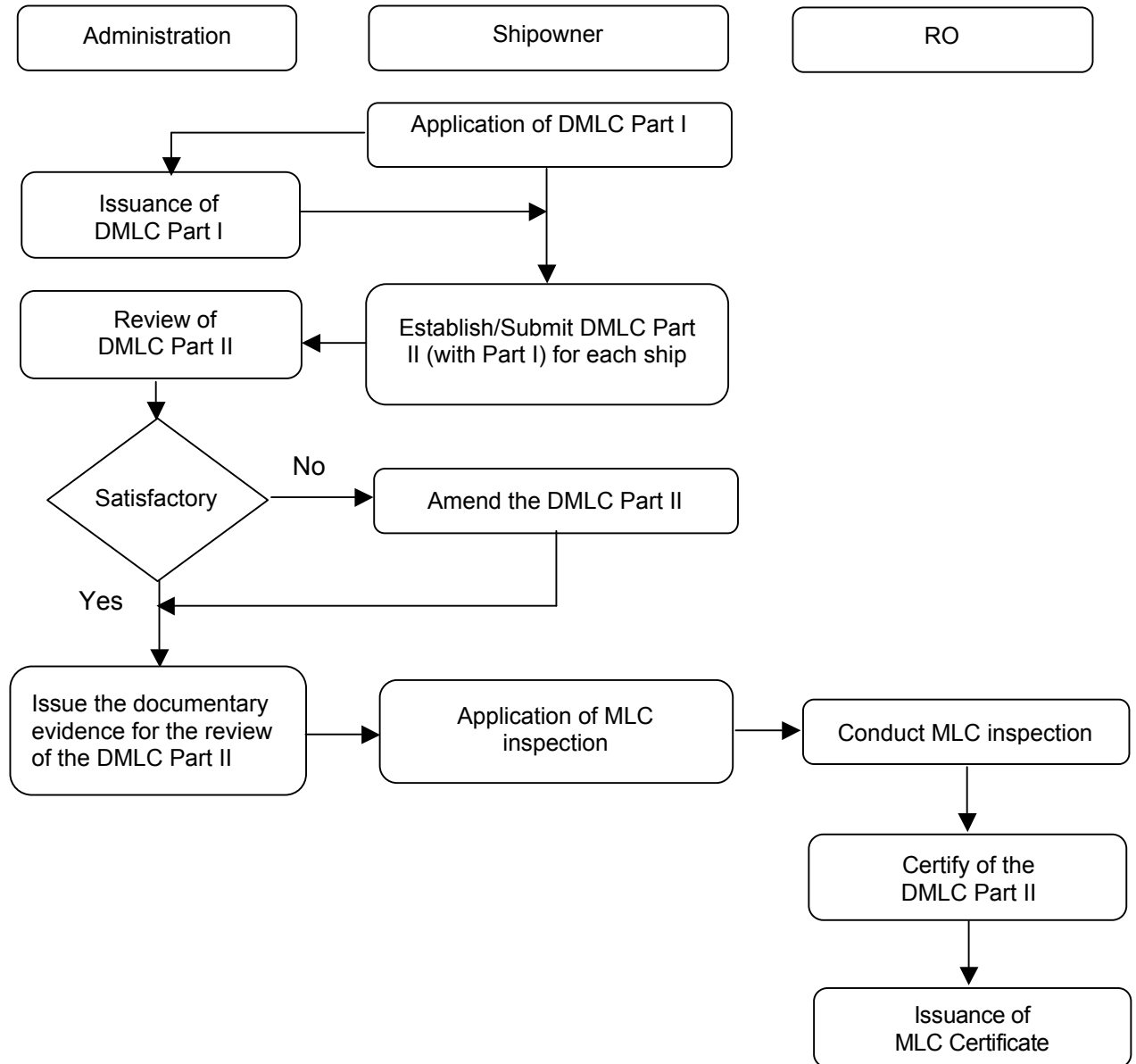


No. 129

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2. Flag State reviews the DMLC Part II and RO is authorized to conduct inspection and issue relevant certifications.

Flow Chart



No. 129 (cont)

Obligations of the shipowner

The shipowner should obtain the DMLC Part I from the competent authority in the flag State and develop the DMLC Part II identifying measures that will be implemented to ensure initial and ongoing compliance with national requirements defined in the DMLC Part I.

Once the DMLC Part II is drawn up, it should be submitted for review to the flag State or an RO authorized by the flag State for documental review. Upon satisfactory completion of review of the DMLC Part II, the shipowner should present the ship for initial inspection for verification of implementation on board. If the inspection confirms that the shipowner measures implementing the national requirements are satisfactory, the Maritime Labour Certificate will be issued and DMLC Part II certified.

Any amendments to the DMLC Part II during the certification period should be submitted to the flag State or the RO which carried out the initial review and inspection.

2) How to conduct the interview

For a satisfactory inspection to be completed, it is likely that the inspector will need to employ different methods, including document review, visual observation, general discussions with seafarers and interviews with seafarers in private.

When inspectors are interviewing seafarers, they will need to be sensitive to what may be considered personal or potentially controversial matters, and take into account work and rest schedules of the seafarers. Interviews with seafarers should be conducted, in private, in order to preserve the confidentiality of information presented.

The manner in which an inspector initiates the interview process may well determine the success of the interview. Inspectors should be able to elicit information from the seafarers, without challenging them, to confirm that the shipowner's measures have been implemented in accordance with the national requirements implementing the Convention.

Conducting the interview

The interview should:

- have a tone that is formal, friendly, and non-threatening;
- follow a predetermined structure; and
- result in meaningful information.

An inspector should prepare a set of questions and an introductory statement that explains the purpose of the interview. This preparation will set the tone for a serious, purposeful, and effective interview.

The assessment of compliance or non compliance should always be based on visual observation, objective evidence presented, and information obtained during interviews with seafarers using professional judgment.

3) Sampling

Paragraph 103 of the Guidelines for flag State inspections under the Maritime Labour Convention, 2006 states: "It should be noted that, whilst all the requirements of the MLC, 2006 must be inspected, any inspection is a sampling process and inspector should use their

**No.
129**
(cont)

professional judgment and expertise when determining the depth of inspection for each requirement.”

The inspector may take into consideration the following factors before deciding on the extent of the sampling.

- flag State’s requirements implementing the Convention;
- number of seafarers and departments on board;
- seafarers’ nationality and gender;
- types of recruitment and placement services in use;
- results of previous inspections, etc.

The sampling process may be used during document review, visual observation, general discussions with seafarers and interviews with seafarers to obtain objective evidence of compliance.

21. Interim certification

The interim certification in terms of MLC, 2006 is addressed in Standard A5.1.3 of the MLC, 2006.

The provisions in paragraphs 5 to 8 of the Standard A5.1.3 appear to have been introduced in recognition of the fact that it is not possible to verify full and effective implementation of a set of procedures immediately following their introduction. On a new ship, or a ship that has recently been transferred from one management company to another or has changed flag, it will take time to generate sufficient evidence for a full inspection to be carried out and for an inspector to be able to draw firm conclusions about the effectiveness of the system.

Interim Maritime Labour Certificate may be issued under the following conditions:

- to new ships on delivery;
- when a ship changes flag;
- when a shipowner assumes responsibility for the operation of a ship which is new to that shipowner.

An Interim Maritime Labour Certificate may be issued for a maximum period of six months. No subsequent Interim Maritime Labour Certificate may be issued.

Declaration of Maritime Labour Compliance

According to Standard A5.1.3, paragraph 7(d), the shipowner must submit to the competent authority or RO the DMLC Part II for review.

A confirmation of submission of this document should be available on board. A copy of the submitted DMLC Part II and Part I (or generic Part I) should also be available on board during the interim inspection.

**No.
129**
(cont)**22. Handling of seafarer complaints by ROs**

The Maritime Labour Convention, 2006, Regulation 5.1.5 requires an On-board Complaint Procedure to be established and made available to each seafarer on board the ship. The Convention also provides seafarers with the right to complain directly to the master, and where they consider necessary, to appropriate external authorities. These external authorities may be the shipowner and the competent authorities in the flag State, the port State, or the seafarer's country of residence. In addition, On-board Complaint Procedure should contain the contact information of relevant external authorities as designated by the flag State for handling of seafarer complaints.

Guidelines for flag State inspections under the Maritime Labour Convention, 2006, paragraph 63, clearly specifies that it is the responsibility of the flag State to receive, investigate and take appropriate enforcement action for seafarer complaints. Accordingly, a flag State is expected to have in place procedures for receiving and responding to such complaints and ensuring the necessary confidentiality. A RO may in some circumstances be specifically authorized by the flag State to carry out an inspection following a particular seafarer complaint. However, the responsibility for resolution of a complaint remains with the flag State.

Where a ship is inspected under the MLC, 2006 by a RO on behalf of the flag State, a seafarer or seafarer representative may contact the RO to register a seafarer complaint.

Verbal Complaints

Where a RO receives a verbal complaint, the complainant should be referred to the on-board complaint procedure and encouraged to seek resolution of the complaint at the shipboard level. If the seafarer feels unable to use the complaints procedure (perhaps for fear of victimization or lack of faith in its effectiveness) the RO should point out that the on-board complaint procedure (a copy of which should be in the seafarer's possession) contains contact details of the competent authority in the flag State and, where different, in the seafarer's country of residence, and the name of a person or persons on board who can provide confidential assistance.

If the seafarer insists that he/she does not want to use on-board complaint procedure and would like to register the complaint with the RO, as the flag State's representative on board, the RO should not refuse to pass on a complaint to the flag State. However, the seafarer should be advised that the RO can do so only if the complaint is made in writing and signed by the complainant. Verbal complaints may be retracted or altered later giving rise to arguments about what was said and can lead to an unacceptable outcome for all parties involved in handling the complaint.

Written Complaints

Written complaints that are received should clearly specify the source of the complaint including identifying information of the shipowner, seafarer(s) and the ship involved.

The following scenarios describe the measures a RO should take subsequent to receiving a written complaint from a seafarer on a ship that has been inspected and/or certified under the Maritime Labour Convention, 2006.

**No.
129**
(cont)**1 Complaint received during a MLC inspection**

If a seafarer written complaint is received during a MLC inspection, the inspector should not intervene to resolve the complaint but instead check to see if the seafarer is aware of the on-board complaint procedure and whether the seafarer has made use of the procedure. Additionally, the inspector should conduct the inspection taking into account the seafarer complaint(s) by selecting the appropriate sample size for the inspection and areas to be inspected in order to ascertain if the seafarer working and living conditions on board comply with the requirements of the Convention and the national requirements of the flag State, and whether the on-board complaint procedure is effective. Any non-compliance discovered during the inspection, including deficiencies pertaining to the seafarer complaint should be documented in the inspections report keeping in mind the confidentiality requirements of the Convention.

A written complaint provided by the seafarer should nevertheless be attached to the copy of the report submitted to the flag State.

Where the working and living conditions are alleged to be defective to the extent that a clear hazard to the safety, health or security of seafarers exists, the written complaint should be forwarded to the flag State without delay.

2 Complaint received by the RO other than during a MLC inspection

A written complaint received by the RO other than during a MLC inspection should be forwarded to the competent authority in the flag State for resolution. No further action by RO is required unless instructed otherwise by the flag State.

In summary, ROs should concern themselves only with matters of regulatory compliance that can be substantiated by objective evidence. This includes verifying the existence and satisfactory operation of on-board complaints procedures in accordance with the flag State's national requirements implementing the Convention. ROs should not discuss or attempt to resolve allegations of harassment, victimization and other complex matters or personal disputes. These should be passed to the flag State for resolution, but only when the complainant has put them in writing.

**No.
129**

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23. Handling of technical deficiencies**Definition**

"Technical deficiency" means a defect in, or failure in the operation of, a part of the ship's structure or its machinery, equipment or fittings.

Guidance for inspection

When a technical deficiency is found on board, the inspector must first evaluate the seriousness of the deficiency. If the technical deficiencies affect the MLC certificate, they must be addressed and reported during the MLC inspection regardless of its seriousness.

If the technical deficiency does not relate to MLC matters, the RO should report the deficiencies to the shipowner's representative on board. Where such technical deficiencies are considered to be serious, the shipowner and the flag State should be notified without delay.

An inspector identifying a technical deficiency deemed to present a serious threat to health, safety and security of seafarers, safety of the ship or the environment or that requires attention by class or the flag Administration should:

- (i) establish if the ship has taken appropriate action to correct the technical deficiency. In every case, the inspector should also establish that such technical deficiencies have been reported to the responsible Class Society and/or the flag Administration as appropriate;
- (ii) establish whether the technical deficiency constitutes or is symptomatic of a serious deficiency. If so, such deficiency should be handled in accordance with the Guidance given in Section 24 of this document.

No. 129

(cont)

24. Grading of deficiencies

Grading of deficiencies

Where an inspector identifies that the ship is not in conformity with the requirements of the Convention and/or the relevant requirements of the flag State, the inspector should notify the shipowner or shipowner's representative. Deficiencies should be graded as follows according to their nature and seriousness.

- "Serious Deficiency" means a deficiency that constitute a serious or repeated breach of the requirements of MLC, 2006 (including seafarers' rights), or represent a significant danger to seafarers' safety, health or security;
- "Deficiency" means a deficiency other than serious deficiency and an observed situation where objective evidence indicates that the ship is not in conformity with MLC, 2006 or the relevant requirements of the flag State;
- "Observation" means a statement of fact made during an inspection substantiated by objective evidence. It may also be an identified situation which may lead to a deficiency in the future if no action is taken.

When grading the deficiency, the nature and number of findings and frequency of the deficiencies should also be taken into account: for example, several instances of deficiencies may be determined to be serious, even if they are not hazardous to the safety, health or security of seafarers. In other cases, a single deficiency could be considered as serious.

Whether or not deficiencies are determined to be **SERIOUS** will depend upon the professional judgment of the inspector concerned if:

- (a) the conditions on board are clearly hazardous to the safety, health or security of seafarers; or
- (b) the deficiency constitute a serious or repeated breach of the requirements of MLC, 2006 (including seafarers' rights).

Handling of deficiencies

The shipowner is responsible for the rectification of any deficiency identified by the inspector(s) within the agreed time period.

A deficiency is the record by which an inspector reports the non-compliance. The purpose of the deficiency is:

- to formally convey inspector's findings to the shipowner;
- to present a complete record of finding that can be reviewed remotely.

The content of a deficiency recorded in the report should be:

- complete and concise, containing a reference to a non-fulfilled specified requirement;
- classified against the respective requirement of the DMLC or the Convention (in case of an item that is not subject to certification and therefore not described in the DMLC);

No. 129 (cont)

- be written in such a manner to be easily understood by a third party which may not be present during the inspection.

Any deficiency found during the on-board inspection is to be rectified. Inspectors will need to use their professional judgment as to whether a ship should be allowed to sail before the deficiency is rectified and, if it is not rectified, to decide on what action to take. In any case before a ship is allowed to sail and before a certificate may be issued or endorsed, the inspector needs to confirm that:

- All deficiencies found during the inspection have been rectified through immediate corrective action; or
- A rectification plan has been provided by the master or other representative of the shipowner and agreed by the inspector.

A serious deficiency may be downgraded if the inspector is satisfied that effective rectification has been taken. A serious deficiency raised during an on-board inspection must be corrected or downgraded before the ship sails and before the Maritime Labour Certificate is issued or endorsed. The Administration should be notified of all serious deficiencies whether downgraded or not at the earliest opportunity.

Where a serious deficiency has been corrected or downgraded, at least one additional inspection should be carried out within the time frame as agreed with the shipowner to verify the effectiveness of the actions that have been taken.

An additional inspection may also be required to verify the implementation of corrective actions taken in response to deficiencies, depending on the number and nature of the deficiencies identified. In such cases, the inspector should clearly specify the due date by which the additional inspection is to be held. If no additional inspection is deemed necessary, the verification of the effectiveness of the corrective actions should take place as part of the next scheduled inspection.

Any deficiency found during the inspection is to be recorded together with the overall results of the inspection. These records should, in accordance with national laws or regulations, may be inscribed upon or appended to the DMLC.

All deficiencies should be formally presented by the inspector at the closing meeting. A copy of the report, including all deficiencies, should be provided to the shipowner/master. Inspectors are responsible for verification of the effective rectification of deficiencies identified during previous inspection.

Deficiencies not effectively addressed by the shipowner by its due date may be upgraded as serious deficiencies and may result in invalidation of certification.

**No.
129**

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25. Confidentiality**General**

The Maritime Labour Convention, 2006 refers to the need for confidentiality in relation to several areas, but the extent of the confidentiality in each case, and the individual or organisation on which the duty of confidentiality is placed, are not always identified or explained. In some cases, the duty of confidentiality is placed on the inspector. In others, it may be the company or a particular crew-member.

The term “confidential” does not mean that information can never be disclosed or that documents can never be seen. It refers to information that should not be made public and that should be restricted to those who have a legitimate interest in its contents. In other words, confidentiality ensures that information is accessible only to those who are authorised to see it.

Confidentiality is important not only to safeguard the rights of the person or organisation to which the information relates. It is essential in creating the confidence in the company and its employees that is necessary if the inspector is to be given unrestricted access to the information he or she needs to complete an inspection.

In addition to the specific confidentiality requirements set out in the Convention, inspectors should be aware that more general privacy and data protection regulations may apply in certain jurisdictions.

In summary, the inspector must be very clear in his or her mind about which information should be treated in confidence, upon whom the duty to maintain confidentiality is placed and what the extent of the confidentiality is in terms of who should be allowed to see it.

It is important to remember that confidentiality is as much an ethical matter as it is a regulatory one.

Some Specific Cases

Standard A.5.1.4.11 forbids the inspector from disclosing commercially sensitive and personal information obtained during an inspection even after his employment by the flag or the RO comes to an end. This prohibition is presented as absolute but, clearly, the inspector cannot be prevented from informing the flag of any fact that is material to the validity of the certification.

When considering the requirement in Standards A.5.1.4.10 to treat the sources of any complaint or grievance as confidential, the inspector should also refer to IACS Recommendation 118 Guidelines on the Handling of Seafarers’ Complaints, especially as it applies to the submission of written complaints to the flag Administration.

An inspector is not bound by confidentiality in situations in which confidentiality is being used to conceal illegal or improper practices. All such wrong-doing should be reported to the flag Administration.

No. 129

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26. Ad hoc certification scenarios

Scenario	Type of certification/ inspection	Minimum scope of certification/inspection	Carried out by	Documents issued
1) Change of ship's name	Verification on board	1. Verify new ship's name on the certificate of registry, CSR or DMLC Part I. 2. If attendance by the surveyor, change ship's name in Maritime Labour Certificate and DMLC Part II, if applicable. Then send copies of amended documents to issuing office. 3. If attendance by the RO MLC inspector, re-issue the DMLC Part II, if applicable, and Maritime Labour Certificate	surveyor/ RO MLC inspector	Surveyor: Amend existing Maritime Labour Certificate and DMLC Part II, if applicable, with new name. RO MLC inspector: 1) Re-issue amended DMLC Part II, if applicable. 2) Re-issue Maritime Labour Certificate with the same expiry
2) Change of name of the shipowner		1. Verify new name in DMLC Part II. 2. Confirm that there are no changes to the contents to the DMLC Part II, except the shipowner's name.	RO MLC inspector	1) Re-issue amended DMLC Part II. 2) Re-issue Maritime Labour Certificate with the same expiry date.
3) Change of shipowner's address		1. Verify new address in DMLC Part II. 2. Confirm that there are no changes in the revised DMLC Part II, except the shipowner's address	RO MLC inspector	1) Re-issue amended DMLC Part II. 2) Re-issue Maritime Labour Certificate with the same expiry date.
4) Change of ship's type - no change to DMLC Part I		Verify correct ship's type.	RO MLC inspector	Re-issue Maritime Labour Certificate with the same expiry date.

No. 129

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Scenario	Type of certification/ inspection	Minimum scope of certification/inspection	Carried out by	Documents issued
5) Change of ship's type - change to DMLC Part I	Additional on-board inspection	1. Verify DMLC Part II has been amended as appropriate. 2. Verify implementation of the revised measures in DMLC Part II as appropriate.	RO MLC inspector	1) Re-issue amended DMLC Part II. 2) Re-issue Maritime Labour Certificate with the same expiry date.
6) Substantial changes have been made to the ship's structure or equipment	Initial or interim inspection after consultation with the flag Administration	Initial or interim inspection, as appropriate.	RO MLC inspector	1) Re-issue amended DMLC Part II, if applicable. 2) Issue Interim or Maritime Labour Certificate.
7) Ship more than 6 months out of service	Additional, intermediate or renewal inspection	Confirm continued compliance with the DMLC Part I and Part II.	RO MLC inspector	Endorse/re-issue Maritime Labour Certificate, as appropriate

Note: All scenarios are subject to flag State additional requirements and should only be applied in the absence of any instructions to the contrary from the flag Administration.

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