



Guidance to assist with preparations for the Concentrated Inspection Campaign on the ILO Maritime Labour Convention being conducted in the Paris MoU region in 2016

The Paris MoU will conduct a Concentrated Inspection Campaign (CIC) on the ILO Maritime Labour Convention (MLC) for three months from 1 September to 30 November 2016.

Applicability of the CIC

The CIC will be applicable to all ships and carried out on every ship eligible for inspection in ports in the Paris MoU region during the campaign period. Ships are expected to be targeted for inspection in accordance with the standard Paris MoU regions inspections carried out in accordance with the standard Paris MoU procedures. Ships flying the flags of States that have not ratified the MLC will receive no more favourable treatment than ships flying the flags of States that have ratified the MLC.

Standard questionnaire for the CIC

The standard questionnaire prepared by the Paris MoU for use by PSCOs during the CIC can be found reproduced on page 3 of this document.

It contains 12 specific 'Yes/No' questions. "No" answers will result in a deficiency being issued, and questions marked with an "*" are considered particularly important by the Paris MoU / PSCOs.

- If "No" is recorded for questions with an "*", the ship may be considered for detention; and
- If "No" is recorded for questions an "***", and if the deficiency is found more than once (i.e. for more than one seafarer), the ship may be considered for detention.

Relevant international instruments and guidance

- Maritime Labour Convention (MLC), 2006
- International Convention on Standards of Training, Certification and Watchkeeping (STCW) for Seafarers, 1978, as amended.
- International Management Code for the Safe Operation of Ships and for Pollution Prevention (International Safety Management (ISM) Code)
- ILO Guidelines for Port State Control Officers carrying out inspections under the Maritime Labour Convention, 2006
- ILO Guidelines for Flag State Control under the Maritime Labour Convention, 2006

ICS guidance and information

This document provides guidance and information on the CIC being conducted in the Paris MoU region based on the information available. It was developed to assist shipowners and operators prepare for PSC inspections involving the CIC. Specific information and guidance is provided for each individual question on the standard questionnaire.

However, the information and guidance provided in this document should not be seen, in any way, as superseding or replacing guidance provided by a ship's flag State on the MLC or on preparations for PSC inspections in general. Ships should always comply with the national laws and regulations of their flag State implementing the MLC (set out in Part I of the Declaration of Maritime Labour Compliance (DMLC Part I)), and follow the measures adopted by the shipowner to comply with the requirements (set out in the DMLC Part II).

The results of the CIC will be released by the Paris MoU in 2017, and reported to the fourth session of the IMO Sub-Committee on the Implementation of IMO Instruments (III 4).

Important Note

This document is intended as voluntary advice which shipowners and operators are not in any way obligated to accept, although they are invited to consider its value in the context of their preparations for the Concentrated Inspection Campaign (CIC) on the ILO Maritime Labour Convention (MLC) being held from 1 September to 30 November 2016.

While the information in this document has been developed using the best information sources currently available, it is intended purely as information and guidance to be used at the user's own risk. No responsibility is accepted by ICS or by any person, firm, corporation or organisation who or which has been in any way concerned with the furnishing of information or the compilation of this document, for the accuracy of the information, the advice given, or opinions expressed, herein or for any omission or any consequences whatsoever resulting directly or indirectly from compliance with or use or adoption of the information contained herein even if caused by want of due diligence or reasonable care.

Questionnaire for the Concentrated Inspection Campaign (CIC) on Maritime Labour Convention, 2006

Ship's name	
IMO Nr	
Date of inspection	

N°	QUESTIONS	YES	NO	N/A
1*	Are seafarers under the age of 18 excluded from tasks that are likely to jeopardize their safety or health? Standards A 1.1. para. 4			
2*	Are all seafarers holding valid certificate(s) attesting medical fitness? Standard A 1.2. para. 1			
3**	Have all seafarers successfully completed their training for personal safety on board? Regulation 1.3. para. 2			
4.1**	Do all seafarers have a copy of their seafarers' employment agreement? Standards A 2.1. para 1 (a)			
4.2**	Are the seafarers' employment agreements in compliance with minimum standard required by MLC? Standards A 2.1. para 4			
5	If private recruitment and placement service has been used, does it meet the requirements of the MLC, 2006? Standard A 1.4. para. 2 and para 9			
6	Are records of inspections of seafarer accommodations carried out by the master (or another designated person) available for review? Standard A 3.1. para. 18			
7	Are frequent inspections carried out by or under the authority of the master, with respect to supplies of food and drinking water, all spaces and equipment used for the storage and handling of food and drinking water, and galley and other equipment for the preparation and service of meals documented? Standard A 3.2 para. 7			
8	Has a ships safety committee been established on board regarding ships on which there are five or more seafarers? Standard A 4.3. para. 2d			
9*	For a ship not being required to carry a medical doctor, is there on board at least one seafarer, holder of a certificate of training in medical first aid or in medical care that meets the requirements of STCW? Standard A.4.1. para. 4c			
10**	Are all seafarers provided with a copy of on-board complaint procedures applicable on the ship ? Standard A 5.1.5 para.4			
11**	Have all seafarers received monthly accounts of their payments due and amounts paid? Standard A2.2, para. 2			
12	Was the ship detained as result of the CIC?			

*Note: Questions 1 to 11 answered with a "NO" MUST be accompanied by a relevant deficiency on the Report of Inspection.
If the box "No" is ticked off for questions marked with an "**", the ship may be considered for detention.
If the box "No" is ticked off for questions marked with an "***", and if the deficiency found is repeated (occure more than 1 time), the ship may be considered for detention.*

Question 1

Are seafarers under the age of 18 excluded from tasks that are likely to jeopardize their safety or health?

This question addresses requirements related to safeguarding the safety and health of young seafarers on board ships. The MLC prohibits:

- The employment, engagement or work on board a ship of any person under age 16;¹
- Night work for seafarers under age 18 (with some exceptions);² and
- Seafarers under age 18 being employed or engaged or work as a ship's cook.³

Furthermore, the employment, engagement or work of seafarers under the age of 18 is to be prohibited where the work is likely to jeopardise their health or safety. The types of such work shall be determined by national laws or regulations or by the competent authority, after consultation with the shipowners' and seafarers' organisations concerned, in accordance with relevant international standards.⁴

To assess whether younger seafarers are carrying out work likely to jeopardise their health or safety, it is expected that PSCOs will enquire about:

- The existence of any seafarers under 18 years old on board the ship;
- Duties or tasks assigned to any seafarers under 18 years old on board the ship; and
- Work hours of any seafarers under 18 years old on board the ship.

NOTE: If the PSCO considers that a "No" should be recorded against this question, the ship may be considered for detention.

Preparations

Ships should ensure that:

- Seafarers under age 18 are not assigned with any duties or tasks listed on the DMLC Part I as designated by the flag State to be likely to jeopardise the safety and health of persons under age 18.
- Any seafarers under age 18 have not be assigned any duties or tasks that involve working at night.
- Any seafarers under age 18 are not employed or engaged or working as the ship's cook.

Inspection

Ships should be prepared to show the PSCO:

- Crew lists and or other documentation identifying the birth dates or ages of seafarers;
- Table of shipboard working arrangements or work schedules, indicating hours of work;

¹ MLC Standard A1.1, paragraph 1.

² Provisions containing the exceptions to the prohibition of night work can be found at MLC Standard A1.1, paragraph 2 and 3.

³ MLC Standard A3.2, paragraph 8.

⁴ MLC Standard A1.1, paragraph 4.

- Documentation that sets out the assigned duties or tasks of seafarers; and
- A list of the duties or tasks designated by the flag State as likely to jeopardise the safety of seafarers under age 18.

Additional comments

If the particular duties or tasks assigned to a seafarer under the age of 18 is questioned by the PSCO, Masters should advise the PSCO that it is the flag State (not the port State or MLC) that determines the tasks considered likely to jeopardise the safety and health of young persons. The PSCO should be referred to DMLC Part I issued by the flag State setting out its requirements thereby establishing the relevant list of tasks.

Regarding the exceptions to the “night work” restriction, the Master should verify that the flag State permits use of the exceptions provided for in Standard A1.1, paragraph 3 by consulting the DMLC Part I, and present any documentation on board the ship that might confirm that the use of the exception on board the ship is acceptable. For example, a copy of an officer cadet’s on board training record book could confirm they are part of a recognised training programme.

“Night work” is defined in accordance with national law and practice of the flag State, however the MLC states that it covers a period of at least nine hours starting no later than midnight and ending no earlier than 5h00 (Standard A1.1, paragraph 2). Reference could be made to the DMLC Part I in the event of any discussion with the PSCO on the “night work” definition.

References

MLC Standard A1.1, with the focus of the question on paragraph 4.

Question 2

Are all seafarers holding valid certificate(s) attesting medical fitness?

This question addresses the medical fitness of seafarers to perform their duties. Prior to beginning work on a ship, seafarers are required to hold a valid medical certificate attesting that they are medically fit to perform the duties they carry out at sea.⁵

As part of the CIC, the PSCO is expected to verify that all crew members on the crew list hold valid medical certificates.

It should be noted that 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 Convention), as amended, are to be accepted as meeting these requirements (Standard A1.2, paragraph 3).

NOTE: If the PSCO considers that a “No” should be recorded against this question, the ship may be considered for detention.

Preparations

Ships should ensure that all crew members hold valid medical certificates, which means the medical certificates must:

- Not have expired (i.e. be within their validity period);⁶
- Have been issued by a duly qualified medical practitioner;⁷
- Be provided as a minimum in English (for seafarers working on ships ordinarily engaged on international voyages);⁸
- Have a validity of no more than two years (except for seafarers under 18 years of age whose certificates can only have a one-year validity).⁹

Inspection

Ships should be prepared to show the PSCO:

- Crew list or other documentation indicating the crew members on board the ship; and
- Medical certificates of every crew member on board the ship.

Depending on the form and national requirements of the medical certificates held, the ship should also be prepared to show the PSCO:

- Any separate colour vision certificates (where appropriate);¹⁰ and
- Any authorisations or permits issued by the flag State to allow a seafarer to work without a valid, or with an expired, certificate in urgent cases (maximum validity of such authorisations or permits is three months).¹¹

⁵ MLC Regulation 1.2, paragraph 1.

⁶ MLC Standard A1.2, paragraph 7.

⁷ MLC Standard A1.2, paragraphs 1 and 4.

⁸ MLC Standard A1.2, paragraph 10.

⁹ MLC Standard A1.2, paragraph 7(a).

¹⁰ MLC Standard A1.2, paragraph 6 and 7.

It is expected that PSCOs will seek to examine a representative number of medical certificates of crew members on board the ship.

Additional comments

As the MLC provides for urgent cases where the flag State may permit a seafarer to work without a valid medical certificate until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, Masters should seek to ensure any such applications for seafarers with expiring medical certificates are made to the flag State at the beginning of the CIC period.

References

MLC Standard A1.2, paragraph 1.

¹¹ MLC Standard A1.2, paragraph 8.

Question 3

Have all seafarers successfully completed their training for personal safety on board?

This question addresses the training and qualifications of seafarers.

Seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties, and unless they have successfully completed training for personal safety on board ship.¹²

As part of the CIC, the PSCO is expected to verify that all crew members on the crew list:

- Are trained or certified as competent or otherwise qualified to perform their duties; and
- Have successfully completed training for personal safety on board ship.

It should be noted that training and certification in accordance with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW Convention), as amended, is to be accepted as meeting these requirements (MLC Regulation 1.3, paragraph 3).

NOTE: If the PSCO considers that a “No” should be recorded against this question and if the identified deficiency is found for more than one seafarer, the ship may be considered for detention.

Preparations

Ships should ensure that each crew member holds a certificate or documentary evidence that:

- They have been trained or certified as competent or otherwise qualified to perform their assigned duties; and
- They have successfully completed “training for personal safety on board ship”.

Inspection

Ships should be prepared to show the PSCO:

- Minimum Safe Manning Document (MSMD), crew list or other documentation that sets out the training or qualifications individual crew members are required to hold in accordance with their assigned duties on board the ship; and
- STCW certificates, training records or other documentation held by each crew member, as applicable, attesting to their training and qualifications.

It is expected that PSCOs will seek to examine a representative number of certificates or documentary evidence of training or qualifications, and not for all crew members.

¹² MLC Regulation 1.3, paragraph 2.

Additional comments

Masters should show the PSCO the Minimum Safe Manning Document (SMD) to indicate the qualifications of crew members on board the ship required in accordance with the STCW Convention. PSCOs should accept certificates (with any necessary flag State endorsements) as confirming the competency of crew members regarding their duties.

For crew members performing other duties that are not required to be trained and qualified in accordance with the STCW Convention, Masters should show the PSCO documentary evidence confirming that those crew members are trained or certified as competent or otherwise qualified for performing those other duties on board ship (e.g. evidence of training or a qualification related to ships' cooks training referenced under MLC Regulation 3.2).

In the event that a PSCO focusses, as referenced in the CIC question, on the MLC provision that all crew members shall have successfully completed "training for personal safety on board ship", Masters/ships should be prepared to show the PSCO, if appropriate and necessary, records or documentary evidence of shipboard familiarisation of new crew members or safety familiarisation or basic training conducted in accordance with the STCW Convention. The reason for providing records of safety familiarisation or referencing a certificate that covers the competences achieved through basic training is that both involve training or instruction in personal survival techniques that meet the requirement of training for personal safety.

NOTE: Basic training under the STCW Convention is included in the certificates of competency (CoCs) issued in accordance with STCW regulations II/1, II/2, II/3, III/1, III/2, III/3, III/6 and VII/2, therefore crew members holding such CoCs are not required to carry any other documentation or certificate to attest to the completion of "basic training".

References

MLC Regulation 1.3, paragraph 2.

Shipboard familiarisation: ISM Code, Section 6, and STCW Regulation I/14, paragraph 1.5.

Safety familiarisation: STCW Section A-VI/1, paragraph 1.

Basic training: STCW Section A-VI/1, paragraph 2.

Questions 4.1 & 4.2

Do all seafarers have a copy of their seafarers' employment agreement?

Are the seafarers' employment agreements in compliance with minimum standard required by MLC?

This question concerns seafarers' employment agreements (SEA).

Seafarers must have a copy of their seafarers' employment agreement signed by both the seafarer and the shipowner or shipowner's representative (or, where they are not employees, evidence of contractual or similar arrangements).¹³ National laws and regulations of the flag State specify the matters to be included in all SEAs, and in all cases must contain at least the particulars found in MLC Standard A2.1, paragraph 4(a)-(k). A collective bargaining agreement (CBA) may form all or part of a SEA, in which case a copy of the CBA is to be available on board.

Although not addressed by the two CIC questions, the MLC provisions regarding SEAs also state that seafarers must be given a document containing a record of their employment on board the ship. It is unclear whether that element will be part of the CIC inspection.

As part of the CIC, the PSCO is expected to verify that:

- All crew members on the crew list on board the ship have a SEA; and
- A copy of the CBA (if it forms all or part of the SEA) is available on board the ship.

NOTE: If the PSCO considers that a "No" should be recorded against either of these questions and if a SEA is an issue for more than one seafarer, the ship may be considered for detention.

Preparations

Ships should ensure that:

- Each crew member has signed an original SEA (or evidence of contractual or similar arrangements) on board the ship;
- SEAs (or CBA where it forms all or part of the SEAs) contain the particulars required by the flag State laws and regulations (which should include the minimum particulars listed in the MLC);¹⁴
- SEAs are signed by both the seafarer and the shipowner or shipowner's representative (or, where they are not employees, evidence of contractual or similar arrangements);
- Where a CBA forms all or part of the SEA for crew members, a copy of the CBA is available on board the ship with relevant provisions in English.¹⁵

To prepare for the eventuality that the PSCO is interested in the records of employment given to each seafarer, ships should ensure that each crew member holds a document containing a record of their employment on board the ship (e.g. a discharge or seaman's book), which does not contain any statement as to the quality of a crew members' work or as to their wages.

¹³ MLC Standard A2.1, paragraph 1(a).

¹⁴ MLC Standard A2.1, paragraph 4(a)-(k).

¹⁵ MLC Standard A2.1, paragraph 2.

Inspection

Ships should be prepared to show the PSCO:

- SEAs (or other evidence of contractual or similar arrangements) for each crew member on board the ship;
- A copy of any applicable CBAs forming all or part of the SEA for crew members, with the relevant provisions in English;
- Records of employment, such as discharge books or seaman's books, for each crew member on board the ship.

It is expected that PSCOs will seek to examine a representative number of SEAs. However, if the SEAs examined contain, at a minimum, the matters set out in MLC Standard A2.1, paragraph 4(a)-(k), it is expected that a "Yes" will be recorded against the question.

Additional comments

Masters should make reference to the DMLC Part I issued by the flag State (and the DMLC Part II) in the event of any discussion with a PSCO about the requirements relevant to the ship concerning the form or contents of SEAs, CBAs or crew members' records of employment.

If the PSCO questions the particulars of the SEA (and any applicable CBA) or the records of employment held by crew members, Masters could explain to the PSCO that Flag State laws and regulations specify:

- The matters to be included in SEAs, but must at least include the particulars listed in the MLC;¹⁶ and
- The form of the records of employment, the particulars to be recorded and the manner in which such particulars are to be entered.

References

MLC Standard A2.1, paragraph 1(a).

MLC Standard A2.1, paragraph 4.

¹⁶ MLC Standard A2.1, paragraph 4(a)-(k).

Question 5

If private recruitment and placement service has been used, does it meet the requirements of the MLC, 2006?

This question addresses the use of seafarer recruitment and placement services (RPSs).

MLC Article II, paragraph 1(h) defines a seafarer recruitment and placement service as “any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners”.

Where a State has private seafarer RPSs operating in its territory, whose primary purpose is the recruitment and placement of seafarers or which recruits and places a significant number of seafarers, the MLC requires that they shall be operated only in conformity with a standardised system of licensing or certification or other form of regulation.¹⁷ The MLC sets out the standard for a system of licensing or certification or other form of regulation in MLC Standard A1.4, paragraph 5.

Shipowners using seafarer RPSs based in countries or territories in which the MLC does not apply, will be required by their flag State (provided it is itself a Party to the MLC) to ensure, as far as practicable, that those RPSs meet the requirements of the MLC.¹⁸ The requirements are set out in MLC Standard A1.4, paragraph 5.

To assess whether the use of RPSs (if any are used on board the ship) is in accordance with the MLC requirements, it is expected that PSCOs will take a stepped approach to their enquiry, only moving to the next question in the event of certain answers. The PSCO is likely to ask:

1. Were any crew members recruited and placed on board the ship using private RPSs?

If “Yes”...

2. Where were the RPS(s) used to recruit and place crew members located in terms of territories or countries, and does the MLC not apply in any of those countries or territories?

If “Yes”...

3. Can the shipowner demonstrate that it has ensured, as far as practicable, that the RPS meets the MLC requirements, only for RPS(s) based in a country or territory in which the MLC does not apply?

The flag of the ship will be important to the PSCO because it effects where the onus may lie for ensuring, as far as practicable, that an RPS meets the MLC requirements.

NOTE: The PSCO should be recording a “N/A” against the question in cases where no crew members on board the ship have been recruited and placed using an RPS. A “N/A” box is available to the PSCO on the standard questionnaire for the CIC.

¹⁷ MLC Standard A1.4, paragraph 2.

¹⁸ MLC Standard A1.4, paragraph 9.

Preparations

In preparation for the CIC, ships should identify:

- Whether any crew members were recruited and placed on board the ship using private RPSs;
- Where the RPS(s) used to recruit and place crew members was located in terms of territory or country;
- Whether the MLC applies in that territory or country; and
- What measures the shipowner has taken to ensure, as far as practicable, that any RPS(s) used meet the MLC requirements (if not located in a territory or country where the MLC applies).

This initial exercise should establish the possible information and documentation the ship/Master may need to provide to demonstrate compliance during the CIC inspection.

Inspection

Taking into account the anticipated approach of enquiry, the following scenarios provide guidance on how ships may be able to respond to the PSCOs' inspection on this question.

SCENARIO 1 – If no RPS has been used to recruit or place seafarers on board the ship, it should be explained to the PSCO that no RPS has been used and the CIC question is not applicable to the ship.

Ships may wish to be prepared to show the PSCO documentation that seafarers were recruited and engaged directly by the shipowner. Such documentation could include a printout or link to the shipowner's recruitment website or careers advertisement.

The PSCO should record a "N/A" against the question in cases where no crew members on board the ship have been recruited and placed using an RPS. A "N/A" box is available to the PSCO on the standard questionnaire for the CIC.

SCENARIO 2 – If an RPS has been used and it is located in the territory of the flag State and the flag State is a Party to the MLC, the PSCO should be informed and it should be explained that the RPS used is operated in conformity with a standardised system of licensing or certification or other form of regulation in accordance with the national laws and regulations of the flag State.

Ships may wish to draw attention to the relevant section of the DMLC Part I issued by the flag State containing information about its standardised system to regulate RPSs located on its territory.

The PSCO should record a "Yes" against the question, as it is not the responsibility of the shipowner to regulate RPSs located in the territory of a Party to the MLC. MLC Article V, paragraph 5, clearly states it is the role of the MLC Party to effectively exercise its jurisdiction and control over seafarer RPSs, if they are established in its territory.

SCENARIO 3 – If an RPS has been used and it is located in the territory of another MLC Party (i.e. not the flag State), the PSCO should be informed and it should be explained that the RPS used is operated in conformity with a standardised system of licensing or certification or other form of regulation in accordance with the national laws and regulations of that MLC Party.

Ships may wish to have documentation available to draw attention to the standardised system to regulate RPSs of the MLC Party, such as a sample copy of the DMLC Part I where the RPS could also be used to evidence the existence of a system to regulate RPSs located on its territory. DMLC Part I samples for (most) Parties to the MLC can be found in the “MLC Database” on the ILO website at the following link:

<http://www.ilo.org/dyn/normlex/en/f?p=1000:80020:0::NO:80020>

A printout or link to a national website containing a list of licensed or certified RPSs may also suffice (if available).

The PSCO should record “Yes” against the question, as it is not the responsibility of the shipowner to consider the regulation of RPSs located in the territory of an MLC Party. MLC Article V, paragraph 5, clearly states that it is the role of the Party to the MLC to effectively exercise its jurisdiction and control over seafarer RPSs, if they are established in its territory.

SCENARIO 4 – If an RPS has been used and it is located in a territory or country where the MLC does not apply (i.e. the country has not ratified the MLC), the PSCO should be informed and it should be explained that the shipowner has ensured, as far as practicable, that the RPS meets MLC requirements.

The ship should have documentation available to provide evidence that it has ensured, as far as practicable, that the RPS meets MLC requirements. Since the DMLC Part II is to be drawn up by the shipowner to identify the measures adopted to ensure ongoing compliance with national requirements, including requirements related to use of RPSs, and will be the subject of certification by the flag State or recognised organisation duly authorised for this purpose before a Maritime Labour Certificate is issued to the ship, the relevant section of the DMLC Part II should be shown to the PSCO to indicate how the ship has been certified as being able to comply with the flag States national laws and regulations on this particular provision. Some measures that may have been developed and certified as part of the DMLC Part II include:

- Company checklist or procedures to verify whether RPSs located in territories or countries where the MLC does not apply to ensure they meet MLC requirements; or
- Copy of a certificate or documentation attesting the compliance of an RPS with the MLC requirements as audited by a classification society (RO) or other audit body, carried out and produced at the request of the company or available from the RPS conducted by an audit body, such as a classification society, either at the request of the shipowner or as available evidence of compliance provided by the RPS.

Provided it is in accordance with relevant sections of the DMLC Part I and the DMLC Part II, some documentation (such as those mentioned above) should be sufficient to demonstrate compliance with MLC Standard A1.4, paragraph 9, as implemented in flag State laws and regulations.

The PSCO should record “Yes” against the question, since the shipowner has provided evidence that it has ensured, as far as practicable, that the RPS meets the MLC requirements.

Additional comments

Obligation of shipowners related to RPSs – Masters should be prepared to explain that the onus on shipowners to ensure, as far as practicable, that the RPSs used meet the MLC requirements, only exists in scenarios where the RPS is located in a territory or country where the MLC does not apply. In all other scenarios (i.e. where the RPS is located in a country or territory where the MLC does apply), it must be accepted that the ship has no obligation to assess the compliance of RPSs with MLC requirements and that it is the role of the MLC Party to effectively exercise its jurisdiction and control over RPSs if they are established in its territory (MLC Article V, paragraph 5). Whether the MLC Party is adequately meeting its obligations is a matter for the ILO's Committee of Experts in response to a Party's Article 22 report, and not a matter for consideration by the shipowner or a PSCO.

Extent of the documentation to provide evidence that a shipowner has ensured, as far as practicable, that the RPS meets the MLC requirements – The MLC does not provide any information or clarification on the extent of documentation that a shipowner should be able to provide to meet the obligation to “ensure, as far as practicable, that those services meet the requirements”. Masters should be prepared to explain that compliance is a matter of flag State laws and regulations as set out in the DMLC Part II and shipowners measures adopted to ensure ongoing compliance with the national requirements (DMLC Part II) certified by the flag State prior to the issuance of a Maritime Labour Certificate.

Evidence that RPSs have not been used – The MLC does not provide any information on whether shipowners may need to, should have to, or are able to provide evidence that RPSs were not used to recruit and place seafarers on board a ship. Unless there is relevant direction provided in the flag State national laws and regulations (DMLC Part I) or an approach indicated in the measures set out by the shipowner (DMLC Part II), Masters should be prepared to explain that there is no requirement to provide evidence, and that any documentation that could be provided is merely to assist the PSCO recording “N/A” against this CIC question.

References

MLC Standard A1.4, with the focus of the question on paragraphs 2 and 9.

Question 6

Are records of inspections of seafarer accommodations carried out by the master (or another designated person) available for review?

This question addresses the inspections of seafarer accommodation to be carried out by the Master or another designated person.

Frequent inspections are required to be carried out on board ships, by or under the authority of the Master, to ensure that seafarer accommodation is clean, decently habitable and maintained in a good state of repair. The results of each such inspection shall be recorded and be available for review.¹⁹

As part of the CIC, the PSCO is likely to seek to verify that:

- Inspections of seafarer accommodation are carried out on board the ship;
- Inspections are carried out at the required frequency;
- Inspections are carried out by, or under the authority of, the Master;
- Results of each inspection are recorded; and
- Records of the results of inspections are available for review.

It is not anticipated that the PSCO will seek to inspect seafarer accommodation specifically as part of the CIC since the question addresses the requirement for frequent inspections.

Preparations

Ships should ensure that inspections of seafarer accommodation areas are being carried out in accordance with the flag State requirements (set out in the DMLC Part I), and are following the measures adopted by the shipowner (set out in the DMLC Part II).

Subject to the requirements of the flag State and measures adopted by the shipowner, ships may wish to ensure that records of inspections of seafarer accommodation areas:

- Are dated or there is otherwise indication in the records of their timing which would serve to evidence their frequency;
- Contain information that could be considered to be in the form of “results”, rather than merely recording that inspections were carried out;
- Refer to them having been carried out by the Master or a person that has been designated by the Master to carry out the inspections; and
- Are in a format and/or document that could be shown to a PSCO during an inspection containing all the necessary elements.

Inspection

Ships should be prepared to show the PSCO:

- Records of inspections of seafarer accommodation that contain the date or timing of the inspections, the result of the inspections and identifying who performed the inspections;
- Relevant section of the DMLC Part II that indicates measures adopted by the shipowner for the frequent inspection of the seafarer accommodation on board the ship, and the

¹⁹ MLC Standard A3.1, paragraph 18.

DMLC Part I, but only if considered necessary to provide to the PSCO the relevant requirements as implemented in the flag States national laws and regulations.

A special checklist or procedures document used by the Master, or person designated by the Master, to carry out inspections could be shown to the PSCO, as necessary.

Additional comments

Meaning of “frequent” – Masters should be prepared to explain that the MLC states that “the competent authority shall require frequent inspections to be carried out on board ships”, with the frequency meant by “frequent” left to the national laws and regulations of the flag State. Therefore, it would not be appropriate for the PSCO to make any judgement on the frequency of inspections, except to compare practices on board the ship with the DMLC Part I and Part II, as appropriate.

Inspection of seafarer accommodation – Masters are advised to note that this CIC question addresses the inspections of seafarer accommodation and not the element of MLC Standard A3.1, paragraph 18 requiring that it should be clean, decently habitable and maintained in a good state of repair. Nonetheless, the PSCO may wish to, separate to carrying out the CIC inspection, inspect the seafarer accommodation on board the ship as part of a routine inspection as it is one of the 14 areas of PSC listed in MLC Appendix A5-III.

References

MLC Standard A3.1, paragraph 18.

Question 7

Are frequent inspections carried out by or under the authority of the master, with respect to supplies of food and drinking water, all spaces and equipment used for the storage and handling of food and drinking water, and galley and other equipment for the preparation and service of meals documented?

This question addresses inspections of supplies of food and drinking water, all spaces and equipment used for the storage and handling of food and drinking water, and galley and other equipment for the preparation and service of meals, to be carried out by the Master or another designated person.

Frequent documented inspections are required to be carried out on board ships, by or under the authority of the Master, with respect to:

- Supplies of food and drinking water;
- All spaces and equipment used for the storage and handling of food and drinking water; and
- Galley and other equipment for the preparation and service of meals.²⁰

The MLC states that frequent documented inspections are to be part of the ongoing compliance procedures under Title 5,²¹ which is a reference to the DMLC Part II drawn up by the shipowner to identify measures adopted to ensure ongoing compliance with the national requirements of the flag State between inspections.

As part of the CIC, the PSCO is expected to verify that inspections:

- Are carried out on board the ship;
- Are carried out at the required frequency;
- Are carried out by, or under the authority of, the Master; and
- Are documented.

Unlike the inspections of seafarer accommodation (MLC Standard A3.1, paragraph 18), the MLC does not state that the “results of each such inspection shall be recorded and be available for review”. The requirement in this case is that the inspections are “documented”, nonetheless it would be expected that the PSCO will look for records evidencing on board “frequent documented inspections”.

Preparations

Ships should ensure that inspections of supplies of food, drinking water and the galley are being carried out in accordance with the flag State requirements (set out in the DMLC Part I), and are following the measures adopted by the shipowner (set out in the DMLC Part II).

Subject to the flag State requirements and measures adopted by the shipowner, ships should ensure that:

- Records of inspections are dated or there is otherwise indication in the records of their timing which would serve to evidence their frequency;

²⁰ MLC Standard A3.2, paragraph 7.

²¹ MLC Standard A5.1.3, paragraph 10(b).

- Records of inspection refer to them having been carried out by the Master or a person designated by the Master to carry out the inspections; and
- Records are in a format and/or document that could be shown to a PSCO during an inspection referencing the different elements of the requirements inspected.

Inspection

Ships should be prepared to show the PSCO:

- Records of inspections of supplies of food, drinking water and the galley that contain the date or timing of the inspections, the different elements inspected and identifying who carried out the inspections;
- The relevant DMLC Part II section indicating the measures adopted by the shipowner for the frequent inspection of supplies of food, drinking water and the galley on board the ship, and the DMLC Part I, but only if considered necessary to provide to the PSCO with the relevant flag State requirements.

A special checklist or procedures document used by the Master, or person designated by the Master, to carry out the inspections could be shown to the PSCO, as necessary.

Additional comments

Meaning of “frequent” – Masters should be prepared to explain that the MLC states that “the competent authority shall require that frequent documented inspections be carried out on board ships”, with the frequency meant by “frequent” left to the national laws and regulations of the flag State. Therefore, it would not be appropriate for the PSCO to make any judgement on the frequency of the inspections, except to compare practices on board the ship with the DMLC Part I and Part II, as appropriate.

Inspection of supplies of food, drinking water and the galley – Masters are advised to note that this CIC question addresses inspections of supplies of food, drinking water and the galley, and not the minimum standards of MLC Standard A3. Nonetheless, the PSCO may wish to, separately, inspect the food and catering on board the ship as part of a routine inspection since it is one of the 14 areas of PSC listed in MLC Appendix A5-III.

References

MLC Standard A3.2, paragraph 7.

Question 8

Has a ship's safety committee been established on board regarding ships on which there are five or more seafarers?

This question addresses the requirement to have a safety committee on board ships with five or more seafarers.

A ship's safety committee is required on board ships on which there are five or more seafarers. The authority of the ship's seafarers appointed or elected as safety representatives to participate in meetings of the ship's safety committee are to be specified.²²

As part of the CIC, the PSCO is expected to enquire:

- Whether the ship has more than five seafarers;
- If yes, whether a ship's safety committee has been established; and
- Whether the authority of the ship's seafarers appointed or elected as safety representatives has been specified.

NOTE: The PSCO should record a "N/A" against the question if there are less than five seafarers on board the ship.

Preparations

For ships where there are five or more seafarers, ships should ensure that the establishment, authority and operation of a ship's safety committee in accordance with the flag State requirements (set out in the DMLC Part I), and following the measures adopted by the shipowner set out in the DMLC Part II.

In preparation for the CIC, ships should ensure that:

- A ship's safety committee has been formally established if there are more than five seafarers on board the ship;
- The authority of the ship's seafarers appointed or elected as safety representatives has been specified in any documentation or plans and procedures for the ship's safety committee.

Inspection

Ships should be prepared to show the PSCO:

- Any documents evidencing membership and meetings of the ship's safety committee (e.g. records and minutes of the meetings, etc.); and
- Relevant section of the DMLC Part II that indicates measures adopted by the shipowner related to the ship's safety committee on board the ship, and the DMLC Part I, but only if considered necessary to provide to the PSCO with the relevant flag State requirements.

Subject to the requirements of the flag State and/or measures adopted by the shipowner, ships may also consider whether it may be possible to provide the following sources of information to the PSCO:

²² MLC Standard A4.3, paragraph 2(d).

- Documents, such as the on board accident reports or reports of risk assessments undertaken for the management of occupational safety and health on the ship, that may refer to the ship's safety committee;
- A document specifying the authority of the ship's seafarers appointed or elected as safety representatives to participate in meetings of the ship's safety committee;

Additional comments

None.

References

MLC Standard A4.3, paragraph 2(d).

Question 9

For a ship not being required to carry a medical doctor, is there on board at least one seafarer, holder of a certificate of training in medical first aid or in medical care that meets the requirements of STCW?

This question addresses the provision of medical care on board ship.

Ships carrying 100 or more persons and ordinarily engaged on international voyages of more than three days' duration are required to carry a qualified medical doctor responsible for providing medical care. National laws or regulations shall also specify which other ships shall be required to carry a medical doctor, taking into account, *inter alia*, such factors as the duration, nature and conditions of the voyage and number of seafarers on board.²³

Ships which do not carry a medical doctor are required to have either at least one seafarer on board who is in charge of medical care and administering medicine as part of their regular duties or at least one seafarer on board competent to provide medical first aid.

- Seafarers in charge of medical care on board who are not medical doctors are to have satisfactorily completed training in medical care that meets the requirements of the STCW Convention; and
- Seafarers designated to provide medical first aid are to have satisfactorily completed training in medical first aid that meets the STCW Convention requirements.

National laws or regulations of the flag State are to specify the level of approved training required taking into account, *inter alia*, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board.²⁴

STCW Regulation VI/4 sets out the mandatory minimum requirements relating to medical first aid and medical care, where:

- Seafarers designated to provide medical first aid on board ship shall meet the standard of competence in medical first aid specified in section A-VI/4 of the STCW Code.
- Seafarers designated to take charge of medical care on board ship shall meet the standard of competence in medical care on board ships specified in section A-VI/4 of the STCW Code.

Where training in medical first aid or medical care is not included in the qualifications for the certificate (CoC) to be issued under the STCW Convention, a certificate of proficiency (CoP) shall be issued indicating that the holder has attended a course of training in medical first aid or in medical care. The CoCs issued in accordance with STCW Regulations II/1, II/2, II/3, III/1, III/2, III/3, III/6 and VII/2 include the proficiency requirements in "medical first aid" therefore, holders of those CoCs are not required to carry a separate CoP in respect of "medical first aid".

As part of the CIC, the PSCO is expected to check:

- Whether the ship is required to carry a medical doctor; and
- If not required, whether at least one seafarer holds a certificate in medical first aid or medical care issued in accordance with the STCW Convention.

²³ MLC Standard A.4.1, paragraph 4(b).

²⁴ MLC Standard A.4.1, paragraph 4(c).

NOTE: If the PSCO considers that a “No” should be recorded against this question, the ship may be considered for detention.

Preparations

Ships should ensure that:

- A medical doctor is carried on board ships carrying 100 or more persons and ordinarily engaged on international voyages of more than three days’ duration, or if it has been specified by the national laws or regulations of the flag State that the ship must carry a medical doctor;
- At least one seafarer on board is in charge of medical care and administering medicine as part of their regular duties, or at least one crew member on board competent to provide medical first aid, if the ship is not required to carry a medical doctor; and
- Seafarers designated to take charge of medical care or seafarers designated to provide medical first aid on board ship hold the relevant CoP in accordance with the STCW Convention (where not included in the holder’s CoC).

Inspection

Ships should be prepared to show the PSCO:

- The CoPs (or CoCs), issued in accordance with the STCW Convention, held by the seafarers designated to take charge of medical care or seafarers designated to provide medical first aid on board ship; and
- For comparison with those holding the relevant STCW certification, documentation that identifies the seafarer(s) designated to take charge of medical care and/or designated to provide medical first aid on board the ship.

Additional comments

Masters should draw the attention of the PSCOs to STCW Table B-I/2 (“List of certificates or documentary evidence required under the STCW Convention”), in particular the “Notes” below the table, in the event of any discussion about whether the CoCs issued in accordance with STCW Regulations II/1, II/2, II/3, III/1, III/2, III/3, III/6 and VII/2 include the proficiency requirements in “medical first aid”.

References

MLC Standard A.4.1, paragraph 4(c).
STCW Regulation VI/4 and Section A-VI/4 of the STCW Code.

Question 10

Are all seafarers provided with a copy of on-board complaint procedures applicable on the ship?

This question addresses complaints procedures on board the ship.

Ships are required to have on-board procedures for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the MLC requirements.²⁵

On-board complaint procedures are to seek to resolve complaints at the lowest level possible. However, in all cases, seafarers shall have a right to complain directly to the master and, where they consider it necessary, to appropriate external authorities.²⁶ The procedures are also to include the right of the seafarer to be accompanied or represented during the complaints procedure, as well as safeguards against the possibility of victimisation of seafarers for filing complaints.²⁷

In addition to a copy of their seafarers' employment agreement, all seafarers are required to be provided with a copy of the on-board complaint procedures applicable on the ship.²⁸ It is required to include:

- Contact information for the competent authority in the flag State and, where different, in the seafarers' country of residence; and
- Name of a person or persons on board the ship who can, on a confidential basis, provide seafarers with impartial advice on their complaint and otherwise assist them in following the complaint procedures available on board the ship.²⁹

To address the specific CIC question on seafarers being provided a copy of the on-board complaint procedures, the PSCO is expected to check:

- Whether the ship has on-board complaint procedures for handling seafarer complaints alleging breaches of the MLC; and
- Whether seafarers have been provided with a copy of the on-board complaint procedures applicable on the ship.

It is not anticipated that the PSCO will check the contents of the on-board complaint procedures, however they may also be interested to see if some of the particulars mentioned in MLC Standard A5.1.5 are duly included.

NOTE: If the PSCO considers that a "No" should be recorded and if the identified deficiency is found for more than one seafarer, the ship may be considered for detention.

Preparations

Ships should ensure that:

- There is an on-board complaints procedure applicable to the ship, in accordance with the measures adopted by the shipowner in the relevant section of the DMLC Part II;

²⁵ MLC Regulation 5.1.5, paragraph 1.

²⁶ MLC Standard A5.1.5, paragraph 2.

²⁷ MLC Standard A5.1.5, paragraph 3.

²⁸ MLC Standard A5.1.5, paragraph 4.

²⁹ MLC Standard A5.1.5, paragraph 4.

- Seafarers on the ship have been provided with a copy of the on-board complaint procedures applicable to the ship; and
- Master is aware, or has been advised by the shipowner, when and how seafarers on the ship were provided with a copy of the on-board complaints procedure (for example, when signing the SEA, or when signed-on to the ship etc.).

Inspection

Ships should be prepared to show the PSCO:

- A copy of the on-board complaints procedures applicable on the ship; and
- If in a different format or document, a copy of the on-board complaints procedures as provided to the seafarers.

Masters should be prepared to explain to a PSCO when and how seafarers on board the ship were provided with a copy of the applicable on-board complaint procedure.

Reference to the relevant section of the DMLC Part II may also assist in indicating the measures adopted with regard to providing seafarers with a copy of the applicable on-board complaints procedure.

Additional comments

Meaning of “provided with a copy” – The MLC does not provide any indication of the circumstances of when and how seafarers are provided with a copy of the on-board complaints procedures applicable on the ship. Masters should consider familiarising themselves with any further information on the national laws and regulations of the flag State on this matter as set out in the relevant section of the DMLC Part I. There is also no stated requirement in the MLC that seafarers are required to have their copy of the on-board complaints procedures with them on the ship. Subject to any information or measures in the relevant sections of the DMLC Part I or Part II that would indicate that seafarers should keep their copy with their other documents and certificates on board, Masters should be prepared to explain that there is no requirement for the copies to be carried on board by each seafarer (although most would be expected to keep them in case they wish to utilise them).

If appropriate and if not already part of relevant procedures or practices on board the ship, Masters could consider posting a copy of the on-board complain procedures in a conspicuous place on the ship, which could then be drawn to the attention of the PSCO as necessary. This would serve to further demonstrate that there are on-board complaints procedures applicable to the ship and, by being visibly placed, it is being further “provided” to seafarers on the ship.

References

MLC Standard A5.1.5, with the focus of the question on paragraph 4.

Question 11

Have all seafarers received monthly accounts of their payments due and amounts paid?

This question addresses the monthly account given to seafarers of the payments due and the amounts paid.

Seafarers are required to be paid for their work regularly and in full in accordance with their employment agreements.³⁰ Payments due to seafarers are to be made at no greater than monthly intervals and in accordance with any applicable CBA,³¹ and are required to be given a monthly account of the payments due and the amounts paid (including wages, additional payments and the rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to).³²

To address the specific CIC question, the PSCO is expected to check whether seafarers have been given monthly accounts of payments due and amounts paid.

NOTE: If the PSCO considers that a “No” should be recorded against this question and if the identified deficiency is found for more than one seafarer, the ship may be considered for detention.

Preparations

Ships should ensure that:

- Seafarers are given monthly accounts of payments due and amounts paid (e.g. pay slips);
- Monthly accounts of payments due and amounts paid (e.g. pay slips) given to seafarers include information on wages, additional payments and the rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to; and
- SEA and documentation, such as payroll records, confirm that wages are paid at intervals no greater than one month, as specified in the SEA or relevant CBAs.

Inspection

Ships should be prepared to show the PSCO:

- Payroll records for the ship, showing monthly amounts due and amounts paid to seafarers;
- Copies of the individual monthly accounts (e.g. pay slips) given to seafarers; and
- Copy of the standard SEA (and/or CBA where applicable) to confirm that wages are being paid at intervals no greater than one month in accordance with that SEA (and/or CBA where applicable).

NOTE: There is no requirement in the MLC to carry payroll records or similar, however these may provide a useful additional source of information to complement copies of monthly accounts and SEAs.

³⁰ MLC Regulation 2.2, paragraph 1.

³¹ MLC Standard A2.2, paragraph 1.

³² MLC Standard A2.2, paragraph 2.

Additional comments

Recordkeeping related to the MLC – The MLC does not provide any indication of the length of time some records related to the MLC should be kept on the ship (e.g. individual hours or work or rest records etc.). Therefore, Masters should be prepared to draw this to the attention of PSCOs if there is a discussion about the number of months of accounts or records being shown to the PSCO to evidence compliance with the payment of wages requirements. Considering that the 2014 MLC amendments (entering into force in January 2017) indicate that a seafarer will be deemed to be abandoned if the shipowner fails to pay contractual wages for a period of at least two months, it might be considered that records for at least the two previous months would be considered acceptable.

If appropriate and where not already part of on-board practice, Masters and shipowner should ensure that copies of the ship's payroll records or monthly accounts previously given to seafarers (e.g. pay slips) are held by the Master in the event it is necessary to show them to the PSCO.

References

MLC Standard A2.2, paragraph 2.

Question 12

Was the ship detained as result of the CIC?

This question will be completed by the PSCO after considering the answers recorded against the rest of the questions on the questionnaire, particularly those marked with a “*” or “**” .

The detail of any deficiencies will be indicated by the PSCO on the PSC report of inspection.

Additional comments

For the purposes of ensuring that the results of the CIC are accurately reported and collated by the Paris MoU, Masters should ensure that a “No” (and not a “Yes”) is recorded against this question in cases where the ship is not detained. There is clearly a possibility for confusion or error since a “Yes” is the positive record for all the other questions on the standard questionnaire.