

## Title 5. Compliance



- Flag State responsibilities: system of certification
- Port State responsibilities
- Labour Supplying Countries responsibilities

# Flag State Inspection

# Flag State Responsibilities

- Implement & enforce requirements through laws and/or regulations and/or CBA and/or other measures
- Inspect all & also certify some ships
- MLC and DMLC Parts I and II - the “14 areas” (See MLC, 2006 - Appendix)
- Note: the important complementary roles of flag State inspections and PSC inspections

## Flag State Inspection under the MLC 2006

- Competent Authority: Flags State Administration
- Recognized Organization delegated by the F.S.A (Known as authorized Organization..)

What they do ?

inspection and certification process

Who is responsible for this process ?

## Flag State Inspection under the MLC 2006

### Scope:

- All ships to which the convention applies must be inspected
- All those  $\geq 500\text{GT}$  and engaged in international voyages (or foreign ships engaged in cabotage) must be inspected and certified

# Maritime Labour Certificate (MLC)

First ILO Convention to provide for certification of working and living conditions

- 14 areas inspected and approved
- Period of validity (5 years)
- First, intermediate, renewal inspection
- Interim MLC (for six months, only once)
- Phasing-in of certification (Res. XVII)



## Flag State Inspection under the MLC 2006

- Maritime Labour Certificate

validity max 5 Year;

Intermediate inspection

Renewal inspection

- Interim maritime labour certificate

validity max 6 months (Only in some circumstances)

- Ship not certified are inspected at interval not exceeding three Year

# Cancellation of certificate

- MLC *invalidated* (change of flag, substantial change)
- MLC *withdrawn* (serious and repeated non-compliance)



# Declaration of Maritime Labour Compliance (DMLC)

- DMLC - Part I (*national requirements*)
  - drawn up by the competent authority
- DMLC - Part II (*shipboard rules*)
  - drawn up by shipowner, approved by FS
- Subsequent inspection reports appended
- MLC, DMLC and English translation posted on board

## **Flag State Inspection under the MLC 2006**

14 areas of Appendix A5-1 of the convention

Shall be inspected to verify the compliance of the ships to the MLC Convention.

## Flag State Inspection under the MLC 2006

- Minimum age;
- Medical certification;
- Qualifications of the seafarers
- Seafarers' employment agreements;
- Recruitment;
- Hours of work or rest;
- Manning level for the ship;
- Accommodations;
- On board recreational facilities;
- Food and catering;
- Health and safety and accident prevention;
- On-board medical care
- On board complaint procedure;
- Payment of wages

# Complaints



- Onboard and onshore complaint-handling procedures
- No victimization of seafarer
- Right to be accompanied or to file complaint directly to master /external authorities

# Port State Control

# Port State Responsibilities

- Level-playing field (Art. V(7)): No more favourable treatment
  - provides an incentive to ratify
  - major innovation together with certification requirements
  - All foreign ships may be inspected



# Port State control

- Documents a priori evidence of compliance
- Range of possible actions
- Ships not to be unduly delayed or detained
- Using professional judgment



# Port State control

- Two types of Port state control inspections:
  - Regular inspections
  - More detailed inspections (MDI)





# Port State Control

A MDI may be carried out in 4 cases:

- No documents on board
- Documents incomplete
- Bad working and living condition
- Complaint (info submitted)
- Previously reported deficiencies not rectified

# Port State Control

A MDI shall be carried out:

- a) where the working and living condition could constitute a clear hazard to the Safety and health of seafarers
- b) b) where the PSCO has reasons to believe that any deficiencies constitute a serious breach of the requirements of the Convention, including Seafarers' right, the PSC officers carry out a **more detailed inspection.**

# Action in case of non-conformity

- Bring deficiencies to the attention of the master
- If significant deficiencies or if complaint, bring it to the attention of social partners
- May notify the flag state and the CA in next port of call
- May transmit a copy of the report to the ILO

# Action in case of serious/repeated non- conformity

- Clearly hazardous conditions to safety, health or security
- Serious or repeated breach of requirements
- Detention until rectification or acceptance of rectification plan

# **Onshore complaint-handling procedures (Reg.5.2.2 )**

- Right to report complaint onshore
- Initial inspection by authorized officer
- Seek to resolve the complaint at the ship-board level
- If not possible: detention, seek advice/corrective plan from flag state

## Labour Supplying countries responsibilities

# Labour Supplying countries responsibilities

- a) Control of all placement and recruitment services
- b) Certification of private placement and recruitment services