

MED MoU PSC SEMINAR

PSC INSPECTION OF LABOUR CONDITIONS ON BOARD SHIPS

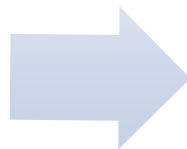
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Lisbon / 18 – 21 April 2016



OLD REGIME 1926 – 2013

- Standards for living & working conditions on board ships
 <37 Conventions and
 <30 Recommendations
- Inspection tool
 **Merchant Shipping
 (Minimum Standards)
 Convention, 1976 (C147) &
 Protocol from 1996 to C147**



NEW REGIME 2013 - on

- Standards for living & working condition on board ships
 - **one** instrument
 **Maritime Labour
 Convention, 2006 (MLC)**
- Inspection tool
 **Maritime Labour
 Convention, 2006 (MLC)**

Med MoU members STATISTICS ON RATIFICATION

| Med MoU member | C 147 | MLC 2006 |
|----------------|----------------------------|----------------------------|
| Algeria | Ratified, in force | Not ratified, not in force |
| Cyprus | Denounced | Ratified, in force |
| Egypt | Ratified, in force | Not ratified, not in force |
| Israel | Ratified, in force | Not ratified, not in force |
| Jordan | Ratified, in force | Not ratified, not in force |
| Lebanon | Ratified, in force | Not ratified, not in force |
| Malta | Denounced | Ratified, in force |
| Morocco | Denounced | Ratified, in force |
| Tunisia | Not ratified, not in force | Not ratified, not in force |
| Turkey | Not ratified, not in force | Not ratified, not in force |

PSC INSPECTION OF LABOUR CONDITIONS ON BOARD SHIPS



**Legal Grounds:
MEMORANDUM OF
UNDERSTANDING ON PORT STATE
CONTROL IN THE MEDITERRANEAN
REGION**

**Section 2
RELEVANT INSTRUMENTS**

.10 The Merchant Shipping
(Minimum Standards) Convention,
1976 (ILO Convention No. 147)
(ILO 147);

.11 The Protocol of 1996 of the
Merchant Shipping (Minimum
Standards) Convention, 1976 (ILO
Convention No. 147) (ILO147);

.12 The Maritime Labour
Convention, 2006 (MLC 2006);

Med PSC regime under C147

- **Umbrella** Convention – refers to a **number of ILO Conventions**, listed in Appendix
- Inspections – based on a **complaint** or **evidence for non-conformity** with the **standards** of C147 (what standards?) →
- Subject to inspection - **any ship** regardless of whether the flag State has ratified C147
- Follow-up actions:
 - Report to the flag State + copy to the Director-General of ILO if a ship fails to meet the C147 requirements;
 - Ensure rectification of deficiencies, clearly hazardous to seafarers' safety and health before proceeding to sea (*may even include detention until corrective actions are taken*)

C147 - Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)

ANNEX

APPENDIX

Minimum Age Convention, 1973 (No. 138), or

Minimum Age (Sea) Convention (Revised), 1926 (No. 58), or

Minimum Age (Sea) Convention, 1920 (No. 7),

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 53), or

Sickness Insurance (Sea) Convention, 1936 (No. 56), or

Medical Care and Sickness Benefits Convention, 1969 (No. 130);

Medical Examination (Seafarers) Convention, 1946 (No. 73);

Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) (Articles 4 and 7);

Accommodation of Crews Convention (Revised), 1949 (No. 92);

Food and Catering (Ships' Crews) Convention, 1946 (No. 68) (Article 5);

Officers' Competency Certificates Convention, 1936 (No. 53) (Articles 3 and 4);

(Note: In cases where the established licensing system or certification structure of a State would be prejudiced by problems arising from strict adherence to the relevant standards of the Officers' Competency Certificates Convention, 1936, the principle of substantial equivalence shall be applied so that there will be no conflict with that State's established arrangements for certification.)

Seamen's Articles of Agreement Convention, 1926 (No. 22);

Repatriation of Seamen Convention, 1926 (No. 23);

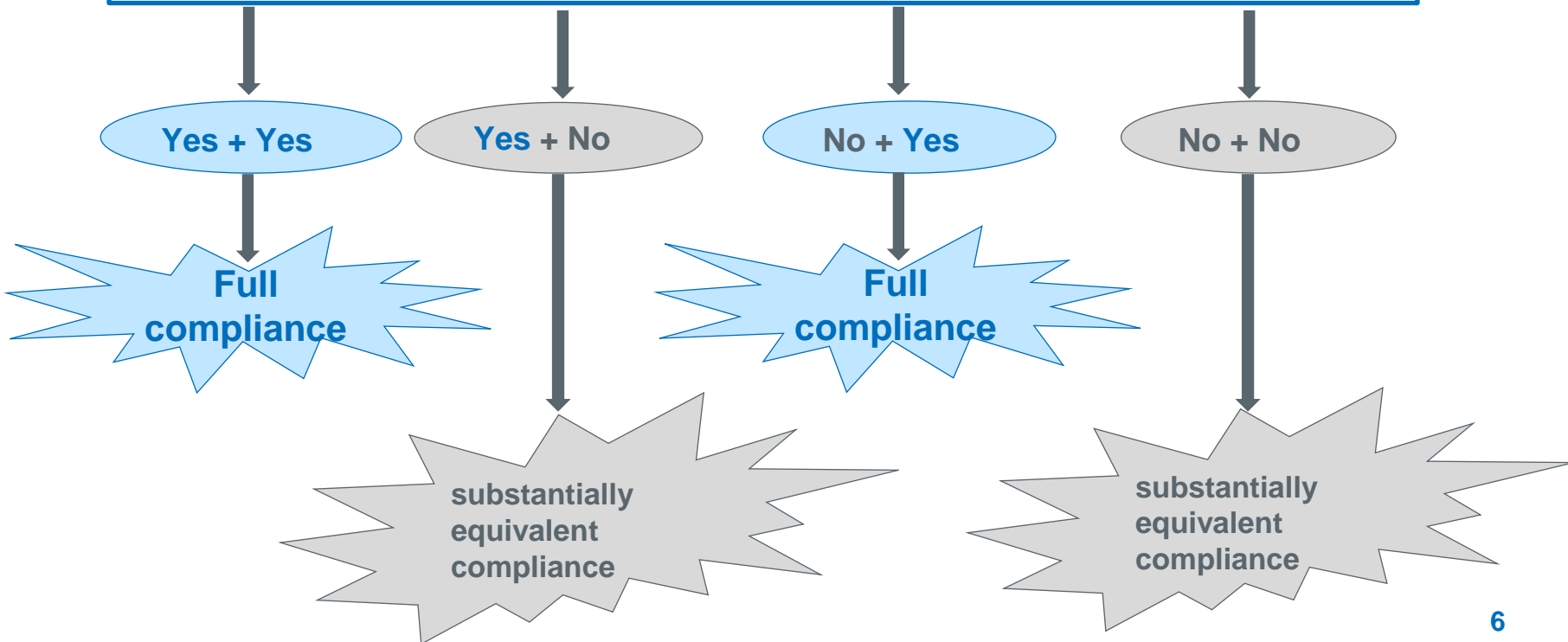
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);

Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

How to decide on applicable standards ?



flag State - party or not to:
C147 and **particular Convention from Appendix:**



INSPECTION OF LABOUR CONDITIONS ON BOARD SHIPS

Maritime Labour Convention, 2006



**Relevant
instrument**
under PSC
since 20 August
2013

Purpose of the
PSC inspection :
To determine
compliance with
MLC, 2006
(14 areas of
working & living
conditions on ships
Appendix A5-III)

**prima facie
evidence**
for compliance :
Valid Maritime
Labour Certificate
(MLC) &
Declaration of
Maritime Labour
Compliance
(DMLC)

**Potential
phases/stages**
of inspection:

Initial inspection
(document review)

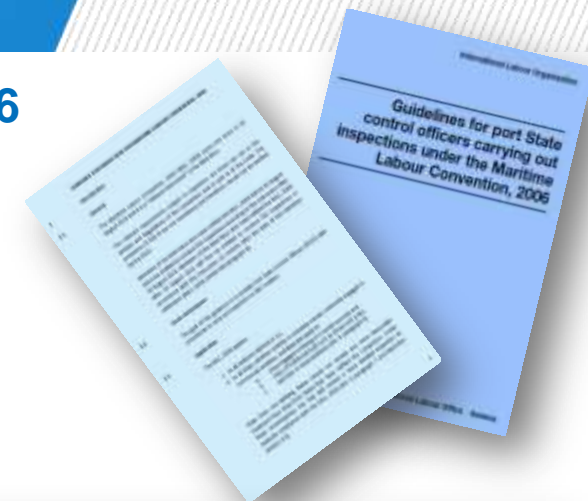
More detailed
inspection

Actions to be taken
in case of
deficiencies & non-
conformities
(including
detention)

INSPECTION OF LABOUR CONDITIONS ON BOARD SHIPS

Med MoU Guidance for Inspection under MLC, 2006

- Ships from non-ratifying States – subject to a more detailed inspection
- Examples of clear grounds for a more detailed inspection
- On Shore Complaints & Complaint handling procedures
- Follow up actions



Annex 1 List of the 14 areas

General areas that are subject to a more detailed inspection by a PSCO in a port of a Member carrying out a port State inspection pursuant to paragraph 2.4:

1. Minimum age of seafarers
2. Medical certification of seafarers
3. Qualifications of seafarers
4. Seafarers' employment agreements
5. Use of any licensed or certified or regulated private recruitment and placement service for seafarers
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

Annex 3 - List of example deficiencies in the 14 areas

Examples of deficiencies³ in the 14 areas listed in annex 1 include, but are not limited to:

| | |
|---|--|
| Minimum age | Art IV 4 Regulation 1.1 |
| Person under the age of 16 working on board ship | Standard A 1.1 para. 1 |
| Seafarer under the age of 18 regularly working at night (except exemption in case of training program) on board | Standards A 1.1 para. 2 and A 1.1 para. 3 |
| Seafarer under the age of 18 carrying out tasks on board liable to jeopardise his/her health or safety on board | Standard A 1.1 para. 4 |
| Medical certificate | Art IV 4 Regulation 1.2 |
| Seafarers on board without a valid medical certificate ³ | Standards A 1.2 para. 1, A 1.2 para. 8 and A 1.3 para. 9 |
| In urgent cases, the competent authority 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, provided that: (a) the period of such permission does not exceed three months; and (b) the seafarer concerned is in possession of an expired medical certificate of recent date | |
| Medical certificates not provided in English language | Standard A 1.2 para. 10 |
| Evidence that the medical certificate was not issued by a duly qualified medical practitioner | Standard A 1.2 para. 4 |
| Seafarer working on the ship or performing tasks contrary to a restriction in a medical certificate | Standard A 1.2 para. 4-1 |
| Qualifications of seafarers | Art IV 1 Regulation 1.3 |
| For more precision, the PSCO should refer to the PSCC instruction concerning manning and qualifications | |
| Seafarers not trained and not certified according to STCW 78 as amended | Regulation 1.3 para. 3 |
| Seafarer who is not trained or certified or otherwise qualified to perform required duties working on board the ship | Regulation 1.3 para. 1 |
| Certificates or endorsements are not up to date or have expired | Regulation 1.3 para. 1 |
| Issuance of a valid dispensation issued under STCW, where needed | Regulation 1.3 para. 3 |
| Seafarer who has not completed on board training for personal safety working on board the ship | Regulation 1.3 para. 2 |
| Certificate fraudulently obtained | Regulation 1.3 para. 3 |
| Seafarers' employment agreements (SEA) | Art IV 2 Regulation 2.1 |
| Seafarers do not have a written employment agreement signed both by the seafarer and the ship owner or a representative of the shipowner | Standard A 2.1 para. 1 (a) |
| A seafarer with a SEA that does not contain all the required items | Standard A 2.1 para. 4 |
| A seafarer with a SEA that is inconsistent with the MLC, 2006 (requirements) | Standard A 2.1 para. 4 |
| Seafarers have not received a document containing a record of their employment on board the ship | Standard A 2.1 para. 1 (a) |
| A collective bargaining agreement that forms all or part of the SEA is either not on board or, if on board, the portions of the collective bargaining agreement that are subject to a port State inspection under Regulation 5.2 are not in English | Standard A 2.1 para. 3 |
| The SEA contains clauses that violate seafarers' rights | Regulation 2.1 |

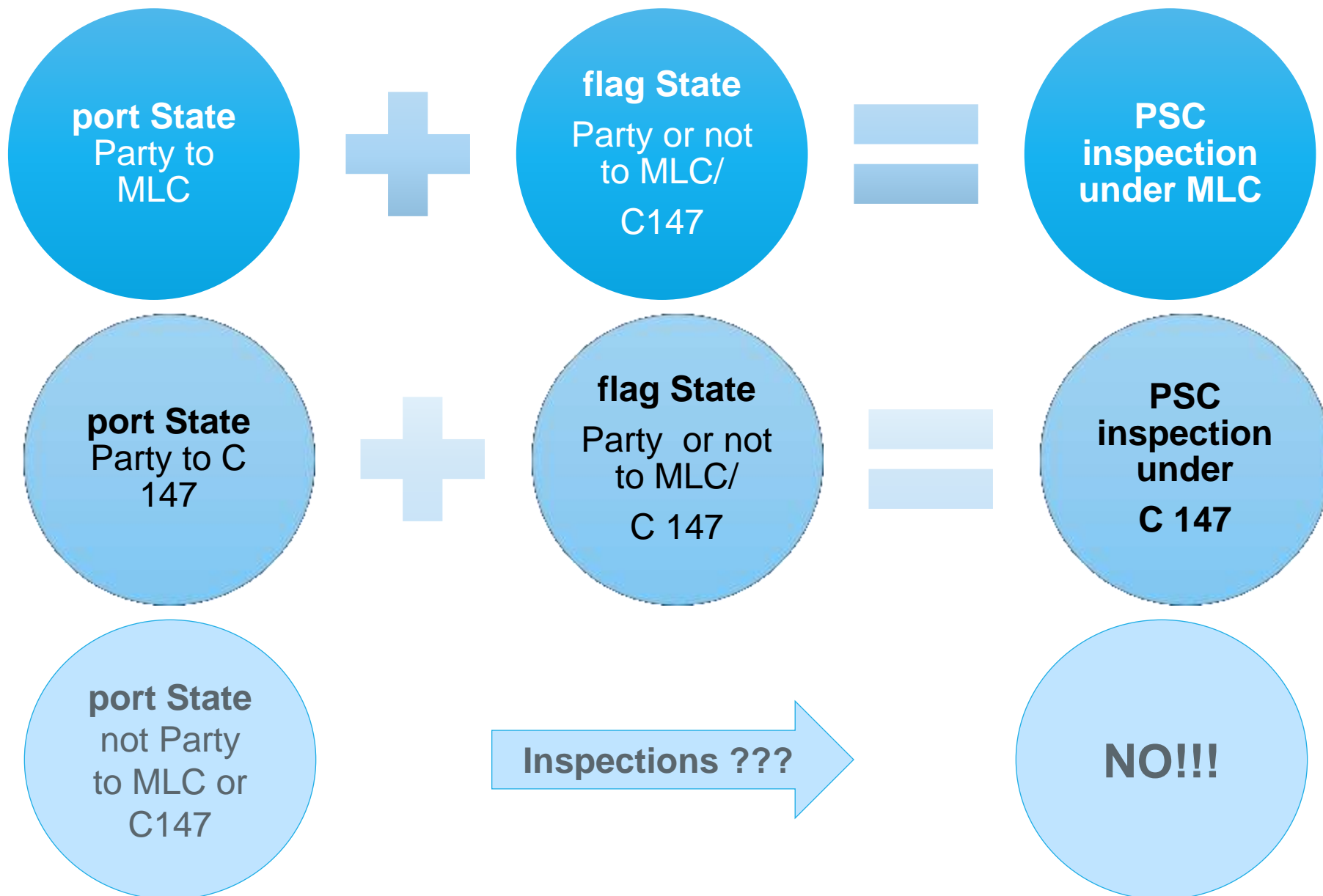
³ Deficiencies referred to in more than one Convention shall be recorded only once with the most appropriate convention reference.

Annex - 4 List of example deficiencies warranting detention

The following non-exhaustive list contains examples of deficiencies (including seafarers' rights) which may justify the detention of the ship. For more precision, when relevant, the PSCO should refer to PSCC instructions on manning and qualifications or PSCC instructions on hours of work and rest hours:

| Deficiencies | References |
|---|---|
| No follow up action listed in section 3.3 has been taken (i.e. no deficiency has been rectified before the ship departed the last port) | Art IV 1 |
| Minimum safe manning document or equivalent not presented or available | Standard A 2.3 para. 5 b |
| | Art IV para 1 |
| | Standard A 2.7 |
| No evidence that seafarers are trained and certified as competent or otherwise qualified to perform their duties (in missing) | Art IV para 1 |
| | Regulation 1.3.1, 1.3.2 and 1.3.3 |
| Persons under the age of 16 years working on board | Standard A 1.1 para. 1 |
| Seafarers on board under the age of 18 years (except training program) are regularly working at night, or work likely to jeopardise their health or safety | Art IV para 3 |
| Several seafarers not holding valid certificate(s) attesting medical fitness | Standard A 1.1 para. 2 and 4 |
| | Art IV para 4 |
| | Regulation 1.2.1 |
| Seafarers on board the same ship repeatedly not in possession of valid employment agreement or seafarers with SEAs containing clause containing denial of seafarers' rights | Art IV para 2 |
| | Regulation 2.1 para. 1 and para. 3 |
| | Standard A 2.1 para. 1 |
| Evidence that maximum hours of work have been repeatedly exceeded or evidence that minimum hours of rest have repeatedly not been kept | Art IV para 3 |
| Note: Excessive fatigue may occur and constitute immediate danger for the safety of the ship, the crew and/or the environment | Standard A 2.3 and Standard A 2.3 para. 2 b |
| No record of work or rest hours or evidence that records have been falsified to hide excessive working hours of the crew | Art IV para 3 |
| | Standard A 2.3 para. 12 |
| Insufficient manning (number of seafarers) | Art IV para 3 |
| | Regulation 2.7 |
| | Standard A 2.7 |
| Ventilation, air conditioning and/or heating not working satisfactorily | Art IV para 3 |
| | Standard A 3.1 para. 7(d) |
| Accommodation, including catering and sanitary facilities, are unhygienic and equipment is missing or not functioning | Art IV para 3 |
| | Standard A 3.1 para. 11 and A 3.2 para. 2 |
| Quality and quantity of food and drinking water not sufficient for the intended voyage | Art IV para 3 |
| | Regulation 3.2 and Standard A 3.2 para. 2 |
| Required medical guide repeatedly missing or medicine, chest or medical equipment, not on board, and not updated | Art IV para 4 |
| | Standard A 4.1 para. 4 (a) |
| No seafarer with training in medical care (STCW 78 as amended) in charge of medical care on board for ship not carrying a medical doctor | Art IV para 4 |
| | Standard A 4.1 para. 4 (a) |
| Note: According MLC, each ship requires person who is trained with "medical care" or "medical first aid" | |
| No medical doctor for ships ordinarily engaged in international voyages of more than three days, carrying one hundred persons or more | Art IV para 4 |
| | Standard A 4.1 para. 4 (b) |

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Thank you!

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