

MLC 2006

Delegation to ROs

IACS Members Experience

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Members:

ABS	American Bureau of Shipping
BV	Bureau Veritas
CCS	China Classification Society
CRS	Croatian Register of Shipping
DNV/GL	Det Norske Veritas/Germanischer Lloyd
IRS	Indian Register of Shipping
KR	Korean Register of Shipping
LR	Lloyd's Register of Shipping
NK	Nippon Kaiji Kyokai
PRS	Polish Register of Shipping
RINA	Registro Italiano Navale
RS	Russian Maritime Registry of Shipping

- IACS Members act as RO when authorized by flag Administration
- Possible scope of authorization
 - Approval of vessel design drawings for compliance with MLC 2006 flag requirements
 - Review of DMLC part II
 - Performance of MLC Inspections
 - Issuance of MLC 2006 Certificates

APPENDIX A5-II
Maritime Labour Certificate

(Note: This Certificate shall have a Declaration of Maritime Labour Compliance attached)

Issued under the provisions of Article V and Title 5 of the
Maritime Labour Convention, 2006
(referred to below as "the Convention")
under the authority of the Government of:

.....
(full designation of the State whose flag the ship is entitled to fly)

by

(full designation and address of the competent authority or recognized organization
duly authorized under the provisions of the Convention)

Particulars of the ship

Name of ship

Distinctive number or letters

Port of registry

Date of registry

Gross tonnage¹

IMO number

Type of ship

Name and address of the shipowner²

.....

Maritime Labour Convention, 2006

Declaration of Maritime Labour Compliance – Part II

Measures adopted to ensure ongoing compliance between inspections

The following measures have been drawn up by the shipowner, named in the Maritime Labour Certificate to which this Declaration is attached, to ensure ongoing compliance between inspections:

(State below the measures drawn up to ensure compliance with each of the items in Part I)

- | | | |
|----|--|--------------------------|
| 1. | Minimum age (Regulation 1.1) | <input type="checkbox"/> |
| 2. | Medical certification (Regulation 1.2) | <input type="checkbox"/> |
| 3. | Qualifications of seafarers (Regulation 1.3) | <input type="checkbox"/> |
| 4. | Seafarers' employment agreements (Regulation 2.1) | <input type="checkbox"/> |
| 5. | Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4) | <input type="checkbox"/> |
| 6. | Hours of work or rest (Regulation 2.3) | <input type="checkbox"/> |
| 7. | Manning levels for the ship (Regulation 2.7) | <input type="checkbox"/> |

- **IACS MLC 2006**

Procedural Requirements

- PR 10B – Training of MLC Inspectors
- PR 36 - Transfer of MLC certification
- PR 40 – MLC Certification Process

No.10B

No. 10B Procedure for the Selection, Training, Qualification and Authorisation of Maritime Labour Inspectors

(Dec 2016)

No.36

No. 36 Transfer of Maritime Labour Convention, 2006 Certification

(Mar 2013)

Application

This Procedural Requirement contains procedures and requirements pertaining to the transfer of Maritime Labour Convention, 2006 (MLC) certification when a request is received from a shipowner for such transfer from one Classification Society (the losing Society) to another Classification Society (the gaining Society), and is applicable irrespective whether the certification is mandatory or voluntary.

No.40

No.40 Procedural Requirements for MLC, 2006 Certification

(Dec 2018)
(Rev.1
Apr 2019)

INTRODUCTION

The IACS "Procedural Requirements for MLC, 2006 Certification" reflect the Maritime Labour Convention, 2006 "Guidelines for Flag State Inspections".

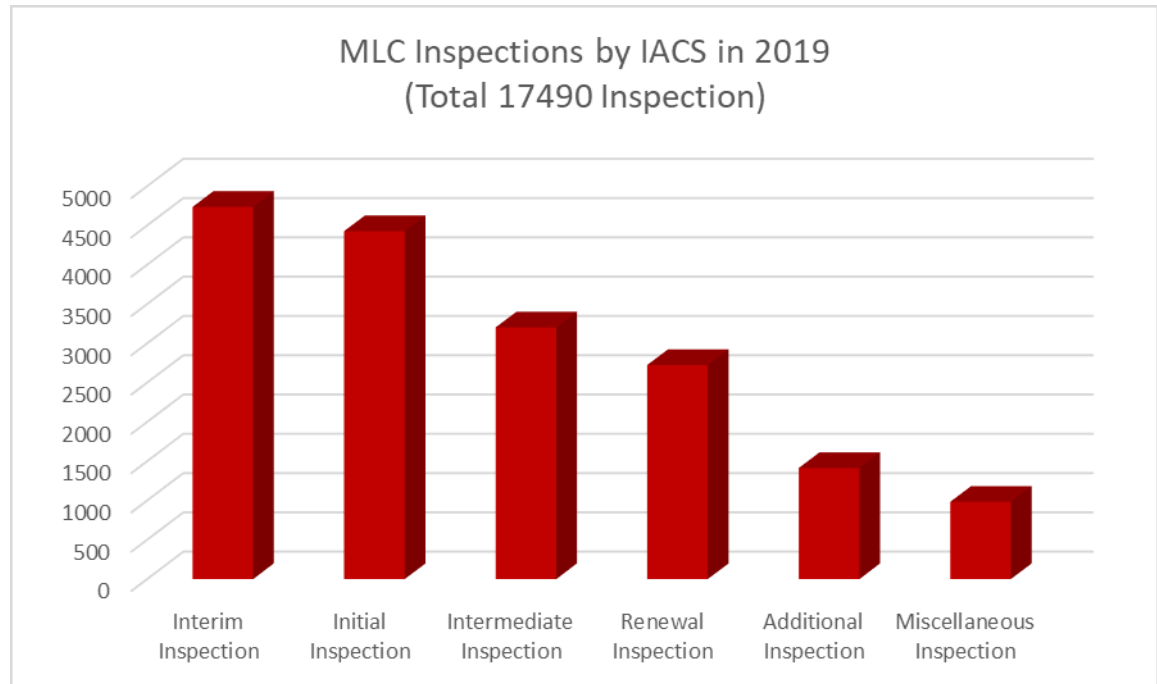
This document and its Annexes provide the Classification Societies with procedures and criteria for the conduct of inspections to verify compliance with the requirements of the Maritime Labour Convention, 2006 ("Convention" or "MLC, 2006") and for the issuance of the corresponding Maritime Labour Certificate (MLC) and Declaration of Maritime Labour Compliance (DMLC), including interim MLCs and MLCs of shortened validity. Also provided are procedures governing the actions to be taken by Classification Societies when deficiencies associated with the MLC, 2006, are identified by Port State Control Officers (PSCOs). In this document, the terms Flag State, Flag and Administration are regarded as interchangeable.

Any certificates issued must comply with the format required by the Administration.

- Overview of MLC inspections

in 2019 by type

- 4733 Interim
 - 4428 Initial
 - 3203 Intermediate
 - 2724 Renewal
 - 1414 Additional
 - 984 Miscellaneous
-
- Total 17490 MLC Inspections on behalf of different flag Administrations



Identified issues and proposals for improvement

- 1. Vague definition of requirements within some Regulations and Standards within the MLC, 2006 causes different interpretation during review of DMLC II and onboard inspections performed by IACS MLC, 2006 inspectors and PSC officers.**
- Contrary to expected, many flag Administrations have not provided additional requirements and information related to “vague” expressions defined in MLC, 2006 which is opening a room for different interpretations within shipping community including ROs approving construction drawings and certifying vessels.**

Examples:

- **Requirements related to accommodation design in Standard A3.1 require “adequate ventilation”, “adequate lighting”, “sufficient drainage” to be provided. Such vague definition leaves the possibility of different interpretation by flag Administrations, shipyards and Classification Societies reviewing accommodation design.**

Examples:

- **Standard A3.1.9 (j), and Standard A 3.1.11 (c) define maximum number of “Persons” which may occupy individual sleeping room. The term “person” in some cases leads to different interpretation of who is included in this term (only seafarers or seafarers and other crew members in some cases not falling into definition of Seafarers (i.e. non navigational crew on Special Purpose Ships)**

Examples:

- **Standard A 5.1.3.3 and A 5.1.3.10 related to issuance of MLC Certificate and DMLC after renewal inspection.**

The current text in some cases leads to different interpretation if DMLC Part I and Part II should be reissued after each Renewal Inspection. Some Flag Administration require that DMLC Part I and II are reissued at each renewal inspection even if there were no modifications in flag Administration and/or company requirements specified in DMLC I and II.

- **MLC, 2006 and “Guidelines for flag State inspections under the MLC 2006” and “Guidelines for PSC officers carrying out inspections under the MLC 2006” may provide more detailed requirements for Regulations and Standards with “vague” requirements in order to minimize the possibility of different interpretations by Flag Administrations and Recognized Organizations performing Inspections on their behalf.**

2. **Different types of relationships between the MLC Shipowner, the Company (as defined in ISM Code), the Owner of the ship, and in some cases SEA signatory party signing “on behalf of” the MLC Shipowner.**
 - **One flag Administration has issued instructions to one RO, without issuing official flag instructions applicable to all companies and ROs, requesting DOC company to make a formal declaration to the Administration as to who the MLC Shipowner is in case it is not the DOC company. Such approach is not consistent among flag Administrations which makes the compliance verification process more difficult.**

- **MLC 2006 could provide more detailed guidance related to the information and documents to be provided defining the relationship between the Owner of the vessel, DOC Company and the MLC Shipowner, in case that DOC Company and MLC Shipowner are not the same entity as well as for cases where SEA is signed by Owner of the vessel on behalf of MLC Shipowner.**

- 3. Initial MLC inspection is completed after the expiry of the Interim MLC (authorized by flag Administration)**
- This situation is not defined in MLC, 2006 which leads to different approach by flag Administrations**
 - Some flag Administrations require the issuance of “Conditional MLC Certificate”, other authorize the extension of Interim MLC certificate (by letter or E mail) and performance of initial inspection after the expiry date of interim certificate or reissuance of interim MLC certificate with limited validity (until next port or time limit until initial audit shall be completed)**

- **MLC 2006 may provide clear information related to extension of Interim MLC certificate in such occasions.**
- **MLC 2006 may also define that full term MLC certificate, issued in such occasions is valid for a period not exceeding 5 years from the date of expiry of the previous interim certificate and not from the completion date of the initial inspection performed.**

4. **DMLC (Part I and Part II together) and Maritime Labour Certificate (MLC) should be considered as two separate documents (similar to Ship Security Plan and International Ship Security Certificate related to ISPS Code)**
- **For that reason the date and place of issuance of DMLC could be removed from the form of the MLC certificate. Current requirement leaves a possibility of different interpretations on which date should be registered on MLC certificate in cases when the DMLC has been amended for any reason not requiring onboard inspection.**

This Certificate is valid only when the Declaration of Maritime Labour Compliance issued at paris on 21 January 2020. is attached.

Completion date of the inspection on which this Certificate is based was: 21 January 2020.

Issued at paris, on the 21 January 2020

- **Alternatively, MLC 2006 may provide clear guidance on what date and place of issue of the DMLC should be on the MLC certificate when:**
 - **the DMLC Part II is amended and onboard inspection is required;**
 - **the DMLC Part II is amended, but no onboard inspection is required (i.e. change of Shipowner name and/or address);**

5. Alignment of MLC Certificate templates with SMC and ISSC certificates

- **Data related to “Date of Registry” may be removed from the template of MLC Certificate in order that ship details are aligned with data on SMC certificate related to ISM Code and ISSC certificate related to ISPS Code**
- **If “Date of Registry” continues to be required, MLC 2006 may provide more detailed information from which documentation this date is to be taken, i.e. Continuous Synopsis Record or Certificate of Registry (CoR).**

- In case “Date of Registry” is taken from CoR more detailed information related to which date should be used may be provided (the date ship is registered, provisionally registered, issuance date of CoR and in case of change of Owner under same flag Administration, issuance date of new or the first CoR issued by the flag Administration)
- Ship types on the MLC Certificate should be the same as ship types on SMC certificate related to ISM Code and ISSC certificate related to ISPS Code

- 6. As the DMLC Part II is not ship specific (does not contain ship details) a single DMLC Part II approval for the Shipowners entire fleet regardless of the ship type is possible. MLC 2006 could provide guidance related to DMLC II approval in such cases.**
- 7. Terminology used in MLC 2006 related to verification of compliance, such as deficiencies instead of non-conformities and inspections instead of audits, could aligned with terminology used in ISM Code. MLC Shipowners have, to a very large degree, implemented MLC through their safety management systems prepared for compliance with ISM Code.**

8. Due to increased use of electronic documents and general digitalization of activities, following MLC 2006 requirements could be modified:

- **Rephrasing of requirement for posting the MLC certificate and the DMLC in a conspicuous place (could be made available to seafarers in a different way i.e. electronically);**
- **clarify that electronic certificates are permitted,**
- **consider that some documents may be reviewed at shore using digital solutions.**

- 9. Definition of seafarers and ships to which MLC 2006 is applicable should be precisely defined within MLC 2006 with minimum possibility for different interpretations by individual flag Administrations.**
- That would provide clear and common understanding to which seafarers and ships the MLC 2006 applies.**

10. **MLC 2006 Regulation 3.2 Paragraph 2 defines that seafarers onboard ships shall be provided with food free of charge and does not mention that drinking water shall be provided free of charge also. Such requirement opens numerous questions related to provision of water free of charge. MLC 2006 should define that drinking water should be provided free of charge.**
11. **According to MLC 2006 Standard A3.1 para 7(c) independent ventilation from sanitary spaces to open air is required. As there are other ways to ensure the air from sanitary spaces is kept separate from the rest of the accommodation, and the Convention should allow for such solutions.**

12. In some cases seafarer recruitment and placement services (SRPS companies) are placing non-compete clauses in the SEA.

An example of this is given below:

- *Upon termination of the Contract of Employment by any means or for any cause whatsoever, Employee shall not, for a period of two years following such termination, either alone or directly or indirectly in any capacity whatsoever, enter into any arrangement to provide similar services on board ships or to any shipping line with which the Company has had dealings, whether prior to, or during the subsistence of, the Contract of Employment.*

- *Employee will not, during the term of the Contract of Employment or for a period of two years thereafter, be associated in any way with or serve as an employee or in any other capacity to, any person, firm or company carrying on business in competition with the Company or any Affiliate of the Company*

- **Such clause is not in compliance with Standard A 1.4.5 (a) and is unenforceable as it is prohibiting the Seafarer to gain the job for which the Seafarer is qualified.**
- **As there is no clear position on such requirement in SEA, in this moment, by any concerned flag Administration, a clarification in MLC 2006 or Guidance for Flag State Inspections under MLC 2006 may be required.**

13. In the certificate or other documentary evidence of financial security referred to in Standards A2.5.2 and A4.2.1 the term “name of the shipowner” should be replaced with term “insurer”.

- As a standard practice Certificates of Financial Security provided by P&I Clubs are issued to Owners of the ship as members of P&I Clubs and not to declared MLC shipowner therefore the entity as stated on the Certificate of Financial Security and the MLC Shipowner do not correspond**
- In principle flag Administrations have no objection with such practice in cases when the Certificate of Financial Security is issued by P&I Clubs**

- 14. In cases when DMLC Part II provides for signing the SEA on board, procedures should ensure that SEA has been agreed and accepted by the seafarer prior to travel or the seafarer is entitled to repatriation at the Shipowner's expense from the ship in case the seafarer cannot accept the terms and conditions of the SEA.**
- MLC 2006 may provide additional information about who should bare the cost of travel for joining the vessel in case the Seafarer cannot not accept the terms of SEA onboard the vessel. Should the cost be bared by the seafarer, the MLC Shipowner or as agreed between two parties.**

THANK YOU