EMSA

European Maritime Safety Agency

Maritime Labour Convention

Title 5

Port State Control Responsibilities

Maritime Labour Convention, 2006 - Title 5

5.2 Port State Control responsibilities

Implementation and enforcement of the Convention on foreign ships calling in other MS ports

2nd Line of defence

Responsibility established in Article V

- Inspection of foreign flag ships
- Non-more favourable treatment clause
- At EU level, in the framework of the Directive 2009/16/EC and the Paris MoU

Maritime Labour Convention, 2006 - Title 5

5.2 Port State Control responsibilities

Regulation 5.2 and Standard A.5.2 do not address the legal form for implementation of the requirements, but only as principles.

The "effective port State inspection and monitoring system" will be achieved through the amendments of the Directive 2009/16/EC

Paris MoU Guidelines on MLC, 2006 for PSCOs

No substantial equivalence to provisions of Title 5

Maritime Labour Convention, 2006 - Title 5

5.2.1 Inspection in port

Requirements to be addressed:

- **Every foreign ship <u>may</u> be subject of inspection by an <u>authorized officer</u>**
- **Effective PSC system for reviewing compliance with the Convention**
- **Scope of the inspection – Prima facie evidence**
  - **<u>EU PSC Directive / PMoU approach</u>**
- **Type of inspection**

Maritime Labour Convention, 2006 - Title 5

With regard to the scope of the inspection

extend the scope of inspections to new items

(i.e. the existence of an adequate Labour Contract signed by both parties for each seafarer with the required clauses in the contract);

extend the scope of investigation in case of complaints and foresee the adequate procedure

Maritime Labour Convention, 2006 - Title 5

5.2.1 Inspection in port

Requirements to be addressed:

- **Deficiencies – Detention – Rectification**
- **Authorized officers**
- **Complaints (separate PPP)**

Maritime Labour Convention, 2006 - Title 5

5.2.1 Inspection in port

Model national provisions

- Directive 2009/16/EC already in place since January 2011
  - Amendments to be in force at the same time of the entry into force of the MLC, 2006
- Authorized officers:
  - Art. 22 of 2009/16/EC Professional profile of inspectors
- Complaints (A specific Article will be inserted in the Directive for MLC related complaints)

Maritime Labour Convention, 2006 - Title 5

5.2.1 Inspection in port

Model national provisions

- **MLC, 2006 as a Relevant Instrument**
- **Inspection procedures in line with Paris MoU Guidelines on MLC, 2006**
- **Provisions shall not constitute grounds for justifying a reduction in the general level of protection of workers under Union social legislation**

Maritime Labour Convention, 2006 - Title 5

5.2.1 Inspection in port

Model national provisions

- Rectification and detention Art 19, 2009/16/EC
  - *In the case of deficiencies which are clearly hazardous to safety, health or the environment and/or constitute a serious or repeated breach of the Maritime Labour Convention requirements (including seafarers's rights), the competent authority of the port State where the ship is being inspected shall ensure that the ship is detained or that the operation in the course of which the deficiencies are revealed is stopped.*

Maritime Labour Convention, 2006 - Title 5

5.2.1 Inspection in port

Model national provisions

- Rectification and detention Art 19, 2009/16/EC
  - The detention order or stoppage of an operation shall not be lifted:

    *-until the hazard is removed or until the competent authority establishes that **the ship can**, subject to any necessary conditions, **proceed to sea** or the operation be resumed **without risk** to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat of harm to the marine environment*;

and/or

*- the competent authority has **accepted a plan of action to rectify the non conformities** related to the Maritime Labour Convention and is satisfied that the plan will be implemented in an expeditious manner*.

Maritime Labour Convention, 2006 - Title 5

5.2.1 Inspection in port

Model national provisions - Reporting

	Appropriate Shipowners' and Seafarers' organization in the port State.	Director General of the ILO	Flag State	PSC authority of next port
Significant deficiency, or deficiency in connection with Complaint	Must be informed	May be informed and any reply from flag State should be attached	May be informed	May be informed according to Port State Procedure
On shore complaint not resolved	Must be informed	Must be informed	Must be informed	May be informed according to Port State Procedure
Ship detained due to MLC, 2006 deficiency	Must be informed	Must be informed	Must be informed	May be informed Informed by THETIS if Paris MoU port.

Maritime Labour Convention, 2006 - Title 5

5.3 Labour-supplying responsibilities

Main requirements

- **Establishment of an effective inspection and monitoring system for enforcing labour-supplying responsibilities (Recruitment and Placement)**

- **Social responsibilities for seafarers**

5.3 Labour-supplying responsibilities

The **public consultation showed that this aspect raised concerns among the stakeholders** and that EU regulation on this issue was not even considered as a priority for the time being. **In view of the complex questions raised, this issue requires to be explored more**, possibly in the context of specific consultations

For theses reasons, **the Commission decided not to propose legislation** in this respect for the time being therefore, the MLC **title V provisions related to labour supplying State responsibilities are not part of the current legal proposal**

Maritime Labour Convention, 2006 - Title 5

5.3 Labour-supplying responsibilities

Model national provision

Has any Member State developed legislation/provisions for licensing and monitoring of operational requirements of labour supplying countries?

MLC, 2006

Thank you for your attention