

MLC, 2006

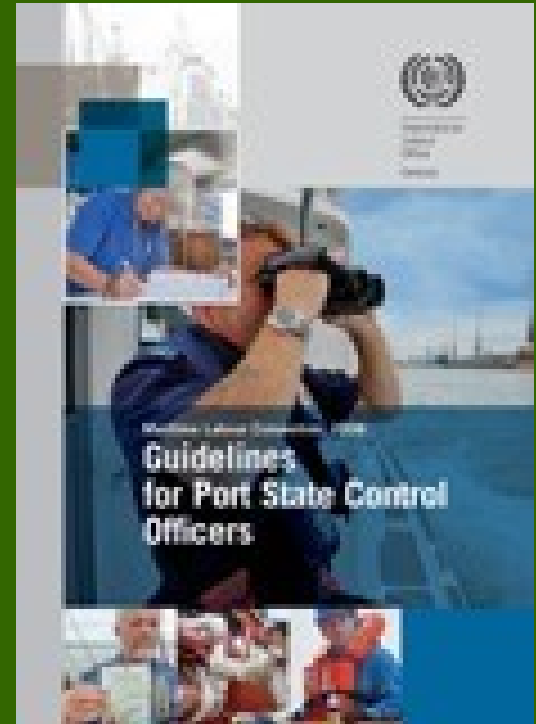
TITLE 5

Port State Control



This presentation:

- MLC, 2006 PSC provisions
- Inspections
 - initiated by the PSC authority
 - upon receipt of a complaint
- Procedures (preparation, information, document review, more detailed inspections, taking action)
- ILO MLC, 2006, Port State control guidelines



MLC, 2006 - Port State Responsibilities

Regulation 5.2.1

- Every foreign ship may be inspected for compliance with the “requirements of the Convention” (including seafarers’ rights)
- “Requirements” - Articles, Regulations and the Code, Part A only

Inspections in port



- Maritime Labour Certificate & DMLC, **prima facie** evidence of compliance
- Based on effective port State control system

Port State control system and PSCOs

- Adequate number of qualified officers
- PSCOs:
 - IMO PSCOs or perhaps others (labour inspectors)
 - Authorized, trained, sufficient power, carrying credentials, able to read and speak English
 - No commercial interest in port or ship
 - Not working for an RO
 - Use professional judgement
 - Carry MLC, 2006, ILO MLC PSC Guidelines

Paras. 29-40

Purpose of PSC inspection

- Determine compliance with requirements of Convention
- Regulations and Standards (Part A) but not Guidance (Part B)
- In principle, inspect 14 certified areas, but may take action in other areas

Overview of conducting MLC port State control inspection:

- Review MLC and DMLC
- More detailed inspection (where applicable)
- Take action if deficiencies or non-conformities

Inspections initiated by the port State control authority



Paras 48 to 76

- Preparing for inspections
 - Useful information – type of ship, cargo, flag, history, previous ports, next ports
 - Previous deficiencies?

Paras. 48-49

Possible sources of information?

- Inspection reports
- PSC databases
- IMO-related inspections

Paras. 50-51

Scope of inspection

- 14 items listed in Appendix A5-III
- Review of MLC and DMLC



However a more detailed inspection **may** be carried out when:

- Documents not produced or not in order
- Clear grounds for believing deficiencies with regard to living and working conditions
- Reasonable grounds for believing changed flag to avoid compliance
- Specific complaint alleging breach of the Convention

And a more detailed inspection **shall** be carried out when:

- Working and living conditions constitute a clear hazard to safety, health or security
- Grounds to believe that any deficiency constitute a serious breach of the Convention

Para. 46, 52

Review of ship's MLC, documents

- If ship flies flag of MLC State
- 5 steps
- If ships does not fly flag of MLC State, PSCO may undertake a more detailed inspection



Paras 56-76

Step 1 – Board ship and request documents

- gain impression of ship
- ask for documents

Step 2 – Reviewing the documents

- check for:
 - validity
 - completeness
- if not valid or complete, may undertake more detailed inspection

Step 3 – Determine if there are clear grounds to believe conditions do not conform to requirements

- clear grounds from documents
- clear grounds from other elements

Step 4 - Determine if there are reasonable grounds to believe ship has changed flag to avoid compliance

- check records
- information from former flag State
- other information

Step 5 – Determine whether or not to carry out more detailed inspection

- If steps 1-5 indicate non-compliance, PSCO **may** go to more detailed inspection
- If conditions a clear hazard to safety, health or security **MUST** carry out more detailed inspection and immediately inform master of grounds

Procedure for inspections due to a complaint

- “complaint” – by seafarer, professional body, association, trade union, anyone with interest in safety of ship and seafarers

paras 77-83

- Check to ensure complaint relates to the Convention (Regulation, Standards) and to seafarers on ship concerned
- Safeguard confidentiality
- Decide whether to carry out more detailed inspection



- If individual seafarer, consider whether onshore complaint procedures apply
- Limit inspection to matter in scope of complaint unless information/investigation indicates conditions do not conform to Convention

More detailed inspection

- Information on basic requirements for 14 inspection areas in Chapter 4 of ILO MLC PSC guidelines
 - Basic requirements
 - Sources of information
 - Examples of deficiencies



- National or other tools:
 - National PSC system
 - Regional MOUs
 - Aids to memory, checklists

- PSCO may ... limit extent of inspection if:
 - ship has been inspected by flag State
 - shipowner's measures in DMLC Part II are being carried out.
- PSCO should not enforce national laws that go beyond Convention.

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 shipowners and seafarers
- May notify the flag state and the PSC authority 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



Flag and port State Control guidelines to be updated to reflect 2014, 2016 and 2018 amendments

