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INTRODUCTION

1.1. General

The Maritime Labour Convention, 2006 (MLC, 2006) came into force in 20 August 2013 and is a “relevant instrument” in the Paris MoU.

The relevant requirements subject to inspection are those set out in the Articles and Regulations of the MLC, 2006 and in Part A of the Code. The provisions of Part B are not mandatory and therefore, should not be verified by the PSCO.

1.2. Goals and purpose

This instruction is intended to provide guidance on conducting Port State control inspections in the areas covered by the MLC, 2006.

1.3 Application

The MLC, 2006 applies:

- to all seafarers as defined in 1.5 of this instruction, and¹
- to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, except:
 - ships engaged in fishing or in similar pursuits, and
 - ships of traditional build such as dhows and junks, and
 - warships or naval auxiliaries.

Ships flying the flag of a non-ratifying State do not receive more favourable treatment than ships that fly the flag of any State that has ratified the MLC, 2006 ((Art. V, paragraph 7). Further, a more detailed inspection is to be carried out.

1.4. Relevant Documentation

- Maritime Labour Convention, 2006,
- ILO Guidelines for Port State Control Officers carrying out inspections under the MLC, 2006, as updated,
- ILO Guidelines for flag State Inspections under the MLC, 2006, as updated,
- ILO’s Frequently Asked Questions on Maritime Labour Convention, 2006

1.5. Definitions

For the purpose of this instruction "seafarer" means any person who is employed or engaged or works in any capacity on board a ship to which the MLC, 2006 applies.

In case of doubt, refer to the DMLC part I. In some cases, workers onboard may not be recognized as seafarers by the flag State competent authority for the purpose of MLC, 2006 (this may concern shore-based maintenance technicians onboard for repair and maintenance). Definitions applicable to this

²
guidance can be found in Article II of the MLC, 2006

¹

The requirements in the MLC, 2006 that relate to ship construction and equipment apply only to ships constructed on or after the date when this Convention comes into force for the Member concerned. For ships constructed before that date, the requirements relating to ship construction and equipment that are set out in the ILO Accommodation of Crews Convention (Revised), 1949 (No. 92), and the ILO Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), shall continue to apply to the extent that they were applicable, prior to that date, under the law or practice of the Party to the MLC, 2006. A ship shall be deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction (Regulation 3.1 para. 2)

²

The national determination can be consulted on ILO website / Labour standards / NORMLEX / MLC, 2006

2. INSPECTION OF SHIP

According to MLC 2006, inspections in port are carried out by authorized officers, who may partially or fully share their duties with PSCOs acting in the context of port State control regimes such as Paris MoU. Therefore, the guidelines below should be implemented by PSCOs to an extent that depends on national organization and legislation.

2.1. Pre-boarding preparation

In preparing for an inspection the PSCO should, in addition to the provisions of the base instruction, take due note of the ship particulars in relation to the applicability of certain elements of the MLC, 2006.

2.2. Initial Inspection

2.2.1. Certificates and documents

In the context of the MLC,2006 areas, the PSCO will examine the following documents on board, as a minimum:

- Maritime labour certificate if over 500GT;
- Declaration of maritime labour Compliance (DMLC) on board (part I and II): attached to the maritime labour certificate (MLC, 2006/ Reg. 5.1/Standard A5.1.3):
 - A maritime labour certificate shall cease to be valid in any of the cases described in Standard A5.1.3 of the MLC,2006.
 - DMLC part I is issued by the flag State competent authority or an RO, if authorized, and refers to the relevant national requirements that are to be certified as having been complied with.
 - DMLC part II is prepared by the shipowner and outlines the measures adopted to ensure on-going compliance with the national requirements between inspections and the measures proposed to ensure that there is continuous improvement. The Part II must be certified by the flag State competent authority or an RO, if authorized.
 - The MLC requires that the details of the approved Declaration of Maritime Labour Compliance are on the certificate and having the correct DMLC is a condition of its validity.
- Medical certificates (MLC, 2006/ Reg. 1.2/Standard A1.2);
- Seafarer employment agreements (MLC, 2006/ Reg. 1.2/Standard A2.1);
- Table of shipboard working arrangements (MLC, 2006/ Reg.2.3/ Standard A2.3, 10 STCW95/A-VIII/1.5);
- Records of hours of work or rest of seafarers (MLC, 2006/Reg. 2.3/Standard A2.3, 12 STCW95/A-VIII/1.5);
- Certificate or documentary evidence of financial security for repatriation (MLC, 2006/Reg2.5/Standard A2.5.2); and
- Certificate or documentary evidence of financial security relating to shipowners liability (MLC, 2006/Reg.4.2/Standard A4.2.1).

There is no requirement for a DMLC if the ship has been provided with an interim certificate.

There may be situations where a ship, which does not meet the definition in Article II(1)(i) of MLC, 2006 may need to undertake a one-off voyage, for example, to proceed to a refit yard, for delivery to the area of operation, or for scrap. Documentary evidence issued by or on behalf of the flag State shall be available on board authorizing the voyage.

2.2.2. Ships under 500 GT

Ships under 500 GT are required to comply with the MLC, 2006 but are not required to carry a maritime labour certificate and DMLC.

The MLC 2006 requirements can be very general, which means the inspector's professional judgement is of particular importance when inspecting ships under 500GT without certification.

The PSCO should seek evidence that the ship has been inspected by the flag State competent authority

according to the MLC, 2006 requirements (Standard A.5.1.4 paragraph 4). The report is evidence that the inspection had been carried out according to the MLC, 2006.

In case the inspection report is missing, the PSCO should conduct a more detailed inspection.

In the case of perceived non-conformity (as described in the MLC,2006), the Master should be given an opportunity to produce evidence of compliance with the MLC, 2006 or substantial equivalencies, and provide any necessary explanation.

The PSCO, may, in case of doubt, contact the flag State competent authority.

2.2.3. Derogations, exemptions, variations and substantial equivalences

Attention should be paid to any derogation, other flexible application of the MLC, 2006, variations or exemptions granted by the flag State competent authority as provided in Title 3 and substantial equivalencies under Article VI, paragraphs 3 and 4 of MLC,2006 indicated in the DMLC Part I.

2.2.3.1. Cadets and the Maritime Labour Convention

There is no specific definition and requirement for cadets under MLC, 2006. It is assumed that the term « cadet » refers to a person enrolled in a training program to obtain specific qualifications, which may require work experience on board (ILO Edition 2019 FAQ C3.1.e).

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) considered that obtaining on-board training for the purpose of becoming a seafarer implies working on board a ship and, as a result, cadets are to be regarded as seafarers for the purpose of the MLC, 2006 when applicable to the ship (ILO Edition 2019 FAQ B3). However, this is not law, and is not universally accepted.

Some flag States have implemented in their national law specific provisions considering cadets. The status can vary from strictly an observer position to a full time worker.

These provisions may be specified in the DMLC part I, under substantial equivalences as provided for in the MLC, 2006, or in any other form, or in specific documents issued by the flag State competent authority.

Where a cadet does not have an employment agreement complying with Standard A2.1, they must have at least one written agreement related to the training period on board binding the cadet and/or the shipowner and/or the training provider. This allows identification of how these different entities share responsibilities in the implementation of the cadet's rights.

If such rights are not specified in the DMLC part I or in any other agreement(s), the PSCO, if necessary, should consult the flag State competent authority in order to verify if specific provisions have been taken and whether the provisions are acceptable.

However, if the PSCO has clear evidence that a cadet has functions or duties that involve on-board tasks and responsibilities other than those required to complete the training program and those arising from emergency situations that contribute to the operation of the ship, they should consider the cadet as a seafarer to whom the MLC,2006 provisions apply in full.

2.3. Clear grounds

A more detailed inspection should be carried out if there are clear grounds for believing that the condition of the ship or its equipment or crew does not meet the relevant requirements of the MLC, 2006. Examples of clear grounds related to MLC,2006 are:

- the required documents are not produced, or maintained, or are falsely maintained, or that the documents produced do not contain the information required by the MLC, 2006, or are otherwise invalid; or
- there are clear grounds to believe that the working and living conditions on the ship do not conform to the requirements of the MLC or
- there are reasonable grounds to believe that the ship has changed flag for the purpose of avoiding

- compliance with the MLC, 2006; or
- there is a complaint alleging that specific working and living conditions on the ship do not conform to the requirements of the MLC, 2006; or
- following investigation of an onshore complaint.

2.4. More Detailed Inspection

When carrying out a more detailed inspection, the PSCO should take account of the provision(s) stated in the DMLC part I, and use their professional judgment when checking for compliance with some or all the 16 areas listed in Appendix A5-III of the MLC, 2006.

The PSCO could also consider consulting a competent labour authority or any appropriate shipowners' or seafarers' organizations representative ashore in cases where expertise is needed.

Depending on the areas which are subject for a more detailed inspection, the possibility to interview, in private, a representative number of seafarers might be considered by the PSCO. Staying within the context of a PSC more detailed inspection, these interviews should confirm relevant information extracted from examination of documents and the inspection of the ship.

The PSCO should also take account of the rest hours provisions and make sure, that the interview does not interfere with seafarers' rest periods.

Recommendations to conduct interviews:

- After the inspection/general tour around the ship, the PSCO should preserve anonymity and prevent possible victimization issues by:
 - designating seafarers in sufficient numbers directly on the crew list in the presence of the Master, giving the impression to select seafarers to be interviewed with impartiality;
 - organizing the interview in an enclosed room;
 - interviewing seafarers one by one, in private;
 - handling interviews by setting equal durations, as far as possible.
- Considering that any seafarers should not be prevented from seeing the PSCO, it is recommended to also designate seafarers, to be interviewed, which may not be met during the inspection of the ship.

2.5 Expanded inspection

The scope of an Expanded inspection includes living and working areas detailed in the PSCC instruction "Guidance on type of inspections".

2.6 Complaints

2.6.1 Definitions

2.6.1.1 A complaint means information submitted by a seafarer, a professional body, an association, a trade union or, generally, any person with a legitimate interest in the safety of the ship, including an interest in safety or health hazards to seafarers on board alleging that specific working and living conditions on the ship do not conform to the requirements of the MLC,2006.

2.6.1.2 An on-board complaint is a complaint lodged by a seafarer or through a representative using the onboard procedure as defined in MLC, 2006 Regulation 5.1.5.

2.6.1.3 An on-shore complaint is a complaint lodged by a seafarer or through a representative to the competent authority in the port where the ship is calling at, alleging a breach of the requirements of the MLC,2006 as defined in MLC, 2006 Regulation 5.2.2.

Regardless of the source of complaints, appropriate steps shall be taken to safeguard the confidentiality of complaints made by seafarers.

However, confidentiality doesn't mean that the complaint should be lodged anonymously. Notwithstanding provisions of the port State national law, MLC,2006 does not prevent PSCO to request further information

in order to take due account of the complaint before starting the handling procedures like:

- Identity of the claimant(s) (name, nationality, position of the claimant);
- Identity of the ship and information in port calls;
- Details of alleged breaches of the MLC,2006 requirements and date of occurrence(s);

2.6.2 On-Shore Complaint and Complaint handling procedures

2.6.2.1 General

When receiving an on-shore complaint or a complaint, the competent authority or PSCO shall undertake an initial investigation including consideration of whether the onboard complaint procedure has been explored, and, based on their professional judgment, may decide whether the complaint warrants a more detailed inspection.

Before going on-board for inspection, the PSCO records an unexpected factor message in the information system when the complaint or on-shore complaint has not been resolved. Supporting documentation with personal details removed should be attached to the unexpected factor (eg: Annex 2, seafarer messages...)

In the context of an on-shore complaint or a complaint, the inspection may be carried out where the alleged non-conformity relates to any requirement of the MLC, 2006, including seafarers' rights, and thus not necessarily a requirement coming within the 16 areas of certification and port State control, i.e. including repatriation and the maximum duration of services on board areas.

In the case the complaint or on-shore complaint is not totally resolved before the ship's departure, the unexpected factor should remain until the PSCO receive evidences that this complaint is resolved or a satisfactory inspection by another member state took place.

In the case the inspection cannot take place, it is recommended to inform the next port of call when known and to attach the supporting documentation.

Complaints and any outcomes should be recorded by the authority or PSCO. The Model form in Annex 1 may be used to support the recording of the complaint.

2.6.2.2. Specific on-shore seafarer complaint-handling procedure

Considering the first paragraph of section 2, a PSCO appointed as an authorised officer can refer to Annex 4 of the Instruction.

2.7 Abandonment

A PSCO not appointed as a competent authority to handle abandonment cases should use guidance in this section to recognize a potential abandonment case. They can then report the situation to the competent authority of their port State. They may be requested to provide support during the implementation of the abandonment handling procedure.

A seafarer shall be deemed to have been abandoned where, in violation of the requirements of MLC, 2006 or the terms of the seafarers' employment agreement, the shipowner:

- (a) fails to cover the cost of the seafarer's repatriation; or
- (b) has left the seafarer without the necessary maintenance and support; or
- (c) has otherwise unilaterally severed their ties with the seafarer including failure to pay contractual wages for a period of at least two months.

2.7.1 Seafarer's repatriation

The cost of repatriation must cover travel by appropriate and expeditious means, normally by air, and include provision for food and accommodation of the seafarer from the time of leaving the ship until arrival at the seafarer's home, necessary medical care, passage and transport of personal effects and any other reasonable costs or charges arising from the abandonment.

2.7.2 Maintenance and necessary support of seafarer

The essential needs of the seafarer shall include:

- adequate food,
- accommodation,
- drinking water supplies (as a guidance, EFSA's Scientific Opinion on Dietary Reference Values for Water published in 2010, the Adequate Intake (AI) for total water intake, which includes water from all beverages and food, is: 2.0 litres per day for females, 2.5 litres per day for males),
- essential fuel for survival on board the ship (regular power supply interruption, resulting to absence of adequate lighting, ventilation, heating, cold chambers temperature loss or cooking equipment inability should not be acceptable),
- necessary medical care,
- clothing and protective equipment where necessary,
- any other reasonable costs or charges from the act or omission constituting the abandonment until the seafarer's arrival at home.

3. FOLLOW-UP ACTION

3.1 Deficiencies warranting detention

Annex 2 contains a non-exhaustive list of deficiencies which may warrant detention.

If following an inspection, the PSCO finds that the ship does not comply with the requirements of the MLC, 2006 and,

- the conditions on board are clearly hazardous to the safety, health or security of seafarers, or
- the deficiency constitutes a serious or repeated breach of the requirements of the MLC, 2006, including seafarers' rights,

the PSCO shall ensure that the ship does not proceed to sea.

3.2 Actions to be considered

3.2.1 Complaint related deficiencies

If a complaint is received and upon investigation the vessel is found deficient, a deficiency should be raised and:

- If it is related to one of the 16 areas of MLC listed in Appendix A5-III then its specific deficiency code is used and the Flag State administration **may** be informed, or
- If it is not an area covered by the 16 areas of MLC listed in Appendix A5-III then the deficiency code "18501" is used and the Flag State administration **must** be informed.

3.2.2 Detainable deficiencies

In case of deficiencies warranting detention, the ship may be released when either:

- the detainable deficiencies have been rectified to the satisfaction of the PSCO **or**
- the PSCO has accepted a plan of action and is satisfied that the plan will be implemented in an expeditious manner and in an appropriate timeframe.

The plan of action is proposed by the shipowner. It specifies, in particular, the action(s) required and the time frame proposed to rectify MLC, 2006 related detainable deficiencies that must be accepted by the PSCO before allowing the release of the ship.

When deciding whether to accept a plan of action the following elements should be considered:

- the length and nature of the intended voyage or service;
- the nature of the hazard to seafarers' safety, health or security;
- the seriousness of the breach of the requirements of the MLC, 2006 (including seafarers' rights);
- any previous history of MLC, 2006 related deficiencies;
- whether or not the appropriate work or rest periods for seafarers are being observed;
- the safe manning requirements of the flag State;

- the number and nature of deficiencies found during the inspection;
- the nature of the cargo;
- any MLC, 2006 related deficiencies raised in previous ports of call;
- whether or not the deficiencies can be remedied in the port of inspection.

Considering that MLC,2006 doesn't provide any provisions to elaborate and follow-up the plan of action, the PSCO should be guided by the following:

- the shipowner should submit the plan of action to the flag State or RO for formal acceptance;
- the flag State or RO validates the plan of action;
- the shipowner provides to the PSCO the plan of action and the evidence of validation from the flag State or RO;
- after acceptance, the action taken code 49 is used in the final inspection reports for all deficiencies covered by the plan of action. The plan of action is attached to the inspection report as supporting documentation;
- the PSCO records an unexpected factor message in the information system stating that the plan of action related to MLC, 2006 detainable deficiency is ongoing. As long as the plan of action is not completed, the unexpected factor message must be maintained.

The PSC authority of the next port may be informed. The Director General of the ILO may also be informed by transmitting the ILO report compiled from THETIS based on the PSC inspection report, accompanied by any reply received from the flag State.

4. REPORTING

4.1 Notifications

In addition to stakeholders usually informed of the result of the inspection, shipowners' and seafarers' organisations, the Director General of the International Labour Office, the flag State competent authority and RO, and the port State competent authority of next port may or must be notified following the matrix below:

	Appropriate Shipowners' and Seafarers' organization in the port State**	Director General of the ILO**	Flag State competent authority	Port State competent authority of next port	Report forms
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	Use Annex 3
On shore complaint not resolved	Must be informed	Must be informed	Must be informed	May be informed	Use Annex 3
Ship detained due to MLC, 2006 deficiency	Must be informed	May be informed	Must be informed	May be informed	Using notice of detention (See PSC model forms)

*Whether or not deficiencies are determined to be significant will depend upon the professional judgment of the PSCO concerned.

** Provisions are given in the information system to PSCO in order to submit such information in an anonymous way.

*** Must be informed in case a deficiency in connection with complaint is raised outside the areas listed in Appendix A5-III (see 3.2.1 of the instruction).

4.2. Reporting

The PSCO should be aware that in some deficiencies more than one relevant instrument (STCW, SOLAS, or MLC 2006) could be applicable. For hours of rest, STCW only applies to watchkeepers and some seafarers with specific duties. For other seafarers only MLC is applicable. In addition, STCW regulates hours of rest where MLC gives the choice between hours of rest or hours of work.

Annex 1 - Details of a complaint to be recorded

MODEL for
Details to be recorded for on-shore complaint and complaint

Confidential document (according MLC, 2006, standard) if details of the seafarer are included

Date/time, local time of receipt :
Name of the complainant :
Address of the complainant :

Relation to the ship :
Confidentiality necessary : yes/no

Ship's particulars :
Ship's name, IMO-number :
Flag :
Ratifying state : yes/no
Shipowner's name :
IMO company number :
Shipowner's address :

Particulars of the complaint :.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Relevant Article Regulation or Standard :.....
.....
.....
.....
.....

Attached file :.....
A/.....
B/.....
C/.....

Action Taken :.....
.....
.....

Follow-up action :.....
.....

Annex 2 - List of example deficiencies warranting detention

The following non-exhaustive list contains examples of deficiencies (including seafarer's 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 - Standard A 5.2.1. para 6.b
Minimum safe manning document or equivalent not presented or available	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 (is 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 - Standard A 1.1. para 2 and 4
Several seafarers not holding valid certificate(s) attesting medical fitness	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 & 3 and Standard A.2.1 para 1
Evidence that maximum hours of work have been <u>repeatedly</u> exceeded or evidence that minimum hours of rest have <u>repeatedly</u> not been kept. <i>Note : Excessive fatigue may occur and constitute immediate danger for the safety of the ship, the crew and/or the environment.</i>	Art IV para 3 - Regulation 2.3 and Standard A 2.3. para. 5a or Regulation 2.3 and Standard A 2.3. para. 5b
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 and Standard A 2.7
Ventilation, air conditioning and/or heating not working satisfactorily	Art IV para 3 - Standard A3.1.para.7(d)
Accommodation, including catering and sanitary facilities, are unhygienic and equipment is missing or not functioning	Art IV para 3 - Standard A3.1 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 A3.2. para. 2
Required medical guide repeatedly missing or medicine chest or medical equipment, not on board, and not updated.	Art IV, para 4 - Standard A4.1. 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 <i>Note: According MLC, such ship requires person who is trained with "medical care" or "medical first aid".</i>	Art IV para 4 - Standard A.4.1. para. 4 (c)
The certificate or documentary evidence of financial security for repatriation, issued by the financial security provider, is missing	Art IV para 2 - Standard A2.5.2, para. 7
The certificate or documentary evidence of financial security relating shipowners' liability, issued by the financial security provider, is missing.	Art IV para 2 - Standard A4.2.1, para. 11
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)
Repeated cases of non-payment of wages or the non-payment of wages <i>Note : In case there are alternative procedures established for the handling of such cases or when incorrect or lacking payment of wages cannot be confirmed by the PSCO on-board, then, recognizing that it might be difficult to find evidence on-board, the PSCO may provide information about local trade union representatives or other persons who may assist in pursuing a maritime claim. The PSCO could also collect information and pass the case on to a competent authority of the port State ashore.</i>	Art IV para 2 - Standard A2.2, paragraphs 1 and 2

Annex 3 - Standard letters to report

Number of page including this one : _

PORT STATE CONTROL

Report of *

significant deficiency (ies) (MLC, 2006, standard A5.2.1, paragraph 4),
deficiency (ies) related to a complaint (MLC, 2006, standard A5.2.1, paragraph 4) or
on shore complaint (MLC, 2006, standard A5.2.2, paragraphs 5 or 6)

From: PSC office of (port) :
Fax n° :
E-mail :

to:
 Port State seafarer's organization :
 Port State shipowner's organization :
 Flag State :
 Director general of the ILO :
 Next port - competent authority :

done by THETIS*

cc :
 Recognized organization issuing the relevant certificate

Dear Sir / Madam,

[Ship's name, flag, IMO No.]

The Maritime Authority has on [dd/mm/yyyy] carried out an inspection of the above ship at [Port, country].

During the inspection,

- a significant deficiency (ies) (MLC, 2006, standard A5.2.1, paragraph 4) has/have been raised,
- a deficiency (ies) related to a complaint (MLC,2006, standard A5.2.1, paragraph 4), has/have been raised
- an on shore complaint had not been resolved at ship board level (MLC,2006, standard A5.2.2, paragraph 5)
- an on shore complaint had not been resolved after reply from flag state (MLC,2006, standard A5.2.2, paragraph 6)

Additional comments:

flag state representative is invited to be present on board
reply before [dd/mm/yyyy – hh-mm]

Enclosed please find:

- **copy of relevant part of the Report of inspection (forms A & B)*,**
- and the Notice of detention for the Master*
- other documents* :

For further inquiries, please contact: [Name and contact details]

Yours faithfully,

Date:

Name & Signature (duly authorized Port State Control Officer)

* Delete as appropriate

REVERSE SIDE

In case of significant deficiency(ies) or deficiency (ies) related to a complaint, please tick:

- *Port State seafarers' organizations*
 - *Port State shipowners' organizations*
 - *Flag State if relevant*
 - *Recognized organization issuing the relevant certificate if relevant*
 - *Next port - competent authority done by THETIS (if Paris MoU Member) if appropriate*
- and*
- *A significant deficiency (ies) has/have been raised, **or***
 - *A deficiency (ies) related to a complaint, has/have been raised*

According to Standard A.5.2.1, paragraph 5, " The Member in which the inspection is carried out shall have the right to transmit a copy of the officer's report, which must be accompanied by any reply received from the competent authorities of the flag State within the prescribed deadline, to the Director-General of the International Labour Office with a view to such action as may be considered appropriate and expedient in order to ensure that a record is kept of such information and that it is brought to the attention of parties which might be interested in availing themselves of relevant recourse procedures".

In this case, please tick:

- *Director general of the ILO*

In case of significant deficiency(ies) or deficiency(ies) related to a complaint, a copy of the report of inspection could be send to the Director general of the ILO.

In case of on shore complaint unresolved at the shipboard level the PSCO should contact the flag state according (MLC, 2006, standard A5.2.2, paragraphs 5). In this case, please tick:

- *Flag State*
- and*
- *An on shore complaint had not been resolved at ship board level (MLC, 2006, standard A5.2.2, paragraphs 5)*

In case of on shore complaint unresolved at the Flag State level (MLC, 2006, standard A5.2.2, paragraphs 6), please tick:

- *Flag State*
 - *Port State seafarer's organization*
 - *Port State shipowner's organization*
 - *Director general of the ILO*
 - *Next port - competent authority done by THETIS (if Paris MoU Member)*
- and*
- *An on shore complaint had not been resolved after reply from flag state (MLC, 2006, standard A5.2.2, paragraphs 6), the inspection reports and, if any, reply from flag state should be attached to this form*

In case of on shore complaint unresolved at the Flag State level, a copy of the report of inspection must be send to the Director general of the ILO.

Annex 4 – On-shore complaint or complaint handling procedure

Step 1: Determine whether the complaint should be handled under PSC procedure.

- Undertake an initial investigation to ascertain whether the complaint relates to MLC requirements and if information in the complaint itself or gained during its investigation may give the PSCO clear grounds for believing that the working and living conditions on the ship do not conform to the requirements of the MLC, 2006.
- Depending upon the outcome of the initial investigation :
 - In cases where the complaint is manifestly unfounded, no further action is required ; or
 - The PSCO should decide whether to insert an unexpected factor message in THETIS.
- If the ship can be inspected, a more detailed inspection should be carried out.
- If the ship cannot be inspected, the unexpected factor message should be maintained.

Step 2: Inspection process.

- Ascertain whether the on-board complaint procedure has been used. If the procedure has not been used without valid justification the PSCO should advise that, in the first instance, the on-board complaint procedure should be used.
- Otherwise, the PSCO should seek to promote a resolution of the complaint at the shipboard level.
- The master, the ship owner and any person or organization with a legitimate interest in the shipboard working and living conditions shall be permitted to express their views.
- If the complaint cannot be resolved at shipboard level, the flag State should be notified and requested within a prescribed deadline to provide advice and a plan of action. The PSCO should use the format in Annex 3 to contact the flag state.
- As long as the resolution of the complaint is not completed, the unexpected factor message must be maintained.

Step 3: Dealing with an unresolved complaint.

- If the flag state advises that it will resolve the matter and will provide a plan of action within a prescribed deadline the PSCO will not have any further involvement.
- If the complaint is not resolved by the flag State within the prescribed deadline, then the PSCO should transmit the inspection report to the ILO and inform the appropriate ship-owners and seafarers' organizations in the port state. The PSCO should use the Annex 3 to inform Director General of the ILO and inform the appropriate ship-owners and seafarers' organizations in the port State. If any reply has been received from the flag state, PSCO should attach it to Annex 3.