

Republic of the Marshall Islands

Office of the

MARITIME ADMINISTRATOR

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MARINE SAFETY ADVISORY NO. 39-13

To: Regional Marine Safety Offices, Nautical Inspectors, Masters, Owners/Agents

Subject: ENFORCEMENT OF THE MARITIME LABOUR CONVENTION, 2006

Date: 16 July 2013

Please be advised that 20 August 2013 is the date on which the first 30 States that have ratified the Maritime Labour Convention, 2006 (MLC, 2006) can begin to take enforcement actions with respect to vessels entering their ports. This means that all Republic of the Marshall Islands (RMI) flag vessels, including commercial yachts, to which the Convention applies, should expect port State control (PSC) within these countries to inspect for compliance with MLC, 2006. For countries that ratified after 20 August 2012 or have still to ratify, the entry into force date will be 12 months after the date of ratification. For the official list of ratifying States, please see the International Labour Organization (ILO) website at:

http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO::P11300_INSTRUMENT_ID:312331

PSC within the European Union (EU) is slightly complicated because not all EU Member States have ratified the Convention, and those that have ratified have done so at different times. What is important to understand is that those that have ratified MLC, 2006 may take full enforcement actions, including issuing deficiencies and detaining vessels, and that this will be recorded in the Paris Memorandum of Understanding (MOU) database. Countries that have not ratified will be inspecting for compliance with ILO 147 (the ILO Merchant Shipping (Minimum Standards) Convention, 1976) with deficiencies and detentions recorded in national databases. Enforcement of MLC, 2006 and ILO 147 will occur in the Paris MOU region during the period of transition until all EU Member States have ratified MLC, 2006, at which point enforcement will be based on compliance with the MLC, 2006. Some countries within the Paris MOU are expected to utilize separate labor inspectors as opposed to PSC Officers (PSCOs).

ILO Resolution XVII provides in part that:

During a period of one year following the initial entry into force of the Convention, Members (both flag and port States) should give due consideration to allowing ships to continue to operate without the certificate and declaration referred to, provided that their inspectors have no evidence that the ships do not conform to the requirements of the Convention.

It is the RMI Maritime Administrator's (the "Administrator") understanding that there are no indications that Paris MOU Member States will not respect this recommendation of ILO Resolution XVII on documentation. What this means is that except for the Maritime Labour Certificate and accompanying Declarations of Maritime Labour Compliance (DMLC) (Parts I and II), everything else on board the ship must be in full compliance with the MLC, 2006 requirements by 20 August 2013.

Enforcement will be applied to all ship types, and will not be concentrated on just passenger ships and bulk carriers as recommended by ILO Resolution XVII. Instead, inspection will be based on the Paris MOU ship risk profile wherein ships to be targeted are those considered High Risk: oil, chemical, gas, bulk, passenger and from "black list" flags. However, a ship's history, including any outstanding deficiencies and overall condition, may trigger an inspection, regardless of the flag it flies.

Category	Ship Risk Profile	Inspection Type		
		Initial	More Detailed	Expanded
Periodic	High Risk Ship (HRS)	No	No	Yes
	Standard Risk Ship (SRS)	Yes	If clear grounds are found	If ship is of a risk ship type and more than 12 years old
	Low Risk Ship (LRS)			
Additional: Overriding* or Unexpected factors**	All	No	Yes	According to the professional judgment of the PSCO if HRS or SRS/LRS of a risky ship type and more than 12 years old

*Overriding factors are Priority I-for example, reports by other MOU members, collision, grounding, illegal discharge, unsafe maneuvering, class suspended or withdrawn, ship not in a database.

**Unexpected factors are Priority II-for example ships reported by those with a legitimate interest, not complying with reporting obligations, outstanding deficiencies, previously detained ships (after three (3) months), cargo problems, RO recognition withdrawn.

Another important point is that although a Maritime Labour Certificate is to serve as *prima facie* evidence of compliance with the Convention, during an initial inspection, PSCOs will be checking other documentation such as flag State MLC, 2006 inspection reports, the crew list, safe manning document and shipboard working arrangements as evidence of compliance with the MLC, 2006. Relevant inspections on International Maritime Organization (IMO) instruments (SOLAS, MARPOL and the STCW Convention) are to be dealt with in accordance with the existing standards on those Conventions and may be checked after inspection of the MLC, 2006 documentation. Ships' Masters and crew should be made aware of what to expect during the inspection process.

Should a detention occur, the ship will not be released until the detainable deficiencies have been rectified to the satisfaction of the PSCO or the PSCO has accepted a rectification action plan

(RAP) and is satisfied that the RAP will be implemented in an expeditious manner with an appropriate time schedule. The Paris MOU requires that the RAP be submitted to the flag State for formal acceptance by the Master on behalf of the shipowner before being proposed to the PSCO within the prescribed deadline. Proposing and implementing the RAP is a joint responsibility of the shipowner and Master.

The Tokyo MOU has adopted the Paris MOU inspection regime and MLC, 2006 inspections in this region will commence 20 August 2013. The Paris MOU inspection regime also is expected to be adopted by the Caribbean, Mediterranean and Black Sea MOUs.

The Administrator is aware that many RMI shipowners/operators are in the midst of developing their DMLC Part IIs and are arranging for inspections, with the intent of being in compliance, by 20 August 2013. The Administrator highly encourages these efforts so that these ships may continue to trade without incident to countries that have ratified the MLC, 2006.

It is understood that due to ship trading patterns, inspections may not be able to take place until after the 20 August 2013 deadline. The Administrator hereby instructs all RMI shipowners finding themselves with ships in this situation to carry on board documentation that MLC, 2006 compliance is underway. Such documentation should include an official DMLC Part I issued by the Administrator, evidence that the DMLC Part II has been submitted for the approval and endorsement of a Recognized Organization (RO) and correspondence showing the arrangements for inspection by the RO. In such cases, the Administrator expects the MLC, 2006 inspection to be conducted at the next port of call where the chosen RO is reasonably available. The Administrator shall be made aware of any special circumstances which may prevail that would preclude accomplishing inspection and certification within a reasonable period of time after 20 August 2013. The Administrator will then provide an acknowledgement to be included in the shipboard portfolio of correspondence.

Ships less than 500 gross tons to which the Convention applies are not required to carry a Maritime Labour Certificate or accompanying DMLC (Parts I and II). However, PSCOs will be seeking evidence (an inspection report) that a ship has been inspected by the flag State according to the requirements of the MLC, 2006 and has been determined compliant. Any ship that fits into this category, that is not scheduled for flag State inspection prior to 20 August 2013 and is not carrying any such evidence, should contact the Administrator at: inspections@register-iri.com, copying regulatoryaffairs@register-iri.com. Please bear in mind that voluntary inspection and certification is a viable alternative.

Almost all of the DMLC Part I documents expected by the Administrator to be required have been issued. What have not been accounted for thus far are the Maritime Labour Certificates that have been issued to match the DMLCs. The Administrator requests that those shipowners already in possession of a Maritime Labour Certificate send a scanned copy to the Administrator at: regulatoryaffairs@register-iri.com.

Any RMI flag owner/operator that has questions about compliance with the Convention requirements should contact the Administrator at: regulatoryaffairs@register-iri.com.