

5. DISCLAIMER. The guidance in this NVIC is not a substitute for applicable legal requirements, nor is it, in itself, a regulation. It neither imposes nor intends to impose legally-binding requirements on any party. It represents the Coast Guard's current thinking on this topic and may assist industry, mariners, the general public, and the Coast Guard, as well as other federal and state regulators, in applying statutory and regulatory requirements. You may use an alternative approach for demonstrating voluntary compliance with the standards of the MLC if you determine that the approach will satisfy the relevant provisions within the Convention, although this will not exempt you from complying with applicable United States law and regulations. If you want to discuss an alternative approach (you are not required to do so), you may contact the local Coast Guard OCMI who is responsible for implementing this guidance.
6. MAJOR CHANGES. The Statement of Voluntary Compliance Declaration of Maritime Labour Compliance (SOVC-DMLC) Part I, SOVC-DMLC Part II and Owner/Operator Declaration of Maritime Labour Compliance (Enclosures (4), (5) and (6) respectively) have been updated to reflect the requirements relating to financial security for the repatriation of seafarers (Regulation 2.5.2) and financial security relating to shipowners' liability in cases of seafarer injury or death (Regulation 4.2.1). In addition, a new form letter has been provided in Enclosure (12) which will serve as documentary evidence of financial security. All changes are underlined in the final version and each changed page is annotated with CH-1 in the footer.
7. QUESTIONS. Questions or concerns regarding this policy may be directed to Commandant (CG- CVC-1) at (202) 372-1208, or CG-CVC-1@uscg.mil.
8. RECORDS MANAGEMENT CONSIDERATIONS. This NVIC has been thoroughly reviewed during the directives clearing process, and it has been determined that there are records scheduling requirements, in accordance with Reference (b).
9. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS. Environmental considerations under the National Environmental Policy Act (NEPA) were examined in the development of this Instruction. This Instruction included preparation of guidance documents that implement, without substantive change, the applicable Commandant Instruction or other federal agency regulations, procedures, manuals, and other guidance documents. It is categorically excluded from further NEPA analysis and documentation requirements under Categorical Exclusion (33) as published in COMDTINST M16475.1 (series), Figure 2-1. A Record of Environmental Consideration is not required.
10. FORMS/REPORTS. This NVIC contains a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA). The Office of Management and Budget (OMB) reviewed the Coast Guard's MLC information collection request, approved it, and issued OMB Control Number 1625-0118. An agency may not conduct a collection of information unless the collection of information displays a valid control number assigned by OMB. You do not need to respond to a collection of information unless it displays a currently valid control number from OMB.

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Assistant Commandant, Prevention Policy

- Enclosures:
- (1) MLC Inspection Guidelines for U.S. Commercial Vessels on International Voyages
 - (2) Definitions
 - (3) SOVC-MLC
 - (4) SOVC-DMLC Part I
 - (5) SOVC-DMLC Part II Template
 - (6) Owner/Operator Declaration of Maritime Labour Compliance
 - (7) SOVC-IMLC
 - (8) Hazardous work and consideration on Health and Safety Issues for Seafarers under the age of 18
 - (9) Guidelines for Ships Cook Competency
 - (10) Guidelines for On Board Complaints Procedures
 - (11) USCG MLC Inspection Report
 - (12) Documentary Evidence of Financial Security

seafarers, including conditions of employment, hours of work and rest, accommodations, recreational facilities, food and catering, health protection, medical care, welfare, and social security protection. It combines rights and principles with specific standards and detailed guidance as to how to implement these standards at the national level. The Convention comprises three different, but related, parts: the Articles, the Regulations, and the Code. The Articles and the Regulations set out the core rights and principles and the basic obligations of members ratifying the Convention. The Code contains the details for the implementation of the Regulations. The Code comprises Part A (mandatory standards) and Part B (non-mandatory guidelines).

- b. The MLC provides a large measure of flexibility to ratifying countries as to how they will implement its provisions under Part A. The major areas of flexibility in the MLC include—
- (1) Unless specified otherwise in the Convention, national implementation may be achieved through national laws or regulations, through collective bargaining agreements, or through an already established industry practice;
 - (2) Implementation may also be achieved through measures that are considered “substantially equivalent” to the MLC standards, provided the implementing country satisfies itself that the relevant legislation or other implementing measure achieves the general object and purpose of the pertinent provisions in the Convention;
 - (3) In certain circumstances, the application of details in the Code may be relaxed for some smaller vessels; and
 - (4) While all vessels covered by the Convention must be inspected for compliance with its requirements, flag-State administrations are not required to certify and provide documentation for vessels less than 500 gross tonnage.

5. DISCUSSION.

- a. The MLC enters into force on 20 August 2013. Under the MLC, certain vessels flagged by ratifying countries are required to maintain a valid MLC certificate issued by their flag administration. As of the effective date of this NVIC, the United States has not ratified the MLC. Until such time that the United States ratifies the MLC, the Coast Guard cannot mandate enforcement of its requirements for U.S. vessels or for foreign vessels while operating on the navigable waters of the United States. However, Article V, Paragraph 7, of the Convention contains a “no more favorable treatment clause” that requires ratifying governments to impose Convention requirements on all vessels—even those from a non-ratifying government—when calling on their ports. As a result, U.S. vessels that cannot demonstrate compliance with the MLC may be at risk for Port State Control actions, including detention, when operating in the port of a ratifying nation. The MLC page on the ILO’s website provides a comprehensive source of information about the Convention, including a complete list of ratifying countries, inspection guidelines (Guidelines for Flag State Inspections and for Port State Inspections), relevant news concerning the Convention, and electronic copies of the Convention for free download. The MLC page can be found under the “Labour Standards” tab on the ILO’s main

website (www.ilo.org). Vessel owners or operators should review the ILO's list of ratifying countries to determine if they may be impacted during a foreign voyage.

- b. Under the MLC, ratifying governments must require owners/operators of certain vessels 500 gross tonnage or more as measured under the convention measurement system, hereafter "GT ITC," to demonstrate that the working and living conditions on board the vessel are in keeping with the Convention requirements, and to maintain compliance certificates. Ratifying governments must accept these certificates as prima facie evidence of compliance with the MLC. The Coast Guard intends to issue a Statement of Voluntary Compliance-Maritime Labour Convention (SOVC-MLC) certificate to U.S. flagged-vessels demonstrating compliance with the U.S. laws and regulations or other measures conforming to the MLC requirements. Thus, the owner/operator of a U.S. vessel, while not required to possess a SOVC-MLC, may obtain one for evidence of voluntary compliance with the standards of the MLC.
- c. This NVIC contains a summary of applicable U.S. laws and regulations and other measures meeting the standards of the Convention. Where the United States has satisfied itself that certain laws and regulations or other measures are conducive to the achievement of the general objective of the specific provision, this NVIC specifies where such substantial equivalency is used. This NVIC underwent a public comment period during which the Coast Guard received comments from concerned seafarers and owner or operator organizations.
- d. Through the promulgation of this NVIC, the Coast Guard is requesting Recognized Classification Societies (RCS) to conduct MLC compliance inspections and issue SOVCs at the request of vessel owners/operators. The RCS have the training and resources available to carry out inspections consistent with the MLC. The Coast Guard does not intend to conduct voluntary MLC inspections for vessels that are classed and can obtain this inspection from their respective RCS. Vessel owners/operators should contact their RCS to schedule a MLC compliance inspection. The RCS should use the guidance outlined in Enclosure (1) when conducting compliance inspections. For inspections conducted by the Coast Guard, Officers in Charge, Marine Inspection (OCMIs) shall direct their staffs to use the guidance in Enclosure (1) when conducting voluntary inspections on applicable U.S. vessels for the issuance of a SOVC-MLC. Enclosure (2) to this NVIC also includes the definitions of "seafarer," "ship," and "shipowner," for the purpose of the MLC.
- e. United States vessels that are unable to demonstrate compliance with the MLC may be subject to Port State Control (PSC) actions when engaged on international voyages to countries that have ratified the MLC. Through receipt of an SOVC-MLC, a vessel is recognized by the United States as being "certified" to the standards of the MLC. However, foreign Port State Authorities are not obligated to accept the SOVC-MLC as prima facie evidence of compliance. Therefore, owners or operators should ensure that they are able to demonstrate to PSC Authorities the compliance measures they have put in place for their vessels. To better manage inspection resources, OCMIs should focus inspections on vessels that routinely operate in the ports of MLC-ratifying nations.

f. Specific vessel applicability:

- (1) Vessels 500 GT ITC or more engaged on International Voyages. United States commercial vessels of 500 GT ITC or more that engage on international voyages may be “certified” as having demonstrated compliance with the U.S. laws and regulations or other measures conforming to the MLC requirements through possession of a SOVC-MLC, which is in keeping with Regulation 5.1.3 of the Convention.
- (2) Vessels less than 500 GT ITC engaged on International Voyages. United States commercial vessels, including uninspected commercial vessels, less than 500 GT ITC that engage on international voyages to ports of MLC-ratifying nations may also be required to demonstrate compliance with the U.S. laws and regulations or other measures conforming to the requirements of the MLC. The Convention does not require these vessels to be issued compliance certificates. However, it is recommended that these vessels voluntarily comply with the requirements of the MLC and develop their own Declaration of Maritime Labour Compliance (DMLC). See Enclosure (1) for further details.
- (3) Vessels exclusively operating on the inland waters of the United States do not fall within the definition of “vessel” in Article II (1)(i) of the Convention. For the purpose of the voluntary inspection program, the United States will also consider the Great Lakes and the waters east of the Juan de Fuca Strait as inland waters. Therefore, vessels navigating exclusively in these areas are exempt from any requirements of the MLC imposed by ratifying governments.
- (4) Until such time that the United States ratifies the MLC, vessels that do not operate in ports of MLC-ratifying nations are not required to be in compliance with the Convention. Owners/operators of U.S. commercial vessels who would like to obtain an SOVC should request an MLC inspection from an RCS as part of a regularly scheduled survey, or from the Coast Guard as part of their inspection for certification.
- (5) The Coast Guard is working with Transport Canada to address those vessels that transit on waters bordering both countries. It is envisioned that certain vessels operating exclusively between ports in the United States and Canada could demonstrate conformance with MLC standards through compliance with existing U.S. laws, regulations and other measures.

g. The MLC specifies 14 areas that are subject to a mandatory compliance for certification and the issuance of compliance certificates. In order for the Coast Guard to issue a SOVC to a U.S. commercial vessel, the areas that must be inspected and certified as meeting the requirements of U.S. laws and regulations or other measures conforming to the MLC are—

- (1) Minimum age (Regulation 1.1)

- (2) Medical certification (Regulation 1.2)
 - (3) Qualifications of seafarers (Regulation 1.3)
 - (4) Use of any licensed or certified or regulated private recruitment and placement services (Regulation 1.4)
 - (5) Seafarers' employment agreements (Regulation 2.1)
 - (6) Payment of wages (Regulation 2.2)
 - (7) Hours of work and rest (Regulation 2.3)
 - (8) Manning levels for the ship (Regulation 2.7)
 - (9) Accommodation (Regulation 3.1)
 - (10) Onboard recreation facilities (Regulation 3.1)
 - (11) Food and catering (Regulation 3.2)
 - (12) Onboard medical care (Regulation 4.1)
 - (13) Health and safety and accident prevention (Regulation 4.3)
 - (14) Onboard complaint procedures (Regulation 5.1.5)
- h. The possession of a SOVC-MLC, form number CG-16450 (see example in Enclosure (3)), is intended to provide prima facie evidence that the vessel is in compliance with the U.S. laws and regulations or other measures conforming to the Convention requirements. The format of the SOVC-MLC certificate is consistent with the sample MLC certificate provided in the Code of the MLC and will be supplemented with a Statement of Voluntary Compliance-Declaration of Maritime Labour Compliance (SOVC-DMLC). The SOVC-DMLC is a unique two-part form that must be completed by the Coast Guard or RCS and the vessel owner/operator. Consistent with the MLC requirements, once issued, the SOVC-MLC and SOVC-DMLC should be posted on the vessel in a conspicuous place available to the seafarers. Each RCS should develop its own versions of the SOVC-MLC and Part I of the SOVC-DMLC. The following paragraphs provide additional details:
- (1) The SOVC-MLC is issued by the Coast Guard or an RCS.
 - (2) The SOVC-DMLC Part I, form number CG-16450B, is prepared by the Coast Guard and references current U.S. laws, regulations, or other measures conforming to the Convention requirements. As previously stated, the RCS should develop their own version of the SOVC-DMLC Part I. Through this NVIC, the Coast Guard is requesting the RCS to sign its own version of the SOVC-DMLC Part I on behalf of the Coast Guard. The information required in SOVC-DMLC Part I must conform to the template in Enclosure (4). Any changes to the content of the SOVC-DMLC Part I must be approved by the Coast Guard. See Enclosure (1) for further details.
 - (3) The SOVC-DMLC Part II (see template in Enclosure (5)) must be prepared by the vessel owner/operator. This format follows that of the sample DMLC Part II provided in the Convention. It should document the measures put in place to ensure ongoing compliance with the standards of the SOVC-DMLC Part I. A template for the SOVC-DMLC Part II is also available for free download on the Coast Guard's Homeport website under the Domestic Vessels/Domestic Vessel General tab. Once the SOVC-DMLC Part II is prepared, the Coast Guard or RCS will review the measures drawn up by the vessel owner/operator and, following a successful inspection, endorse Part II of the SOVC-DMLC.

6. DISCLAIMER. The guidance in this NVIC is not a substitute for applicable legal requirements, nor is it, in itself, a regulation. It neither imposes nor intends to impose legally-binding requirements on any party. It represents the Coast Guard's current thinking on this topic and may assist industry, mariners, the general public, and the Coast Guard, as well as other federal and state regulators, in applying statutory and regulatory requirements. You may use an alternative approach for demonstrating voluntary compliance with the standards of the MLC if you determine that the approach will satisfy the relevant provisions within the Convention, although this will not exempt you from complying with applicable United States law and regulations. If you want to discuss an alternative approach (you are not required to do so), you may contact the local Coast Guard OCMI who is responsible for implementing this guidance.
7. QUESTIONS. Questions or concerns regarding this policy may be directed to Commandant (CG- CVC-1) at (202) 372-1224, or CG-CVC-1@uscg.mil.
8. RECORDS MANAGEMENT CONSIDERATIONS. This NVIC has been thoroughly reviewed during the directives clearing process, and it has been determined that there are records scheduling requirements, in accordance with Reference (b).
9. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS. Environmental considerations under the National Environmental Policy Act (NEPA) were examined in the development of this Instruction. This Instruction included preparation of guidance documents that implement, without substantive change, the applicable Commandant Instruction or other federal agency regulations, procedures, manuals, and other guidance documents. It is categorically excluded from further NEPA analysis and documentation requirements under Categorical Exclusion (33) as published in COMDTINST M16475.1 (series), Figure 2-1. An Environmental Checklist and Categorical Exclusion Determination are not required.
10. FORMS/REPORTS. This NVIC contains a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA). This collection of information has been submitted to the Office of Management and Budget (OMB) for review in accordance with the PRA. An agency may not conduct a collection of information unless the collection of information displays a valid control number assigned by OMB. You do not need to respond to a collection of information unless it displays a currently valid control number from OMB. Before the Coast Guard could enforce the collection of information referenced in this notice, OMB would need to approve the Coast Guard's pending request to collect this information.

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NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 02-13

- Enclosures:
- (1) MLC Inspection Guidelines for U.S. Commercial Vessels on International Voyages
 - (2) Definitions
 - (3) SOVC-MLC
 - (4) SOVC-DMLC Part I
 - (5) SOVC-DMLC Part II Template
 - (6) Owner/Operator Declaration of Maritime Labour Compliance
 - (7) SOVC-IMLC
 - (8) Hazardous work and consideration on Health and Safety Issues for Seafarers under the age of 18
 - (9) Guidelines for Ships Cook Competency
 - (10) Guidelines for On Board Complaints Procedures
 - (11) USCG MLC Inspection Report

Maritime Labour Convention, 2006

Inspection Guidelines for U.S. Commercial Vessels on International Voyages

1. General:

- a. The Maritime Labour Convention, 2006 (MLC) is intended to help achieve decent working/living conditions for all seafarers. It sets out fundamental rights and principles with respect to their working and living conditions, and the guidance in this enclosure will provide marine inspectors and owners/operators with a framework to achieve voluntary compliance.
- b. This NVIC contains a breakdown of U.S. laws and regulations and other measures conforming to the Convention requirements. As provided by the Convention, this NVIC specifies where substantial equivalency is used to facilitate voluntary compliance with the particular provisions, on the basis that the United States has satisfied itself that the relevant domestic laws and regulations or other measures are conducive to the full achievement of the general objective of the specific provision.
- c. As previously stated, the Coast Guard does not intend to conduct voluntary MLC inspections for vessels that are classed and can obtain this inspection from their Recognized Classification Society (RCS). For those other U.S. vessels over 500 GT ITC that operate on international voyages, the Coast Guard will offer inspections of voluntary compliance with the U.S. laws and regulations and other measures conforming to the MLC provisions. Owners/operators who wish to demonstrate voluntary compliance should contact their local Coast Guard, Officer in Charge, Marine Inspection (OCMI) and request an inspection. MLC inspection guidance published by the International Labour Organization (ILO) recognizes that, while compliance with all requirements of the Code must be verified through inspection, any inspection is a subjective process, and marine inspectors should use their professional judgment and expertise when determining the depth for each item required to be inspected.
- d. Vessels demonstrating compliance with the U.S. laws and regulations or other measures conforming to the MLC requirements will be issued a Statement of Voluntary Compliance, Maritime Labour Certificate (SOVC-MLC) and a Statement of Voluntary Compliance, Declaration of Maritime Labour Compliance (SOVC-DMLC). In addition, vessels will be issued a form letter from the Coast Guard Office of Commercial Vessel Compliance (CG-CVC-1) which will serve as evidence of financial security for the repatriation of seafarers (Regulation 2.5.2) and financial security relating to shipowners' liability in cases of seafarer injury or death (See Enclosure (12)). Vessels that are issued these certificates will be recognized by the United States as being voluntarily "certified" for compliance with the U.S. laws and regulations or other measures conforming to the MLC requirements. Foreign Port State Authorities are not obligated to accept the SOVC-MLC as prima facie evidence of compliance. Therefore, vessels should be prepared for expanded Port State Control (PSC) examinations at any time when operating in the ports of an MLC ratifying nation.

- e. Any RCS that is authorized to issue international convention certificates on behalf of the Coast Guard is also authorized to conduct MLC inspections and issue Statements of Voluntary Compliance at the request of an owner/operator. The RCS should use the guidance outlined in this enclosure when conducting compliance inspections and should utilize the statements describing U.S. laws and regulations or other measures listed on the Coast Guard's SOVC-DMLC Part I when preparing its own SOVC.
 - f. In cases where a U.S.-flag vessel is detained for non-compliance with MLC related items, the owner/operator should make notification to the Coast Guard in a similar fashion to notifications made now when detained under a convention promulgated by the International Maritime Organization (IMO). The owner/operator should also e-mail copies of the foreign Port State Control inspection forms (Form A and Form B) to the Coast Guard's Office of Commercial Vessel Compliance at CG-CVC-1@uscg.mil. Additionally, if applicable, the owner/operator should make notification to the issuing RCS, which should be engaged to assist in rectifying the deficiency. Finally, the Coast Guard expects to receive notification from the detaining port state in accordance with the MLC guidelines. In all cases, the Coast Guard's Office of Commercial Vessel Compliance will act in a coordinating role during the process to ensure the release of the vessel in an expeditious manner.
2. Definitions: Enclosure (2) to this NVIC includes the definitions of “seafarer,” “ship,” and “shipowner” for the purpose of the MLC. Although this NVIC is applicable only to vessels engaged on international trade, the Coast Guard determined it would be useful to provide information on some of the broader definitions used in the MLC as agreed during the process of consultation with the seafarers and owners/operator organizations. Information on documentation of determinations of seafarer status is provided in Enclosure (2) of this NVIC.
3. Vessel Applicability:
- a. Vessels 500 GT ITC or more engaged on International Voyages: United States commercial vessels of 500 GT ITC or more that engage on international voyages to ports of ratifying nations may be certified and demonstrate compliance with the U.S. laws and regulations or other measures conforming to the MLC requirements through possession of an SOVC-MLC and an SOVC-DMLC.
 - b. Vessels less than 500 GT ITC on International Voyages: United States commercial vessels, including uninspected commercial vessels, less than 500 GT ITC engaging on international voyages to ports of MLC ratifying nations may also be required by PSC authorities to meet U.S. laws and regulations or other measures conforming to the MLC requirements. The Convention does not require these vessels to be issued compliance certificates but it does require them to be examined for compliance with the MLC standards. To better facilitate a PSC exam, it's recommended these vessels voluntarily develop their own Declaration of Maritime Labour Compliance (self declaration of voluntary compliance). This Declaration should state the U.S. national requirements conforming to the standards of the Convention and identify the measures adopted by the vessel owner to ensure compliance with the requirements imposed on the vessel or vessels concerned by a ratifying government. A template for this Declaration has been

developed for use (Enclosure (6)) and can be found on the Coast Guard's Homeport website under the Domestic Vessels/Domestic Vessel General tab.

- (1) Vessel owners may also request a MLC inspection for the issuance of a Statement of Voluntary Compliance certificate at their discretion through a RCS. The guidance for vessels greater than 500 GT ITC should be followed in those cases.
 - (2) At the request of an owner/operator, a Coast Guard inspector may verify a vessel's compliance measures as documented on their self declaration form and issue a MLC inspection report to the vessel. For vessels that have undergone a COI or Annual inspection within six months, an additional MLC inspection of the vessel need not take place. The OCMI may issue a MLC inspection report to the vessel based on an adequate review of the owners/operators compliance measures as documented on the Declaration form.
 - (3) At the request of an owner/operator, CG-CVC-1 will issue a form letter to serve as documentary evidence of financial security for the repatriation of seafarers and financial security relating to shipowners' liability in cases of seafarer injury or death. Requests should be directed to CG-CVC-1@uscg.mil and include the vessel's official number, U.S. Certificate of Documentation (COD) expiration date.
- c. Vessels not engaging on international voyages to ports of countries that have ratified the Convention should not request MLC voluntary inspections for SOVC issuance. However, owners/operators should keep apprised of the countries that have ratified the MLC and plan accordingly.
 - d. Vessels exclusively operating on the inland waters of the United States are excluded from the provisions of the MLC based on the definition of a vessel in Article II (1)(i) of the Convention. For the purpose of the MLC, the U.S. and Canada will also consider the Great Lakes, the waters east of the Juan de Fuca Strait and other such common navigable waterways as inland waters. Vessels navigating exclusively in these waters will be considered exempt from any MLC requirements imposed by ratifying governments.
 - e. The Coast Guard is working with Transport Canada to address certain vessels that transit through waters bordering both countries to allow for the recognition of each country's national laws and regulations as providing substantial compliance with the provisions of the MLC.
4. Statements of Voluntary Compliance (SOVC):
- a. Vessels demonstrating compliance with the U.S. laws and regulations or other measures conforming to the MLC requirements will be issued a SOVC-MLC by the Coast Guard or a RCS. The format of the SOVC-MLC is consistent with the format provided in the Convention and will be supplemented with a two-part SOVC-DMLC.

- b. The SOVC-DMLC Part I is prepared by the Coast Guard and references current U.S. laws, regulations, or other measures conforming to the Convention requirements. The RCS should develop its own version of the SOVC-DMLC Part I. The Coast Guard is requesting the RCS to sign its own version of the SOVC-DMLC Part I on behalf of the Coast Guard. The information required in SOVC-DMLC Part I should conform to Enclosure (4). Any changes to the content of the SOVC-DMLC Part I must be approved by the Coast Guard.
 - (1) The Coast Guard does not intend to grant exemptions for specific requirements unless extenuating circumstances can be demonstrated by the owner/operator. The Coast Guard will evaluate exemption requests on a case-by-case basis. An owner/operator who requests an exemption should submit the request, along with a valid address and point of contact for reply, to Commandant, Commercial Vessel Compliance (CG-CVC-1) via the local OCMI or RCS. The OCMI or RCS must forward the request to Commandant, CG-CVC-1, and provide a recommendation. The OCMI or RCS can forward the request via e-mail to CG-CVC-1@uscg.mil.
 - (2) After considering an exemption request, the Coast Guard will send a decision letter to the owner/operator with a copy for the OCMI or RCS. If approved, the OCMI or RCS shall state on the SOCV-DMLC Part I that an exemption has been granted by the Coast Guard for the specific requirement, and reference the Coast Guard letter of approval. Owners/operators should keep a copy of the letter with the SOVC-MLC.
- c. The SOVC-DMLC Part II should be prepared by the vessel owner/operator and outline the measures put in place to ensure ongoing compliance with the requirements of SOVC-DMLC Part I. The format for Part II can vary depending on how the owner/operator decides to document their compliance measures. A template of the SOVC-DMLC Part II is provided (Enclosure (5)) and is also available for free download on the Coast Guard's Homeport website under the Domestic Vessels-Domestic Vessel General tab. Following a successful inspection of the vessel for compliance with Part I, the Coast Guard or RCS will endorse Part II.
- d. The Interim Statement of Voluntary Compliance, Maritime Labour Certificate (SOVC-IMLC) (CG-16450A) (Enclosure (7)) may be issued to—
 - (1) The owner/operator of a new vessel during its initial inspection for MLC certification;
 - (2) The owner/operator of a vessel that changes flag; or
 - (3) An owner/operator who assumes responsibility for the operation of a vessel that is new to that owner/operator.
- e. Voluntary compliance certificates shall be valid for a period of 5 years and subject to an intermediate inspection between the second and third anniversary date of the certificate. Appropriate endorsements by the Coast Guard or RCS will be made to the certificates. It is recommended that certificates issued for the first time have their expiration dates harmonized with the current COI expiration and/or class certificates. Voluntary

compliance certificates issued by a RCS should follow the format of their corresponding Coast Guard forms. The form letter relating to financial security for the repatriation of seafarers and financial security relating to shipowners' liability in cases of injury or death remains valid while the vessel is in possession of a valid U.S. Certificate of Documentation.

- f. A certificate issued for compliance under the MLC ceases to be valid under any one of the following circumstances¹:
- (1) The relevant inspections are not completed within the specified time limits;
 - (2) A certificate is not properly endorsed;
 - (3) There is a change of owner/operator of the vessel, meaning the company who signed the SOVC-DMLC Part II;
 - (4) When substantial modifications have been made to the vessel affecting the structure or equipment detailed in Regulation 3.1 of the Code; or
 - (5) The owner/operator no longer wishes to comply with the MLC.

5. Certification in Accordance with the MLC:

- a. An inspection conducted under the MLC can be broken down into two distinct areas. The first area concentrates on physical items such as the seafarers' accommodations and galley conditions, while the second focuses on other elements of work conditions such as the payment of wages, seafarer employment agreements, minimum age, medical certification, and hours of work or rest. To properly complete an inspection, the marine inspector or surveyor must conduct document reviews, employ visual observations, and conduct private interviews with seafarers.
- b. Vessel owners/operators who want to have their vessels certified and receive an SOVC-MLC should document their measures in compliance with the SOVC-DMLC Part I for each of the 16 areas that must be inspected as noted in Appendix A5-I of the MLC, and prepare the SOVC-DMLC Part II for Coast Guard or RCS review. Coast Guard marine inspectors or RCS surveyors will review Part II and conduct an inspection for compliance with the SOVC-DMLC Part I. Once an initial MLC compliance inspection has been completed, vessels will demonstrate ongoing compliance through regular Coast Guard or RCS inspections at specified intervals. The guidance provided below under "Inspection Process" outlines the minimum requirements that owners/operators should meet to demonstrate voluntary compliance with the MLC standards.

6. Inspection Process:

- a. The 16 areas requiring inspection for issuance of certificates under the MLC are listed below. Compliance with the Convention requirements by the owner/operator is voluntary. Because the United States has not ratified the MLC and established regulations to enforce it, marine inspectors have no legal authority to cite the Convention to compel compliance.

¹ Once certificates expire or become invalid, new certificates shall only be issued following a new inspection under the provisions of the Code.

References to applicable U.S. laws and regulations are listed to assist marine inspectors when verifying U.S. requirements that meet the provisions of the MLC.

- (1) Minimum age (MLC Regulation 1.1): No persons below the age of 16 shall be employed or engage in work aboard a vessel. Seafarers under the age of 18 shall not engage in work that is likely to jeopardize their health or safety. Night work for seafarers under the age of 18 is prohibited. An exception to the night work restriction is allowed if such work would impair seafarer training.
 - (a) United States national requirements/legislation: 29 CFR 570.2 mandates 16 years of age as the minimum age for most non-agricultural work. This regulation is the basis of the minimum age requirements on all U.S. vessels. Refer to Enclosure (8) to this NVIC for a list of hazardous activities that are likely to jeopardize the health and safety of young seafarers. Exemptions from the night work restrictions are allowed in the case of training programs approved by the Coast Guard in accordance with 46 CFR Chapter I, subchapter B.
 - (b) Vessel owners/operators should maintain documentation that includes the date of birth of each seafarer noted. Individual identity documents, such as passports, should be readily accessible. Note the following:
 - i. Any seafarer under the age of 18 years should receive at the time of engagement a list of the potentially hazardous activities that the seafarer should not perform while engaged with the vessel. The seafarer should be given the name of a contact person in the event any questions arise. The seafarer should also be advised against working at night² unless engaged in a training program approved by the Coast Guard in accordance with 46 CFR Chapter I, subchapter B. Training programs meeting this provision include maritime academies regulated by 46 CFR Part 310.
 - ii. If applicable, the company's safety management system (SMS) should include: 1) a policy applicable to seafarers under the age of 18 years regarding night work; and 2) a list of the different types of potentially hazardous work aboard the vessel and an explanation as to why they are considered as such. All precautions to mitigate risk should be noted. Supervisory staff should be advised about the need to adhere to these work limitations.
 - (c) Inspectors should—
 - i. Review the crew list, passports, or other official documents to confirm each crewmember's date of birth;

² Night is recognized as a period of at least 9 hours starting no later than midnight and ending no earlier than 0500. ("Night" is not currently defined in U.S. regulations.)

- ii. Review the work schedules for crewmembers under the age of 18 years to determine their hours and the nature of their work. If necessary, confirm information through private interviews with one or more crewmembers; and
 - iii. Identify the types of work that are likely to jeopardize the safety of crewmembers under the age of 18 years. If necessary, confirm information through private interviews with one or more crewmembers.
- (2) Medical certificates (MLC Regulation 1.2): Seafarers may not work on a vessel unless they are certified as medically fit to perform their duties. For seafarers working on vessels that engage in international voyages, the language of the certificate must be English. All certificates must be valid and issued by a qualified medical practitioner.
- (a) United States national requirements/legislation:
- i. 46 CFR 10.215 defines the medical and physical requirements that seafarers must meet to qualify for a Merchant Mariner Credential (MMC). All U.S. seafarers serving in vessels to which the International Convention of Standards of Training, Certification and Watchkeeping for Seafarers (STCW) applies must hold a MMC that is valid for 5 years, which is proof that the seafarer is in compliance with the medical requirements.
 - ii. The Coast Guard proposed issuing a 2-year medical certificate in compliance with the STCW 2010 amendments; issuance of a final rule is still pending.
- (b) Vessel owners/operators should—
- i. ensure that all U.S. seafarers to which STCW applies hold a valid MMC. A valid MMC constitutes the proof of a valid medical certificate. Seafarers who do not hold a valid MMC must have a medical certificate with a maximum validity period of 2 years attesting that they are medically fit to perform their respective shipboard duties.
 - ii. Non-U.S. seafarers must hold a medical certificate with a maximum validity period of 2 years and issued by a medical practitioner recognized by the administration of the country of origin of the seafarer.
 - iii. Ensure seafarers under the age of 18 are medically fit and maintain a medical certificate with a maximum validity of one year.

- (c) Inspectors should—
- i. Check for valid MMCs or medical certificates/reports stating the seafarers are fit for service on board the vessel;
 - ii. Ensure that all medical certificates/reports were issued by a medical practitioner;
 - iii. Ensure that U.S. seafarers currently hold a valid MMC. For those limited circumstances where non-U.S. seafarers are working on board U.S.-flag vessels pursuant to 46 USC 8103(b)(3), check to ensure that these seafarers hold a valid medical certificate (such as an STCW medical certificate) issued in accordance with the relevant administration; and
 - iv. Check to ensure that non-U.S. seafarers currently hold a valid medical certificate.
- (3) Training and qualifications (MLC Regulation 1.3): Seafarers must be trained or certified as competent or otherwise qualified to perform their duties. They must also have completed training for personal safety on board the vessel.
- (a) United States national requirements/legislation:
- i. United States law for the issuance of credentials for both officers and ratings is found in 46 USC chapters 71 and 73, respectively. Additionally, 46 USC chapters 83 and 87 preclude the hiring of individuals on board vessels without the appropriate credentials authorizing service in the capacity in which the individuals are to be engaged or employed.
 - ii. U.S. regulations in 46 CFR 15.1103 require that no person on board a seagoing vessel operating beyond the Boundary Line³ may employ or engage any person to serve without an STCW endorsement, where such a credential is required.
 - iii. 46 CFR 15.405 and 15.1105 require individuals to be familiar with the vessel's arrangement, equipment, procedures, and characteristics relevant to their routines or emergency duties or responsibilities, in accordance with STCW Regulation I/14. In addition, 46 CFR 15.1105 requires that:
1) all persons prior to being assigned shipboard duties receive familiarization and/or basic safety training in accordance with STCW Regulation VI/1, as appropriate; and 2) persons serving as part of the crew complement or who are assigned a responsibility on the muster list must receive basic safety training in accordance with STCW Regulation VI/1.

³ Boundary lines are established in 46 CFR Part 7.

- iv. In limited circumstances, 46 USC 8103(3) and 46 CFR 15.720 authorize the use of non-U.S. citizens as seafarers on board Offshore Supply Vessels (OSVs) operating from a foreign port, and Mobile Offshore Drilling Units (MODUs) operating beyond the water above the U.S. Outer Continental Shelf, provided the non-U.S. seafarer holds a credential equivalent in experience, training, and other qualifications to the U.S. credential required for the position.
- (b) Substantial equivalency: For personnel that are not required to be credentialed, evidence of acceptable industry training or company training may be accepted as being substantially equivalent with the MLC training and certification requirements.
- (c) Vessel owners/operators should—
 - i. Ensure that all seafarers, whether credentialed or not, have the required training and qualifications, including personal safety training, for the positions they will occupy on board the vessel;
 - ii. Ensure that the master maintains a roster of these seafarers; and
 - iii. Ensure that procedures are in place for the maintenance of merchant seafarers' records in accordance with 46 CFR 15.1107.
- (d) Inspectors should—
 - i. Check the Certificate of Inspection (COI)⁴ or the minimum safe manning document to ensure crewmembers hold a valid MMC with the appropriate endorsement for their position on the vessel. For OSVs authorized to use non-U.S. citizens as seafarers, ensure that these seafarers hold credentials equivalent in experience, training, and other qualifications to the U.S. credential required for the position. Ensure that all crewmembers who are not required to be credentialed have sufficient training and qualifications (such as acceptable industry training or company training) necessary to perform their duties and understand their responsibilities;
 - ii. Check the vessel log for any training that has been conducted and review a copy of the appropriate training material that is available to the crew; and
 - iii. Confirm through private interviews with crewmembers that the appropriate training is being conducted.

⁴ A COI is issued to a U.S. vessel by the Coast Guard following the completion of an inspection for certification. It describes the vessel, the route the vessel may travel, the minimum manning requirements, all applicable safety equipment, and lists the total number of passengers that may be carried. For ships on international voyages, the COI fulfills the SOLAS requirements for a Safe Manning Document.

- (4) Recruitment and placement (MLC Regulation 1.4): All seafarers shall have access to a fair and accountable employment placement service to find employment. Use of this service should be at no direct cost to the seafarer. Any employment service used by a seafarer must conform to Standard A1.4 of the Code.
- (a) U.S. national requirements/legislation:
- i. 46 USC 10314 and 10505 specify that a person may not receive remuneration for providing seafarers with employment. Additionally, a seafarer's wages may not be garnished with respect to his or her engagement on board the vessel.
 - ii. Union hiring halls in the United States are funded and maintained through collective bargaining agreements regulated by Federal Law (Taft-Hartley Act) and should meet the applicable requirements of the MLC as specified in Standard 1.4, paragraph 3, which recognizes collective bargaining agreements as complying with the intent of Regulation 1.4.
- (b) Vessel owners/operators should—
- i. When using external recruitment agencies to source seafarers, ensure that, in all cases, the seafarer is not charged either directly or indirectly for the recruitment service. Vessel owners/operators may not charge seafarers for recruitment agency services;
 - ii. When using recruitment and placement agencies from ratifying countries, ensure that the recruitment agency is licensed/certified in accordance with Regulation 1.4 of the Convention by the country in which the agency is based;
 - iii. When using recruitment and placement agencies from non-ratifying countries, ensure that the recruitment agency meets the intent of the provisions in Regulation 1.4, and, in all cases, is not charging the seafarer for employment services;
 - iv. When hiring seafarers directly, self-certify via a letter or other documentation that they are not using any external recruitment agencies to source seafarers; and
 - v. Maintain a record of the manner in which the seafarer (U.S. and non-U.S. citizens) was hired and verify, through private interviews, that the seafarer did not pay any money to obtain employment. If possible, obtain a written acknowledgement from the seafarer stating that he or she did not pay to obtain employment and retain this document on file. A copy of all documentation should be provided for the master's records.

- (c) Inspectors should—
- i. Determine whether the company has established any internal recruitment, placement, or hiring programs;
 - ii. Determine whether the company is using external recruitment, placement, or hiring programs; and
 - iii. Interview various crewmembers in private to confirm that they have not paid a fee or other charge to a recruitment or placement service for employment services.
- (5) Seafarers' Employment Agreements (SEA) (MLC Regulation 2.1): All seafarers must have a copy of their SEA/shipping articles signed by both the seafarer and the vessel owner's/operator's representative. The SEA/shipping articles must, at a minimum, contain the items listed in Standard 2.1, Paragraph 4(a)-(k) of the MLC. The seafarers must also be provided with a copy of their employment record on board the vessel upon request. If a collective bargaining agreement is part of any SEA/shipping articles, a copy of the collective bargaining agreement should be kept aboard the vessel.
- (a) United States national requirements/legislation:
- i. 46 USC 10301 and 10302, and 46 CFR 14.201 specify when articles are required and note that, for all foreign voyages, vessel owners/operators make a shipping agreement in writing with each seafarer before the seafarer commences employment. Coast Guard NVIC 1-86 establishes the procedures for the shipment and discharge of seafarers aboard U.S.-flag vessels. 46 CFR 14.207 specifies that the content and form of shipping articles must conform to form CG-705A. Coast Guard NVIC 1-86 specifies that any other form complying with the requirements of the U.S. statutes noted above may be used. The minimum requirements contained in the shipping agreement are in keeping with those outlined in Regulation 2.1 of the MLC.
 - ii. 46 U.S.C. 10311 and 46 CFR 14.307 require that the master or individual in charge of a vessel provide each seafarer with a Certificate of Discharge documenting sailing dates and capacities. The certificate must be signed by both the master or individual in charge and the seafarer, and may not contain a reference about the character or ability of the seafarer.
 - iii. In addition, 46 U.S.C. 7302 and 46 CFR 14.305 specify that seafarers may obtain a Continuous Discharge Book that documents sailing dates and capacities. Proper entries to the book must be made by the master.

- (b) Substantial equivalency: Contractual agreements between the seafarer and the vessel owner/operator or third party should be accepted for non-traditional seafarer personnel, provided the agreements include the minimum requirements specified in Coast Guard NVIC 1-86, as appropriate, as being substantially equivalent to the MLC employment agreement provisions.

- (c) Vessel owners/operators should—
 - i. Ensure that all seafarers sign a shipping/employment agreement. The agreement should conform to the content of Coast Guard form CG-705A. Any other form complying with the requirements of the U.S. statutes noted above may be used instead. Each seafarer should be given an opportunity to examine and seek advice on the agreement before signing. Any questions concerning the agreement should be clarified prior to signing;
 - ii. Maintain on board the vessel the shipping/employment agreements for all seafarers;
 - iii. When operating a vessel with seafarers who are subject to a collective bargaining agreement, ensure that there is a copy of the collective bargaining agreement on board the vessel and that each seafarer receives a copy of the agreement;
 - iv. Contractual agreements between the seafarer and the vessel owner/operator representatives/charterer or third party should be accepted for non-traditional seafarer personnel provided it includes the information specified in form CG-705A; and
 - v. Ensure that each seafarer is given a Certificate of Discharge documenting the sailing dates and capacity. Documentation may also be accomplished through a continuous discharge book. All such documentation must not contain a reference about the character or ability of the seafarer.

- (d) Inspectors should—
 - i. Review all shipping article agreements and all other applicable collective bargaining agreements to determine whether copies of these records are maintained on board the vessel prior to conducting the inspection. If copies of these records are not maintained on board the vessel, the inspector should, prior to issuing the MLC, request that copies of these records be made available; and
 - ii. Interview various crewmembers in private to confirm whether they have entered into a shipping agreement and, if so, whether they have been given the opportunity to review and discuss the content of the articles.

- (6) Payment of wages (MLC Regulation 2.2): Seafarers must be paid at no greater than monthly intervals and in full for their work in accordance with their employment agreements. They are entitled to a statement each month indicating their monthly wage and any authorized deductions such as allotments. There shall be no unauthorized deductions, such as payment for travel to or from the vessel.
- (a) United States national requirements/legislation: United States statute establishes the seafarer's entitlement to wages for work performed and payment at the beginning of the voyage and at the end of the voyage, and penalties for non-compliance; 46 USC 10310, 10312, 10313, and 10314. 46 U.S.C. 10315 (Allotments) establishes the measures for allotments. Collective bargaining agreements also specify payment intervals and conditions of payments.
- (b) Vessel owners/operators should—
- i. Ensure that the master can provide proof of payment (e.g., payroll records or a company letter) according to current U.S. laws. Payments made in accordance with collective bargaining agreements are acceptable;
 - ii. Ensure that a salary statement in an electronic or paper format is provided to each seafarer; and
 - iii. Ensure that seafarers are offered the option to allocate all or part of their earnings to their families or dependants or legal beneficiaries at regular intervals. Ensure that the master can provide proof of this service (e.g., a bank transfer).
- (c) Inspectors should—
- i. Check any employment agreements, collective bargaining agreements, or other documentation to confirm that wages are being paid at intervals of no greater than 30 days; and
 - ii. Interview various crewmembers in private to confirm that payment of their wages is in compliance with the Code.
- (7) Hours of work and hours of rest (MLC Regulation 2.3): The minimum hours of rest shall not be less than ten hours in any 24-hour period; and 77 hours in any seven-day period. Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours. Shipboard drills shall be conducted in a manner that minimizes the disturbance of rest periods and does not induce fatigue.

- (a) United States national requirements/legislation: The current U.S. standards for minimum hours of rest are contained in 46 CFR 15.1111.
- (b) Substantial Equivalency: The Coast Guard published a guidance document, CG-CVC Policy Letter 12-05, in compliance with the STCW 2010 amendments to the hours of rest. The requirements in that policy letter are substantially equivalent with the MLC standards contained in Regulation 2.3. The policy letter includes a requirement for recording hours of rest.
- (c) Vessel owners/operators should—
 - i. Incorporate an effective system for documenting seafarer hours of rest. Vessel owners/operators are encouraged to utilize the “Model Format for Records of Hours of Work or Hours of Rest of Seafarers” developed by the ILO and the IMO. The records can be documented in the vessel logbook. Each record should be endorsed by the master or authorized person and the seafarer, and a copy of each record should be made available to the seafarer;
 - ii. Ensure that any deviation from the requirements for hours of rest and any compensatory time granted are documented; and
 - iii. Ensure that work arrangements/watch schedules are posted.
- (d) Inspectors should—
 - i. Check records against watch/work schedules to confirm compliance with requirements for minimum hours of rest;
 - ii. Ensure that any deviation from the requirements for hours of rest due to emergencies and any compensatory time granted have been documented; and
 - iii. Interview various crewmembers in private to determine if work hours and rest periods comply with U.S. regulations.
- (8) Manning levels (MLC Regulation 2.7): All vessels must have a sufficient number of seafarers employed on board to ensure that the vessel can be operated safely, efficiently, and with due regard to security under all conditions, taking into account concerns about seafarer fatigue and the particular nature of the voyage. The owner/operator is responsible for ensuring that each vessel within his or her management complies with the manning, certification, and watchkeeping requirements in accordance with the applicable statutes and regulations. Violations of the manning, watchkeeping, or certification regulations may result in enforcement action.

- (a) United States national requirements/legislation:
- i. 46 CFR part 15 requires that all vessels operating beyond the boundary line meet the STCW certification and watchkeeping requirements.
 - ii. 46 CFR 15.103 outlines the requirements for a vessel to be properly manned with a minimum number of officers and rated crew. Vessels required to be inspected under 46 USC 3301 are required to be manned with the minimum complement as stated on the vessel's COI per the requirements of 46 CFR 15.501.
 - iii. Under Article 1 of the Officer's Competency Certificates Convention (OCCC) 1936, national laws or regulations may grant exceptions or exemptions with respect to vessels of less than 200 GT as measured under the Regulatory Measurement System, hereafter "GRT." The United States invoked this clause and granted a general exception for all vessels of less than 200 GRT (GT ITC if GRT not assigned) navigating beyond the Boundary Lines (see 46 USC 8304(b)(4) and 46 CFR 15.701(a)), including vessels engaged on international voyages. However, as amended, Article II.6 of the MLC specifies that such a determination may be made only with respect to vessels of less than 200 GT ITC (GRT if GT ITC not assigned) not engaged in international voyages. Accordingly, an individual in charge of the navigation or maneuvering, as well as an individual engaged or employed to perform the duties of chief engineer, on a mechanically propelled, uninspected, seagoing, documented vessel of less than 200 GT ITC (GRT if GT ITC not assigned) should hold an appropriately endorsed license or MMC authorizing service in such a capacity, when engaged on a voyage to an MLC ratifying nation.
- (b) Vessel owners/operators should—
- i. For Coast Guard inspected vessels, ensure the vessel is manned in accordance with its COI; and
 - ii. Understand that U.S. vessels are subject to the control verification provisions of the subject Convention when engaged on voyages to an MLC ratifying nation and should provide due observance of the relevant provisions of the MLC. Certain uninspected vessels that engage on international voyages are required a Safe Manning Document (SMD) in accordance with SOLAS Chapter V/14. Those uninspected vessels that are not subject to the specific requirements of SOLAS Chapter V/14 are encouraged to request a permissive SMD or Safe Manning Letter (SML) via the cognizant Coast Guard OCMI to document flag-state approval of manning levels when engaged on international voyages. The SMD or SML provides objective evidence to port-state authorities that the subject vessel meets the minimum safe manning requirements as determined by the flag state.

- (c) Inspectors should—
- i. Review the COI, SMD, or SML and compare it to the crew list; and
 - ii. Review the crew list to determine the number, categories, and qualifications of the seafarers working on board.
- (9) Accommodations (MLC Regulation 3.1): The requirements of the Code in Title 3 (i.e., Standard A3.1, with due consideration of Guideline B3.1) that relate to construction or equipment (i.e., fixtures) will not apply to vessels constructed before the MLC 2006 enters into force for the flag state concerned (e.g., for the United States, 12 months after ratification is registered). Instead, the provisions relating to construction and equipment that are contained in ILO Conventions 92 and 133 will continue to apply to those vessels, to the extent that they were already applicable in the flag state concerned, particularly because one or both conventions had been ratified by that state or had become applicable by that state's ratification of ILO Convention 147. To the extent that the MLC requirements do not relate to equipment or construction, Standard A3.1 (and the Guidelines) would apply to both existing and new vessels.
- (a) United States national requirements/legislation:
- i. The United States ratified ILO Convention 147, which includes Convention 92 (Accommodations of Crews Convention (Revised)) and Convention 133 (Accommodations of Crews Convention) as appended Conventions. The U.S. instrument of ratification for ILO 147 established that U.S. domestic laws and regulations were substantially equivalent to the provision in the Appended Conventions that the United States did not ratify, including ILO Convention 133 (Accommodations of Crews, 1970) and ILO Convention 92 (Accommodation of Crews Convention (Revised), 1949). The United States satisfied itself that the general goals of the instrument of ILO Convention 133 are being respected. No specific legislation or regulations were implemented to bring the United States into conformity with the general goals of Convention 133. See COMDTINST 16711.12 (series) for additional information.
 - ii. United States shipping laws and regulations that apply to vessels registered in the U.S. territory require compliance with minimum safety standards. Generally, the inspection of vessels and the accommodation of seafarers is provided in the following shipping laws: 46 U.S.C. subtitle II, chapter 33 (inspections) and 46 U.S.C. 11101 (accommodations applicable to vessels more than 100 GRT).

- iii. Specific requirements for inspection and certification, construction and arrangement (including accommodation construction and recreational facilities) are found in various subchapters of the regulations based on the type of vessel. These subchapters are:

- 46 CFR 24-28 Subchapter C (uninspected towing vessels, 6 & 12 passengers)
- 46 CFR 30-39 Subchapter D (tank vessels)
- 46 CFR 70-89 Subchapter H (passenger vessels)
- 46 CFR 90-105 Subchapter I (cargo & miscellaneous vessels)
- 46 CFR 107-109 Subchapter I-A (MODUs)
- 46 CFR 114-124 Subchapter K (small passenger vessels under 100 GT carrying more than 150 passengers, or more than 49 overnight)
- 46 CFR 125-139 Subchapter L (OSVs)
- 46 CFR 175-187 Subchapter T (Small passenger vessels under 100 GT carrying less than 49 passengers overnight)

These regulations are substantially equivalent to the applicable requirements of ILO Conventions 92, 133, and 147.

- iv. Vessels built prior to the entry-into-force date of ILO Convention 147 to for the United States must also comply with the applicable regulations found in the 46 CFR subchapters listed in paragraph (9)(a)iii above.

(b) Vessel owners/operators should—

- i. Continue to ensure their vessels meet the requirements of current U.S. regulations; and
- ii. Ensure that frequent inspections of accommodation spaces are carried out and recorded by the vessel's master. The master should make these inspection records available for review.
- iii. For uninspected vessels over 100 GT, ensure seafarer accommodations are in compliance with 46 U.S.C. 11101.

(c) Inspectors should ensure that all vessels meet the requirements of current U.S. regulations. The COI is proof that a vessel was built and inspected to applicable regulations.

- (10) Recreational facilities (MLC Regulation 3.1): As with the requirements for accommodations, vessels must be in compliance with the minimum standards by providing and maintaining sufficient recreational facilities, to include mess rooms and laundry facilities, for seafarers. Inspections of recreational facility should also be carried out and recorded by the vessel's master. Records of these inspections should be made available for review.

- (a) United States national requirements/legislation:
- i. The United States ratified ILO Convention 147, which includes Convention 92 (Accommodations of Crews Convention (Revised)) and Convention 133 (Accommodations of Crews Convention) as appended Conventions. The U.S. instrument of ratification for ILO Convention 147 established that U.S. domestic laws and regulations were substantially equivalent to the provision in the Appended Conventions that the United States did not ratify, including ILO Convention 133 (Accommodations of Crews, 1970) and ILO Convention 92 (Accommodation of Crews Convention (Revised), 1949). The United States satisfied itself that the general goals of the instrument of ILO Convention 133 are being respected. No specific legislation or regulations were implemented to bring the United States into conformity with the general goals of Convention 133. See COMDTINST 16711.12 (series) for additional information.
 - ii. United States shipping laws and regulations that apply to vessels registered in the U.S. territory require compliance with minimum safety standards. Generally, the inspection of vessels and the accommodation of seafarers are provided in the following shipping laws: 46 U.S.C. subtitle II, chapter 33 (inspections) and 46 U.S.C. 11101 (accommodations applicable to vessels more than 100 GRT).
 - iii. Specific requirements for inspection and certification, construction and arrangement (including accommodation construction and recreational facilities) are found in various subchapters of the regulations based on the type of vessel. These regulations are substantially equivalent to the applicable requirements of ILO Conventions 92, 133, and 147.
 - iv. Vessels built prior to the entry-into-force date of ILO Convention 147 to the United States must also comply with the applicable regulations under paragraph (9)(a)iii. above.
- (b) Vessel owners/operators should—
- i. Continue to ensure that their vessels meet the requirements of current U.S. regulations.
 - ii. For uninspected vessels over 100 GT, ensure any seafarer recreational facilities are in compliance with 46 U.S.C. 11101.
- (c) Inspectors should ensure that all vessels meet the requirements of current U.S. regulations. The COI is proof that the vessel was built and inspected to applicable regulations.

(11) Food and catering (MLC Regulation 3.2): Food and drinking water must be of appropriate quality, nutritional value, and quantity to adequately cover the requirements of a vessel's crew and takes into account their differing cultures and religious backgrounds. Food is to be provided free of charge to seafarers during the period of engagement. Vessels with a prescribed manning of less than 10 are not required to carry a qualified cook. A seafarer employed as a vessel's cook with responsibility for preparing food must be trained and qualified for the position. The master is responsible for conducting frequent and documented inspections of food, water, and catering facilities.

(a) United States national requirements/legislation:

- i. 46 USC 10303 requires that a seafarer be served at least 3 meals a day, including adequate water and adequate protein, vitamins, and minerals in accordance with the U.S. Recommended Daily Allowances. Refer to Enclosure (9) to this NVIC for competency guidelines for vessel cooks.
- ii. 42 CFR 71.45 requires that the quality of potable water taken on board a ship at any U.S. port intended for human consumption thereon shall be obtained from sources approved in accordance with standards established in title 21, Code of Federal Regulations, parts 1240 and 1250(b).

(b) Vessel owners/operators should—

- i. Ensure that mess rooms and pantries are frequently inspected for their cleanliness and hygienic state. All records of inspections should be maintained;
- ii. Ensure that all food and drinking water supplies are suitable in respect to quantity, quality, nutritional value, and variety, taking into consideration the number of seafarers on board and their religious requirements and cultural practices as they pertain to food, and the duration and nature of the voyage;
- iii. Document the knowledge obtained through training or equivalent job experience of personnel who have responsibility for preparing food. No seafarer below the age of 18 years should be permitted to work as a cook; and
- iv. If the manning of the vessel is less than 10, ensure that seafarers who process food in the galley are trained or instructed in appropriate subjects, to include food and personal hygiene as well as the handling and storage of food on board a vessel. A qualified cook is not required for manning less than 10.

- (c) Inspectors should—
- i. Review documents to confirm that all vessel cooks are at least 18-years of age and have the knowledge through training or equivalent job experience appropriate for their position.
 - ii. Review onboard records to confirm that frequent and documented inspections are made of food and drinking water supplies, spaces used for the handling and storage of food, and galleys and other equipment used in the preparation and service of meals.
 - iii. Visually inspect galleys and store rooms to ensure that they are hygienic and fit for their purpose, and contain appropriate quantities of stores for the intended voyage.
 - iv. Interview various crewmembers in private to determine whether they are provided with food and drinking water that are of appropriate quality and quantity.

(12) Medical care on board vessel and ashore (MLC Regulation 4.1): Seafarers must be covered by adequate measures for the protection of their health and have access to prompt and adequate medical care, including dental care, while working on board the vessel. Health protection and care are to be provided at no cost to the seafarer. Vessel owners/operators are to allow seafarers the right to visit a qualified medical doctor or dentist without delay in port calls, where practicable. Members shall adopt regulations establishing requirements for onboard hospital and medical care facilities and equipment.

- (a) United States national requirements/legislation⁵:
- i. 46 USC 11101 states that a merchant vessel of the United States that, in the ordinary course of trade, makes a voyage of more than 3 days between ports and carries a crew of at least 12 shall have a hospital compartment suitably separated from other spaces. The compartment shall have at least 1 bunk for each 12 seafarers constituting the crew (but not more than 6 bunks may be required). Additionally, specific requirements for inspection and certification, and construction and arrangement (including accommodation construction and recreational facilities) are found in various subchapters of the regulations based on the type of vessel.

⁵ Requirements relating to the size and construction of hospital spaces are contained in the U.S. national requirements/legislation section for Accommodations.

- ii. 46 USC 11102 requires the following vessels to carry a medicine chest for the care of sick and injured seamen: 1) vessels on a voyage from a port in the United States to a foreign port (except to a Canadian port); and 2) vessels of 75 GT or more on a voyage between a port in the United States on the Atlantic and Pacific oceans.
 - iii. 46 CFR 12.13 requires that persons designated to provide first aid or to take charge of medical care on board a vessel be trained as appropriate and hold an MMC with the appropriate endorsement.
 - iv. Collective bargaining agreements define medical benefits and eligibility for seafarers on board a vessel and ashore. Unionized seafarers receive preventive measures.
 - v. Vessel owners/operators are responsible for sick and injured seafarers in accordance with the general maritime law remedy of Maintenance and Cure. Maintenance and Cure provides for medical coverage for seafarers while in the service of a vessel (including shore leave). Cure benefits provide for payment of reasonable and necessary medical care until the seafarer has reached a level of maximum cure. Cure includes first aid and emergency treatment, transportation to medical facilities, treatment at clinics and hospitals, diagnostic tests, medication, physical therapy, specialists, surgery, rehabilitation, and all other reasonable and necessary medical needs.
- (b) Vessel owners/operators should—
- i. Ensure that seafarers, while in the service of the vessel, are given health protection and medical care, including prompt access to the necessary medicines and medical equipment and facilities for diagnosis and treatment, and to medical information and expertise;
 - ii. Provide seafarers with the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable;
 - iii. Ensure that medical care facilities, such as a medicine chest, medical equipment, medical guide, and hospital space are provided in accordance with the U.S. laws and regulations cited above;
 - iv. Carry a qualified medical doctor on board if the vessel carries 100 or more seafarers and is ordinarily engaged on international voyages for more than 3 days. Vessel owners/operators should also ensure that personnel providing medical first aid or medical care on board are properly credentialed. For those vessels that are engaged in extended voyages involving ready access to shore-side medical facilities and care, demonstration of such ability to render medical aid should be made in lieu of having a medical doctor on board the vessel; and

- v. Ensure that medical advice, including specialist advice, is available to seafarers 24 hours a day, by radio or satellite communication while at sea, and at no cost to the seafarer. A list of radio/satellite contacts for advice should be readily available.

(c) Inspectors should—

- i. Check any relevant documents, such as union agreements, to confirm that medical care and services are provided free of charge to seafarers while they are in the service of the vessel;
- ii. Visually observe conditions to confirm that the vessel is equipped with sufficient medical supplies, including a medicine chest, hospital space (where applicable), and a medical guide; and
- iii. Check that procedures are in place for radio or satellite communication for medical assistance.

(13) Health and safety protection and accident prevention (MLC Regulation 4.3): The working, living, and training environments on vessels must be safe and hygienic to ensure that the seafarers' work environment promotes occupational safety and health. Vessels must have an occupational safety and health program to prevent diseases and accidental injuries.

(a) United States national requirements/legislation:

- i. The Occupational Safety and Health Act, 29 USC chapter 15, was enacted to ensure that employers provide their workers a place of employment free from recognized hazards to safety and health, such as exposure to toxic chemicals, excessive noise levels, mechanical dangers, heat or cold stress, and unsanitary conditions.
- ii. 46 USC chapter 32 and 33 CFR part 96 require establishment of safety management systems on board vessels that provide procedures for responding to emergencies, protection of the environment, reporting of incidents, and addressing nonconformities. Internal audits and management reviews of the onboard system must be maintained.
- iii. Company and/or industry-wide management systems, such as the Responsible Carrier Program, that provide procedures for responding to emergencies, protection of the environment, reporting of incidents, and addressing nonconformities are acceptable industry practices meeting this MLC requirement.

(b) Vessel owners/operators should—

- i. Ensure that seafarers are advised about occupational health issues and that all necessary precautions are taken to minimize any adverse affects;
- ii. Adopt reasonable precautions to prevent occupational accidents, injuries, and diseases on board the vessel, including measures to reduce and prevent the risk of exposure to harmful levels of ambient factors and chemicals, as well as the risk of injury or disease that may arise from the use of equipment and machinery on board the vessel;
- iii. Adopt onboard programs such as a vessel safety committee for the prevention of occupational accidents, injuries, and diseases, and for continuous improvement in occupational safety and health protection;
- iv. Adopt procedures for inspecting, reporting, and correcting unsafe conditions and for investigating and reporting onboard occupational accidents; and
- v. Ensure that there is adequate personal protective equipment (PPE) available for all shipboard activities.

(c) Inspectors should—

- i. Review any relevant documents maintained on the vessel such as accident reports, safety evaluations conducted on behalf of the vessel owner/operator, and any risk evaluations that may have been prepared;
- ii. Check for any documents evidencing membership and meetings of the vessel's safety committee;
- iii. Review documents related to the vessel's occupational health and safety program to ensure that the program is available and familiar to all seafarers on board the vessel;
- iv. Confirm that an accident investigation and reporting system is in place;
- v. Ensure that there is adequate PPE available for each seafarer; and
- vi. Interview various crewmembers in private to confirm onboard occupational health and safety programs are in place and in use.

- (14) Onboard complaint procedures (MLC Regulation 5.1.5): Vessels must have procedures on board for the fair, effective, and expeditious handling of seafarer complaints alleging breaches of the requirements of the MLC. All seafarers must be provided with a copy of the onboard complaint procedures applicable to the vessel. Retaliation against seafarers for filing complaints under the MLC is prohibited.
- (a) United States national requirements/legislation: There are no U.S. laws or regulations that mirror the requirements of Regulation 5.1.5 of the MLC. However, many collective bargaining agreements include procedures that seafarers should follow to voice complaints on board a vessel. With respect to safety concerns, the Coast Guard, in agreement with the Occupational Health and Safety Administration (OSHA), has authority to protect seafarers from retaliation for filing safety complaints pursuant to 46 USC 2114. Pursuant to United States' responsibility as a Party to ILO Convention 147, the Coast Guard will investigate complaints related to alleged violations of that convention. The Coast Guard or RCS will verify compliance against the applicable standards as published in the MLC. Refer to Enclosure (10) to this NVIC on complaints procedures.
- (b) Vessel owners/operators should—
- i. Establish procedures on board to register any seafarer complaints regarding a breach of the requirements of ILO Convention 147;
 - ii. Ensure that the onboard complaint procedures include the right of the seafarer to be accompanied or represented during the complaints procedure, and safeguards against the possibility of retaliation against seafarers for filing complaints; and
 - iii. Ensure that all seafarers are provided with a copy of the onboard complaint procedures applicable on the vessel.
- (c) Inspectors should—
- i. Review any relevant documents outlining the onboard complaint procedures to confirm that the procedures are in place on the vessel and that seafarers are provided with or have access to the procedures.
 - ii. Confirm that the onboard complaint procedures allow seafarers to make complaints directly to the master or an external authority.
 - iii. Interview various crewmembers in private to confirm that they are familiar with the complaint process and that there is no retaliation against crewmembers who follow the procedures.

- (15) Financial security for the repatriation of seafarers (MLC Regulation 2.5.2):
Financial security is to be provided by the shipowner to cover the cost of repatriation including travel, subsistence, accommodation, medical care and other ancillary costs arising from seafarer abandonment.
- (a) United States national requirements/legislation: United States law provides for the repatriation of seafarers working aboard such ships at no cost to them in case of illness, injury, or abandonment (including sale of vessel) 46 USC 10318(e), 11104 and 11105. In addition, negotiated collective bargaining agreements provide supplementary arrangements concerning repatriation. U.S. owners or operators of United States merchant ships are responsible for the repatriation of all seamen separated from their vessels at foreign ports for any reason (illness or injury) including stragglers, except in cases of desertion, shipwreck or other acts of misconduct by the mariner. In the event that the ship is unable to repatriate the seafarer, the local United States consular officer will arrange the repatriation, with costs to be borne by the U.S. government in accordance with 46 USC 10318(e).
- (b) Vessel owners/operators should —
- i. Establish procedures on board that clearly delineate the financial responsibilities of the shipowner and those supplemental protections that may be provided as part of a collective bargaining agreement.
 - ii. Ensure that all seafarers are aware of the onboard procedures as well as the phone numbers to the nearest United States consulate that will arrange for repatriation in the event that the shipowner is unable. Phone: 1-888-407-4747 or 1-202-501-4444 (U.S. Department of State).
 - iii. Request evidence of financial security from CG-CVC in accordance with paragraph (3)(b)(3) of this enclosure.
- (c) Inspectors should —
- i. Review onboard repatriation procedures to ensure that financial responsibilities are clearly articulated in accordance with the national requirements and legislation cited above.
 - ii. Interview various crewmembers in private to confirm that they are aware of onboard procedures that detail the financial securities in place for the repatriation of seafarers.
 - iii. Ensure that evidence of financial security from CG-CVC is on board.

(16) Financial security relating to shipowners' liability (Regulation 4.2.1): Financial security should be provided by the shipowner to cover contractual claims related to death or long-term disability of seafarers due to an occupational injury, illness, or hazard that occurs on board the ship.

(a) United States national requirements/legislation: The United States maintains a comprehensive system of worker protections associated with a shipowner's liability for medical care needs arising from seafarer employment. This consists of statutory laws such as the Jones Act (46 USC 30104) and the Death on the High Seas Act (46 USC Chapter 303). Additionally, principles of general maritime law such as maintenance and cure and unseaworthiness hold the shipowners liable for seafarers' costs associated with injury, sickness and death in connection with their employment. These protections are broad and well established and include both fault-based and strict liability principles, meaning seafarers may expect coverage even when the cause of their injuries is their own negligence or bad judgment. Additionally there are extensive United States laws that assist all workers with medical expenses and care associated with work related injuries, including both immediate and long-term social security schemes.

Under United States law, the vessel itself is considered personified, allowing seafarers to assert a claim against the ship on which they are employed for recovery of costs associated with injury or sickness. The same applies to seafarers' contractual claims for payment of earned wages and other liabilities. In such an action against the ship, it may be arrested and held until such time as the owner/operator provides assurances of an ability to pay required amounts. Claims by seafarers for wages or personal injury are given the highest priority when considering a ship's potential liability to any party asserting a maritime lien.

(b) Vessel owners/operators should —

- i. Establish on board procedures for seafarers to assert contractual claims related to sickness, injury, or death in accordance with the cited national requirements and regulation.
- ii. Request evidence of financial security from CG-CVC in accordance with paragraph (3)(b)(3) of this policy.

(c) Inspectors should —

- i. Ensure that vessels have established a procedure to assert contractual claims related to onboard sickness, injury, or death in accordance with the national requirements and legislation cited above.
- ii. Ensure that evidence of financial security from CG-CVC is on board.

7. Deficiencies:

- a. Even though compliance with the MLC is voluntary for U.S.-flag vessels, marine inspectors should certify that such vessels are in substantial compliance with the U.S. laws and regulations or other measures conforming to the MLC requirements before issuing an SOVC-MLC.
- b. The MLC allows marine inspectors to exercise their professional judgment when identifying deficiencies. The vessel owner/operator will determine the appropriate action for compliance and/or correction of the deficiency and submit the action to the inspector for approval.
- c. Any discrepancies identified by Coast Guard inspectors that relate to current U.S. laws or regulations shall be documented on the CG-835 form and issued to the master or vessel representative to take corrective action. The marine inspector is responsible for determining an appropriate length of time during which a deficiency can be resolved and if the discrepancy would prevent the issuance of the SOVC-MLC.
- d. Deficiencies involving MLC standards where no corresponding U.S. laws or regulations apply or where laws or regulations falling under the jurisdiction of another U.S. governmental agency apply should be noted as a work-list item on which the master or vessel representative can take corrective action prior to the issuance of the SOVC-MLC.
- e. For a RCS, deficiencies should be issued and documented in accordance with the current organizational guidelines prescribed by the particular RCS. The RCS surveyor is responsible for determining if an outstanding discrepancy would prevent the issuance of the SOVC-MLC.

8. Appeals: A vessel owner/operator or master, or a vessel representative, may appeal any deficiencies issued by the attending marine inspector (Coast Guard or RCS), to the Coast Guard in accordance with the procedures outlined in 46 CFR 1.03.

9. Documenting the Inspection:

- a. At the conclusion of an MLC inspection conducted by the Coast Guard, the marine inspector shall issue to the master or vessel representative a U.S. Coast Guard MLC Inspection report (CG-16450C) (Enclosure (11)). This inspection report was created to conform to the requirements of Standard A5.1.4, paragraph 12 of the Code. Copies of any CG-835 forms documenting deficiencies shall be attached to the inspection report.
- b. When the MLC inspection is conducted as part of a COI or annual re-inspection, a notation stating that applicable portions of the MLC were examined along with any notable details of the inspection shall be made within the activity's narrative. If the MLC inspection is conducted as a standalone inspection for issuance of a certificate, it should be documented as an "ILO-147 Exam" under the "Vessel Inspection/PSC" sub-activity type. The ILO-147 Exam shall be used until an MLC Exam sub-activity is added into the Coast Guard's Marine Information for Safety and Law Enforcement database. Adequate

details documenting the inspection shall be noted in the activity's narrative. Once issued, a copy of the SOVC-MLC certificate and inspection report shall be scanned and attached into the vessel's list of documents.

- c. At the conclusion of an MLC inspection conducted by an RCS, the surveyor should document the inspection using the forms and procedures outlined in their respective organizational guidelines.

DEFINITIONS

1. Background. The intent of the Maritime Labour Convention (MLC), 2006, is to ensure that all seafarers have the right to decent working and living conditions. The Convention allows flexibilities for administrations, in consultation with shipowner and seafarer representatives, to determine the scope of application of the Convention. The below definitions and additional guidance are a result of these consultations and explain the application of the MLC 2006 to U.S. vessels operating in international trade.

2. Seafarer.
 - a. MLC Definition.
 - (1) Article II of the Convention defines a *seafarer* as “any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies.”
 - (2) To clarify the definition of seafarer, the International Labor Conference at its 94th (Maritime) Session adopted guidance for governments. International Labour Organization (ILO) Conference Resolution VII, *Concerning information on Occupational Groups*, identified criteria that should be considered when determining whether certain personnel should be counted as seafarers for the purpose of the MLC 2006.
 - b. United States Interpretation and Application.
 - (1) 46 U.S.C. 10101 provides a definition of *seaman* as “an individual (except scientific personnel, a sailing school instructor, or a sailing school student) engaged or employed in any capacity on board a vessel.” This definition appears in part G of title 46 and relates to the welfare of seaman. This definition is consistent with the MLC definition. However, as above, care must be taken not to read the clause “in any capacity” too literally. With respect to a vessel’s liability to a seaman, U.S. courts significantly narrowed this definition. During the Coast Guard’s consultations with seafarer and shipowner organizations (tripartite consultations), all parties agreed that the definition of seaman, as it applies to the MLC, should take into account the criteria of Conference Resolution VII to consider who may be excluded. There are persons working on board U.S. vessels that meet one or more of the criteria specified in that Resolution and, therefore, would not be considered seafarers for the purpose of MLC application. The ILO criteria for determining whether a person is considered a seaman is as follows:

- (a) The duration of the stay on board of the persons concerned;
 - (b) The frequency of periods of work spent on board;
 - (c) The location of the person's principal place of work;
 - (d) The purpose of the person's work on board;
 - (e) The protection that would normally be available to the persons concerned with regard to their labour and social conditions to ensure they are comparable to that provided for under the Convention.
- (2) For the purpose of this Navigation and Vessel Inspection Circular (NVIC), the following definition for seafarer should apply: Except as otherwise provided below, seafarer, for the purpose of application of the MLC 2006, means an individual, including the master, engaged or employed in any capacity on board a vessel. This definition of seafarer will generally not apply to:
- (a) The owner of the vessel or a person (except the master) representing the owner;
 - (b) Law enforcement personnel, in their capacity as law enforcement personnel, such as government or military personnel;
 - (c) Persons temporarily employed on the vessel in port and whose principal place of work is ashore, such as inspectors, surveyors, port workers, or superintendents;
 - (d) Persons who are working on a seagoing vessel on an occasional and short-term basis. This may include pilots, fitters, guest instructors, entertainers, shipyard personnel, or repair technicians;
 - (e) United States citizens who perform special work on board the vessel that do not support the routine business of the vessel or provide services for persons carried on board, such as scientific personnel, researchers, specialist offshore technicians, salvage personnel, cable-laying personnel, seismic personnel, divers, pipe-laying personnel, industrial personnel, offshore workers, or crane operating personnel; or
 - (f) Persons who are considered exempt from the provisions of 46 USC that relate to the welfare of seamen, such as scientific personnel working aboard oceanographic research vessels and sailing school instructors or sailing school students on board sailing school vessels.
- (3) Solely with respect to non-U.S. citizens who perform special work on board the vessel that does not support the routine business of the vessel or provide services for persons carried on board, if it can be demonstrated that a person's shore-side legal and social system provides protections that are comparable to that provided by MLC 2006, such a person may be considered excluded from the definition of a seafarer. This may include workers that are employed by third parties not directly associated

with the routine business of the ship, whose terms of employment provide comparable protection. Such persons may include scientific personnel, researchers, specialist offshore technicians, salvage personnel, cable-laying personnel, seismic personnel, divers, pipe-laying personnel, industrial personnel, offshore workers, or crane operating personnel. The shipowner should be prepared to demonstrate that these persons are provided comparable protections to justify their exclusion.

- (4) Determinations of seafarer status should not be based solely on a person's job title.
- (5) Determinations of seafarer status, should, if practicable, be annotated in the Declaration of Maritime Labour Compliance (DMLC) Part II for the particular vessel, including the criteria and rationale for any personnel excluded. In the event of doubt as to whether a person is a seafarer for the purpose of the MLC, the question should be raised to the Coast Guard. The Coast Guard will consult with the seafarer and shipowner organizations where appropriate. Because the United States is not currently a party to MLC 2006, when undergoing a foreign Port State Control inspection, the burden of establishing the status of personnel on board the vessel will ultimately rest with the shipowner.

3. Ship.

a. MLC Definition.

- (1) Article II of the Convention defines *ship* and explains the applicability of the Convention as follows:
 - (a) "ship means a ship other than one which navigates exclusively in inland waters ... or areas where port regulations apply."
 - (b) "...this Convention applies to all ships whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks. This Convention does not apply to warships or naval auxiliaries."

b. United States Interpretation and Application.

- (1) The United States does not generally use the word "ship," instead using the term "vessel," modified by "motor," "steam," "passenger," etc. Definitions abound in both statute and regulations for different modes of self-propelled vessels. However, for the purpose of this NVIC, a ship is considered to be a self-propelled commercial vessel,

including MODUs, engaging on international voyages to ports of ratifying nations. Refer to the Applicability section in Enclosure (1) to this NVIC for additional information.

- (2) Because it has not ratified the MLC, the United States cannot compel compliance upon any ship, U.S.-flagged or otherwise. The guidance in this NVIC is applicable only to U.S.-flagged ships engaged in international voyages, meaning those ships that will enter the ports of countries that are parties to the MLC and thus be subject to PSC inspections. Should the United States ratify it should be recognized that the Convention has a broader applicability than this NVIC.
- (3) Until such time as the United States ratifies the MLC, “ship,” for the purpose of this NVIC, means a self-propelled vessel in commercial service that engages in international voyages, meaning those ships that will enter the ports of countries that have ratified the MLC. This definition does not apply to—
 - (a) Fishing vessels as defined in 46 U.S.C. 2101(11a);
 - (b) Fishing vessels used as fish-tender vessels, as defined in 46 U.S.C. 2101(11c), of not more than 500 GT;
 - (c) All vessels that navigate exclusively on the Great Lakes, Strait of Juan de Fuca inside passage, or on the inland waters of the U.S.;
 - (d) Fish-processing vessels, as defined in 46 U.S.C. 2101(11b), of not more than 5000 GT;
 - (e) All barges as defined in 46 U.S.C. 102 and non-self-propelled MODUs;
 - (f) All nautical school vessels, as defined in 46 U.S.C. 2101(17); and all oceanographic research vessels, as defined in 46 U.S.C. 2101(18); and
 - (g) All traditional build ships (junks dhows).
- (4) 46 U.S.C. 2101(5) provides a definition for *commercial service* as including “any type of trade or business involving the transportation of goods or individuals, except service performed by a combatant vessel.” This definition is consistent with the MLC definition.
- (5) In the Coast Guard’s consultation with shipowner and seafarer organizations, the definition of *navigate* was interpreted to include the requirement that the vessel be able to manage or control its course under its own power. Therefore, the Convention should apply only to self-propelled vessels. This interpretation is consistent with the intent and scope of the MLC and with the application of the International Convention

on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, and the ILO Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147).

- (6) The exclusions provided in paragraph (3) above are consistent with those noted in Article II, paragraphs 1 and 4 of the Convention. Under U.S. laws and regulation, however, seafarers working on board vessels excluded from the application of the Convention are provided with protections substantially equivalent to those required by the Convention.

4. Shipowner.

- a. MLC Definition. Article II of the Convention defines *shipowner* as follows: “Shipowner means the owner of a ship or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organization or persons fulfill certain of the duties or responsibilities on behalf of the shipowner.”

b. United States Interpretation and Application.

- (1) Shipowner is not specifically defined in U.S. statutes or regulations. For the purpose of application of the MLC 2006 and this NVIC, the definition of shipowner is as follows:

- (a) The owner of a vessel to which the Convention applies; or
- (b) Any other person who has assumed the responsibility for the operation of a vessel from the owner, and has agreed to assume with respect to the vessel responsibility for complying with all the requirements of the Convention. This would include the vessel operator.

- (2) The MLC 2006 covers a diverse group of issues that impose different requirements on shipowners. To ensure and facilitate compliance with these requirements, it is necessary that the company documents the responsibility, authority, and interaction of all personnel who manage the compliance with the MLC requirements. This definition is consistent with the definition for the implementation requirements for the International Safety Management (ISM) and International Ship and Port Facility Security (ISPS) Codes.

MARITIME LABOUR CERTIFICATE

(Statement of Voluntary Compliance)

(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”), and Coast Guard Navigation and Vessel Inspection Circular 02-13, COMDTINST P16700.4 (series) under the authority of the Government of:

THE UNITED STATES OF AMERICA



By the

United States Coast Guard

Particulars of the ship:

Name of ship

Distinctive numbers or letters

Port of registry

Date of registry

Gross tonnage¹

IMO number

Type of ship

Name and address of shipowner²

.....

1 For ships covered by the tonnage measurement interim scheme adopted by the IMO, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969). See Article II (1) (c) of the Convention.

2 *Shipowner* means the owner of the ship or another organization or person, such as the manager, agent, or bareboat charterer, who has assumed responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfill certain of the duties or responsibilities on behalf of the shipowner. See Article II (1)(j) of the Convention.

Additional endorsements (if required)

This is to certify that the ship was the subject of an additional inspection for the purpose of verifying that the ship continued to be in compliance with the national requirements implementing the Convention, as required by Standard A3.1, paragraph 3, of the Convention (re-registration or substantial alteration of accommodation) or for other reasons.

Additional inspection
(If required)

Signed
(Signature of authorized official)

Place

Date
(Seal or stamp of the authority, as appropriate)

Additional inspection
(If required)

Signed
(Signature of authorized official)

Place

Date
(Seal or stamp of the authority, as appropriate)

Additional inspection
(If required)

Signed
(Signature of authorized official)

Place

Date
(Seal or stamp of the authority, as appropriate)

DECLARATION OF MARITIME LABOUR COMPLIANCE - PART I

(Statement of Voluntary Compliance)

(This Declaration must be attached to the ship's Maritime Labour Certificate)

Issued under the authority of the Government of:

THE UNITED STATES OF AMERICA

By the

United States Coast Guard



With respect to the provisions of the Maritime Labour Convention, 2006, the following referenced ship:

Name of Ship	IMO Number	Gross Tonnage

Is maintained in accordance with Standard A5.1.3 of the Convention.

The undersigned declares, on behalf of the abovementioned competent authority, that—

- (a) The provisions of the Maritime Labour Convention are substantially embodied in the national requirements referred to below;
- (b) These national requirements are contained in the national provisions referenced below; explanations concerning the content of those provisions are provided where necessary;
- (c) The details of any substantial equivalencies under Article VI, paragraphs 3 and 4, under the corresponding national requirement are listed below;
- (d) Any exemptions granted by the competent authority in accordance with Title 3 are clearly indicated in the section provided for this purpose below; and
- (e) Any ship-type specific requirements under national legislation are also referenced under the requirements concerned.

1. Minimum age (Regulation 1.1):

29 CFR 570.2 mandates 16 years of age as the minimum age for most non-agricultural work. This regulation is the basis of the minimum age requirements on all U.S. vessels. Refer to Enclosure (8) of Coast Guard NVIC 02-13 for a list of hazardous activities that are likely to jeopardize the health and safety of young seafarers. Exemptions from the night work restrictions are allowed in the case of training programs approved by the Coast Guard in accordance with 46 CFR subchapter B.

2. Medical certification (Regulation 1.2):

46 CFR 10.215 defines the medical and physical requirements to qualify for a Merchant Mariner Certificate (MMC). All U.S. seafarers serving in vessels to which the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, applies must hold a MMC, that is valid for 5 years, which is proof that the seafarer is in compliance with the medical requirements. The Coast Guard proposed issuing a 2-year medical certificate in compliance with the STCW 2010 amendments; issuance of a final rule is still pending.

DECLARATION OF MARITIME LABOUR COMPLIANCE - PART I

(Statement of Voluntary Compliance) (continued)

3. Qualifications of seafarers (Regulation 1.3): (Substantial Equivalency Noted)

United States law for the issuance of credentials for both officers and ratings is found in 46 USC chapters 71 and 73 respectively. Additionally, 46 USC chapters 83 and 87 preclude the hiring of individuals on board vessels without the appropriate credentials authorizing service in the capacity in which the individuals are to be engaged or employed.

U.S. regulations in 46 CFR 15.1103 require that no person on board a seagoing vessel operating beyond the Boundary Line established in 46 CFR Part 7 may employ or engage any person to serve without an STCW endorsement, where such a credential is required.

46 CFR 15.405 and 15.1105 require individuals to be familiar with the vessel's arrangement, equipment, procedures, and characteristics relevant to their routines or emergency duties or responsibilities, in accordance with STCW Regulation I/14. In addition, 46 CFR 15.1105 requires that: 1) all persons prior to being assigned shipboard duties receive familiarization and/or basic safety training in accordance with STCW Regulation VI/1, as appropriate; and 2) persons serving as part of the crew complement or who are assigned a responsibility on the muster list must receive basic safety training in accordance with STCW Regulation VI/1.

In limited circumstances, 46 USC 8103(3) and 46 CFR 15.720 authorize the use of non-U.S. citizens as seafarers on board Offshore Supply Vessels (OSVs) operating from a foreign port, and Mobile Offshore Drilling Units (MODUs) operating beyond the water above the U.S. Outer Continental Shelf, provided the non-U.S. seafarer holds a credential equivalent in experience, training, and other qualifications to the U.S. credential required for the position.

4. Use of any licensed or certified or regulated private recruitment and placement services (Regulation 1.4):

46 USC 10314 and 10505 specify that a person may not receive remuneration for providing seafarers with employment. Additionally, a seafarer's wages may not be garnished with respect to his or her engagement on board the vessel. Union hiring halls in the United States are funded and maintained through collective bargaining agreements regulated by Federal Law (Taft-Hartley Act) and must meet the applicable requirements of the MLC as specified in Standard 1.4, paragraph 3, which recognizes collective bargaining agreements as complying with the intent of Regulation 1.4.

5. Seafarers' employment agreements (Regulation 2.1): (Substantial Equivalency Noted)

46 USC 10301 and 10302, and 46 CFR 14.201 specifies when articles are required and notes that, for all foreign voyages, vessel owners/operators make a shipping agreement in writing with each seafarer before the seafarer commences employment. Coast Guard NVIC 1-86 establishes the procedures for the shipment and discharge of seafarers aboard U.S.-flag vessels. 46 CFR 14.207 specifies that the content and form of shipping articles must conform to form CG-705A. Coast Guard NVIC 1-86 specifies that any other form complying with the requirements of the U.S. statutes noted above may be used. The minimum requirements contained in the shipping agreement are in keeping with those outlined in Regulation 2.1 of the MLC.

46 U.S.C. 10311 and 46 CFR 14.307 require that the master or individual in charge of a vessel provide each seafarer with a Certificate of Discharge documenting sailing dates and capacities. The certificate must be signed by both the master or individual in charge and the seafarer, and may not contain a reference about the character or ability of the seafarer. In addition, 46 U.S.C. 7302 and 46 CFR 14.305 specify that seafarers may obtain a Continuous Discharge Book that documents sailing dates and capacities. Proper entries to the book must be made by the master.

6. Payment of wages (Regulation 2.2):

United States statute establishes the seafarer's entitlement to wages for work performed and payment at the beginning of the voyage and at the end of the voyage, and penalties for non-compliance; 46 USC 10310, 10312, 10313, and 10314. 46 U.S.C. 10315 (Allotments) establishes the measures for allotments. Collective bargaining agreements also specify payment intervals and conditions of payments.

DECLARATION OF MARITIME LABOUR COMPLIANCE - PART I (Statement of Voluntary Compliance) (continued)

7. Hours of work or rest (Regulation 2.3): (Substantial Equivalency Noted)

The current U.S. standards for minimum hours of rest are contained in 46 CFR 15.1111.

8. Manning levels for the ship (Regulation 2.7):

46 CFR part 15 requires that all vessels operating beyond the boundary line meet the STCW certification and watchkeeping requirements. 46 CFR 15.103 outlines the requirements for a vessel to be properly manned with a minimum number of officers and rated crew. Vessels required to be inspected under 46 USC 3301 are required to be manned with the minimum complement as stated on the vessel's COI per the requirements of 46 CFR 15.501.

Under Article 1 of the Officer's Competency Certificates Convention (OCCC) 1936, national laws or regulations may grant exceptions or exemptions with respect to vessels of less than 200 GT as measured under the Regulatory Measurement System, hereafter "GRT." The United States invoked this clause and granted a general exception for all vessels of less than 200 GRT (GT ITC if GRT not assigned) navigating beyond the Boundary Lines (see 46 USC 8304(b)(4) and 46 CFR 15.701(a)), including vessels engaged on international voyages. However, as amended, Article II.6 of the MLC specifies that such a determination may be made only with respect to vessels of less than 200 GT ITC (GRT if GT ITC not assigned) not engaged in international voyages. Accordingly, an individual in charge of the navigation or maneuvering, as well as an individual engaged or employed to perform the duties of chief engineer, on a mechanically propelled, uninspected, seagoing, documented vessel of less than 200 GT ITC (GRT if GT ITC not assigned) should hold an appropriately endorsed license or MMC authorizing service in such a capacity, when engaged on a voyage to an MLC ratifying nation.

9. Accommodation (Regulation 3.1):

The United States ratified ILO Convention 147, which includes Convention 92 (Accommodations of Crews Convention (Revised)) and Convention 133 (Accommodations of Crews Convention) as appended Conventions. The U.S. instrument of ratification for ILO 147 established that U.S. domestic laws and regulations were substantially equivalent to the provision in the Appended Conventions that the United States did not ratify, including ILO Convention 133 (Accommodations of Crews, 1970) and ILO Convention 92 (Accommodation of Crews Convention (Revised), 1949). The United States satisfied itself that the general goals of the instrument of ILO Convention 133 are being respected. No specific legislation or regulations were implemented to bring the United States into conformity with the general goals of Convention 133. See COMDTINST 16711.12 (series) for additional information. United States shipping laws and regulations that apply to vessels registered in the U.S. territory require compliance with minimum safety standards. Generally, the inspection of vessels and the accommodation of seafarers is provided in the following shipping laws: 46 U.S.C. subtitle II, chapter 33 (inspections) and 46 U.S.C. 11101 (accommodations applicable to vessels more than 100 GRT).

Specific requirements for inspection and certification, construction and arrangement (including accommodation construction and recreational facilities) are found in various subchapters of the regulations based on the type of vessel. These subchapters are:

- 46 CFR 24-28 subchapter C (uninspected towing vessels, 6 and 12 passengers)
- 46 CFR 30-39 subchapter D (tank vessels)
- 46 CFR 70-89 subchapter H (passenger vessels)
- 46 CFR 90-105 subchapter I (cargo and miscellaneous vessels)
- 46 CFR 107-109 subchapter I-A (MODUs)
- 46 CFR 114-124 subchapter K (small passenger vessels less than 100 GT carrying more than 150 passengers, or has overnight accommodations for more than 49 passengers)
- 46 CFR 125-139 subchapter L (OSVs)
- 46 CFR 175-187 subchapter T (small passenger vessels less than 100 GT carrying 150 or less passengers, or has overnight accommodations for 49 or less passengers)

These regulations are substantially equivalent to the applicable requirements of ILO Conventions 92, 133, and 147.

DECLARATION OF MARITIME LABOUR COMPLIANCE - PART I

(Statement of Voluntary Compliance) (continued)

10. Onboard recreational facilities (Regulation 3.1):

The United States ratified ILO Convention 147, which includes Convention 92 (Accommodations of Crews Convention (Revised)) and Convention 133 (Accommodations of Crews Convention) as appended Conventions. The U.S. instrument of ratification for ILO Convention 147 established that U.S. domestic laws and regulations were substantially equivalent to the provision in the Appended Conventions that the United States did not ratify, including ILO Convention 133 (Accommodations of Crews, 1970) and ILO Convention 92 (Accommodation of Crews Convention (Revised), 1949). The United States satisfied itself that the general goals of the instrument of ILO Convention 133 are being respected. No specific legislation or regulations were implemented to bring the United States into conformity with the general goals of Convention 133. See COMDTINST 16711.12 (series) for additional information. United States shipping laws and regulations that apply to vessels registered in the U.S. territory require compliance with minimum safety standards. Generally, the inspection of vessels and the accommodation of seafarers are provided in the following shipping laws: 46 U.S.C. subtitle II, chapter 33 (inspections) and 46 U.S.C. 11101 (accommodations applicable to vessels more than 100 GRT).

Specific requirements for inspection and certification, construction and arrangement (including accommodation construction and recreational facilities) are found in various subchapters of the regulations based on the type of vessel. These regulations are substantially equivalent to the applicable requirements of ILO Conventions 92, 133, and 147. Vessels built prior to the entry into force date of ILO Convention 147 to the United States must also comply with the applicable regulations above.

11. Food and catering (Regulation 3.2):

46 USC 10303 requires that a seafarer be served at least 3 meals a day, including adequate water and adequate protein, vitamins, and minerals in accordance with the U.S. Recommended Daily Allowances. Refer to Enclosure (9) of Coast Guard NVIC 02-13 for competency guidelines for vessel cooks.

42 CFR 71.45 requires that the quality of potable water, taken on board a ship at any U.S. port intended for human consumption thereon shall be obtained from sources approved in accordance with standards established in title 21, Code of Federal Regulations, parts 1240 and 1250(b).

12. Onboard medical care (Regulation 4.1):

46 USC 11101 states that a merchant vessel of the United States that, in the ordinary course of trade, makes a voyage of more than 3 days between ports and carries a crew of at least 12 shall have a hospital compartment suitably separated from other spaces. The compartment shall have at least 1 bunk for each 12 seafarers constituting the crew (but not more than 6 bunks may be required). Additionally, specific requirements for inspection and certification, and construction and arrangement (including accommodation construction and recreational facilities) are found in various subchapters of the regulations based on the type of vessel.

46 USC 11102 requires the following vessels to carry a medicine chest for the care of sick and injured seamen: 1) vessels on a voyage from a port in the United States to a foreign port (except to a Canadian port); and 2) vessels of 75 GT or more on a voyage between a port in the United States on the Atlantic and Pacific oceans.

Collective bargaining agreements define medical benefits and eligibility for seafarers on board a vessel and ashore. Unionized seafarers receive preventive measures. Vessel owners/operators are responsible for sick and injured seafarers in accordance with the general maritime law remedy of Maintenance and Cure. Maintenance and Cure provides for medical coverage for seafarers while in the service of a vessel (including shore leave). Cure benefits provide for payment of reasonable and necessary medical care until the seafarer has reached a level of maximum cure. Cure includes first aid and emergency treatment, transportation to medical facilities, treatment at clinics and hospitals, diagnostic tests, medication, physical therapy, specialists, surgery, rehabilitation, and all other reasonable and necessary medical needs.

DECLARATION OF MARITIME LABOUR COMPLIANCE - PART I

(Statement of Voluntary Compliance) (continued)

13. Health and safety and accident prevention (Regulation 4.3):

The Occupational Safety and Health Act, 29 USC chapter 15, was enacted to ensure that employers provide their workers a place of employment free from recognized hazards to safety and health, such as exposure to toxic chemicals, excessive noise levels, mechanical dangers, heat or cold stress, and unsanitary conditions.

46 USC chapter 32 and 33 CFR part 96 require establishment of safety management systems on board vessels that provide procedures for responding to emergencies, protection of the environment, reporting of incidents, and addressing nonconformities. Internal audits and management reviews of the onboard system must be maintained.

Company and/or industry-wide management systems, such as the Responsible Carrier Program, that provide procedures for responding to emergencies, protection of the environment, reporting of incidents, and addressing nonconformities are acceptable industry practices meeting this MLC requirement.

14. On-board complaint procedures (Regulation 5.1.5):

There are no U.S. laws or regulations that mirror the requirements of Regulation 5.1.5 of the MLC. However, many collective bargaining agreements include procedures that seafarers should follow to voice complaints on board a vessel. With respect to safety concerns, the Coast Guard, in agreement with the Occupational Health and Safety Administration (OSHA), has authority to protect seafarers from retaliation for filing safety complaints pursuant to 46 USC 2114. Pursuant to United States' responsibility as a Party to ILO Convention 147, the Coast Guard will investigate complaints related to alleged violations of that convention. The Coast Guard or RCS will verify compliance against the applicable standards as published in the MLC. Refer to Enclosure (10) of NVIC 02-13 for complaints procedures.

15. Financial security for repatriation (Regulation 2.5.2)

United States law provides for the repatriation of seafarers working aboard such ships at no cost to them in case of illness, injury, or abandonment (including sale of vessel) 46 USC 10318(e), 11104 and 11105. In addition, negotiated collective bargaining agreements provide supplementary arrangements concerning repatriation. U.S. owners or operators of United States merchant ships are responsible for the repatriation of all seamen separated from their vessels at foreign ports for any reason (illness or injury) including stragglers, except in cases of desertion, shipwreck, or other acts of misconduct by the mariner. In the event that the ship is unable to repatriate the seafarer, the local United States consular officer will arrange the repatriation, with costs to be borne by the U.S. government. 46 USC 10318(e).

16. Financial security relating to shipowners' liability (Regulation 4.2.1)

The United States maintains a comprehensive system of worker protections associated with a shipowner's liability for medical care needs arising from seafarer employment. This consists of statutory laws such as the Jones Act (46 USC 30104) and the Death on the High Seas Act (46 USC Chapter 303). Additionally, principles of general maritime law such as maintenance and cure and unseaworthiness hold the shipowners liable for seafarers' costs associated with injury, sickness and death in connection with their employment. These protections are broad and well established and include both fault-based and strict liability principles, meaning seafarers may expect coverage even when the cause of their injuries is their own negligence or bad judgment. Additionally there are extensive United States laws that assist all workers with medical expenses and care associated with work related injuries, both immediate and long-term social security schemes.

Under United States law, the vessel itself is considered personified, allowing seafarers to assert a claim against the ship on which they are employed for recovery of costs associated with injury or sickness. The same applies to seafarers' contractual claims for payment of earned wages and other liabilities. In such an action against the ship, it may be arrested and held until such time as the owner/operator provides assurances of an ability to pay required amounts. Claims by seafarers for wages or personal injury are given the highest priority when considering a ship's potential liability to any party asserting a maritime lien.

Substantial Equivalencies

The following substantial equivalencies, as provided under Article VI, paragraphs 3 and 4, of the Convention, except where stated above, are noted.

1. Medical Certification: For U.S. seafarers who do not hold a valid MMC, a medical certificate with a maximum validity period of 2 years attesting that they are medically fit to perform their respective shipboard duties will be acceptable. For non-U.S. seafarers, a medical certificate with a maximum validity period of 2 years and issued by a medical practitioner recognized by the administration of the country of origin will be considered as equivalent.
2. Qualification of Seafarers: For personnel that are not required to be credentialed, evidence of acceptable industry training or company training may be accepted as being substantially equivalent with the MLC training and certification requirements.
3. Seafarers Employment Agreements: Contractual agreements between the seafarer and the vessel owner/operator or third party should be accepted for non-traditional seafarer personnel, provided the agreements include the minimum requirements specified in Coast Guard NVIC 1-86, as appropriate, as being substantially equivalent to the MLC employment agreement provisions.
4. Hours of Work or Rest: The Coast Guard published a guidance document, CG-CVC Policy Letter 12-05, in compliance with the STCW 2010 amendments to the hours of rest. The requirements in that policy letter are substantially equivalent with the MLC standards contained in Regulation 2.3. The policy letter includes a requirement for recording hours of rest.



Name:

Title:

Signature:

Place:

Date:

DECLARATION OF MARITIME LABOUR COMPLIANCE - PART I
(Statement of Voluntary Compliance) (continued)

Exemptions

The following exemptions granted by the competent authority as provided in Title 3 of the Convention are noted:

.....
.....
.....
.....



Name:

Title:

Signature:

Place:

Date:

DECLARATION OF MARITIME LABOUR COMPLIANCE - PART II

(Statement of Voluntary Compliance)

Measures adopted to ensure ongoing compliance between inspections

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

(The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed in the SOVC-DMLC Part I. Specific measures for each of the 16 requirements are to be clearly drafted to ensure flag state and port state inspectors are easily able to check the requirements are being properly implemented. It's recommended that owner/operator make reference more comprehensive documentation covering policies or procedures in the appropriate sections.)

- 1. Minimum age (Regulation 1.1)
- 2. Medical certification (Regulation 1.2)
- 3. Qualifications of seafarers (Regulation 1.3)
- 4. Use of any licensed or certified or regulated private recruitment and placement services (Regulation 1.4)
- 5. Seafarers' employment agreements (Regulation 2.1)
- 6. Payment of wages (Regulation 2.2)
- 7. Hours of work or rest (Regulation 2.3)
- 8. Manning levels for the ship (Regulation 2.7)
- 9. Accommodation (Regulation 3.1)
- 10. Onboard recreational facilities (Regulation 3.1)

**DECLARATION OF MARITIME LABOUR COMPLIANCE - PART II
(Statement of Voluntary Compliance) (continued)**

- 11. Food and catering (Regulation 3.2)

- 12. Onboard medical care (Regulation 4.1)

- 13. Health and safety and accident prevention (Regulation) 4.3)

- 14. Onboard complaint procedures (Regulation 5.1.5)

- 15. Financial security for repatriation (Regulation 2.5.2)

- 16. Financial security relating to shipowners' liability (Regulation 4.2.1)

I hereby certify that the above measures have been developed to ensure ongoing compliance, between inspections, with the requirements listed in Part I of this Declaration.

Name of shipowner:

Company address:

.....

.....

Title:

Signature:

Date:

(Stamp or seal of the ship-owner)

The above measures have been reviewed by *(insert name of competent authority or duly recognized organization)* and, following inspection of the ship, have been determined as meeting the purposes set out under Standard A5.1.3, paragraph 10(b), regarding measures to ensure initial and ongoing compliance with the requirements set out in Part I of this Declaration.

Name:

Title:

Address:

.....

.....

Signature:

Place:

Date:

(Seal or Stamp of authority as appropriate)

OWNER/OPERATOR DECLARATION OF MARITIME LABOUR COMPLIANCE

This declaration to the requirements of the Maritime Labour Convention, 2006 has been prepared by

(Owner/operator)

This declaration by the owner/operator is subject to verification at all U.S. Coast Guard Inspections

Name of Ship	Official Number	Gross Tonnage

On behalf of the abovementioned owner/operator:

- (a) The national requirements of the United States are contained in the national provisions referenced below, and;
- (b) Ongoing measures have been drawn up by the owner/operator to ensure ongoing compliance.

1. Minimum age (Regulation 1.1):

U.S. National Requirements: 29 CFR 570.2 mandates 16 years of age as the minimum age for most non-agricultural work. This regulation is the basis of the minimum age requirements on all U.S. vessels. Refer to Enclosure (8) of Coast Guard NVIC 02-13 for a list of hazardous activities that are likely to jeopardize the health and safety of young seafarers. Exemptions from the night work restrictions are allowed in the case of training programs approved by the Coast Guard in accordance with 46 CFR subchapter B.

Owner/operator Measures for Compliance: *(The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed above.)*

2. Medical certification (Regulation 1.2):

U.S. National Requirements: 46 CFR 10.215 defines the medical and physical requirements to qualify for a Merchant Mariner Certificate (MMC). All U.S. seafarers serving in vessels to which the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, applies must hold a MMC, that is valid for 5 years, which is proof that the seafarer is in compliance with the medical requirements. The Coast Guard proposed issuing a 2-year medical certificate in compliance with the STCW 2010 amendments; issuance of a final rule is still pending.

Owner/Operator Measures for Compliance: *(The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed above.)*

3. Qualifications of seafarers (Regulation 1.3):

U.S. National Requirements: United States law for the issuance of credentials for both officers and ratings is found in 46 USC chapters 71 and 73 respectively. Additionally, 46 USC chapters 83 and 87 preclude the hiring of individuals on board vessels without the appropriate credentials authorizing service in the capacity in which the individuals are to be engaged or employed.

U.S. regulations in 46 CFR 15.1103 require that no person on board a seagoing vessel operating beyond the Boundary Line established in 46 CFR Part 7 may employ or engage any person to serve without an STCW endorsement, where such a credential is required.

46 CFR 15.405 and 15.1105 require individuals to be familiar with the vessel's arrangement, equipment, procedures, and characteristics relevant to their routines or emergency duties or responsibilities, in accordance with STCW Regulation I/14. In addition, 46 CFR 15.1105 requires that: 1) all persons prior to being assigned shipboard duties receive familiarization

and/or basic safety training in accordance with STCW Regulation VI/1, as appropriate; and 2) persons serving as part of the crew complement or who are assigned a responsibility on the muster list must receive basic safety training in accordance with STCW Regulation VI/1.

In limited circumstances, 46 USC 8103(3) and 46 CFR 15.720 authorize the use of non-U.S. citizens as seafarers on board Offshore Supply Vessels (OSVs) operating from a foreign port, and Mobile Offshore Drilling Units (MODUs) operating beyond the water above the U.S. Outer Continental Shelf, provided the non-U.S. seafarer holds a credential equivalent in experience, training, and other qualifications to the U.S. credential required for the position.

Owner/Operator Measures for Compliance: *(The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed above.)*

4. Use of any licensed or certified or regulated private recruitment and placement services (Regulation 1.4):

U.S. National Requirements: 46 USC 10314 and 10505 specify that a person may not receive remuneration for providing seafarers with employment. Additionally, a seafarer's wages may not be garnished with respect to his or her engagement on board the vessel. Union hiring halls in the United States are funded and maintained through collective bargaining agreements regulated by Federal Law (Taft-Hartley Act) and must meet the applicable requirements of the MLC as specified in Standard 1.4, paragraph 3, which recognizes collective bargaining agreements as complying with the intent of Regulation 1.4.

Owner/Operator Measures for Compliance: *(The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed above.)*

5. Seafarers' employment agreements (Regulation 2.1):

U.S. National Requirements: 46 USC 10301 and 10302, and 46 CFR 14.201 specifies when articles are required and notes that, for all foreign voyages, vessel owners/operators make a shipping agreement in writing with each seafarer before the seafarer commences employment. Coast Guard NVIC 1-86 establishes the procedures for the shipment and discharge of seafarers aboard U.S.-flag vessels. 46 CFR 14.207 specifies that the content and form of shipping articles must conform to form CG-705A. Coast Guard NVIC 1-86 specifies that any other form complying with the requirements of the U.S. statutes noted above may be used. The minimum requirements contained in the shipping agreement are in keeping with those outlined in Regulation 2.1 of the MLC.

46 U.S.C. 10311 and 46 CFR 14.307 require that the master or individual in charge of a vessel provide each seafarer with a Certificate of Discharge documenting sailing dates and capacities. The certificate must be signed by both the master or individual in charge and the seafarer, and may not contain a reference about the character or ability of the seafarer. In addition, 46 U.S.C. 7302 and 46 CFR 14.305 specify that seafarers may obtain a Continuous Discharge Book that documents sailing dates and capacities. Proper entries to the book must be made by the master.

Owner/Operator Measures for Compliance: *(The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed above.)*

6. Payment of wages (Regulation 2.2):

U.S. National Requirements: United States statute establishes the seafarer's entitlement to wages for work performed and payment at the beginning of the voyage and at the end of the voyage, and penalties for non-compliance; 46 USC 10310, 10312, 10313, and 10314. 46 U.S.C. 10315 (Allotments) establishes the measures for allotments. Collective bargaining agreements also specify payment intervals and conditions of payments.

Owner/Operator Measures for Compliance: *(The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed above.)*

7. Hours of work or rest (Regulation 2.3):

U.S. National Requirements: The current U.S. standards for minimum hours of rest are contained in 46 CFR 15.1111.

Owner/Operator Measures for Compliance: *(The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed above.)*

8. Manning levels for the ship (Regulation 2.7):

U.S. National Requirements: 46 CFR part 15 requires that all vessels operating beyond the boundary line meet the STCW certification and watchkeeping requirements. 46 CFR 15.103 outlines the requirements for a vessel to be properly manned with a minimum number of officers and rated crew. Vessels required to be inspected under 46 USC 3301 are required to be manned with the minimum complement as stated on the vessel's COI per the requirements of 46 CFR 15.501.

Under Article 1 of the Officer's Competency Certificates Convention (OCCC) 1936, national laws or regulations may grant exceptions or exemptions with respect to vessels of less than 200 GT as measured under the Regulatory Measurement System, hereafter "GRT." The United States invoked this clause and granted a general exception for all vessels of less than 200 GRT (GT ITC if GRT not assigned) navigating beyond the Boundary Lines (see 46 USC 8304(b)(4) and 46 CFR 15.701(a)), including vessels engaged on international voyages. However, as amended, Article II.6 of the MLC specifies that such a determination may be made only with respect to vessels of less than 200 GT ITC (GRT if GT ITC not assigned) not engaged in international voyages. Accordingly, an individual in charge of the navigation or maneuvering, as well as an individual engaged or employed to perform the duties of chief engineer, on a mechanically propelled, uninspected, seagoing, documented vessel of less than 200 GT ITC (GRT if GT ITC not assigned) should hold an appropriately endorsed license or MMC authorizing service in such a capacity, when engaged on a voyage to an MLC ratifying nation.

Owner/Operator Measures for Compliance: *(The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed above.)*

9. Accommodation (Regulation 3.1):

U.S. National Requirements: The United States ratified ILO Convention 147, which includes Convention 92 (Accommodations of Crews Convention (Revised)) and Convention 133 (Accommodations of Crews Convention) as appended Conventions. The U.S. instrument of ratification for ILO 147 established that U.S. domestic laws and regulations were substantially equivalent to the provision in the Appended Conventions that the United States did not ratify, including ILO Convention 133 (Accommodations of Crews, 1970) and ILO Convention 92 (Accommodation of Crews Convention (Revised), 1949). The United States satisfied itself that the general goals of the instrument of ILO Convention 133 are being respected. No specific legislation or regulations were implemented to bring the United States into conformity with the general goals of Convention 133. See COMDTINST 16711.12 (series) for additional information. United States shipping laws and regulations that apply to vessels registered in the U.S. territory require compliance with minimum safety standards. Generally, the inspection of vessels and the accommodation of seafarers is provided in the following shipping laws: 46 U.S.C. subtitle II, chapter 33 (inspections) and 46 U.S.C. 11101 (accommodations applicable to vessels more than 100 GRT).

Specific requirements for inspection and certification, construction and arrangement (including accommodation construction and recreational facilities) are found in various subchapters of the regulations based on the type of vessel. These subchapters are:

- 46 CFR 24-28 subchapter C (uninspected towing vessels, 6 and 12 passengers)
- 46 CFR 30-39 subchapter D (tank vessels)
- 46 CFR 70-89 subchapter H (passenger vessels)
- 46 CFR 90-105 subchapter I (cargo and miscellaneous vessels)
- 46 CFR 107-109 subchapter I-A (MODUs)
- 46 CFR 114-124 subchapter K (small passenger vessels less than 100 GT carrying more than 150 passengers, or has overnight accommodations for more than 49 passengers)
- 46 CFR 125-139 subchapter L (OSVs)
- 46 CFR 175-187 subchapter T (small passenger vessels less than 100 GT carrying 150 or less passengers, or has overnight accommodations for 49 or less passengers)

These regulations are substantially equivalent to the applicable requirements of ILO Conventions 92, 133, and 147.

Owner/Operator Measures for Compliance: *(The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed above.)*

10. On-board recreational facilities (Regulation 3.1):

U.S. National Requirements: The United States ratified ILO Convention 147, which includes Convention 92 (Accommodations of Crews Convention (Revised)) and Convention 133 (Accommodations of Crews Convention) as appended Conventions. The U.S. instrument of ratification for ILO Convention 147 established that U.S. domestic laws and regulations were substantially equivalent to the provision in the Appended Conventions that the United States did not ratify, including ILO Convention 133 (Accommodations of Crews, 1970) and ILO Convention 92 (Accommodation of Crews Convention (Revised), 1949). The United States satisfied itself that the general goals of the instrument of ILO Convention 133 are being respected. No specific legislation or regulations were implemented to bring the United States into conformity with the general goals of Convention 133. See COMDTINST 16711.12 (series) for additional information. United States shipping laws and regulations that apply to vessels registered in the U.S. territory require compliance with minimum safety standards. Generally, the inspection of vessels and the accommodation of seafarers are provided in the following shipping laws: 46 U.S.C. subtitle II, chapter 33 (inspections) and 46 U.S.C. 11101 (accommodations applicable to vessels more than 100 GRT).

Specific requirements for inspection and certification, construction and arrangement (including accommodation construction and recreational facilities) are found in various subchapters of the regulations based on the type of vessel. These regulations are substantially equivalent to the applicable requirements of ILO Conventions 92, 133, and 147. Vessels built prior to the entry into force date of ILO Convention 147 to the United States must also comply with the applicable regulations above.

Owner/Operator Measures for Compliance: *(The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed above.)*

11. Food and catering (Regulation 3.2):

U.S. National Requirements: 46 USC 10303 requires that a seafarer be served at least 3 meals a day, including adequate water and adequate protein, vitamins, and minerals in accordance with the U.S. Recommended Daily Allowances. Refer to Enclosure (9) of Coast Guard NVIC 02-13 for competency guidelines for vessel cooks.

42 CFR 71.45 requires that the quality of potable water, taken on board a ship at any U.S. port intended for human consumption thereon shall be obtained from sources approved in accordance with standards established in title 21, Code of Federal Regulations, parts 1240 and 1250(b).

Owner/Operator Measures for Compliance: *(The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed above.)*

12. On-board medical care (Regulation 4.1):

U.S. National Requirements: 46 USC 11101 states that a merchant vessel of the United States that, in the ordinary course of trade, makes a voyage of more than 3 days between ports and carries a crew of at least 12 shall have a hospital compartment suitably separated from other spaces. The compartment shall have at least 1 bunk for each 12 seafarers constituting the crew (but not more than 6 bunks may be required). Additionally, specific requirements for inspection and certification, and construction and arrangement (including accommodation construction and recreational facilities) are found in various subchapters of the regulations based on the type of vessel.

46 USC 11102 requires the following vessels to carry a medicine chest for the care of sick and injured seamen: 1) vessels on a voyage from a port in the United States to a foreign port (except to a Canadian port); and 2) vessels of 75 GT or more on a voyage between a port in the United States on the Atlantic and Pacific oceans.

Collective bargaining agreements define medical benefits and eligibility for seafarers on board a vessel and ashore. Unionized seafarers receive preventive measures. Vessel owners/operators are responsible for sick and injured seafarers in accordance with the general maritime law remedy of Maintenance and Cure. Maintenance and Cure provides for medical coverage for seafarers while in the service of a vessel (including shore leave). Cure benefits provide for payment of reasonable and necessary medical care until the seafarer has reached a level of maximum cure. Cure includes first aid and emergency treatment, transportation to medical facilities, treatment at clinics and hospitals, diagnostic tests, medication, physical therapy, specialists, surgery, rehabilitation, and all other reasonable and necessary medical needs.

Owner/Operator Measures for Compliance: *(The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed above.)*

13. Health and safety and accident prevention (Regulation 4.3):

U.S. National Requirements: The Occupational Safety and Health Act, 29 USC chapter 15, was enacted to ensure that employers provide their workers a place of employment free from recognized hazards to safety and health, such as exposure to toxic chemicals, excessive noise levels, mechanical dangers, heat or cold stress, and unsanitary conditions.

46 USC chapter 32 and 33 CFR part 96 require establishment of safety management systems on board vessels that provide procedures for responding to emergencies, protection of the environment, reporting of incidents, and addressing nonconformities. Internal audits and management reviews of the onboard system must be maintained.

Company and/or industry-wide management systems, such as the Responsible Carrier Program, that provide procedures for responding to emergencies, protection of the environment, reporting of incidents, and addressing nonconformities are acceptable industry practices meeting this MLC requirement.

Owner/Operator Measures for Compliance: *(The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed above.)*

14. On-board complaint procedures (Regulation 5.1.5):

U.S. National Requirements: There are no U.S. laws or regulations that mirror the requirements of Regulation 5.1.5 of the MLC. However, many collective bargaining agreements include procedures that seafarers should follow to voice complaints on board a vessel. With respect to safety concerns, the Coast Guard, in agreement with the Occupational Health and Safety Administration (OSHA), has authority to protect seafarers from retaliation for filing safety complaints pursuant to 46 USC 2114. Pursuant to United States' responsibility as a Party to ILO Convention 147, the Coast Guard will investigate complaints related to alleged violations of that convention. The Coast Guard or RCS will verify compliance against the applicable standards as published in the MLC. Refer to Enclosure (10) of NVIC 02-13 for complaints procedures.

Owner/Operator Measures for Compliance: *(The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed above.)*

15. Financial security for repatriation (Regulation 2.5.2)

U.S. National Requirements: United States law provides for the repatriation of seafarers working aboard such ships at no cost to them in case of illness, injury, or abandonment (including sale of vessel) 46 USC 10318(e), 11104 and 11105. In addition, negotiated collective bargaining agreements provide supplementary arrangements concerning repatriation. U.S. owners or operators of United States merchant ships are responsible for the repatriation of all seamen separated from their vessels at foreign ports for any reason (illness or injury) including stragglers, except in cases of desertion, shipwreck, or other acts of misconduct by the mariner. In the event that the ship is unable to repatriate the seafarer, the local United States consular officer will arrange the repatriation, with costs to be borne by the U.S. government. 46 USC 10318(e).

Owner/Operator Measures for Compliance: *(The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed above.)*

16. Financial security relating to shipowners' liability (Regulation 4.2.1)

U.S. National Requirements: The United States maintains a comprehensive system of worker protections associated with a shipowner's liability for medical care needs arising from seafarer employment. This consists of statutory laws such as the Jones Act (46 USC 30104) and the Death on the High Seas Act (46 USC Chapter 303). Additionally, principles of general maritime law such as maintenance and cure and unseaworthiness hold the shipowners liable for seafarers' costs associated with injury, sickness and death in connection with their employment. These protections are broad and well established and include both fault-based and strict liability principles, meaning seafarers may expect coverage even when the cause of their injuries is their own negligence or bad judgment. Additionally there are extensive United States laws that assist all workers with medical expenses and care associated with work related injuries, both immediate and long-term social security schemes.

Under United States law, the vessel itself is considered personified, allowing seafarers to assert a claim against the ship on which they are employed for recovery of costs associated with injury or sickness. The same applies to seafarers' contractual claims for payment of earned wages and other liabilities. In such an action against the

ship, it may be arrested and held until such time as the owner/operator provides assurances of an ability to pay required amounts. Claims by seafarers for wages or personal injury are given the highest priority when considering a ship's potential liability to any party asserting a maritime lien.

Owner/Operator Measures for Compliance: (The owner/operator should identify the measures they have put in place to ensure ongoing compliance with the U.S. National Requirements listed above.)

I hereby certify that the above measures have been drawn up to ensure ongoing compliance with the U.S. national requirements listed above.

Name of ship-owner:

Company address:

.....

.....

Title:

Signature:

Date:

(Stamp or seal of the ship-owner)

INTERIM MARITIME LABOUR CERTIFICATE (Statement of Voluntary Compliance)

Issued under the provisions of Article V and Title 5 of the Maritime Labour Convention, 2006 (referred to below as "the Convention"), and Coast Guard Navigation and Vessel Inspection Circular 02-13, COMDTINST P16700.4 (series) under the authority of the Government of:



THE UNITED STATES OF AMERICA

By the

United States Coast Guard

Particulars of the ship:

Name of ship

Distinctive numbers or letters

Registry

Date of registry

Gross tonnage¹

IMO number

Type of ship

Name and address of shipowner²

This is to certify, for the purposes of Standard A5.1.3, paragraph 7, of the Convention, that:

- (a) This ship has been inspected, as far as reasonable and practicable, for the matters listed in Appendix A5-I to the Convention, taking into account verification of items under paragraphs (b), (c), and (d) below;
- (b) The shipowner has demonstrated to the competent authority or recognized organization that the ship has adequate procedures to comply with the Convention;
- (c) The master is familiar with the requirements of the Convention and the responsibilities for implementation; and
- (d) Relevant information has been submitted to the competent authority or recognized organization to produce a Declaration of Maritime Labour Compliance.

1 For ships covered by the tonnage measurement interim scheme adopted by the IMO, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969). See Article II (1) (c) of the Convention.
 2 *Shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfill certain of the duties or responsibilities on behalf of the shipowner. See Article II (1)(j) of the Convention.

This Certificate is valid until, subject to inspections in accordance with the Standards A5.1.3 and A5.1.4.

Completion date of the inspection referred to under paragraph (a) above was.....

Issued at
(Place of issue of Certificate)

.....
(Date of issue) *(Signature of authorized official issuing the Certificate)*



Hazardous Work and Consideration on Health and Safety Issues for Seafarers Under the Age of 18 Years

1. Purpose: The Maritime Labour Convention (MLC), 2006, requires specific consideration in a ship's occupational safety and health policy program of the safety and health of seafarers under the age of 18 years. This notice identifies types of work considered hazardous because they present special risk of accident, may have a detrimental effect on a health or physical development of young seafarers, or require a special degree of maturity, experience, or skill.
2. Applicability: These specific considerations apply to all seafarers under the age of 18 years employed by shipowners on board U.S.-flag vessels to which the MLC applies.
3. MLC Requirement: The employment, engagement, or work of seafarers under the age of 18 years shall be prohibited where the work is likely to jeopardize their health or safety. The types of such work shall be determined by national laws or regulations, or by the competent authority after consultation with the shipowners' and seafarers' organizations concerned, in accordance with relevant international standards.
4. U.S. Interpretation: Under U.S. law, specifically the federal child labor provisions authorized by the Fair Labor Standard Act (FLSA), the general minimum age is 16 years for employment (29 CFR 570.2). The FLSA is also known as the Child Labor Laws and were enacted to ensure that when young people work, the work is safe and does not jeopardize their health, wellbeing, or educational opportunities. The FLSA contains provisions that protect persons under the age of 18 years from working in certain hazardous occupations, upon approval by the Secretary of Labor. The FLSA is specifically applicable to seamen (29 CFR 783.24).
5. Vessel owners/operators should—
 - a. Maintain documentation that includes dates of birth of each seafarer noted. Individual identity documents, such as passports, should be readily accessible.
 - b. All seafarers under the age of 18 years should receive, at the time of engagement, a list of the potentially hazardous activities that they should not perform while engaged with the vessel. These seafarers should be advised whom to contact on the vessel in case of any doubts. They should also be advised against working at night¹ unless engaged in a training program approved by the Coast Guard in accordance with 46 CFR subchapter B. Training programs meeting this provision include maritime academies regulated by 46 CFR 310.
 - c. If applicable, the company's safety management system (SMS) should identify the different types of potentially hazardous work on board the vessel and note why they are considered as such. All precautions to mitigate risk should be noted. Supervisory staff should be advised about the need to adhere to these work limitations.

¹ Night is recognized as a period of at least 9 hours starting no later than midnight and ending no earlier than 0500. ("Night" is not currently defined in U.S. regulations.)

6. Hazardous Activities. The following is a non-inclusive list of potentially hazardous activities that may jeopardize the health and wellbeing of seafarers under the age of 18 years:
 - a. Lifting, moving, or carrying of heavy loads or objects;
 - b. Entry into boilers, tanks, and cofferdams;
 - c. Exposure to harmful noise and vibration levels;
 - d. Operating hoisting and other power machinery and tools, or acting as a signaler to operators of such equipment;
 - e. Handling mooring, tow lines, or anchoring equipment;
 - f. Rigging;
 - g. Working aloft or on deck in heavy weather;
 - h. Night watch duties;
 - i. Servicing of electrical equipment;
 - j. Exposure to potentially harmful materials or harmful physical agents, such as dangerous or toxic substances and ionizing radiations. When making a determination as to which activities are hazardous, an owner/operator should consider hazardous materials codes on a vessel-specific basis, as applicable;
 - k. Cleaning of catering machinery; and
 - l. Handling or taking charge of ship's boats.

Guidelines for Ships Cook Competency

1. Purpose: The Maritime Labour Convention (MLC), 2006, requires that personnel with food preparation be trained and qualified for their position on board ship.
2. Applicability: These specific considerations apply to all seafarers employed by owners/operators as ship cooks with responsibility for food preparation on board U.S.-flag vessels to which the MLC applies.
 - a. MLC requirement: Seafarers employed as ship cooks with responsibility for food preparation must be trained and qualified for their position on board ship. The training should cover practical cookery, food, personal hygiene, food storage, stock control, environmental protection, and catering health and safety.
 - b. United States Interpretation: 46 USC 10303 requires that a seafarer be served at least 3 meals a day, including adequate water and adequate protein, vitamins, and minerals in accordance with the United States Recommended Daily Allowances. Based on these requirements, it is recommended that a qualified and trained cook be on board each vessel. The minimum standards of competence and skills for this position are highlighted below.
3. Vessel owners/operators should—
 - a. Document knowledge through training or equivalent job experience of personnel with responsibility for preparing food. No one who is below the age of 18 years should be permitted to work as a cook.
 - b. If the manning of the vessel is less than 10, ensure that anyone processing food in the galley be trained or instructed in areas including food and personal hygiene, and the handling and storage of food on board a vessel (a fully qualified cook is not required).
 - c. Seafarers employed as ship cooks with responsibility for food preparation should have the knowledge through training or equivalent job experience on the following competencies as appropriate:
 - (1) Manage a nutritious food service, including, but not limited to—
 - (a) Understanding the importance of a balanced diet and the protein, fat, liquid, and carbohydrate requirements, as per the food pyramid;
 - (b) Knowledge of galley and food service management;
 - (c) Establishing and managing food cost budgets;
 - (d) Managing food quantities and qualities on a per-voyage basis;
 - (e) Planning menus using varied food groups;
 - (f) Awareness of the need for planning menus based on weather and work requirements (cold weather may require more calories; hot weather may require additional sodium);

- (g) Awareness of international food availability; and
 - (h) Awareness of religious and cultural practices of food preparation.
- (2) Understand employee food safety training.
 - (3) Identify protective clothing and equipment.
 - (4) Understand and use safe working practices, including, but not limited to—
 - (a) Knowledge and ability to follow accepted safety procedures, safe working habits, and safe operation of food processing equipment in accordance with manufacturer, company, national, and international safety standards;
 - (b) Awareness of potential safety hazards and the necessary appropriate corrective action;
 - (c) Knowledge of allergens and their effects on individuals;
 - (d) Administration of first aid for cuts, burns, and allergies in the Galley, and CPR and the Heimlich maneuver as appropriate; and
 - (e) Preparation and service of food during foul weather conditions.
 - (5) Understand and follow proper sanitation procedures, including, but not limited to—
 - (a) Awareness of the necessity for enforcement of personnel hygiene and the dangers of not conforming to sanitation procedures;
 - (b) Knowledge of safe food preparation and service to mitigate the effects of micro-organisms, contamination, and food-borne illnesses; and
 - (c) Knowledge and ability to properly maintain food waste disposal areas.
 - (6) Be aware of a variety of products and how to cook them in a safe and tasty manner, including, but not limited to —
 - (a) Knowledge of, and the ability to select, correct equipment and tools for preparation of different food products;
 - (b) Knowledge of selection and preparation of vegetables and fruits;
 - (c) Knowledge and ability to prepare stocks and soups;
 - (d) Knowledge and ability to prepare sauces and salads;
 - (e) Knowledge and ability to prepare baked products;
 - (f) Knowledge and ability to prepare hot and cold sandwiches; and
 - (g) Knowledge and ability to prepare a variety of meats.

Guidelines for Onboard Complaint Procedures

1. Purpose: These guidelines are intended to provide key elements of onboard complaint procedures conforming to the Maritime Labour Convention (MLC), 2006, requirements.
2. Applicability: These specific considerations apply to all U.S.-flag vessels to which the MLC applies.
 - a. MLC Requirement: Vessels must have on-board procedures for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of the MLC, 2006. All seafarers must be provided with a copy of the on-board complaint procedures applicable on the ship. Victimization of seafarers for filing complaints under the MLC, 2006 is prohibited.
 - b. United States Interpretation: There are no U.S. laws or regulations that mirror the requirements of regulation 5.1.5 of the MLC. However, many Collective Bargaining Agreements include procedures seafarers may use to voice complaints on board a vessel. With respect to safety concerns, the Coast Guard, in agreement with the Occupational Health and Safety Administration (OSHA), has authority to protect seafarers from retaliation for filing safety complaints pursuant to 46 USC 2114. Pursuant to its responsibility as a Party to International Labour Organization (ILO) Convention 147, the Coast Guard investigates complaints related to alleged violations of that convention. The Coast Guard or a Recognized Classification Society will verify compliance against the applicable standards as published in the MLC.
3. Vessel owners/operators should—
 - a. Establish procedures on board to register any seafarer complaints regarding a breach of the requirements of this Convention.
 - b. Ensure that the onboard complaint procedures include the right of the seafarer to be accompanied or represented during the complaints procedure, as well as safeguards against the possibility of victimization the seafarer for filing a complaint.
 - c. Ensure that all seafarers are provided with a copy of the onboard complaint procedures applicable on the vessel.
4. Onboard Complaint Procedures:
 - a. Notwithstanding procedures listed in an individual seafarer's contract of employment or collective bargaining agreement, the company should establish onboard complaint procedures. The complaint procedures should—
 - (1) Include the contact information for the designated company person who will handle complaints and the contact information for the Coast Guard. In cases where the seafarer is a foreign national, the complaints procedure should include the contact

- information for the competent authority of the seafarer's country of residence.
- (2) Establish the hierarchy for the resolution of onboard complaints. Any seafarer with a complaint should have the ability to have the matter addressed by bringing it to the attention of the proper authority on board. The hierarchy may include: immediate supervisor/superior officer, department head, master, or designated company person.
 - (3) Provide for the ability to resolve complaints at the lowest level possible. Only when the matter cannot be resolved to the satisfaction of both parties should it be elevated to the next level. If the complaint cannot be resolved on board, the matter should be referred ashore to the designated company person.
 - (4) Include the right of the seafarer to complain directly to the master, the designated company person, or to the Coast Guard.
 - (5) Establish the time limit appropriate to the resolution of the complaint at all levels of the hierarchy.
 - (6) Include information on the person or persons on board the vessel who can, on a confidential basis, provide seafarers with impartial advice on their complaint and otherwise assist them in following the complaint procedures available to them on board the ship.
 - (7) Include the right of the seafarer to be accompanied or represented during the complaint filing procedure.
 - (8) Establish the actions to be taken by the personnel involved during the investigation and resolution of the complaint at all levels of the hierarchy.
 - (9) Include recordkeeping provisions for all relevant material related to the complaints.
- b. All seafarers should be provided with a copy of the onboard complaint procedures applicable to the vessel.

United States Coast Guard Maritime Labour Convention, 2006 Inspection Report

*(This report is provided to document inspection results as required by
Standard A5.1.4, paragraph 12 of the Maritime Labour Convention, 2006)*

Particulars of the ship:

Name of Ship: _____

Official Number: _____

IMO Number: _____

Date of Inspection: _____

This report is provided to ensure that—

- (a) This ship has been inspected, as far as reasonable and practicable, to all applicable U.S. regulations and standards outlined in the Convention.
- (b) The owner/operator has demonstrated to the U.S. Coast Guard that the ship has adequate procedures to comply with the Convention;
- (c) The master is familiar with the requirements of the Convention and the responsibilities for their implementation;
- (d) Any discrepancies identified during the inspection are documented on Coast Guard form CG-835 and attached to this report; and
- (e) As a result of this inspection, a Statement of Voluntary Compliance, Maritime Labour Certificate has been issued.

Deficiencies issued: No Yes *(see attached)*

Copy provided to: _____
(Printed name of Master/Vessel representative)

(Signature of Master/Vessel representative)

Coast Guard Marine Inspector: _____
(Printed name)

(Signature)

Issuing Unit name and address:



U.S. Department of
Homeland Security

United States
Coast Guard



Commandant
United States Coast Guard

2703 Martin Luther King Ave, SE
STOP 7501
Washington, DC 20593-7501
Staff Symbol: CG-CVC
Phone: (202) 372-1208
Email: CG-CVC-1@uscg.mil

16713

From: F. M. Last, CAPT
Chief, Office of Commercial Vessel
Compliance

Reply to U.S. Vessel Inspections
Attn of: CG-CVC-1@uscg.mil

To: Master, [Vessel Name]

Subj: DEMONSTRATION OF A FINANCIAL SECURITY SYSTEM UNDER
REGULATIONS 2.5 AND 4.2 OF THE INTERNATIONAL LABOUR
ORGANIZATION (ILO) MARITIME LABOUR CONVENTION (MLC)

1. This document is to confirm that under the existing laws of the United States of America the below vessel is covered by a financial security system substantially equivalent to that required under MLC regulations 2.5 and 4.2.

2. The following additional information is provided:

(a) Name of ship - [name of the ship]

(b) Port of registry - [port of registry of the ship]

(c) Ship call sign - [call sign of the ship]

(d) Ship IMO number - [IMO number of the ship]

(e) The United States Government ensures that shipowners are liable to seafarers for the financial consequences of sickness, injury or death and that there is a financial security system in place for repatriation. See the Statement of Voluntary Compliance-Declaration of Maritime Labour Compliance (SOVC-DMLC) Part I (e) 15, 16 for further information.

(f) Contact Information

i. For financial security under regulation 2.5 (Repatriation) contact the nearest United States consulate, Phone: 1-888-407-4747 or 1-202-501-4444

ii. For financial security under regulation 4.2 (Owners Liability) contact the nearest United States Coast Guard Officer in Charge of Marine Inspection. To determine applicable unit visit <https://www.uscg.mil/top/units/>, noting that outside the United States, the nearest unit may be USCG Activities Europe (Phone: +31-61-297-9335) or USCG Activities Far East (Phone: +81-42-507-6545)

(g) Name of shipowner - [name of the shipowner]

(h) Period of Validity - [period of validity]

(i) The United States Government confirms that through its laws and domestic regulations, as well as seafarer employment agreements, a seafarer is provided financial security for relief and for the handling of contractual claims.

3. Any questions on this matter should be e-mailed to CG-CVC-1@uscg.mil.