

**ISM Code**  
**ISPS Code**  
**MLC, 2006**

# **FAQ BOOK**

**2022. 12**

**KOREAN REGISTER**

# Preface

We deeply appreciate all your efforts and support for the ongoing development of the maritime industries.

In the era of post-pandemic, the shipping safety management and port state control (PSC) of each flag administration have been significantly strengthened. In addition, the demand for high-quality audit service from our valued customers is being increased.

Accordingly, taking into account the frequently asked questions from our valued customer and auditor, this FAQ book has been revised/published according to the updated convention audit standards and guidelines.

This society, KOREAN REGISTER, will continue to actively listen your inquiries and suggestions as well as do our best to improve the various difficulties occurred in the field.

Finally, we wish all our valued customers happiness and prosperity. In addition,

Thank you.

December 2022

Boogeun, Yoon

Executive Vice President of Statutory Division

KOREAN REGISTER

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## I. ISM (International Safety Management Code)

### 1. Common Application

**Q: Is an additional audit necessary when only the shipowner of ship is changed without the change of the management company?**

A: It is not necessary because the ship management company is not changed. But the shipowner shall report the changes to the flag Administration in accordance with ISM Code 3.1.

**Q: If the working language is English, system documents of the company (such as procedures, instructions) and all materials related with safety management (such as educational materials or official documents, etc) should be translated to be offered to the ship?**

A: It is not necessary that all of those are offered in English just because working language is English. But it is enough that essential instructions provided prior to sailing and relevant information on SMS (such as procedures, instructions and educational materials) are offered with the understandable language of the crew members.

**Q: ISM code 3.1. mentioned "If the entity who is responsible for the operation of the ship is other than the owner, the owner must report the full name and details of such entity to the Administration." How to check it specifically?**

A: The report methods in accordance with ISM code 3.1 are depending on the flag Administration. For example, Korea issues the license of 'Safety Management Agency' and Panama approves ISM Company declaration. (Other flag states usually have similar methods with Panama, but the specific things of each flag are needed to be checked).

However, an auditor should verify to substitute (Power of Attorney of the Ship owners, or Bareboat charter party etc.) the ISM company on ISM Shipboard Interim audit (Because Interim or Short-term SMC is needed for approval of ISM Company declaration according to MMC-176). But An auditor should verify the ISM Company Declaration on Initial/Renewal/Annual/Intermediate ISM audit, same as before

**Q: What cases are applied by failure of audit and re-audit?**

A: On ISM Company/Shipboard audit, an audit team leader can stop and reject the audit in case that the following requirements for audit are not satisfied or a major non-conformity is not closed or downgraded to minor non-conformity by the immediate action during the audit;

- 1) Evidence of SMS implementation of the Company and ship is no longer than 3 months
- 2) An internal audit was not carried out
- 3) The entity responsible for DOC on ISM Code is not confirmed.
- 4) In case of the company, corrective actions of document audit are not completed or management review is not carried out.
- 5) In case of the ship, mandatory certifications (such as international conventions) are not valid.
- 6) Procedures for PSC inspection are not established or corrective actions of PSC deficiencies are not carried out at all.
- 7) The audit cannot proceed because the crew members are not familiar with the system.
- 8) It is hard to proceed the audit because the person in charge cannot find relevant procedures or records due to the poor implementation of the system.

**Q: How to take action after the audit of a company or a ship is failed?**

A: Upon being failed, it should be noticed to Statutory System Certification Team immediately. When a Company wants to have the audit again for the failed audit, a Company should submit audit application same as initially applied audit with sufficient preparedness and take a re-audit on the scope of that.

**Q: What kind of audit is required when the company which is holding the full-term DOC issued by KR want to add flag or ship types?**

A: Because the company already had the full-term DOC, the following audits are applied considering having a qualification to operate Safety Management System including the basic system documents

Adding the flag: Interim audit (0.5M/D)

Adding the ship type (& the flag): Document audit + Interim audit (1M/D)

-> Interim DOC with due date of 12 months should be issued

The following audits are applied to issue the full-term DOC where evidence of SMS implementation is over three months after a ship was operated.

Adding the flag: Initial audit (0.5M/D)

Adding the ship type (& the flag) : Initial audit (1M/D)

-> Short term DOC should be issued after audit by on-site auditor.

-> Full term DOC whose due date is same as the previous DOC should be issued by Head Office.

**Q: Is it possible that the ship holding the Classification certificate issued by other classification society is certified on ISM by KR?**

A: It is possible when the ship is registered in a Classification Society holding the QSCS certification. But, in case of Korea flagged vessels, it can be exceptional although the ship is registered in a Classification Society not holding the QSCS certification because only KR is designated as certification body.

**Q: When a ship resumes the operation after it finished cold lay-up, what procedures does the SMC recover?**

A: When a ship resumes the operation after it finished cold lay-up, the instruction by the flag administration is applied first. Without those instructions, follow the below procedures.

1) Between 3 months and 6 months

- If the periodical audit window has not expired, the certificate is valid, but the vessel should be required to undergo relevant periodical audit upon recommissioning. Otherwise, an interim verification audit should be carried out upon recommissioning. Special instructions from Flag Administration should override this instruction.

2) More than 6 months

- If the vessel has been laid up more than 6 months the SMC becomes invalid. An interim verification audit should be carried out upon recommissioning.

**Q: Is it possible to conduct an ISM Shipboard audit of the ship holding DOC issued by other classification society?**

A: It is possible if the ship holds the effective DOC for the relevant flag/ship's type.

**Q: What kind of audit is applied in case of a change of ship' name or ship's type (from dual type of ship to single)?**

A: In case of reissuance of certificate due to a change of ship name or type of ship (example: from OBO to bulk carrier), it could be reissued once checking the survey report without on-site verification.

**Q: What kind of audit is applied for a change of the company address or company name?**

A: It is possible to issue DOC/SMC after completion of ISM Company Additional audit.

- Through the on-site audit, an auditor should check the change of organizations and responsibilities, SMS documents, CSR of each vessel.

**Q: What is the procedure for the TOC (Transfer of Certification) audit?**

- A:
- 1) Transfer of Certification (hereinafter referred to as: TOC) should be only applicable to the certificate which is issued by Classification Society holding a QSCS certificate. And, on receiving a request from a Company to take over its certification from another Society, the branch offices receiving an application should immediately notify it to manager of SSC.
  - 2) TOC audit will proceed after the confirmation of the following items;
    - The existing certificate has not been withdrawn or otherwise invalidated
    - All verifications initiated by the LS have been satisfactorily completed by the LS
    - Any major non-conformities have been closed out or down-graded by the LS
  - 3) After the completion of TOC audit, an auditor should issue new certificate with due date of the previous certificate. (Including the Interim certificate)
  - 4) In case of shipboard audit, even if the application for TOC audit is requested, the Interim audit shall be carried out if the change of flag or the change of company are accompanied.
  - 5) If TOC is applied at the time of annual/intermediate or renewal audit, the TOC audit should be carried out in advance of the above audits. (However, the TOC audit may be included in the man-day of periodical audit.)
  - 6) In case of the Classification Society not holding a QSCS certificate, the following procedure is not applicable. If the Company (having performance of SMS at least more than 3 months) under the Classification Society not holding a QSCS certificate requests the audit, the initial audit should be carried out.

**Q: Is it possible to extend the due date of corrective action if the corrective action of the NC received from the company is unsatisfactory?**

A: Where the received corrective action is not satisfied, the re-corrective action should be requested to the ship. Where it is deemed to be necessary for the re-corrective action, the period for corrective action could be extended within a period not exceeding three months from the date on which the non-conformity is identified. The due date of corrective action for a major NC should not be extended. However, once it was downgraded to minor NC, the date could be extended within a period not exceeding three months from the date on which the major NC is identified, but it should not be extended again

**Q: When is interim audit applied to company or ship?**

A: The interim audit of the company shall be conducted in the following cases:

- 1) where the Company is newly established;
- 2) where a ship type is newly added; and
- 3) where the Flag is newly added.

The interim audit of the ship shall be conducted in the following cases:

- 1) where a new ship is delivered;
- 2) where the Company assumes responsibility for the operation of ship which is new to that Company;
- 3) where the ship type is changed or added according to the ship's reconstruction, etc. except the change from dual to single type;
- 4) where a ship changes Flag; and
- 5) where a ship resumes the operation after it is out of service more than 6 months due to lay-up, etc.

**Q: Is it possible to proceed with the interim audit when the new ship is delivered, even if the entire crew is not onboard?**

A: Interim audit could be conducted in circumstances other than normal operating conditions, provided that the ship is fully manned in accordance with its Safe Manning Certificate.

**Q: Is it possible to issue the Interim SMC without mandatory certificates such as certificate of registry ?**

A: It is a principle that an audit should be carried out with the presence of mandatory certificates. However, an interim audit could be carried out in case of newbuilding or change of Flag for secondhand vessel under the circumstance of satisfaction followings. However, the SMC should be issued after confirming the necessary certificates.

- Enough number of seafarers should be on board more than 'Minimum Safety Management Certificate'
- Confirm the certification for mandatory certificates is ongoing in the port

**Q: What is the procedure for issuing SMC when the Gross tonnage of the ship is changed due to change of ship's facilities, structure, etc.?**

A: Due to the change of the Gross Tonnage, the reissuance of the SMC is required. Confirmation of the surveyor in charge about change of G/T or the ship's mandatory certificates, the auditor will re-issue without verification onboard. For reference, SSP and DMLC Part2 also require re-approval due to G / T changes.

**Q: During ISM audit, is it required to check minimum rest hour which is the requirement of MLC 2006?**

A: ISM Code 6.2.2 regarding the minimum rest hour of the MLC Convention 2006 has been revised and enforced on 1st January 2015 to ensure that the ship is being safely operated under all operating conditions. The minimum break time of the crew should be verified during the examination.

**Q: When does the internal audit for company and ship should be carried out?**

A: According to ISM Code 12.1 revised on July 1, 2010, internal audits shall be conducted at company and vessel at intervals not exceeding 12 months (365 days) from the date of inspection at the previous workplace or ship.

**Q: What is the scope and method of delegation of the safety management system according to ISM Code 12.2 revised and enforced on January 1, 2015?**

A: When delegating some of the tasks are delegated among the works that influence the conformity of the Code, the Company should establish and maintain documented procedures and delegation should be made for those tasks which can be performed by the Company itself. In addition, it is impossible to delegate the management work of the delegating Company

**Q: Regarding visiting ship once a year by designated person, is it required to visit all ships more than one time every year?**

A: It is not necessary to visit for all ships by designated person, but it is necessary for DP to visit at least one ship being managed by company and record the result. In particular, if a ship is introduced to company newly, it should be taken into consideration to visit the ship first.

**Q: What should be included in the essential instructions that should be provided to crew before departure?**

A: Essential instructions provided prior to sailing should include the followings;

- 1) Assigned duty (responsibility, authority and interrelation);
- 2) Identified duty in an emergency; and
- 3) Safety precaution.

**Q: What are the prerequisites for applying for the initial company and ship audit?**

A: The following must be satisfied before each initial audit;

\* Company

- 1) the completion of the document audit including rectification of NC (if applicable);
- 2) the operation records of SMS for the Company and ship (at least one ship of each type and Flag) for at least 3 months;
- 3) the internal audit for the Company and ship (at least one ship of each type and Flag);
- 4) the management review for the Company and ship; and
- 5) the valid compulsory certificates for at least one ship of each type and Flag operated by the Company.

\* Ship

- 1) the DOC (Short term or Full term) valid for the corresponding ship type and Flag;
- 2) the valid compulsory certificates required by the Flag Administration or Classification Society;
- 3) the internal audit for the ship; and
- 4) the operation records of SMS for the ship for at least 3 months.

**Q: When is the deadline for corrective action to be taken in document review for a company?**

A: Corrective actions should be completed at the latest before the initial audit of the company, and the notice of completion of the corrective action should be presented to the auditor in the initial audit.

**Q: Can the validity period of the Document of Compliance (DOC) and Safety Management Certificate (SMC) be extended?**

A: The extension of the Safety Document of Compliance (DOC) and Safety Management Certificate (SMC) is as follows.

\* Document of Compliance (DOC)

- 1) Interim DOC and DOC cannot be extended.

\* Safety Management Certificate (SMC)

- 1) Interim SMC: Can be extended up to 6 months in accordance with ISM Code 14.3.
  - ISM Code 14.3 An Administration or, at the request of the Administration, another Contracting Government may, in special cases, extend the validity of an Interim Safety Management Certificate for a further period which should not exceed 6 months from the date of expiry
- 2) SMC: Can be extended up to 3 months as per ISM Code 13.13 or 13.14.
  - 13.13 If a renewal verification has been completed and a new Safety Management Certificate cannot be issued or placed on board the ship before the expiry date of the existing certificate, the Administration or organization recognized by the Administration may endorse the existing certificate and such a certificate should be accepted as valid for a further period which should not exceed five months from the expiry date
  - 13.14 If a ship at the time when a Safety Management Certificate expires is not in a port in which it is to be verified, the Administration may extend the period of validity

of the Safety Management Certificate but this extension should be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be verified, and then only in cases where it appears proper and reasonable to do so. No Safety Management Certificate should be extended for a period of longer than three months, and the ship to which an extension is granted should not, on its arrival in the port in which it is to be verified, be entitled by virtue of such extension to leave that port without having a new Safety Management Certificate. When the renewal verification is completed, the new Safety Management Certificate should be valid to a date not exceeding five years from the expiry date of the existing Safety Management Certificate before the extension was granted.

**Q: Can a remote audit be conducted in relation to the ISM Audit?**

A: Remote audits cannot be verified as effective as regular audits, so they are not conducted unless there are unavoidable circumstances. Only in case where the company obtains approval from the flag administration in view of unavoidable circumstances, the remote audit is allowed be performed according to the KR remote audit guidelines.

## 2. Application for Korean Flag

**Q: Is it require an additional audit when the address of company change from the old address (lot number system) to the new address (road name system) in case of Korean?**

A: An additional audit is not required because it is not an actual change of address. In this case, if the company requests to reissue the certificates with the Business License to Statutory System Certification Team, SSC will reissue the relevant certificates.

**Q: Is it possible to exempt the ISM for purchasing foreign vessels from abroad and made a temporarily voyage to Korea?**

A: It is possible to sail without SMC in case an international voyage to bring a ship purchased from abroad to the interior of a country (Including cases where the vessel is sailing into a foreign port for repair or survey before entering the interior port) in accordance with Ch. 37 of 'Enforcement Regulations of Maritime Safety Law'. (It is possible to except the ISM).

For your information, it is possible to sail without ISSC in case an International voyage to bring a ship not engaged in international voyages purchased from abroad to the interior of a country in accordance with Ch. 14 of 'Enforcement Regulations of National law'. In other words, Apart from importing and using it as a domestic vessel, ISPS exemption is available only if the ship is not use internationally at the time of purchasing. Please note that we have not been delegated for MLC exemption by the Korea Administration.

**Q: Is it possible to conduct an Interim audit of new established company that is operating for Korea flagged vessels even though it is not registered as a 'Safety Management Agency'?**

A: The evidence of 'Maritime Transport operator' or 'Safety Management Agency' is included in the common documents for submission of ISM Company Interim audit. However, it is not clear regarding an exceptive clause. So, we discussed with 'Ministry of Oceans and Fisheries' of Korea, and they decided that the evidence of 'Safety Management Agency' is not required in ISM Company Interim audit because it is not applied in this law (the company don't operate at that time). Hence, the audit could be carried out without it in case of ISM Company interim audit.

**Q: In case of Korean ship, is it possible to carry out interim audit if the ship is not registered in the maritime cargo/passenger transportation business or safety management agency?**

A: In case of Korean flagged ship, interim audit can be carried out even if the ship is not registered in the maritime cargo transportation business or maritime passenger transportation business or safety management agency. However, the certificate can only be issued when the maritime cargo transportation business registration certificate or maritime passenger transportation business license or safety management agent registration certificate registered with the ship is submitted in accordance with the relevant provisions of the Maritime Safety Act.

**Q: Remarks of Ch.16 [Table 3] of 'Enforcement Ordinance of Maritime Safety Law' have stipulated that a Designated Person who manages the Korea flagged vessels shall have more than one year of onboarding career. What is the standard of onboarding experience?**

A: In case of the company with international license, this means more than one year's experience of onboarding a vessel with a license of a 2nd class officer, 2nd class engineer or 2nd class operator. Hence, the experience of onboarding with a license lower than of 2nd class is not applicable.

**Q: Regarding above question, in case of the company operating international voyage ship, is it impossible the person who holds the 3rd class license to become the Designated Person forever?**

A: Ch.16 [Table 3] of 'Enforcement Ordinance of Maritime Safety Law' have stipulated that if there is a man who has worked for 3 years or more as a Safety Manager for ships engaged in international voyages, he can perform the duties of the Designated Person.

ex) Since these regulations were first effected on May 2012, those who are satisfied with the above regulations will applicable after May 2015. And the training for designated person must be completed also.

**Q: Does it include the BBCHP or foreign vessels as a basis for calculating the number of Designated Person and Safety Manager in accordance with Ch.16 [Table 3] of 'Enforcement Ordinance of Maritime Safety Law'?**

A: The basis for calculating the number of Designated Person and Safety Manager are counted as pure Korean flagged ships in accordance with Ch.16 [Table 3] of 'Enforcement Ordinance of Maritime Safety Law'. In other words, BBCHP ships are excepted.

**Q: How do calculate the number of designated person and safety officer in company that manages Korean flagged ships?**

A: The number of designated person and safety office is calculated according to the regulations of Maritime Safety Law enforcement table 3 "qualification standard and person of safety management person and safety manager".

Ex.1) When the company manages 13 ocean going Korean flagged ships.

- 1) Designated person: 1person (holding 2nd grade or higher seaman license)
- 2) Safety officer: 5persons (If more than five ships are managed in accordance with the related regulation, one security officer is required per 3 ships. Therefore, 13 is divided by 5 to obtain 4.33, but the decimal point is calculated as 5)
  - Since DP can replace the one safety officer, at least 4 safety officers are required.

Ex.2) When the company manages both 13 ocean going and 25 domestic Korean flagged ships at the same time.

- 1) Designated person: 1person (holding 2nd grade or higher seaman license)
- 2) Safety officer: Calculate each safety office of ocean-going ships and domestic ships
  - Ocean going ship: 5persons
  - Domestic ships: 5persons (If more than 16 domestic ships are managed in accordance with the related regulation, one safety manager is required for every 6, so 25 is divided by 6 to obtain 4.16, but the decimal point is calculated as 5)
  - Ocean going 4persons/domestic 5persons or ocean going 5persons/domestic 4persons because DP can replace only one safety officer of either ocean going or domestic ship.

**Q: What is the ship safety manager system that will be implemented in 2024?**

A: In order to ensure professionalism in the performance of the Designated Persons or Safety Officers appointed by the company for the implementation of the safety management system, a ship safety manager system was legislated as a national qualification so that only those who

obtained the ship safety manager qualification could appoint the Designated Persons or Safety Officers.

## Appendix: Excerpts from Korean laws related to the safety management system

### 1. Qualification standards for Designated persons and safety manager (Annex 3 of the Enforcement Decree of the Maritime Safety Act)

Division		Place of business of ships engaged in international voyages	A place of business of a ship not engaged in international voyages
Qualification criteria	Career standard	DP A person who has experience falling under any of the following subparagraphs 1. 2nd grade navigator, 2nd grade engineer or 2nd grade Overseas vessels with a license above the operating company Or at least 3 years in the business work experience 2. More than 3 years as a safety manager for an international voyages vessel work experience	Experience of working for at least 2 years in a ship or the relevant business place with a license of a level 4 navigator, a level 4 engineer, or a level 4 operator or higher
		Safety Manager Experience of working for 2 years or more in an offshore vessel or the relevant business place with a license of 3rd class navigator, 3rd class engineer, or 3rd class operator or higher	
	Education standard	DP Completion of more than 16 hours of training	Completion of more than 14 hours of training
		Safety Manager Completion of more than 14 hours of training	Completion of more than 12 hours of training
Personnel	DP	1 or more	1 or more
	Safety Manager	4 or less: 1 per 2	8 or less: 1 per 4
		5 or more: 1 or more for every 3	9 or more and 15 or less: 1 or more in every 5
			16 or more: 1 or more in every 6

### Remark

1. The qualification standards for Designated person and safety managers must meet both the career standards and training standards according to the table above.
2. The work experience in the table above must include at least one year of experience on board.
3. Education in accordance with the educational standards in the table above shall be provided by the government agency as determined and announced by the Minister of Oceans and Fisheries.
4. A person in charge of Designated person may concurrently serve as a safety manager.
5. If there is one ship belonging to the workplace (2 or less for domestic ships), the ship owner may perform the duties of a safety management manager even if he/she does not meet the career standards.
6. The qualification standards and number of persons in charge of safety management in the case where there are both external and internal vessels at one place of business shall follow the classification of each of the following items.
  - 가. Designated person: Apply the standards for out-of-bounds vessels.
  - 나. Safety management manager: The qualification standards and personnel for internal and external vessels are applied respectively.

2. Examples of central non-conformities (Ministry of Oceans and Fisheries Ordinance, Regulations on Certification Examination Affairs, Attached Table)

Division	Major Non-conformity
1. Basic policy on safety and environmental protection at sea	<ul style="list-style-type: none"> <li>a. Safety management goals such as safe operation of ships and provision of a safe working environment and policies to achieve those goals are not set</li> <li>b. Non-implementation or non-maintenance of the safety management policy set in a. and unconfirmed whether the safety management policy is implemented or maintained</li> <li>c. Failure to evaluate all identified risks to the vessel, personnel and environment and not establish relevant procedures</li> <li>d. In the case of a safety management agency, when objective evidence of non-cooperation between management entities such as ship owners, ships, and seafarers is confirmed</li> </ul>
2. Matters concerning the responsibility and authority of the shipowner	<ul style="list-style-type: none"> <li>a. Responsibilities and authorities of ashore and crew, and non-regulation of mutual relations</li> <li>b. Non-provision or insufficient provision of resources and land support necessary for the performance of the duties of the DP and safety manager</li> <li>c. Insufficient number of DP and safety manager in accordance with the Enforcement Decree [Annex 3]</li> <li>d. When objective evidence of insufficient will and understanding of the shipowner for the safety management system is confirmed</li> </ul>
3. Matters concerning the appointment and duties of the person in charge of safety management	<ul style="list-style-type: none"> <li>a. Failure to meet the qualification standards for safety managers (responsible) according to the Enforcement Decree [Annex 3]</li> <li>b. When the DP and safety manager do not monitor the ship's safe operation and pollution prevention activities</li> <li>c. When it is not confirmed whether the resources and ashore support necessary for the safe operation of ships and pollution prevention are provided appropriately.</li> <li>d. In case the person is not familiar with the responsibilities and duties in relation to the establishment and implementation of the safety management system</li> </ul>

<p>4. Matters concerning the captain's responsibilities and authority</p>	<ul style="list-style-type: none"> <li>a. The captain's overriding authority and responsibility are not regulated</li> <li>b. In case the captain is unaware of or does not actually exercise the overriding authority of A.</li> <li>c. When objective evidence is confirmed that the captain's overriding authority was violated by the company</li> <li>d. Sailing route setting and vessel operation without considering weather conditions</li> <li>e. Overload/Overboard</li> <li>f. Master's review of ship safety management system (SMS) not implemented</li> </ul>
<p>5. Matters concerning the arrangement and operation of manpower</p>	<ul style="list-style-type: none"> <li>a. Where the captain does not have the appropriate qualifications to command maritime personnel</li> <li>b. When a crew does not possess the relevant qualifications in accordance with domestic and foreign laws</li> <li>c. In case the education and training procedures necessary to support the safety management system have not been established or the relevant personnel have not performed the training</li> <li>d. In case the person in charge does not know or does not follow the handling procedures for oil used in ships, such as fuel oil</li> <li>e. In case the person in charge cannot operate the emergency communication device (GMDSS equipment)</li> <li>f. If the person in charge does not know how to operate the radar, or even if he does know how to operate, he cannot determine whether the ship is likely to collide.</li> <li>g. When a person engaged in special work (closed place/high place/hot work, etc.) does not know safety procedures or does not follow safety procedures</li> <li>h. Failure to provide essential instructions before departure for new and new transfer employees</li> <li>i. When a maritime employee fails to communicate effectively when performing SMS-related tasks and fails to implement the language set as a common language</li> <li>j. In case the marine personnel who are essential for the safe operation of the ship are not on board according to the level set by the Convention or domestic laws</li> </ul>

	<p>k. Where the seafarer's knowledge of the relevant duties is significantly insufficient;</p>
<p>6. Matters related to shipboard operation plan</p>	<p>a. In case the superior officer does not recognize the DP, does not know the means of contact, and cannot actually be contacted</p> <p>b. In case documents related to SMS directly related to human safety including emergency response and marine environment pollution are in the working language or in a language that crew does not understand</p> <p>c. If the person in charge is unaware of the management procedure for Passengers subject to special protection management or does not follow the procedure (limited to passenger ships)</p> <p>d. In case the self-operating control standards of ship are not set or the standards set are not complied with</p> <p>e. In case the ship continues to navigate without comprehensively judging the continuity of navigation in consideration of the maritime and weather conditions, even if it meets the self-operation control standards, resulting in a serious risk to human life or safety</p>
<p>7. Matters concerning the establishment of emergency measures</p>	<p>a. Non-establishment of exercises and training procedures for emergency response or non-performance of relevant training by related personnel</p> <p>b. In case the relevant personnel are not familiar with emergency response training such as firefighting and evacuation, or have not conducted emergency response training</p> <p>c. In case the emergency towing procedure is not established or the relevant personnel do not understand the procedure (limited to the international voyage vessel)</p> <p>d. When a crew member, such as an oil tanker or chemical carrier, does not understand the oil vapor removal operation and cargo hold cleaning procedure, or does not perform the operation in accordance with the relevant procedures</p>

<p>8. Matters concerning the reporting and analysis of accidents, dangerous situations, and defects in the safety management system</p>	<p>a. When the captain or shipping company does not notify the local government or the maritime safety security office of the occurrence of a marine accident</p> <p>b. If the same defect is repeatedly pointed out from the previous PSC (Port State Control) inspection</p> <p>c. In case of failure to establish procedures to prevent recurrence of marine accidents and nonconformities</p> <p>d. In case of non-compliance with the decision (recommendation, order) of the Maritime Safety Tribunal to improve the implementation of the safety management system without justifiable reasons</p>
<p>9. Matters concerning the maintenance of ships</p>	<p>a. In case the inspection of critical equipment, systems and spare facilities is not included in SMS's daily maintenance work or the inspection is not properly performed</p> <p>b. When the maintenance procedure does not satisfy the requirements of the compulsory rules and regulations, or when the related accident or incident occurs because the maintenance procedure is not implemented according to the maintenance procedure, or when the same type of incident or accident recurs due to insufficient maintenance</p>
<p>10. Matters related to document and data management</p>	<p>In case there is no or invalid statutory certificate such as safety management document or agreement certificate</p>
<p>11. Confirmation, review and evaluation of shipowners on the safety management system</p>	<p>a. In case management review is not carried out</p> <p>b. In case internal examination has not been conducted (In the case of ships subject to Annex 11 No. 2, if monthly discharge is not carried out. However, if the inspector in charge deems it unavoidable, it must be conducted once within two months)</p> <p>c. In case the workplace has not undergone periodic verification of those who have been entrusted with the work of the workplace in relation to the safety management system</p>

## II. ISPS (International Code for the Security of Ships and of Port Facilities)

### 1. Ship Security Audit and Approval of Ship Security Plan

**Q: Re-approval by SSP revision**

**1) Could KR re-approve the SSP which has fully approved by other Recognized Security Organization (RSO) ?**

A: As re-approval is only possible by RSO which has fully approved, KR can't re-approve. The re-approval means that the entire content of the SSP meets the requirements of the ISPS Code and, that the amendment also meets the requirements of the ISPS Code. Thus KR can't review only the revised content and approve the SSP. For your reference, the RSO which has fully approved may request the approval to other RSO. However, in this case, it is not request for SSP revision, but entire contents of SSP. Thus, additional shipboard security audit is required to confirm the implementation of security system in accordance with newly approved SSP. Although, the SSP was re-approved by the RSO which has originally approved, The RSO may consider the additional shipboard security audit depending on the revision contents.

**2) If it is different between SSP approval RSO and ISPS audit RSO, what is receipt format that the SSP was received at the Flag administration?**

A: It is not any specific receipt format and it is enough to prove that the SSP has been submitted to RSO for approval. In case of KR, the receipt has been provided by e-Mail.

**3) Does the SSP can be used by other SSP which is partially revised the information in SSP, such as name of ship/company?**

A: The SSP has to be prepared on the basis of ship security assessment (SSA). Thus, other SSP which is revised name of ship or company can't be used.

**Q: In case where the information in the SSP such as G/T, Name of CSO, or contact point has Been simply revised, it is charged for re-approval?**

A: In case where the information in the SSP such as G/T, Name of CSO or contact point has been simply revised, we can re-approve with small charge.

Also, in case where the information is in the pages which are not endorsed by KR, the company can revise autonomously. In the other, in is charge to revision for security system and a lot of revisions.

Please refer to the below SSP Approval Scenarios, Part II ISPS Audit, Guidance for Convention Audit which reflected into IACS PR24(Procedural Requirements for ISPS Code Certification).

### SSP Approval Scenarios

No.	Scenarios	Type of Approval	Scope of review	Documents issued
1	New ship Newly introduced ship	Initial approval	ISPS Code A & B 8.1~13.8 & Flag requirements	SSP Approval, SSP Approval Letter
2	Change of Flag	Initial approval	ISPS Code A & B 8.1~13.8 & Flag requirements	SSP Approval, SSP Approval Letter
3	Change of Company	Initial approval	ISPS Code A & B 8.1~13.8 & Flag requirements	SSP Approval, SSP Approval Letter
4	Change to RSO from a Classification Society holding a QSCS cert.	Initial approval (on request of Company)	ISPS Code A & B 8.1~13.8 & Flag requirements	SSP Approval, SSP Approval Letter
5	Change to RSO from a Classification Society not holding a QSCS cert.	Initial approval	ISPS Code A & B 8.1~13.8 & Flag requirements	SSP Approval, SSP Approval Letter
6	Change in IMO ship type	Re-approval	ISPS Code A & B 8.1~13.8 & Flag requirements	SSP re-approval, Amended SSP Approval letter
7	Change of security equipment	Re-approval	Changed part	SSP re-approval, Amended SSP Approval letter
8	Change of description related to ISPS Code A 9.4	Re-approval	Changed part	SSP re-approval, Amended SSP Approval letter
9	Change of ship's name	Re-approval	Changed part	SSP re-approval, Amended SSP Approval letter
10	Change of Company name and/or address	Re-approval	Changed part	SSP re-approval, Amended SSP Approval letter

**Note: The above should apply in the absence of any instructions to the contrary from the Flag Administration**

**Q: A SSP approval be compulsory when transfer of certification body?**

A: It's not mandatory. If an SSP approved by RSO recognized by the flag country or flag country is provided, this is acknowledged. However, for the convenience of the company, it can be approved for the first time if requested.

**Q: In case that ISM(DOC or SMC) or ISPS be certified by class or other body which were not certified QSCS, SSP can be approved?**

A: There are no special restrictions. Yes. In the case of Panama flag country ships, DOC, SMC or ISSC certification were issued to other government agencies other than QSCS certification. Even in this case, SSP approval is possible if the company applies.

**Q: In case that the ISPS audit for Korean flagged vessel has been conducted outside Korea, how the expiry date of security certificate is assigned?**

A: The expiry date of security certificate issued by KR outside Korea

- 1) Initial/Renewal security shipboard audit – short term International Ship Security Certificate with 3 month validity
- 2) Interim security shipboard audit - interim International Ship Security Certificate with 3 month validity

\* ISPS audit for Korean flagged ship Workflow

The company send the audit application to the jurisdiction regional office of oceans and fisheries of port of registry (hereafter regional office) → The regional office send official notification to KR → KR carry out ISPS audit outside Korea → KR issue short or interim security certificate after audit → The issued cert. and report send to KR Head office → KR Head office send the cert. and report to the regional office after verification → Regional office issue full term security certificate or interim security certificate and send the original certificate to the Company directly.

**Q: In case where the ISPS audit for panama flagged vessel has been conducted, how is the ISSC issued?**

A: PMA only authorized issuance of short term ISSC validity not exceeded five(5) months to the RSOs when the ISPS renewal audit was completed. So, the company should directly request a

full term ISSC through the online application (<http://certificates.amp.gob.pa/certificates>) in accordance with MMC-205. However, the RSO could not issue short term ISSC in case of ISPS initial audit.

**Q: Can Master conduct Ship Security Assessment ?**

A: 1. Related requirement

Ship security assessment is carried out by persons with appropriate skills to evaluate the security of a ship in accordance with ISPS Code Part A/Sec.8.2

2. If the Master completed the training course containing SSA curriculum, he/she can carry out SSA.

\* KR's CSO/SSO training course contains a SSA curriculum.

**Q: In case where SSP is prepared in working language and English, which version is endorsed ?**

A: English version of SSP will be endorsed only.

**Q: Recording communication concerning a ship security**

A: A communications relating to the security of the ship means the direct security of the ship such as specific threats to the ship or to port facilities the ship is, or has been, not general communication, i.e. ship's position, ETA.

**Q: In case where total number of crew is changed frequently, Dose the security duty organization chart and emergency response organization chart in the SSP which is different with actual organization use for training on-board ?**

A: The security system can't be revised without approval of Flag Administration in accordance with ISPS Code 9.5 and 19.1.4. Thus, it can't be used for training on-board and, if the security system should be revised by the change of number of ship's crew, the SSP should be re-approved.

**Q: With regard to the security exercise as per the ISPS Code B/13.7, in case of the company managing a lots of ship (e.g. 30 ships), the exercise for all ships can't be done. Thus the exercise for one vessel is actually conducted only and the training material including**

**exercise result is distributed to the other vessels. Is it possible to be accepted ?**

A: There are 4 types of exercise in the ISPS Code as following;

- Full Scale;
- Live;
- Tabletop simulation; or
- Seminar

And exercise requires the participation of company security officers, port facility security officers, relevant authorities of Contracting Governments as well as ship security officers and test communications, coordination, resource availability, and response.

Thus, if there is not specific exercise Flag requirements, the circulation of training material is not exercise in accordance with ISPS Code B/13.7 and any exercise among the 4 types above should be conducted.

**Q: Does an internal audit is to be conducted before ISPS initial shipboard audit ?**

- A: 1) The company security officer has established the necessary arrangements for internal audits, through which the company security officer is satisfied that the ship will successfully complete the initial audit, within 6 months. Thus the ISPS auditor shall verify that the internal audit is conducted as per the implementation plan during the initial audit.
- 2) If the internal audit is not conducted without any specific reason, the ISPS auditor may identify the failure. In the other, if the internal audit is planned after initial audit, the ISPS auditor should recommend that the internal audit is done within planned date.

**Q: Does the SSO always stay on-board ?**

A: There are not clear grounds about obligations for stay on-board of SSO in the ISPS Code. However, considering the security treats to vessel increase staying berth, rather than ship is underway and SSO has a significant responsibility for security, the SSO is difficult to leave the ship without alternative. Actually, some Flag Administration, such as Cyprus, requires to appoint the alternative SSO and also IMO has concerns the matter about SSO in death. Thus the appointment alternative SSO who has same qualification and knowledge of original SSO is recommended.

**Q: Flag administration requirements relate Alternative SSO**

- A: 1. As the alternative SSO should conduct equivalent work and responsibilities, the alternative SSO has same knowledges and training.
2. Please refer to the following flag requirements for SSO of Panama, Liberia and Cyprus
- 1) PANAMA : SSO is recommended to appoint more than 1 senior officer
  - 2) LIBERIA : SSO is appointed more than chief officer/first engineer and recommended to appoint the alternative SSO
  - 3) CYPRUS : The alternative SSO shall be appointed and ranks of SSO(including Alternative) shall be included in the SSP. In case where the SSO(including Alternative) is appointed the engineer, the overriding authority for all departments of ship shall be specified in the SSP.

**Q: How to carry out ship security drill ?**

A: The Flag Administration should define the number of drills that should be carried out in each drills. The ISPS Code specified the interval of training, but there is no further guidance. As the ISPS Code defines the drills and all kind of security drills can't be done in one time, if there is specific requirements required by Flag Administration, it should be followed. In the other, if not, two or three kind of security drills are to be conducted in one time subject to all defined drills in SSP are completed at least one time in 1 year. It also can be applied to the case that more than 25 percent of the ship's personnel has been changed.

**Q: How to control the conflict area between security and safety in the SSP ?**

A: The SSP should ensure that there are clearly established policies and practices to control access to all restricted areas them in accordance with ISPS Code B 9.19. With regard to the control access procedure, the security activities for each security levels are necessary to implement. However, the minimum security measures for maintaining security shall be established. (e.g. : cable banding of restricted area with intensive patrol etc.)

**Q: How to control ship's outside door related to ship security ?**

A: Relevant ISPS Code B/9.14.7 : the SSP should establish the security measures to control access to the ship, where the following may be applied securing, by locking or other means, access to unattended spaces adjoining areas to which passengers and visitors have access.

Following the requirement above, when she is calling in the port, all doors of accommodation identified restricted area should be locked by appropriate internal measures or other means such as cable-banding locking etc.

**Q: Does any piracy procedure contain the SSP ?**

A: The citadel procedure, private armed security personnel boarding procedure and BMP(Best Management Practices) implementation procedure in the SSP is not mandatory. However, recently, Marshall Islands, Liberia, Panama requires to established the relevant procedure referring the specific instruction issued by Flag Administration when the vessel transit the High Risk Area. In this regard, please refer to IMO MSC Circular 1334, 1337, 1405, 1406. In addition, some of the tanker management companies are controlled Vessel Hardening Plan against Piracy in the SSP in accordance with revised SIRE VIQ. Requirement.

**Q: Does the Panama flagged vessel which is operating domestic waters in Korea implement ISPS audit ?**

A: In response of KR's inquiry, PMA officially replied that the foreign vessel which is operating domestic waters in Korea should follow the national law of Korea. Even if the foreign vessel operating domestic waters is not applied ISPS code in accordance with ISPS national law and international convention(SOLAS), it is recommended that the vessel implements ISPS audit by the RSOs authorized PMA in order to prevent conflicts or deficiency of PSC in Korea.

**Q: Does the cyber risk management reflect into SSP ?**

A: 1) The IMO adopted Resolution MSC.428(98) regarding Cyber security in the session of MSC 98. The key sentence is as follows;

The resolution encourages administrations to ensure that cyber risks are appropriately addressed in existing **Safety Management Systems (as defined in the ISM Code) not later than the first annual verification of the company's Document of Compliance after 1 January 2021.**

2) Some of the Administrations such as Marshall Islands and Panama are urging the company to establish cyber risk management in accordance with MSC.428(98). However, there is no further specific regulation for amendment of SSP reflected cyber risk management until now. For reference, some of the European shipping companies such as Songa ship management requested amendment of SSP reflected cyber security voluntarily.

**Q: Issuing of ISSC procedure, when conducting a transfer of certification body of the Panama's vessel?**

A:

- 1) Starting January 1st, 2020, all Recognized Security Organizations (RSOs) should notify the change of RSO to this Administration [isps@amp.gob.pa](mailto:isps@amp.gob.pa) and complete the 'Notification form for Transfer of ISPS Certification.
- 2) After the vessel has successfully completed the verification, the surveyor or auditor must endorse the existing ISSC on board and it will not be necessary to reissue the certificate by the Panama Maritime Authority.
- 3) It will be necessary that the Recognized Security Organization send us copy of the audit report and the ISSC duly endorsed to the following email [isps@amp.gob.pa](mailto:isps@amp.gob.pa), in order to update the new Recognized Security Organization (RSO) responsible of the ISPS certification on board.

**Q: In case that a vessel was classed at non-QSCS class, SSP approval or/and ISPS audit be conduct?**

A: In principle, KR does not conduct ISPS audit or/and SSP approval for ships. However, this is not the case if there are special regulations from the administration.

**Q: Are there any special requirements of Korean flagged vessel compare with ISPS Code?**

A: There are qualification of SSO, special case of navigation when ship didn't be provided ISSC, a retention period of DOS, interval of internal audit & etc.

A-1: In order to ensure the efficient execution of the security duties for each ship on international voyage owned, managed or operated by him/her, the owner of ships on international voyage shall designate a person meeting the qualifications, such as specialized knowledge prescribed by Ordinance of the Ministry of Oceans and Fisheries, from among the seamen of a ship under his/her control as a security officer.

A-2: No one shall use ships for navigation that fail to keep international ship security certificates, etc. or keep international ship security certificates, etc., the validity of which has been suspended: Provided, That in a case where such ships need to be temporarily used for navigation due to unavoidable circumstances as prescribed by Ordinance of the Ministry of Oceans and Fisheries, this shall not apply.

A-3:

- 1) Ship security officers and port facility security officers may draft and exchange an agreement on detailed security measures (hereinafter referred to as "security agreement") to be mutually performed in the course of ship/port interface or mutual activities between ships.
- 2) Where grounds prescribed by Ordinance of the Ministry of Oceans and Fisheries exist, such as the occurrence of a security incident, etc. notwithstanding paragraph (1), the Minister of Oceans and Fisheries may recommend ship security officers and port facility security officers to draft and exchange a security agreement. In such cases, ship security officers and port facility security officers shall comply therewith except under special circumstances.
- 3) Such matters as the methods of drafting a security agreement, procedures therefor, etc. shall be prescribed by Ordinance of the Ministry of Oceans and Fisheries.

A-4:

- 1) Each owner of ships on international voyage and each owner of port facilities shall designate a person with specialized knowledge in security as an internal security examiner to implement internal examinations at less than yearly intervals.
- 2) The details of, and procedures for, an internal security examination, qualifications as an internal security examiner, etc. referred to in paragraph (1) shall be prescribed by Ordinance of the Ministry of Oceans and Fisheries.

## 2. SOLAS XI-1 / XI-2 and Others

### Q: Confirmation of installation for SSAS on the dual classed ship

A: 1. Question

- 1) KR & NK dual classed Oil Tanker
- 2) DNV-GL carried out ISPS audit, Does KR carry out survey for SSAS installation?

2. Answer

Recognized Security Organization (RSO) for ISPS audit can carry out survey for SSAS installation only.

### Q: When the ITC is different with national tonnage, how to apply ISPS Code

A: During the MSC 80, followings have been adopted;

1. Effective Date : 01 July 2008
2. ISPS Code shall be applied on the basis of ITC regardless of the built date of ship

★ In case where the company request to issue statement that she is not applicable because the ITC is different with national tonnage, please be careful not to issue it referring the requirement above.

### Q: How to test the SSAS during the ISPS Audit ?

A: 1) If there is dummy test function, dummy test can be accepted. However, if not, the actual SSAS transmission test should be done during the ISPS Audit.

2) In this case, the SSAS test requirement of the relevant Flag Administration should be confirm before test

### Q: How to manage the Continuous Synopsis Record (CSR) when ship is sold ?

A: As CSR shall be always on-board, the seller shall provide buyer with original CSR. There is not further requirement for ship owner's responsibilities in the ISPS Code and related

convention. In order to prevent PSC deficiency, buyer also shall check the original CSR on board the ship.

### **Q: SSAS Test procedure for Panama flagged ship**

A: From 1st January 2018, annual SSAS test is to be done through the use of a new electronic platform for the supply and operation of the Ship Identification and Monitoring System, developed by PMA. At subsequent ISPS verification, the RSO will examine the records of activities on the SSAS equipment, as specified in the ISPS Code A/10.1.10, witness a complete security alert test and verifying the operational requirements and in case of a SSAS. (MMC 133)

### **Q: SSAS Test procedure for Marshall Islands flagged ship**

A: 1) Effective 01 April 2017, the Republic of the Marshall Islands (RMI) Maritime Administrator will no longer receive SSAS alerts directly from any vessel and this reserves Administrator involvement to only those SSAS transmissions that are real alerts, which are to be immediately forwarded by the Company to the Administrator at: [dutyofficer@register-iri.com](mailto:dutyofficer@register-iri.com)

2) Company or the Company-appointed, qualified third party should acknowledge respond to all test messages directly.

### **Q: Requirement of CSO Refresher Training**

A: There is no specific requirement or regulation in international convention and ISPS national law with regard to the CSO Refresher Training. For reference, at the observation of TMSA audit by the oil major, some of the tanker management companies requested CSO Refresher training course to the KR.

### **Q: Company Security Officer(CSO) training certificate**

A: 1. IMO issued the guideline for CSO which is mentioned the knowledge for CSO and doesn't has any mandatory requirements. Thus each Flag Administration also doesn't issue any requirement for CSO (training) certificate.

2. In the other, in case of SSO, in accordance with IMO RESOLUTION MSC.209(81), SSO shall has competency satisfied with STCW A-VI/5 and maintain the certificate prove the competency.

**Q: Does the ship owned by Government should maintain the CSR ?**

A: Every ship to which chapter I applies shall be issued with a Continuous Synopsis Record in accordance with Regulation 5, paragraph 1 of SOLAS chapter 11-1. Also, considering the Regulation 1, paragraph (a) and Regulation 3, paragraph (a) of SOLAS chapter 1, the ship owned by Government for international voyage is necessary to maintain the CSR on-board. However, since Flag Administration has the responsibilities and policy for CSR, the detailed requirements should be confirmed from the relevant Flag Administration.

**Q: Does the vessel for domestic voyage should maintain the Declaration of Security (DoS) calling in domestic port ?**

- A: 1. In case where the vessel for domestic voyage is calling in domestic port which is not applied ISPS Code, DoS is not required to maintain. However, if the ship has a plan of international voyage by change of sailing license, DoS is recommended to maintain to avoid the unnecessary PSC deficiency and to promote ship's security.
2. As the Port Facility Security Officer (PFSO) is not appointed, there is not counterpart to complete. In this case the shipboard SSO make DoS only and remark on the DoS that absence of counterpart.
  3. No.2 above can be applied the case that ship is calling in any port for international voyage.

### III. MLC (Maritime Labour Convention)

#### 1. General

**Q: What is the scope of application on MLC, 2006?**

A: This convention applies to all ships (It means a ship other than one which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply), whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing, ships of traditional build such as dhows and junks, warships or naval auxiliaries. In addition, this convention applies to any seafarer who is employed or engaged or works in any capacity on board ship to which this convention applies.

**Q: What is the scope of inspection on MLC, 2006?**

A: 500 gross tonnage or over, engaged in international voyages (It means a voyage from a country to a port outside such a country); and  
500 gross tonnage or over, flying the flag of a Member and operating from a port, or between ports, in another country.

The Maritime Labour Certificate and Declaration of Maritime Labour Compliance (DMLC) part I & II shall be onboard an above-mentioned vessels.

**Q: What is the kind and procedure of inspection?**

A: ① Interim Inspection

; From the date of completion of inspection, the interim certificate having validity period of 6 months should be issued, it is applied in the following cases.

- where a new ship is delivered
- where a ship changes flag
- where a shipowner assumes responsibility for the operation of a ship which is new to that shipowner

- where a ship resumes the operation after it is out of service more than 6 months due to lay-up, etc
  - where the ship type is changed or added
- ② Initial Inspection
- ; It is possible that the shipowner's measures specified in MLC have been implemented more than at least 1 month. At this time, the Declaration of Maritime Labour Compliance (DMLC) part II is generally approved by inspector and Maritime Labour Certificate(MLC) having validity period of 5 years is issued.
- ③ Intermediate Inspection
- ; It is to be implemented between an initial(or renewal) inspection and renewal inspection, and it should be carried out between 2<sup>nd</sup> anniversary date and 3<sup>rd</sup> anniversary date of the Maritime Labour Certificate
- ④ Renewal Inspection
- ; It could be carried out within 3 months before the expiry date of the Maritime Labour Certificate
- ⑤ Additional Inspection
- ; It means an inspection except the interim, initial, intermediate and renewal inspection, and it is applied in the following cases
- when the certification body is transferred
  - when substantial changes of accommodation have been made
  - when an inspection is requested by the shipowner against PSC deficiency (if necessary, it requests prior approval from administration)
  - when the serious deficiency is downgraded

**Q: Regarding due date to be rectified on deficiency, what is different procedure between Korean flagged vessels and non-Korean flagged vessels?**

A: For Korean flagged vessel, after the completion of corrective action(Due date to be rectified, max. within 25 days), concerned certificate should be issued or endorsed. On the other hand, regardless of the completion of corrective action(Due date to be rectified, max. within 3 months), concerned certificate should be issued or endorsed if the plan of corrective action is established and accepted from inspector and shipowner.

**Q: What is meant of Substantial equivalencies mentioned in DMLC Part I?**

A: According to Article VI, paragraphs 3 and 4, of this Convention, a Member which is not in a position to implement the rights and principles in the manner set out in Standard may implement concerned Standard through provisions in its laws and regulations or other measures which are substantially equivalent to the provision of Standard. In this case, concerned content should be noted in DMLC Part I issued by flag state.

**Q: What is meant of Exemptions mentioned in DMLC Part I?**

A: If the exemption granted by the competent authority as provided in Title 3(Accommodation, Recreational Facilities, Food and Catering) of Convention is existed, concerned content should be noted in DMLC Part I. The exemption as provided in Title 3 is as below;

① Standard 3.1.9(a)

- In ships other than passenger ships, an individual sleeping room shall be provided for each seafarer; in the case of ships of less than 3,000 gross tonnage or special purpose ships, exemptions from this requirement may be granted by the competent authority after consultation with the shipowners' and seafarers' organizations concerned.

② Standard 3.1.9(m)

- The master, the chief engineer and the chief navigating officer shall have, in addition to their sleeping rooms, an adjoining sitting room, day room or equivalent additional space; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations concerned.

③ Standard 3.1.10(a)

- Mess room shall be located apart from the sleeping rooms and as close as practicable to the galley; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations concerned.

④ Standard 3.1.11(b)

- There shall be sanitary facilities within easy access of the navigating bridge and the machinery space or near the engine room control centre; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations concerned.

⑤ Standard 3.1.15

- All ships shall be provided with separate offices or a common ship's office for use by deck and engine departments; ships of less than 3,000 gross tonnage may be

exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations concerned.

- ⑥ According to Standard 3.20, each Member may, after consultation with the shipowners' and seafarers' organizations concerned, exempt ships of less than 200 gross tonnage where it is reasonable to do so, taking account of the size of the ship and the number of persons on board in relation to the requirements of the following provisions of this Standard;
- Standard 3.7(b) : Air conditioning
  - Standard 3.11(d) : Washbasin having hot and cold running fresh water in each sleeping room
  - Standard 3.13 : Laundry facilities
  - Standard 3.9(f) and (h) to (l) : Floor area in sleeping room

**Q: Is there some requirements regarding issued date of DMLC Part I and II?**

- A: It is not mentioned in MLC convention. However, according to IACS PR40(Procedural requirements for MLC), the shipowner's date of issue of DMLC Part II shall be on or after DMLC Part I issue date by Administration. For example,
- Issued date of DMLC Part I : 2019.09.01
  - Issued date of DMLC Part II : On or after 2019.09.01

In this regard, we understood that DMLC Part II should be prepared based on DMLC Part I reflecting instruction of flag state.

**Q: Is there some amendments of MLC convention?**

A: There are three amendments as below.

- ① 2014 Amendment (Effective date : 2017.01.18)
- Financial security for abandoned seafarer and shipowner's responsibility
    - ※ As of 18 January 2017, relevant vessels must carry on board certificate or other documentary evidence of financial security as above. In this regard, ILO announced that amended(i.e adding No.15 and 16) DMLC Part I and II shall be kept onboard by the first renewal inspection on or after 18 January 2017. However, it is different depending on instruction of flag state(ex. Marshall Islands requires amended DMLC Part I and II by the initial or first renewal inspection on or after 18 January 2017).
- ② 2016 Amendment (Effective date : 2019.01.08)

- The concerned text was added the end of MLC certificate; After renewal inspection, based on prior authority from flag state, present MLC certificate may be extended not more than five months.
- In order to prevent shipboard harassment and bullying, the concerned text in Guideline B4.3.1 was added. The Guideline is not mandatory in MLC convention so it may be applied voluntarily. However, for Marshall Islands, according to DMLC Part I and Marine Notice 7-049-1, its requirement is applied by force.
  - ※ Guideline B4.3.1
    - ; Account should also be taken of the latest version of the guidance on eliminating shipboard harassment and bullying jointly published by the International Chamber of Shipping and the International Transport Workers' Federation.
- ③ 2018 Amendment (Expected date of enter into force : 2020.12.26)
  - Establishment of mandatory provision regarding seafarer employment agreement and payment of wage during the abduction period  
(Newly added, Standard A2.1.7 and A2.2.7)
  - Establishment of guide to guarantee the right to repatriate seafarers during the abduction period

**Q: Regarding MLC convention, has Hong Kong been in force?**

A: Hong Kong entered into force from 20 December 2018. Accordingly, new DMLC Part I with 2018 version has been issued by Hong Kong administration, and KR has issued MLC certificate for Hong Kong flagged vessels but not issuing statement of compliance(SOC) any longer.

## 2. Title 1 Minimum Requirements for Seafarers to Work on a Ship

### *Regulation 1.1 Minimum age*

**Q: Who decides what work is likely to jeopardize the safety or health of seafarers under the Age of 18?**

A: Under Standard A1.1, paragraph 4, the determination of work that is likely to jeopardize the safety or health of seafarers under the age of 18 is to be undertaken by the competent authority after consultation with shipowners' or seafarers' organizations concerned, in accordance with international standards. Guideline B4.3.10.2 of the MLC, 2006 provides guidance that may be relevant to this issue.

(Guideline B4.3.10.2)

Except where a young seafarer is recognized as fully qualified in a pertinent skill by the competent authority, the regulations should specify restrictions on young seafarers undertaking, without appropriate supervision and instruction, certain types of work presenting special risk of accident or of detrimental effect on their health or physical development, or requiring a particular degree of maturity, experience or skill. In determining the types of work to be restricted by the regulations, the competent authority might consider in particular work involving:

- the lifting, moving or carrying of heavy loads or objects
- entry into boilers, tanks and cofferdams
- exposure to harmful noise and vibration levels
- operating hoisting and other power machinery and tools, or acting as signalers to operators of such equipment
- handling, mooring or tow lines or anchoring equipment
- work aloft or on deck in heavy weather
- night-watch duties
- servicing of electrical equipment
- exposure to potentially harmful materials, or harmful physical agents such as dangerous or toxic substances and ionizing radiations
- the cleaning of catering machinery
- the handling or taking charge of ships' boats

**Q: Can a seafarer under the age of 18 ever be expected to work at night?**

A: Standard A1.1, paragraph 1 of the MLC, 2006, requires that "night work: be prohibited for seafarers under the age of 18. However, where the seafarer training programme would be required to perform duties at night, the competent authority may permit concerned duties after consultation with the shipowners' and seafarers' organization.

**Q: Is there an international standard for determining the hours that constitute "night" or is it up to each country to decide this?**

A: The determination of the hours that constitute - night may vary between countries. However, Standard A1.1, paragraph 2, of the MLC, 2006 provides that it shall cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m.

### ***Regulation 1.2 Medical Certificate***

**Q: Will a medical examination under the IMO's STCW convention meet the MLC, 2006 requirements?**

A: Yes. Standard A1.2, paragraph 3, of the MLC, 2006 states that it is without prejudice to the International Maritime Organization (IMO) Convention, the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended ("STCW"). It also states that a medical certificate issued in accordance with the requirements of the STCW shall be accepted by the competent authority, for the purpose of Regulation 1.2. A medical certificate meeting the substance of those requirements, in the case of seafarers not covered by the STCW, shall similarly be accepted.

**Q: What is the period of validity for a medical certificate?**

A: The MLC, 2006 sets out maximum periods in Standard A1.2, paragraph 7, which states that unless a shorter period is required by reason of the specific duties to be performed by the seafarer concerned or is required under the STCW sets a maximum period of validity at two years unless the seafarer is under the age of 18, in which case the maximum period is one year. A certification of color vision is valid for a maximum period of six years. As indicated these are maximums; a country could have shorter periods of validity.

**Q: Can a seafarer ever work without a medical certificate?**

A: The MLC, 2006 establishes a procedure (in Standard A1.2, paragraph 8) by which, in urgent cases, seafarers in possession of an expired medical certificate can be permitted to work for a limited period. In this regard, competent authority of Korea is not permitted on this issue.

**Q: What happens if a medical certificate expires during a voyage?**

A: Under Standard A1.2, paragraph 9, a certificate that expires in the course of a voyage continues in force until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that the period of extension does not exceed three months.

**Q: Who can issue a seafarers' medical certificate?**

A: Under Standard A1.2, paragraph 4, medical certificates can be issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate.

**Q: Is there a standard form for a medical certificate under the MLC, 2006?**

A: The MLC, 2006 does not require a standard or model form for medical certificates. However, competent authority of Korea is required with a standard form in accordance with Enforcement Ordinance of the Seafarers' Act [Attached Form No.23-2].

**Q: In MLC, who is required to charge medical certificate?**

A: Under Standard A1.2, paragraph 5, the cost of medical certificate shall be borne by seafarer. However, competent authority of Korea requires that its cost shall be borne by shipowner.

### ***Regulation 1.3 Training and Qualifications***

**Q: Does the STCW certification meet the training requirements of the MLC, 2006?**

A: Under Regulation 1.3, paragraph 3 of the MLC, 2006, Training and certification in accordance with the mandatory instruments adopted by the International Maritime Organization must be considered as meeting the requirements of the MLC, 2006.

**Q: Does this training requirement apply to seafarers who are not covered by the STCW?**

A: Regulation 1.3, paragraph 2 of the MLC, 2006 provides that seafarers shall not be permitted to work on a ship unless they have successfully completed training for personal safety on board ship. The question of other training or qualifications for seafarers not covered by STCW requirements would depend on the relevant national requirements for the work the seafarer is to perform on board a ship. For example, for catering personnel, including ships' cooks, the MLC, 2006 sets out some training requirements in Regulation 3.2 and the related Standards and Guidelines.

### ***Regulation 1.4 Recruitment & Placement***

**Q: What is a seafarer recruitment and placement service?**

A: Article II, paragraph 1(h) of the MLC, 2006 defines a seafarer recruitment and placement service as —any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners. In this regard, in the case of competent authority of Korea, a person other than a person who has registered a ship management business pursuant to Article 33 of the Shipping Act shall not be engaged in a seafarer recruitment and placement service for another in accordance with Article 112 of Seafarers' Act.

**Q: What are the shipowners' responsibilities under Regulation 1.4?**

A: Under the MLC, 2006, shipowners are not required to use seafarer recruitment and placement services and may directly recruit seafarers to work on their ship. However where shipowners use a private seafarer recruitment and placement service, they must take steps to ensure that the service is licensed or certified or regulated in accordance with the requirements under Regulation 1.4.

**Q: What happens if seafarers are recruited from a country that has not ratified the MLC, 2006?**

A: Under Regulation 1.4, paragraph 3 and Standard A1.4, paragraph 9 of the MLC, 2006, shipowners who use seafarer recruitment and placement services that are based in countries or territories in which the Convention does not apply must ensure, as far as practicable, that those services meet the requirements of Standard A1.4. The verification methods on this issue may become the inspection by shipowner or third party, and it should be selected by requirement of flag states.

The competent authority of Liberia permits that seafarer recruitment and placement services located in a country or territory that is not party to MLC, 2006 shall be audited and certified by the Administration.

**Q: Can recruitment and placement services charge seafarers fees?**

A: Having regard to Standard A1.4, paragraph 5 of the MLC, 2006, no fees or other charges for seafarer recruitment or placement or for providing employment to seafarers may be borne directly or indirectly, in whole or in part, by the seafarer, other than the cost of the seafarer obtaining a national statutory medical certificate, the national seafarer's book and a passport or other similar personal travel documents, not including, however, the cost of visas, which must be borne by the shipowner.

### 3. Title 2 Conditions of Employment

#### *Regulation 2.1 Seafarers' employment agreement*

**Q: How can a seafarers' employment agreement (SEA) incorporate a collective bargaining agreement?**

A: Regulation 2.1, paragraph 3 of the MLC, 2006 states that —To the extent compatible with the Member's national law and practice, seafarers' employment agreements shall be understood to incorporate any applicable collective bargaining agreements. A seafarers' employment agreement (SEA) could in any event incorporate a collective bargaining agreement (CBA) by using wording to show that the parties (shipowner and seafarer) intend that the whole of the CBA should, to the extent relevant to the seafarer, be considered as forming part of the SEA.

**Q: Who must sign a seafarers' employment agreement (SEA)?**

A: In accordance with Standard A2.1, paragraph 1(a) of the MLC, 2006, the seafarers' employment agreement (SEA) must be signed by both the seafarer and the shipowner or a representative of the shipowner. Except in cases where the applicable national law considers that a particular person, such as the ship's master, has apparent authority to act on behalf of the shipowner, any signatory other than a shipowner should produce a signed —power of attorney or other document showing that he/she is authorized to represent the shipowner.

**Q: Shall the work period be mentioned in seafarer employment agreement?**

A: Standard 2.1, paragraph 4(g)(i) of the MLC, 2006 states that if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the shipowner than for the seafarers. Accordingly, subject to the above requirement, it is not necessary that the work period shall be mentioned in seafarer employment agreement.

However, regarding repatriation in accordance with Standard 2.5, the maximum duration of service periods on board shall be less than 12 months.

### ***Regulation 2.2 Wages***

**Q: Does the MLC, 2006 set a minimum wage for seafarers?**

A: The Convention does not establish a mandatory minimum wage for seafarers, but leaves this question to be dealt with under the national law of the flag State. In this regard, the competent authority of Korea notifies a mandatory minimum wage annually in accordance with Article 59 of Seafarers' Act.

**Q: How frequently are seafarers to be paid?**

A: Seafarers are to be paid at no greater than monthly intervals and in accordance with any applicable collective agreement.

**Q: Can seafarers be charged for the cost of sending wages to family members (allotments)?**

A: This is a matter for flag state implementation. Standard A2.2, paragraphs 3, 4 and 5, provides that seafarers must have a means to transmit all or part of their earnings to their families or dependants or legal beneficiaries; that allotments should be remitted in due time and directly to the person or persons nominated by the seafarers; and that any charge for this service must be reasonable in amount.

### ***Regulation 2.3 Hours of Work and Rest***

**Q: Must both hours of work and rest be regulated?**

A: Standard A2.3, paragraph 2 of the MLC, 2006 requires each country to fix either a maximum number of hours of work which shall not be exceeded in a given period of time, or a minimum number of hours of rest which shall be provided in a given period of time. It is

up to the country to decide which of the two arrangements to choose.

**Q: What is meant by “any 24-hour period”?**

A: The Korean Register applies the requirement of Liberia that “this period of 24 hours shall begin at the time a seafarer starts work immediately after having any period of rest(at least 1 hour), which does not include short breaks”

**Q: Are there any exceptions to the hours of rest or work standards?**

A: Standard A2.3, paragraph 13 of the MLC, 2006 allows flag States to have national laws or regulations or a procedure for the competent authority to authorize or register collective agreements permitting exceptions to the limits on maximum hours of work or minimum hours of rest. Such exceptions shall take account of more frequent or longer leave periods or the granting of compensatory leave for watchkeeping seafarers or seafarers working on board ships on short voyages.

### ***Regulation 2.7 Manning Levels***

**Q: Does the MLC, 2006 establish a minimum manning level for ships?**

A: The MLC, 2006 does not set a specific number of seafarers who must be working on board a ship as this is a matter that the competent authority in the flag State would need to decide for a ship or category of ships. However it set outs some parameters that must be followed when deciding on the manning levels for ships. Standard A2.7 requires every ship to be manned by a crew that is adequate, in terms of size and qualifications, to ensure the safety and security of the ship and its personnel, under all operating conditions, in accordance with the minimum safe manning document or an equivalent issued by the competent authority, and to comply with the standards of the MLC, 2006.

**Q: Is the manning level the same as the manning required in a ship’s “safe manning document” (SMD)?**

A: The answer would depend on the factors a flag State has taken into consideration when



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establishing the SMD levels. If the factors set out in Standard A2.7 of the MLC, 2006, including the need to take account of all the requirements within Regulation 3.2 and Standard A3.2 concerning food and catering, were considered in establishing the SMD, then it may be the same.

## 4. Title 3 Accommodation, Recreational Facilities, Food and Catering

### *Regulation 3.1 Accommodation and Recreational Facilities*

**Q: Do the accommodation requirements of Title 3 apply to existing ships?**

A: Regulation 3.1, paragraph 2, of the MLC, 2006 provides that the requirements in the Code that relate to ship construction and equipment apply only to ships constructed on or after the date when the MLC, 2006, comes into force for the flag State. For ships constructed before the entry into force for the flag State, the requirements relating to ship construction and equipment that are set out in the Accommodation of Crews Convention (No. 92), and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), apply to the extent that they were already applicable, under the law or practice of the Member concerned.

**Q: Can sleeping rooms be located below a ship's load line?**

A: Under Standard A3.1, paragraph 6(c) and (d) of the MLC, 2006, in ships other than passenger ships and special purpose ships, sleeping rooms must be situated above the load line amidships or aft, except that in exceptional cases, where the size, type or intended service of the ship renders any other location impracticable, sleeping rooms may be located in the fore part of the ship, but in no case forward of the collision bulkhead. In passenger ships and special purpose ships the competent authority may, on condition that satisfactory arrangements are made for lighting and ventilation, permit the location of sleeping rooms below the load line, but in no case can they be located immediately beneath working alleyways.

**Q: What are "special purpose ships"?**

A: Special purpose ships are training or other ships constructed in compliance with the IMO Code of Safety for Special Purpose Ships, 2008, and subsequent versions.

**Q: Must seafarers always be given individual sleeping rooms?**

A: Under Standard A3.1, paragraph 9(a) of the MLC, 2006, in ships other than passenger ships, an individual sleeping room must be provided for each seafarer; but, in the case of ships of less than 3,000 gross tonnage or special purpose ships, exemptions from this requirement may be granted by the competent authority after consultation with the shipowners' and seafarers' organizations concerned.

**Q: Does the MLC, 2006 require that cadets have a single cabin?**

A: This situation and terminology may vary between countries. The following answer assumes that the term —cadet refers to a young person enrolled in a training programme to obtain specific qualifications, which may require work experience on board. The MLC, 2006 does not directly address the question of accommodation for cadets as distinct from other seafarers.

**Q: Must seafarers have sleeping rooms on board ships engaged on day trips?**

A: Standard A3.1, paragraph 9 of the MLC, 2006 sets out the requirements where -sleeping accommodation on board ships is required. If a ship is not engaged in voyages where seafarers would need to sleep on the ship then sleeping rooms would not be required.

**Q: Must each seafarer be provided with private sanitary facilities?**

A: Standard A3.1, paragraph 11 of the MLC, 2006 requires ships to have separate facilities being provided for men and women. In addition, in all ships a minimum of one toilet, one wash basin and one tub or shower or both for every six persons or less who do not have personal facilities shall be provided at a convenient location.

**Q: Can the floor area of adjacent private or semi-private sanitary facilities be considered for purposes of calculating the minimum floor area in sleeping rooms?**

A: Standard A3.1 of the MLC, 2006 sets out detailed requirements as to the minimum floor area of sleeping rooms, but does not specify how these areas are to be measured. It

provides, however, some guidance (in Guideline B3.1.5, paragraph 6) that space occupied by berths and lockers, chests of drawers and seats should be included in the measurement of the floor area, but not small or irregularly shaped spaces - which do not add effectively to the space available for free movement and cannot be used for installing furniture.

### ***Regulation 3.2 Food and Catering***

**Q: Must ships' cooks be certified?**

A: The MLC, 2006 does not require that ships' cooks be certified but be trained and qualified.

**Q: Does the MLC, 2006 set any standards for the quality of drinking water on board?**

A: With respect to specific standards for potable (drinking) water, the MLC, 2006 leaves this matter. However, the requirement of Liberia should be noted as follows. For example, the drinking water storage tanks shall be cleaned and disinfected during dry docks and wet docks or every two years, whichever is less, or more frequently, if drinking water tests results indicate contamination. Drinking water loading hoses should be flushed prior to each use and disinfected at least once at intervals of not more than six(6) months. At regular intervals, verification monitoring of drinking water should be done in accordance with WHO Guide. Prior to taking on drinking water, a water quality report should be made available.

## 5. Title 4 Health Protection, Medical Care, Welfare and Social Security Protection

### *Regulation 4.1 Medical care on board ship and ashore*

**Q: What kinds of treatment would be considered as medical care?**

A: For the health protection and medical care, that shipowners are required to provide to seafarers on board their ship, in principle free of charge, in accordance with Regulation 4.1, the MLC, 2006 does not identify any particular treatment – other than \_essential dental care – as this would be a matter for national laws or regulations. Flag States are required to ensure the application to the seafarers of any general national provisions on occupational health protection and medical care relevant to their duties, as well as of special provisions specific to work on board ship; the health protection and medical care must be as comparable as possible to that which is generally available to workers ashore, including prompt access to the necessary medicines, medical equipment and facilities for diagnosis and treatment and to medical information and expertise; it must include measures of a preventive character such as health promotion and health education programmes. Seafarers have the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable. A ratifying State is also required to give access to its facilities to seafarers in need of immediate medical care who are on board ships within its territory.

**Q: Must every ship have a ships' doctor on board?**

A: Under Standard A4.1, paragraphs 4(b) and (c) of the MLC, 2006, ships carrying 100 or more persons(i.e., who will not necessarily all be seafarers) and ordinarily engaged on international voyages of more than three days' duration must carry a qualified medical doctor. National laws or regulations must also specify which other ships are required to carry a medical doctor, taking into account, inter alia, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board. Ships which do not carry a medical doctor must have either at least one seafarer on board who is in charge of medical care and administering medicine as part of their regular duties or at least one

seafarer on board competent to provide medical first aid; such persons must have satisfactorily completed training in medical care that meets the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW).

**Q: What should be in a medical chest?**

A: Standard A4.1, paragraph 4(a) of the MLC, 2006 requires all ships to carry a medicine chest, medical equipment and a medical guide, the specifics of which shall be prescribed and subject to regular inspection by the competent authority; the national requirements must take into account the type of ship, the number of persons on board and the nature, destination and duration of voyages and relevant national and international recommended medical standards. As far as the content of the medical chest and many other related matters are concerned, Guideline B4.1. paragraph 4 refers to relevant international recommendations, including the latest edition of the International Medical Guide for Ships.

### ***Regulation 4.2 Shipowners' Liability***

**Q: What is shipowners' liability?**

A: In addition to providing for health protection and medical care on board and ashore, the MLC, 2006 also, under Regulation 4.2, requires flag States to ensure that all seafarers employed on their ships have material assistance and support from the shipowner with respect to the financial consequences of sickness, injury or death occurring while they are serving under a seafarers' employment agreement or arising from the employment under such agreement. These financial consequences include loss of wages and also medical and other costs. These provisions complement the protection set out in Regulation 4.1 regarding medical care on board ship and ashore and the long term protection under Regulation 4.5 regarding social security.

**Q: What costs are included under shipowners' liability?**

A: Regulation 4.2. paragraph 1 of the MLC,2006 sets out the general principle that seafarers have a right to material assistance and support from the shipowner with respect to the

financial consequences of sickness, injury or death occurring while they are serving under a seafarers' employment agreement or arising from their employment under such agreement.

- the expense of medical care, including medical treatment and the supply of medicines and therapeutic appliances, and board and lodging away from home until the sick or injured seafarer has recovered or until the sickness or incapacity has been declared of a permanent character; where sickness or injury results in incapacity for work, full wages as long as the sick or injured seafarers remain on board or until the seafarers have been repatriated; and wages in whole or in part, as prescribed by national laws or regulations or as provided for in collective agreements, from the time when the seafarers are repatriated or landed until their recovery or, if earlier, until they are entitled to cash benefits under the legislation of the country concerned
- financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard, as set out in national law, the seafarers' employment agreement or a collective agreement
- the cost of burial services in the case of death on board or ashore during the period of engagement
- the cost of safeguarding the property of seafarers left on board by sick, injured or deceased seafarers

**Q: Are there any limits on shipowners' liability?**

A: Under Standard A4.2, national laws or regulations may limit the liability of the shipowner to defray the expense of medical care and board and lodging, as well as the liability to pay wages in full or in part to a period which must not be less than 16 weeks from the day of the injury or the commencement of the sickness.

**Q: Are there any exceptions to shipowner liability?**

A: Under Standard A4.2, paragraph 5, national laws or regulations may exclude the shipowner from liability in respect of:

- injury incurred otherwise than in the service of the ship;
- injury or sickness due to the wilful misconduct of the sick, injured or deceased seafarer;
- sickness or infirmity intentionally concealed when the engagement is entered into.

Standard A4.2, paragraph 6 allows national laws or regulations to also exempt the shipowner

from liability to defray the expense of medical care and board and lodging and burial expenses in so far as such liability is assumed by the public authorities. Guideline B4.2, paragraph 2 recognizes that national laws or regulations may provide that a shipowner ceases to be liable to bear the costs of a sick or injured seafarer from the time at which that seafarer can claim medical benefits under a scheme of compulsory sickness insurance, compulsory accident insurance or workers' compensation for accidents.

**Q: What's the minimum requirement to provide the system of financial security to assure compensation, as provided by Standard 4.2, under national laws and regulations?**

A: According to Standard 4.2.1, paragraph 8, national laws and regulations shall be provided in order to meet the following minimum requirements.

- The contractual compensation where set out in the seafarer's employment agreement shall be paid in full and without delay
- There shall be no pressure to accept a payment less than the contractual amount
- Where the nature of the long-term disability of a seafarer makes it difficult to assess the full compensation to which the seafarer may be entitled, an interim payment or payments shall be made to the seafarer so as to avoid undue hardship.
- The seafarer shall receive payment without prejudice to other legal rights, but such payment may be offset by the shipowner against any damages resulting from any other claim made by the seafarer against the shipowner and arising from the same incident
- The claim for contractual compensation may be brought directly by the seafarer concerned, or their next of kin, or a representative of the seafarer or designated beneficiary

**Q: What information should be included as evidence of financial security (certificate or other document) under Standard A4.2.1?**

A: It shall include the following information;

- Name of the ship
- Port of registry of the ship
- Call sign of the ship
- IMO number of the ship
- Name and address of the provider or providers of the financial security
- Contact details of the persons or entity responsible for handling seafarers' contractual claims
- Name of the shipowner
- Period of validity of the financial security

- An attestation from the financial security provider that the financial security meets the requirements of Standard A4.2.1

### ***Regulation 4.3 Health and safety protection and accident prevention***

**Q: When must a ship's safety committee be established?**

A: A ship's safety committee is to be established when there are five or more seafarers on board the ship concerned.

**Q: What is the qualification of Ship safety representative specified in MLC, 2006?**

A: The Ship safety representative should be appointed or elected to participate in meetings of the ship's safety committee. The SSR should be appointed as one rating from each department for field of work where most ratings are employed in accordance with "Guidelines for implementing the occupational safety and health provisions of the Maritime Labour Convention, 2006. In Korea, the Ship safety officer is specified excluding the Ship safety representative in "Rules on Safety and Health for Seafarers". The ship safety officer should be appointed among engineers who either served as a chief engineer on a ship or has seagoing service of two years or longer to prevent danger of work on a ship and to implement matters prescribed on this rule under Article 82(2) of the Act.

**Q: What should be considered to undertake investigations into the causes and circumstances of all occupational accidents and occupational injuries and diseases resulting in loss of life or serious personal injury, and such other cases specified in national laws or regulations?**

A: The consideration should be given to include the following items as subjects of investigation in accordance with Guideline 4.3.6.

- Working environment, such as working surfaces, layout of machinery, means of access, lighting and method of work
- Incidence in different age groups of occupational accidents and occupational injuries and diseases
- Special physiological or psychological problems created by the shipboard environment

- Problems arising from physical stress on board a ship, in particular as a consequence of increased workload
- Problems arising from and effects of technical developments and their influence on the composition of crews
- Problems arising from any human failures
- Problems arising from harassment and bullying

### ***Regulation 4.5 Social security***

#### **Q: What is social security and social protection?**

A: The notion of social security as it is commonly used within the ILO covers all measures providing benefits, whether in cash or in kind, to secure protection, inter alia, from lack of or insufficient work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; lack of access or unaffordable access to health care; insufficient family support, particularly for children and adult dependants; general poverty and social exclusion. Social security schemes can be of a contributory (social insurance) or non-contributory nature.

Social protection is referred to as the set of public measures that a society provides for its members to protect them against economic and social distress that would be caused by the absence or a substantial reduction of income from work as a result of various contingencies (sickness, maternity, employment injury, unemployment, invalidity, old age, and death of the breadwinner); the provision of health care; and, the provision of benefits for families with children. This concept of social protection is also reflected in the various ILO standards. By definition, social protection is broader and more inclusive than social security since it incorporates non-statutory or private measures for providing social security, but still encompasses traditional social security measures such as social assistance, social insurance and universal social security benefits. It may be noted that there are significant differences among societies and institutions around the world of how they define and approach social protection.

#### **Q: What does the MLC, 2006 require for social security?**

A: The MLC, 2006 requires that all seafarers be provided with social protection. This covers a number of complementary requirements including prevention based approaches in connection with occupational safety and health, medical examinations, hours of work and rest and catering. Social protection is mainly addressed in Title 4 with respect to Medical care (Regulation 4.1); Shipowners' liability (Regulation 4.2) and Social security (Regulation 4.5). Regulation 4.5 and the related Standard A4.5 reflect an approach that recognizes the wide range of national systems and schemes and differing areas of coverage with respect to the provision of social security. Under Standard A4.5, paragraphs 1, 2 and 3, a ratifying country is required to —take steps according to its national circumstances to provide the complementary social security protection, in at least three branches to all seafarers ordinarily resident in its territory.

**Q: What is meant by “branches of social security”?**

A: Branches of social security refer to various types of benefits classified in relation to the contingency which they seek to address and for the support of which they are provided. These social security branches in the MLC,2006 correspond to the nine classical branches of social security laid down and defined in the Social Security (Minimum Standards) Convention, 1952 (No. 102), which should be referred to for guidance on the components and protection required under the respective branches. These nine branches are:

- Medical care
- Sickness benefit
- Unemployment benefit
- Old-age benefit
- Employment injury benefit
- Family benefit
- Maternity benefit
- Invalidity benefit
- Survivors' benefit

## 6. Title 5 Compliance and Enforcement

**Q: What is the list of 16 areas to be certified?**

A: Standard A5.1.3, paragraph 1 provides that: a list of 16 areas in the working and living conditions of seafarers that must be inspected and certified as complying with the national laws and regulations or other measures implementing the requirements of the MLC, 2006 is contained in Appendix A5-1 to the Convention. There areas are:

- Minimum age
- Medical certification
- Qualification of seafarers
- Seafarers' employment agreement
- Use of any licensed or certified or regulated private recruitment and placement service
- Hours of work or rest
- Manning levels for the ship
- Accommodation
- On-board recreational facilities
- Food and catering
- Health and safety and accident prevention
- On-board medical care
- On-board complaint procedure
- Payment of wages
- Financial security for repatriation
- Financial security relating to shipowner's liability

**Q: How detailed should Part I of the declaration of maritime labour compliance (DMLC) be?**

A: The main requirements for Part I of the DMLC are set out in Standard A5.1.3, paragraphs 9 and 10 of the MLC, 2006:

It must be drawn up by the competent authority in the form corresponding to the model in Appendix A5-II. It must:

- identify the list of matters to be inspected in accordance with the MLC, 2006 (i.e., the 16 areas listed in Appendix A5-I);
- identify, in each of those areas, the national requirements embodying the relevant

provisions of the Convention by providing a reference to the relevant national legal provisions as well as, to the extent necessary, concise information on the main content of the national requirements;

- refer to ship-type specific requirements under national legislation;
- record any substantially equivalent provisions
- clearly indicate any exemption granted by the competent authority as provided in Title 3.

**Q: What should be contained in Part II of the declaration of maritime labour compliance (DMLC)?**

A: In accordance with paragraph 10(b) of Standard A5.1.3, Part II of the DMLC, which is to be drawn up by the shipowner and certified by the competent authority or a duly authorized RO, must identify the measures adopted to ensure ongoing compliance, between inspections, with the national requirements, stated in Part I of the DMLC, and the measures proposed to ensure that there is continuous improvement. Detailed guidance on the details that should be provided in Part II of the DMLC, are provided in Guideline B5.1.3, paragraph 2 and 3. It may also be useful to take account of the purpose of the DMLC as conceived in Guideline B5.1.3, paragraph 4, namely —to help all persons concerned, such as flag State inspectors, authorized officers in port States and seafarers, to check that the requirements are being properly implemented. The example of a DMLC given in Appendix B5-I to the MLC, 2006 may in addition be helpful.

**Q: Must the original maritime labour certificate and the declaration of maritime labour compliance (DMLC) be carried on board a ship?**

A: Standard A5.1.3, paragraph 12 of the MLC, 2006 provides that —A current valid maritime labour certificate and declaration of maritime labour compliance ... shall be carried on the ship and a copy shall be posted in a conspicuous place on board where it is available to the seafarers.

**Q: What is the period of validity of maritime labour certificate?**

A: Standard A5.1.3 sets out, in paragraph 1, a maximum period of validity of five years (subject to paragraph 3) for the maritime labour certificate. Since this is a maximum, the flag State's law could provide a shorter period of validity or give the competent authority or duly authorized RO to issue a certificate for a shorter period.

**Q: Can an interim maritime labour certificate be renewed?**

A: Under paragraphs 6 and 8 of Standard A5.1.3, an interim maritime labour certificate may be issued for a period not exceeding six months. No further interim certificate may be issued following the initial six months.

**Q: When would a maritime labour certificate cease to be valid?**

A: Standard A51.3, paragraph 14 sets out the situations when a maritime labour certificate would cease to be valid, namely:

- if the relevant inspections are not completed within the periods prescribed by the MLC, 2006;
- if the certificate is not endorsed following an intermediate inspection;
- when a ship changes flag;
- when a shipowner ceases to assume the responsibility for the operation of a ship; and
- when substantial changes have been made to the structure or equipment covered in Title 3 of the MLC, 2006.

**Q: Can a Maritime Labour Certificate be extended?**

A: After a renewal inspection completed prior to the expiry of a maritime labour certificate, the ship is found to continue to meet national laws and regulations or other measures implementing the requirements of this Convention, but a new certificate cannot immediately be issued to and made available on board that ship, the competent authority, or the recognized organization duly authorized for this purpose, may extend the validity of the certificate for a further period not exceeding five months from the expiry date of the existing certificate, and endorse the certificate accordingly.

**Q: Can seafarers complain directly to the flag state competent authority or an inspector instead of using the on-board complaint procedure?**

A: Although on-board complaint procedures must seek to resolve complaints at the lowest level possible, seafarers have a right to complain directly to the master and, where they consider it necessary, to appropriate external authorities.

**Q: Can a country that has not ratified the MLC, 2006 issue a Maritime Labour Certificate?**

A: No. Only a country that has ratified the MLC, 2006 can issue a valid Maritime Labour Certificate to ships flying its flag. Some countries that have not ratified the MLC, 2006 are issuing certificates of voluntary compliance. These are not documents addressed by the MLC, 2006; while a Port state is not obliged to take such documents into consideration, it may wish to do so.

### ***Regulation 5.2 Port State responsibilities***

**Q: What is to be inspected during port State control?**

A: The purpose of the inspection by PSCOs is to determine whether a ship is in compliance with the requirements of the Convention (including seafarers' rights) (Article IV, paragraph 5). These requirements are laid down in the Articles and Regulations and in Part A (Standards) of the Code of the MLC, 2006, relating to the working and living conditions of seafarers on the ship (Regulation 5.2.1, paragraphs 1 and 3). Part B (guidelines) of the MLC, 2006, Code is not subject to inspection by port State control. Port State control inspections are, in principle, concerned with the 16 areas of working and living conditions on the ship (Standard A5.2.1, paragraph 2) that are listed in Title 5, Appendix A5-III of the MLC, 2006, and are to be certified by flag States as being in compliance with the related requirements of the Convention. However, the PSCO may also take action in the case of non-compliance with any other requirement of the Convention relating to working and living conditions.

## 7. 2018 Amendment, MLC,2006

### Q: What is the major Amendment 2018

A: Each regulation has the following amendments on the Regulation 2.1- "Seafarers' employment agreements", Regulation 2.1- "Wages" and Regulation 2.5- "Repatriation"

Each Member shall require that a seafarer's employment agreement shall continue to have effect while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, regardless of whether the date fixed for its expiry has passed or either party has given notice to suspend or terminate it.

### Q. When is the effective date?

A: From 20 December 2020

### Q: What is the implementation according to the 2018 Amendment?

A: The specific instructions issued by some Flag State as follows.

#### **Korea**

- Changes to the DMLC Part I, II are not necessary.
- For the existing seafarers, Shipowners' official documents stating SEA, wage and right of repatriation continue to have effect while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery shall be provided and posted on-board.
- SEAs that are signed on or after 26 December 2020, cover the 2018 amendments.

#### **Belize**

- Changes to the DMLC Part I are necessary, DMLC Part II are not necessary, unless there are pre-existing references that contravene the 2018 amendment.

#### **Cyprus**

- Changes to the DMLC Part I, II are not necessary.
- Similar to the provisions of said amendments, already apply on Cyprus flag ships by virtue of

the provisions of Part VII of the Protection of Cyprus Ships Against Acts of Piracy and Other Unlawful Acts Law of 2012(Law 77(I)/2012). Copy of the unofficial English translation of said Law shall be readily available on board for the updating of the crew. This Circular must be placed on board.

### **Hong Kong**

- Changes to the DMLC Part I, II are not necessary.
- All Shipowners, Ship Managers and Ship Masters are urged to review their policies, procedures and Seafarers' Employment Agreements to ensure compliance with the new requirements in the Amendments.

### **Isle of Man**

- Changes to the DMLC Part I, II are not necessary.
- Shipowners should review their policies and procedures to ensure compliance with the 2018 amendments.
- The Ship Registry will not be mandating any changes to the DMLC Part II or SEA but an individual shipowner may need to amend these documents if they contain statements which contradict the new Regulations.

### **Kiribati**

- Changes to the DMLC Part I, II are necessary.
- Shipowners are urged to commence applying for a new revised DMLC Part I incorporating the above amendments to be issued by our Administration, and to prepare and submit an updated DMLC Part II

### **Liberia**

- Changes to the DMLC Part I, II are necessary, until the first renewal inspection after 26 Dec. 2020.
- The amendments shall be incorporated into the Maritime Labour Certificate and the Declaration of Maritime Labour Compliance no later than the date of the first renewal inspection following 26 Dec. 2020.

### **Malta**

- Changes to the DMLC Part I, II are not necessary.
- Shipowners, Ship Operators and Ship managers must ensure that SEAs and/or any applicable collective bargaining agreements that are signed on or after 26 December 2020, cover the

2018 amendments.

## **Marshall Islands**

- Changes to the DMLC Part I, II are not necessary (Voluntarily).
- Shipowners must ensure that the seafarers aboard their vessels are provided with: a SEA that incorporates the 2018 MLC, 2006 amendments; or a CBA that incorporates the 2018 MLC, 2006 amendments; or the text of MI-108 §7.45.1.

## **Panama**

- Changes to the DMLC Part I, II are not necessary.
- The Amendment shall be reviewed compliance with the amendments, at the time of carrying out the interim, initial, intermediate or renewal audits on or after 26 Dec.2020.

## **Singapore**

- Changes to the DMLC Part I, II are not necessary.
- Shipowners are to review their policies, procedures and SEAs and any applicable collective bargaining agreements to ensure compliance with the 2018 amendments.

## **ST.VINCENT AND THE GRENADINES**

- Changes to the DMLC Part I, II are necessary, until first initial/renewal inspection after 26 Dec. 2020.
- Shipowners should review their policies and procedures and SEAs and/or any applicable CBA to ensure compliance with the above amendments on 26 Dec. 2020. Keep a copy of this Circular on board in order to notify PSC authorities on the measures accepted by this Administration with respect of MLC 2018 amendments.

## **Tuvalu**

- Changes to the DMLC Part I, II are necessary, until the first renewal inspection after 26 Dec. 2020.
- Existing MLC certs and DMLCs that have been issued prior to the entry into force of the amendments shall continue to remain valid, however, they shall be renewed no later than the date of the first renewal inspection following entry into force of the amendments.

## **Vanuatu**

- Changes to the DMLC Part I are necessary, DMLC Part II are not necessary.
- This Fleet Safety Letter is an Amendment to the DMLC Part I issued to vessels presently



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registered with this Administration and in compliance with the MLC 2006 Convention as amended.

### **Antigua and Barbuda**

- Changes to the DMLC Part I are not necessary, DMLC Part II are necessary.
- Shipowners should ensure that SEAs that are signed on and after 26th December 2020, cover the 2018 Amendments to the MLC, 2006.