

REPUBLIC OF THE MARSHALL ISLANDS MARITIME LABOUR CONVENTION, 2006 (MLC, 2006) INSPECTION AND CERTIFICATION PROGRAM

Elizabeth S. Bouchard
Maritime Policy Advisor

Thanos Theocharis
Regulatory Affairs, European Liaison



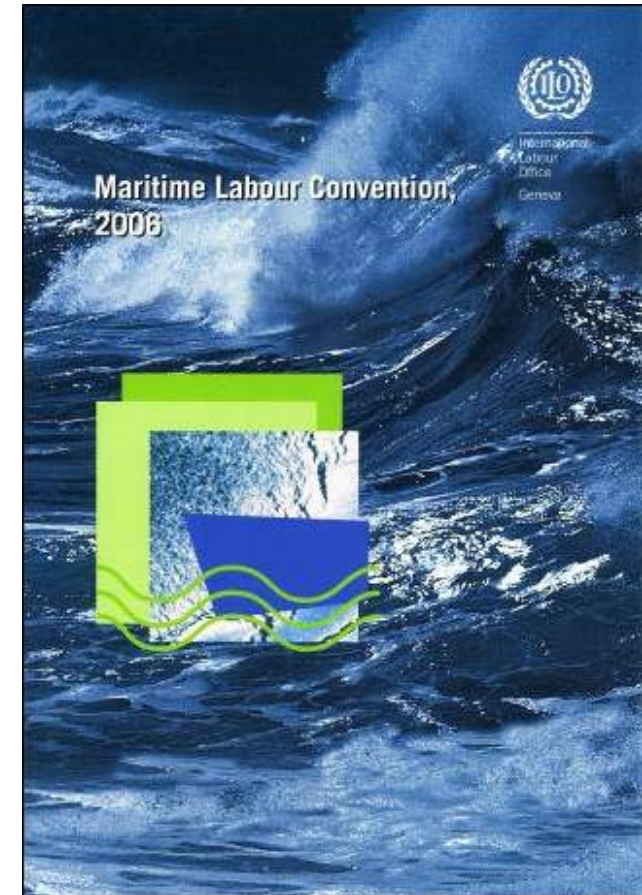
International Registries, Inc.
in affiliation with the Marshall Islands Maritime & Corporate Administrators

The Marshall Islands Registry
service and quality are within your reach



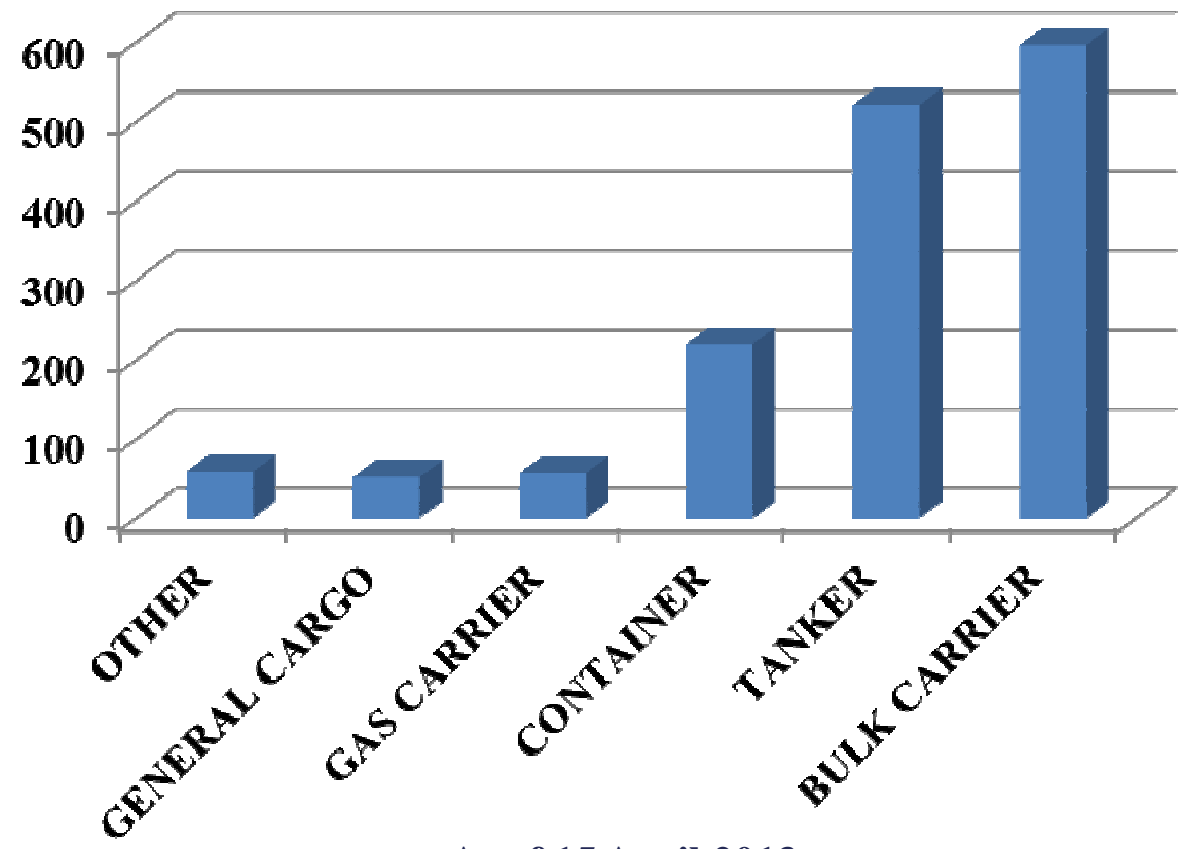
WHAT HAPPENS ON 20 AUGUST 2013?

- Date on which the provisions of MLC, 2006 become enforceable
- Date on which all Republic of the Marshall Islands (RMI) ships to which the Convention applies must comply with the requirements
- Date on which port State control (PSC) of ratifying countries may begin enforcing the provisions of MLC, 2006

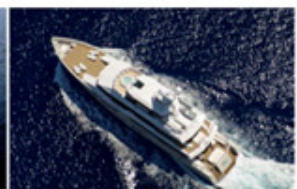


DOCUMENTS ISSUED

DMLC, Part I – 1,504

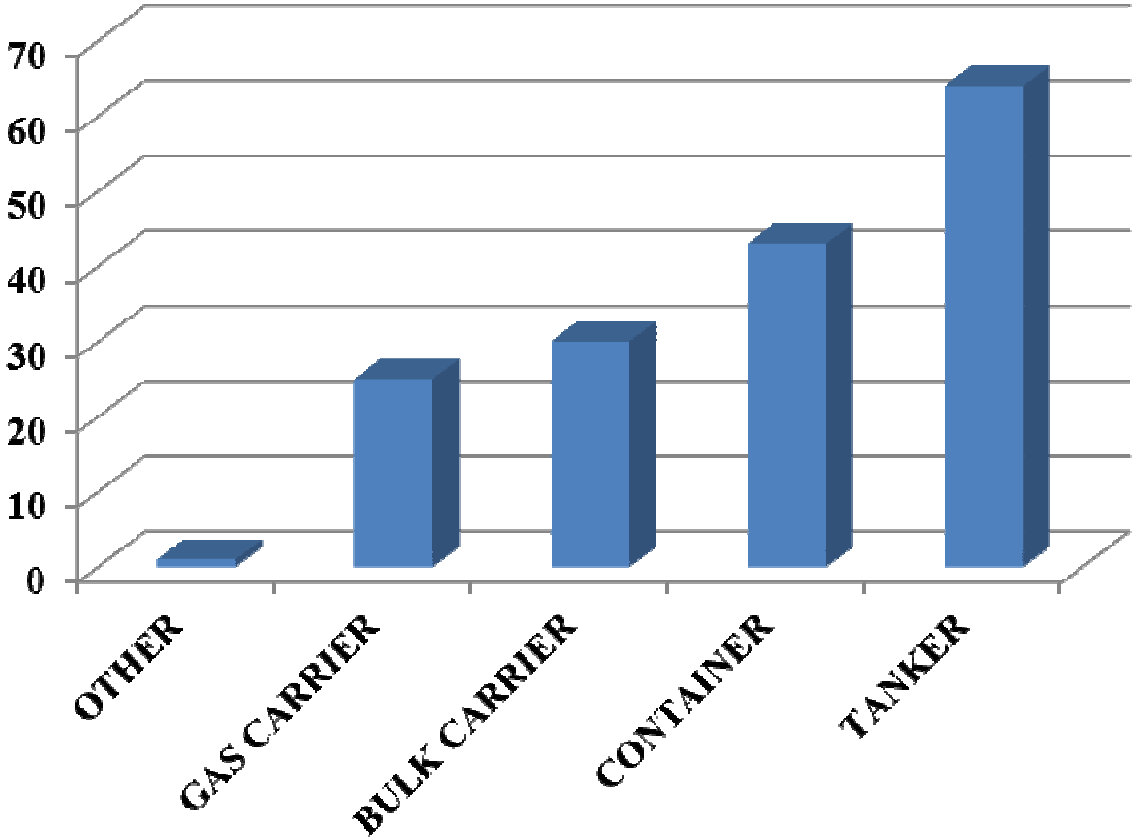


As of 15 April 2013



DOCUMENTS ISSUED (continued)

Maritime Labour Certificates - 163

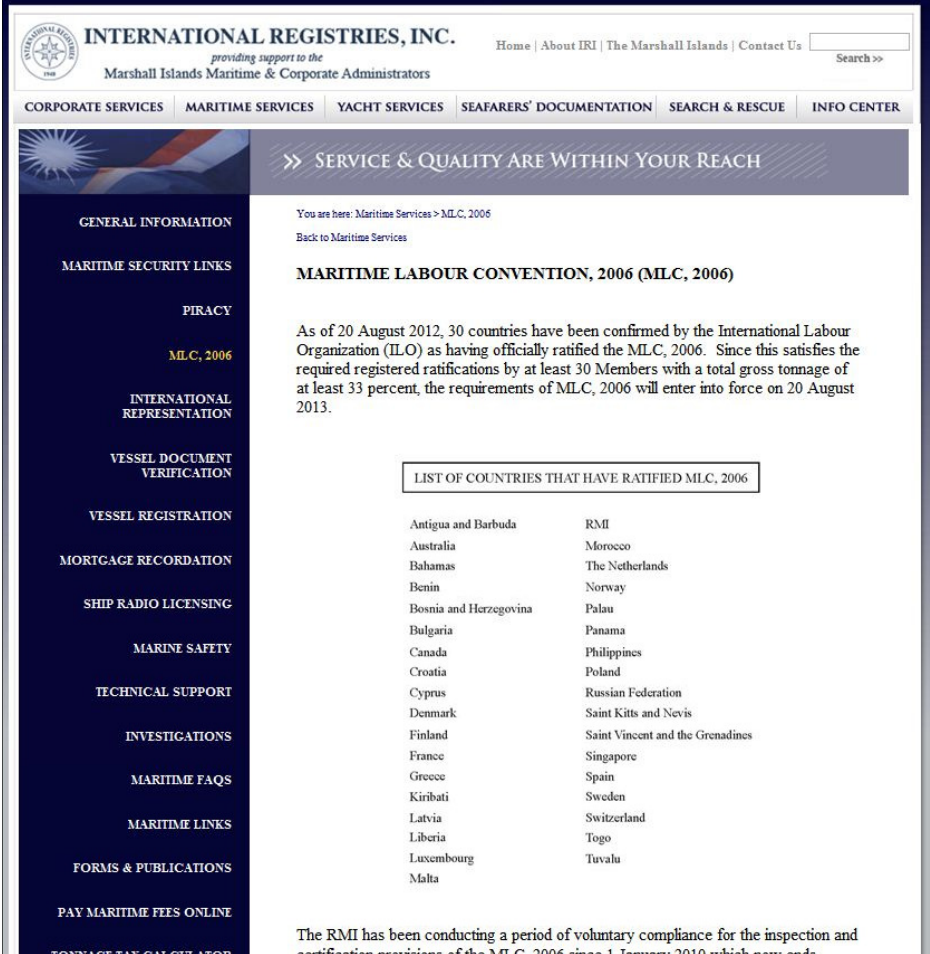


As of 15 April 2013



RMI MARITIME ADMINISTRATOR REQUIREMENTS

- MLC, 2006 webpage:
www.register-iri.com
(click on Maritime Services)
- Marine Notice 2-011-33
(MLC, 2006 Inspection and Certification Program)
- 11 Marine Notices and Marine Guidelines; supporting materials



INTERNATIONAL REGISTRIES, INC.
providing support to the
Marshall Islands Maritime & Corporate Administrators

Home | About IRI | The Marshall Islands | Contact Us

CORPORATE SERVICES | MARITIME SERVICES | YACHT SERVICES | SEAFARERS' DOCUMENTATION | SEARCH & RESCUE | INFO CENTER

» SERVICE & QUALITY ARE WITHIN YOUR REACH

You are here: Maritime Services > MLC, 2006
Back to Maritime Services

MARITIME LABOUR CONVENTION, 2006 (MLC, 2006)

As of 20 August 2012, 30 countries have been confirmed by the International Labour Organization (ILO) as having officially ratified the MLC, 2006. Since this satisfies the required registered ratifications by at least 30 Members with a total gross tonnage of at least 33 percent, the requirements of MLC, 2006 will enter into force on 20 August 2013.

Antigua and Barbuda	RMI
Australia	Morocco
Bahamas	The Netherlands
Benin	Norway
Bosnia and Herzegovina	Palau
Bulgaria	Panama
Canada	Philippines
Croatia	Poland
Cyprus	Russian Federation
Denmark	Saint Kitts and Nevis
Finland	Saint Vincent and the Grenadines
France	Singapore
Greece	Spain
Kiribati	Sweden
Latvia	Switzerland
Liberia	Togo
Luxembourg	Tuvalu
Malta	

The RMI has been conducting a period of voluntary compliance for the inspection and certification provisions of the MLC, 2006 since 1 January 2010 which now ends.



CURRENT CHALLENGES AND SOLUTIONS

- Declaration of Maritime Labour Compliance (DMLC), Part II — signatory is the International Safety Management (ISM) Document of Compliance (DOC) holder
- Cooks — training and documentation
- Level of documentation for inspection
- Harmonization of ISM and MLC, 2006 audits, inspections and certifications (MN 2-011-33, paragraph 5.5)
- Application of ILO Conventions No. 92 and No. 133 (MN 7-044-1)



INSPECTION AND ENFORCEMENT

Know the Parameters of the Convention!

This applies to shipowners / operators and ships' crews alike



NO MORE FAVORABLE TREATMENT

- Inspection in a foreign port applies to:
 - Ships flying the flag of a country that has not ratified the Convention
 - Ships of ratifying States that for reasons related to size (i.e., under 500 GT) are not carrying documents
- These ships may be subject to a more **detailed inspection**
- The Paris Memorandum of Understanding (MoU) takes a similar approach in inspecting ships



PSC RESPONSIBILITIES

- An effective MLC, 2006 inspection and monitoring system, including:
 - Adequate number of qualified, trained officers



BASIC INFORMATION COLLECTION

Before a ship's arrival, PSC may have already collected the following information:

- Type of ship
- Cargo
- Flag
- History, including previously reported deficiencies or non-conformities (may be clear grounds for a more detailed inspection)
- Next ports of call



PRIMA FACIE EVIDENCE

- The Maritime Labour Certificate is to be considered *prima facie* evidence of compliance with MLC, 2006 (Regulation 5.2.1)
- Thus, inspections in ports are to be limited to review of the Certificate and DMLC
- If documents are found valid and complete, **the inspection is over**



DETAILED INSPECTIONS

A more detailed inspection may be carried out by PSC if:

- The required documents (Maritime Labour Certificate, DMLC, Parts I and II) are not produced or maintained, or are invalid
- There are clear grounds for believing that the working and living conditions do not conform to the MLC, 2006 requirements
- There are reasonable grounds for believing that the ship has changed flags for the purpose of avoiding compliance
- There is a complaint



AREAS OF MLC, 2006 INSPECTION

More detailed inspections shall, in principle, cover:

1. Minimum Age
2. Medical Certification
3. Qualification of Seafarers
4. Seafarers' Employment Agreements
5. Use of Private Recruitment and Placement Services
6. Hours of Work or Rest
7. Manning Levels
8. Accommodation
9. On-Board Recreational Facilities
10. Food and Catering
11. Health, Safety and Accident Prevention
12. On-Board Medical Care
13. On-Board Complaint Procedures
14. Payment of Wages



WHAT ARE CLEAR GROUNDS?

- Problematic Documentation
 - If information in documentation does not clearly show compliance with the 14 areas of inspection
 - DMLC, Part II does not identify measures in each of the 14 areas to ensure ongoing compliance between inspections
- PSC officer is to:
 - Consider national law of the flag State (substantial equivalencies /exemptions)* and compliance with Convention
 - Discuss with Master and, as necessary, with flag State
 - A more detailed inspection may be conducted if, in the **professional judgment** of the PSC officer, it is a case of non-compliance

*Clarifications on DMLC, Part I are to be gained via consultation between port and flag States



WHAT ARE CLEAR GROUNDS? (continued)

Clear grounds may arise in other contexts:

- During preparations for an inspection (i.e., collection of information prior to ship arrival — **prior deficiencies**)
- As a result of general impressions and visual observations (i.e., well maintained and operated ship; living conditions)
- During an investigation of a complaint



WHAT ARE REASONABLE GROUNDS?

Change of flag is to avoid compliance with MLC, 2006:

- Change of flag is not noted in the Continuous Synopsis Record (SOLAS XI-1, Regulation 5)
- Outstanding deficiencies not transferred to new flag's records



COMPLAINTS

A more detailed inspection may be conducted if a complaint* alleges specific working and living conditions do not conform to the MLC, 2006 requirements:

- Inspection generally limited to matters within scope of complaint
- Complaint or its investigation could provide clear grounds for a detailed inspection



*A complaint can be submitted by **any person** (e.g., seafarer, a professional body, an association, a trade union) with interest in the safety of the ship and/or safety, health or security of seafarers.



INSPECTIONS AND ENFORCEMENT

- If a detailed inspection shows working and living conditions that do not conform to the MLC, 2006 requirements, the PSC inspecting officer:
 - Shall bring the deficiencies to the attention of the Master with required deadlines for rectification
- If these deficiencies are considered “significant” or relate to a complaint, the inspecting officer:
 - Shall bring them to the attention of the appropriate seafarers’ and shipowners’ organizations in the Member State in which the inspection is carried out
 - May notify the flag State and provide the information to the next port of call
- The Member State in which the inspection is carried out has the right to transmit the inspection report to the ILO



SHIP DETENTIONS

- If a ship is found after a detailed inspection not to conform with the MLC, 2006 requirements and:
 - The working and living conditions constitute a **clear hazard** to the **safety, health** or **security** of seafarers; or
 - The non-conformity constitutes a **serious** or **repeated breach** of the MLC, 2006 requirements, including seafarers' rights (e.g., nonpayment of wages, food shortages, situations endangering seafarers' safety, health or security)
- Then:
 - PSC may detain the ship until:
 - A plan of action to rectify non-conformities is accepted by PSC; and
 - PSC is satisfied the plan will be implemented expeditiously
- Notification of flag State and shipowners' and seafarers' organization in the port State in which inspection was carried out



AVOIDANCE OF UNDUE DELAY

- Port State must make all possible efforts to avoid a ship being unduly detained or delayed
- Compensation must be paid for any loss or damage suffered from a ship found to be unduly detained or delayed, but the burden of proof is on the complainant



CONCLUSION

RMI flagged ships

- Compliance should be well underway with ships certified by 20 August 2013
- Masters and vessel crews should be familiar with the MLC, 2006 provisions and know what to expect during a PSC inspection
- Questions? Contact the RMI Maritime Administrator at: regulatoryaffairs@register-iri.com

Non-RMI flagged ships

- Need to be in dialog with respective flag States about compliance



THANK YOU



www.register-iri.com

