



TUVALU SHIP REGISTRY

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MARINE CIRCULAR

MC-13/2012/1

12/2020

FOR: Ship Owners, Ship Managers, Ship Operators, Ship Masters, Ship Officers, Classification Societies, Flag State Inspectors

SUBJECT: GUIDANCE FOR IMPLEMENTATION OF MARITIME LABOUR CONVENTION 2006 (MLC 2006)

DEFINITIONS:

The following abbreviations stand for:

- “DMLC” – Declaration of Maritime Labour Compliance
- “DOC” – Document of Compliance (ISM Code)
- “GT” – Gross Tonnage in accordance to ITC 69
- “ILO” – International Labour Organization
- “IMO” – International Maritime Organization
- “ISM Code” – International Management Code for the Safe Operation of Ships and for Pollution Prevention
- “ITC 69” – International Convention on the Tonnage Measurement of Ships, 1969
- “MARPOL” – International Convention for the Prevention of Pollution from Ships, 1973, as amended
- “MLC 2006” – Maritime Labour Convention, 2006
- “MLCert” – Maritime Labour Certificate
- “MODU” – Mobile Offshore Drilling Unit
- “MSA 2008” – Merchant Shipping Act 2008 Revised Edition
- “PSC” – Port State Control
- “PSCO” – Port State Control Officer
- “RO” – Recognized Organization as defined by IMO Resolution A.789(19)
- “ROV” – Remotely Operated Vehicle
- “SMC” – Safety Management Certificate (ISM Code)
- “SMS” – Safety Management System (ISM Code)
- “SOLAS” – International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended
- “STCW” – International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended
- “TOR” – Tuvalu Online Registry Portal

The term “Administration” shall mean the Tuvalu Ship Registry.

PURPOSE:

The Government of Tuvalu, on 16 February 2012, ratified the MLC 2006, and this marine circular serves to provide guidance on implementing the MLC 2006, which governs maritime labour conditions and sets minimum standards for the working and living conditions of seafarers.

APPLICATION:

This marine circular applies to Tuvalu ships and seafarers as defined under Article II of MLC 2006 upon its entry into force on 20 August 2013.

REFERENCES:

- (a) Maritime Labour Convention, 2006, as amended
- (b) Merchant Shipping (Maritime Labour Convention 2006) Regulations
- (c) Resolution VII adopted by the 94th (Maritime) Session of the International Labour Conference
- (d) ILO Guidelines for Flag State Inspections under MLC 2006
- (e) Tuvalu Marine Circular MC-2/2005/12/2 – International Safety Management (ISM) Code
- (f) Tuvalu Marine Circular MC-10/2012/1 – Onboard Complaint Procedures
- (g) Tuvalu Marine Circular MC-12/2012/1 – Provisions for Seafarer Wages
- (h) Tuvalu Marine Circular MC-1/2016/1 – Amendments of 2014 to MLC 2006
- (i) Tuvalu Marine Circular MC-5/2020/1 – Amendments of 2018 to MLC 2006

CONTENTS:

1. Introduction & Background

- 1.1. MLC 2006, also known as the “Bill of Rights” for seafarers, builds on the existing ILO Convention 147 while consolidating 70 ILO instruments, including 37 existing maritime ILO Conventions and 33 Recommendations. The existing ILO Conventions on seafarers’ identity documents (C108, C185) and pensions (C71) are the only conventions not included in the MLC 2006.
- 1.2. MLC 2006 was drafted to compliment other international conventions on ship safety, security and quality and often referred to by ILO as the “fourth pillar” of international maritime regulation alongside the SOLAS, MARPOL, and STCW Conventions.
- 1.3. Some novel aspects of the MLC 2006 relate to its structure and provisions established within the Articles. Firstly, the provisions of MLC 2006 must be given effect through national laws and regulations to allow for more effective implementation by flag State which is primarily responsible for the enforcement of and compliance with the MLC 2006. Also, the certification system of the MLC, 2006 is designed to be more in line with other international conventions developed under the IMO. Lastly, the “no more favorable treatment” clause ensures that Member States establish a level playing field by treating all ships equally irrespective of whether or not the flag State of a ship has ratified the MLC 2006.

2. MLC 2006 Application to Ships

- 2.1. Except as expressly provided otherwise, MLC 2006 applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or in similar pursuits, ships of traditional build such as dhows and junks, warships or naval auxiliaries, and ships which navigate exclusively in inland waters, waters within or closely adjacent to sheltered waters, or areas where port regulations apply.
- 2.2. The following ships shall be inspected and certified to be in compliance with the requirements of the convention and carry and maintain a Maritime Labour Certificate (MLCert) and the Declaration of Maritime Labour Compliance (DMLC) Parts I and II issued in English:
 - 2.2.1. Ships of 500 GT or over, engaged in international voyages;
 - 2.2.2. Ships of 500 GT or over, operating from a port, or between ports, in another country; and
 - 2.2.3. Other ships, as may be voluntarily requested by a shipowner.
- 2.3. The Administration has decided not to apply MLC 2006 to units and installations engaged in exploration, exploitation, and/or processing of sea-bed mineral resources, including production, storage and offloading, maintenance, construction or accommodation units, when on location for the purpose of conducting or supporting operations subject to the jurisdiction of a host coastal State. These units and installations are also exempted from compliance with MLC 2006 when underway for purposes of relocation or drydocking and therefore are not subject to certification in these circumstances. However, unit and installation operators are encouraged to seek voluntary inspection and certification under the provisions of MLC 2006 to the extent practicable (refer to section 7 of this circular below).
- 2.4. With regards to yachts, this Administration has determined that commercial yachts (i.e. yachts ordinarily engaged in chartering), regardless of tonnage, shall be considered ships for the purpose of applying the

requirements of MLC 2006. On the other hand, MLC 2006 will not apply to private yachts of any size not ordinarily engaged in commercial activities.

- 2.5. For ships applicable to MLC 2006, but do not require certification (i.e. ships under 500 GT, not engaged in international voyages, or not operating from a port, or between ports, in another country), shall still be subject to full inspection against the same requirements as for certified ships. Further details with regards to Inspection requirements and Record Keeping for such non-certified vessels are provided in sections 8 and 10 of this circular respectively.
- 2.6. This Administration wishes to clarify that the requirements in the Code implementing Regulation 3.1, Accommodation and recreational facilities, apply only to ships constructed on or after the date when the Convention enters into force. A ship shall be deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction. For ships constructed before that date, the requirements relating to ship construction and equipment that are set out in the Accommodation of Crews Convention (Revised), 1949 (No. 92), and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), shall continue to apply to the extent that they were applicable, prior to that date.
- 2.7. A copy of the MLC, 2006 shall be maintained on board the ship and made available to all seafarers.

3. MLC 2006 Application to Seafarers

- 3.1. Except as expressly provided otherwise, the MLC 2006 applies to all seafarers, including the Master, on board the ships to which the Convention applies. For this purpose, a “seafarer means any person who is employed or engaged or works in any capacity on board a ship to which the MLC, 2006 applies.” as defined in Article II, paragraph 1(f) of MLC 2006.
- 3.2. The MLC 2006 recognizes in Article II, paragraph 3, that there may be doubts whether a particular category or categories of persons who may perform work on board a ship covered by the Convention should be regarded as seafarers. Recognizing that there may be doubts on this subject, the Administration, in consultation with shipowners and seafarers organisations, will consider the information provided for in Resolution VII, adopted by 94th (Maritime) session of the International Labour Conference, in determining whether certain persons or category of persons are considered seafarers.
- 3.3. In accordance with Resolution VII, the Administration considers any person engaged or working in any capacity on board a ship and whose normal place of work is on board for the business of that ship who is contractually provided with social protections by either the shipowner/operator or third party that are equivalent to or are greater than those required by the MLC 2006 to have been provided with social protections that substantially meet the Convention requirements. In all cases, the burden of proof shall rest with the shipowner/operator who shall show through documentation during the inspection process that these requirements have been met.
- 3.4. In order to better understand how Resolution VII is applied in practice, the following issues (addressing duration, frequency, location, purpose and protections) are considered:
 - 3.4.1. Is the normal place of work on board the ship? If not, then these persons would not be considered seafarers. Such persons would be considered supernumeraries. Some examples include harbour pilots, inspectors or superintendents, etc.
 - 3.4.2. Is the person’s principle place of employment ashore and not part of the routine business of the ship? If so, then these persons would not be considered seafarers. Some examples include scientists, researchers, divers, specialist offshore technicians, etc.
 - 3.4.3. Is the person’s work aboard the vessel on an occasional and short-term basis? If so, these persons would not be considered seafarers. Some examples include guest entertainers, repair technicians, surveyors or port workers, etc.
 - 3.4.4. Is the person contractually provided with social protections that are equal to or greater than those required by MLC for seafarers? If yes, then these persons would be deemed as having substantially equivalent protections.

- 3.5. Taking into account the section 3.4, this Administration considers that the following persons will not generally be considered as seafarers for the purpose of MLC 2006:
 - 3.5.1. Lecturers;
 - 3.5.2. Guest entertainers;
 - 3.5.3. Personnel employed by the charterer of a yacht shall be the responsibility of the charterer and be provided suitable accommodation and safety equipment;
 - 3.5.4. Port Workers;
 - 3.5.5. Privately Contracted Armed Security Personnel (PCASPs);
 - 3.5.6. Professional Pilots (e.g. Harbour pilots, North Sea/Canal pilots, Amazon River pilots, etc.);
 - 3.5.7. Repair and maintenance technicians;
 - 3.5.8. Researchers;
 - 3.5.9. Riding gang members;
 - 3.5.10. Scientists;
 - 3.5.11. Service engineers;
 - 3.5.12. Ship inspectors / surveyor / auditors;
 - 3.5.13. Ship Superintendents;
 - 3.5.14. Tank cleaning crews; and
 - 3.5.15. Temporary riding crew such as Suez Canal crew.
- 3.6. Marine Cadets are considered as seafarers for which suitable accommodation onboard ships shall be made available while undergoing mandatory shipboard training.
- 3.7. Cruise ship personnel such as hotel staff, restaurant and galley staff, shopkeepers, resident entertainers, spa personnel, hairdressers, casino operators and others who are directly employed by the cruise operator or are employed by an outsourced franchise company are considered as seafarers.
- 3.8. Industrial personnel engaged on vessels doing pipe laying, cables laying, ROV, surveys, subsea operations with construction crews; ranks such as riggers, riggers foreman, offshore construction managers, surveyors, divers, technicians, medics etc. who are working onboard the vessel for extended periods as part of the normal working complement, while not considered seafarers, and whether employed by the vessel operator or not, will be expected to have at least the same level of social protection as the marine crew.
- 3.9. Notwithstanding the above, the Administration shall make determinations under Resolution VII on a case-to-case basis and advise that shipowners seeking such exclusions should contact the Administration for evaluation.

4. Authorized Recognized Organizations (ROs)

- 4.1. The following ROs have been authorized by this Administration to carry out inspection and certification functions under the MLC 2006 on behalf of Tuvalu:
 - 4.1.1. American Bureau of Shipping (ABS)
 - 4.1.2. Bureau Veritas (BV)
 - 4.1.3. China Classification Society (CCS)
 - 4.1.4. Croatian Register of Shipping (CRS)
 - 4.1.5. DNV GL AS (DNV-GL)
 - 4.1.6. Indian Register of Shipping (IRS)
 - 4.1.7. Korean Register of Shipping (KRS)
 - 4.1.8. Lloyd's Register (LR)
 - 4.1.9. Nippon Kaiji Kyokai (NK)
 - 4.1.10. Polski Rejestr Statkow (PRS)
 - 4.1.11. Registro Italiano Navale (RINA)
 - 4.1.12. Russian Maritime Register of Shipping (RS)
- 4.2. It is highly recommended that the RO for MLC 2006 be the same RO currently certifying the ship under ISM Code so that the inspections and certification of both may be harmonized.

5. Steps for obtaining MLC 2006 Certification

5.1. Newbuildings

STEP 1:

Ship owners / operators should first carry out a gap analysis of the ship and company policies against the Administration's MLC 2006 provisions as listed in Appendix I of this circular below OR on FORM DMLC that is available for download at <https://tvship.com/forms>

STEP 2:

After a gap analysis is carried out, the ship owner / operator should, through the completion and submission of FORM DMLC, highlight to the Administration any areas of concern that may include any probable need for a determination of categories of persons to be excluded under the definition of "seafarer" in accordance with Resolution VII, or where substantial equivalency or exemption may be permitted.

If it is determined by the gap analysis that exemptions are required, then the following information is to be submitted:

- Date of Keel Laying: This date is essential in order to determine the regulations and requirements against which the vessel will be compared.
- An electronic (PDF) copy of the General Arrangement (GA) plan for review.
- An electronic (PDF) copy of an Accommodations Furnishings Plan (or equivalent documentation), showing all furnishings and miscellaneous outfit provided for the personal use of each occupant, as well as:
 - Minimum headroom in each space;
 - Overall dimensions and total floor area of each sleeping room;
 - Dimensions of clear floor area, not covered by furniture (for yachts only);
 - Berth dimensions; and
 - Volume of lockers and/or storage spaces.
- Is the mess room sufficient for the number of persons likely to use it at any one time?
- Room assignments if not already shown on the GA or Accommodations Furnishings Plan.
- Any other relevant information that may have been issued by the Classification Society or other entities (shipyard, nautical architects, etc.).

STEP 3:

The ship owner / operator should submit the completed FORM DMLC for issuance of the ship specific DMLC Part I by email to: support@tvship.com or apply for it online on the TOR portal here: <https://tvship.com/registry>

STEP 4:

Upon successful application, the ship specific E-DMLC Part I will be sent by email to the applicant.

STEP 5:

Upon receipt of the E-DMLC Part I, the ship owner / operator should, in consultation with the selected RO who will be carrying out the certification of the DMLC Part II on behalf of Tuvalu, proceed to prepare the DMLC Part II.

STEP 6:

Upon the readiness of the DMLC (Part I and Part II), the vessel inspection process for issuance of the MLCert is to be arranged between the shipowner and the RO which may include any preparatory documentation review ashore prior to the shipboard inspection.

5.2. Existing Vessels / Change of Flag

The ship owner / operator shall apply for DMLC Part I (refer to Appendix I) on the TOR portal here: <https://tvship.com/registry>. Thereafter, proceed to prepare DMLC Part II (refer to Appendix II), and contact the RO to review and arrange for shipboard inspection.

6. Guidelines for MLC Inspection

- 6.1. All inspections are to be carried out in accordance with the ILO document, *Guidelines for Flag State Inspections under the Maritime Labour Convention, 2006*.
- 6.2. When an inspection is conducted or when measures are taken under the MLC 2006, the RO, or other authorized inspector, shall make all reasonable efforts to avoid a ship being unreasonably detained or delayed.
- 6.3. An inspector is authorized to carry out any examination, test or inquiry considered necessary to determine that the standards of the MLC 2006 are being strictly observed.
- 6.4. All persons inspecting under the MLC 2006 shall have appropriate knowledge of ship operations, including:
 - 6.4.1. Minimum requirements for seafarers to work on a ship;
 - 6.4.2. Conditions of employment;
 - 6.4.3. Accommodation;
 - 6.4.4. Recreational facilities;
 - 6.4.5. Food and catering;
 - 6.4.6. Accident prevention;
 - 6.4.7. Health protection;
 - 6.4.8. Medical care; and
 - 6.4.9. Welfare and social security protection.
- 6.5. Initial MLC 2006 Inspection
 - 6.5.1. An initial inspection shall be conducted to ensure compliance with the national requirements implementing the MLC 2006 before a ship is issued a valid MLCert.
 - 6.5.2. To verify that the national requirements are being complied with and that the ship owner's measures have been correctly implemented and are being followed, an inspector shall obtain supporting objective evidence by:
 - 6.5.2.1. inspecting the relevant areas of the ship;
 - 6.5.2.2. examining further documentation such as passports or other official documents, medical certificates, training records, crew lists and payroll records, seafarer employment agreements, safe manning documents and work and rest schedules; and
 - 6.5.2.3. carrying out private interviews with a representative number of seafarers, taking account of the need to preserve confidentiality and of the seafarers' work and rest schedules.
- 6.6. Intermediate MLC 2006 Inspection

An intermediate inspection shall be conducted to ensure continuing compliance with the national requirements and shall be conducted between the second and third anniversary dates of the MLCert and, if satisfactory, shall be endorsed by the RO. (Anniversary date means the day and month of each year which corresponds to the date of expiry of the MLCert). The scope and depth of the intermediate inspection shall be equal to an inspection for renewal of the MLCert.
- 6.7. Renewal Inspection

A renewal inspection shall cover inspections for all requirements (as per initial inspection) and be carried out asf:

 - 6.7.1. When the renewal inspection is completed within three (3) months before the expiry of the existing MLCert, the new MLCert shall be valid from the date of completion of the renewal inspection for a period not exceeding five (5) years from the date of expiry of the existing MLCert.

- 6.7.2. When the renewal inspection is completed more than three (3) months before the expiry date of the existing MLCert, the new MLCert shall be valid for a period not exceeding five (5) years starting from the date of completion of the renewal inspection.

7. Certification Guidelines

7.1. Maritime Labour Certificate (MLCert)

- 7.1.1. When issued by the relevant RO, it verifies that the working and living conditions of seafarers onboard a ship meet the national laws and regulations that govern the implementation of the MLC 2006.
- 7.1.2. A RO shall issue or renew an MLCert to a ship after completion of a satisfactory inspection of the national requirements for the 14 areas as detailed in the DMLC for implementing the MLC 2006:
- 7.1.2.1. Minimum age
 - 7.1.2.2. Medical certification
 - 7.1.2.3. Qualifications of seafarers
 - 7.1.2.4. Seafarers' employment agreements
 - 7.1.2.5. Use of any licensed or certified or regulated private recruitment and placement service
 - 7.1.2.6. Hours of work or rest
 - 7.1.2.7. Manning levels for the ship
 - 7.1.2.8. Accommodation
 - 7.1.2.9. On-board recreational facilities
 - 7.1.2.10. Food and catering
 - 7.1.2.11. Health and safety and accident prevention
 - 7.1.2.12. On-board medical care
 - 7.1.2.13. On-board complaint procedures
 - 7.1.2.14. Payment of wages
 - 7.1.2.15. Financial security for repatriation
 - 7.1.2.16. Financial security for shipowners' liability
- 7.1.3. A MLCert issued and endorsed by the RO must have a DMLC attached to it together record of inspection.

7.2. Declaration of Maritime Labour Compliance (DMLC)

- 7.2.1. A DMLC is made up of 2 parts (see Appendix I and II below) asf:
- 7.2.1.1. DMLC PART I is the statement drawn up by the Administration based on the national laws, regulations or provisions with respect to the 16 areas of the MLC 2006 that are subject to inspection for certification. It also records any flexibility, substantial equivalencies or exemptions which may have been applied to the ship after consultation with the relevant seafarers' organization and the shipowner.
 - 7.2.1.2. DMLC PART II is the statement drawn up by the ship owner / operator identifying the measures adopted to ensure ongoing compliance with the national requirements detailed in the DMLC PART I and has to be certified compliant by the relevant RO prior to issuance of the MLCert. It should indicate:
 - 7.2.1.2.1. when ongoing compliance shall be verified;
 - 7.2.1.2.2. persons responsible for verification;
 - 7.2.1.2.3. records to be taken; and
 - 7.2.1.2.4. procedures to be followed when non-compliance is noted.

To ensure ongoing compliance, the DMLC Part II also should include general international requirements concerning advances in technology and scientific findings concerning workplace design; and shall be signed by an authorized official of the ISM Code Company.

7.2.2. Signing of the DMLC Part II by the ISM Code Company:

7.2.2.1. The Administration recognizes, and it must be understood, that ROs typically do not have a contractual relationship with the registered shipowner where the registered shipowner is not an ISM Code certified entity operating the ship. Therefore, for inspection and certification purposes, the Administration expects the RO in every instance to look to the ISM Code Company which has assumed responsibility for the operation of the ship from the shipowner to stand in not only for itself but also for and on behalf of the shipowner as its agent when there are shared responsibilities between the parties within a Shipmanagement contract. It is the Company's SMS for which the RO has issued a DOC (ISM Code) that governs a ship's operational management and control.

7.2.2.2. With regards to the signing of the DMLC Part II. The Convention recognizes that documents may be signed by a party on behalf of the shipowner and simply requires that such party is able to produce documentation showing that it is authorized to represent the shipowner. The relevant documentation in this case would be either the Shipmanagement contract or a Power of Attorney clearly stating the authority of the Company to sign the DMLC Part II "as agent for and on behalf of the shipowner in accordance with the terms and conditions provided in that certain Shipmanagement contract dated ____".

7.2.3. The DMLC Part II shall be certified compliant by the relevant RO as the case may be, prior to issuance of the MLCert to the shipowner.

7.3. An Interim MLCert may be issued:

- to new ships on delivery;
- when a ship changes flag; or
- when a shipowner assumes responsibility for the operation of a ship which is new to that shipowner,

subject to the following conditions:

- the ship has been inspected, as far as reasonable and practicable, for items listed in section 7.1.2 of this marine circular;
- the shipowner has demonstrated to the RO that the ship has adequate procedures to comply with the MLC 2006;
- the master is familiar with the MLC 2006 and the responsibilities for implementation; and
- relevant information has been submitted to the RO to produce a DMLC.

Note: A DMLC need not be issued for the period of validity of the Interim MLCert.

7.4. Format of Certificates

7.4.1. ROs shall develop templates for the MLCert and Interim MLCert which conform to the model prescribed by the MLC 2006.

7.4.2. A copy of these certificates must be posted in a conspicuous place on board the ship to be available to the seafarers onboard.

7.4.3. If the MLCert and the DMLC are not in English, an English-language translation of these documents must accompany the originals for a ship engaged on international voyages.

7.5. Validity of Certificates

- 7.5.1. An Interim MLCert may be issued for a period not exceeding six (6) months pending an inspection of the items listed in section 7.1.2 of this marine circular for the issuance of a Full Term MLCert.
- 7.5.2. A Full Term MLCert shall be issued for a validity period not exceeding five (5) years and will be subject to an intermediate inspection that shall take place between the second and third anniversary dates of the Full Term MLCert.
- 7.5.3. An Interim MLCert or Full Term MLCert shall be invalidated in any of the following cases:
 - 7.5.3.1. the relevant inspections are not completed within the specified time periods;
 - 7.5.3.2. the MLCert is not endorsed by the RO;
 - 7.5.3.3. when a ship changes flag;
 - 7.5.3.4. when a shipowner ceases to assume the responsibility for the operation of a ship; and
 - 7.5.3.5. when substantial changes have been made to the structure or equipment covered in Title 3 of the MLC 2006, "Accommodation, Recreational Facilities, Food and Catering."

7.6. Deficiencies and Withdrawal of Certificate

- 7.6.1. Where there are grounds to believe that deficiencies constitute a serious breach of the MLC 2006 or represent a significant danger to seafarers' safety, health or security, the RO shall, with the authorization of this Administration, prohibit a ship from leaving port until necessary corrective actions are taken.
- 7.6.2. An Interim MLCert or Full Term MLCert shall be withdrawn by the RO if there is evidence that the ship does not comply with the requirements of MLC 2006 and that the required corrective actions have not been carried out. The seriousness and frequency of the deficiencies shall be considered when contemplating the withdrawal of a MLCert
- 7.6.3. Where there is no clear breach of the requirements that endangers the safety, health or security of the seafarers and where there is no prior history of similar breaches, a RO shall have the discretion to give advice instead of recommending withdrawal of the MLCert.
- 7.6.4. If the RO or this Administration receives a complaint or sufficient evidence that a ship does not conform to the requirements of MLC 2006, or identifies that there are serious deficiencies in the implementation of measures set out in the DMLC, then the RO, with the authorization of this Administration, shall investigate the matter and ensure that action is taken to remedy the deficiencies identified.

8. Ships where Certification is non-Mandatory

- 8.1. All ships to which the MLC, 2006 applies, regardless of whether they are required to carry a MLCert, shall comply with the national laws and provisions specified in the DMLC PART I, and shall be subject to inspections verifying that the requirements are met. Ships under this category may request voluntary certification subject to the satisfactory completion of all requirements necessary for certification as this will give the ships familiarity when it comes to inspections by PSC.
- 8.2. Ships, to which the MLC 2006 does not apply, may also request voluntary certification subject to the satisfactory completion of all requirements necessary for certification.

9. ISM Code

- 9.1. The elements of MLC 2006 should be treated as an extension of the ISM Code and an essential part of meeting the ISM Code objectives of maintaining compliance with international conventions through the Company's SMS.
- 9.2. Failure of an applicable vessel to comply with MLC 2006 may be considered a non-conformity as defined in the ISM Code, resulting in the possible withdrawal of the vessel's SMC and also possibly the Company's DOC.
- 9.3. In the event of ISM Code certification withdrawal, reinstatement of certification shall not occur until the vessel's RO and, if the situation warrants, the competent authority of the Member State under whose jurisdiction the vessel is located are able to advise the Administration that they are satisfied with the Company and vessel's compliance with MLC 2006.

10. Keeping of Records

10.1. MLCerts

ROs shall maintain publicly available records of MLCerts issued and provide the Administration with a PDF copy of each MLCert issued.

10.2. Inspection Reports

ROs shall submit a copy of each inspection report to this Administration in English, and, if necessary, a copy to the master of the ship in the working language onboard to be posted on the ship's notice board.

10.3. Inspection Records

Master shall keep a record any significant deficiencies found during the inspections and their date of remedy. This record, if not in English, shall be accompanied by an English-language translation and appended to the DMLC so that it is available to seafarers, Flag State inspectors, PSCOs and shipowners' and seafarers' representatives.

10.4. Investigation Reports

In the event of an investigation concerning a major incident, the investigation report shall be submitted by the RO, or authorized inspector, to this Administration as soon as practicable, but in no case later than one month following the conclusion of the investigation.

10.5. Change of Flag

For a ship that changes flag to another State that has also ratified MLC 2006, the RO shall, upon notification to this Administration, transmit to the competent authority of the gaining flag State copies of the existing MLCert and DMLC carried by the ship and, if applicable, copies of the relevant inspection reports if the competent authority of the gaining flag State requests them within three (3) months after the change of flag has taken place.

11. Seafarer Complaints

Ship owners / operators shall provide for on-board procedures for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of the MLC 2006, including seafarers' rights. Reference shall be made to Tuvalu Marine Circular MC-10/2012/1.

12. Financial Security

12.1. Ship owners / operators shall arrange financial security as required by MLC 2006 for:

- 12.1.1. Repatriation (Regulation 2.5);
- 12.1.2. Seafarer compensation for the ship's loss or foundering (Regulation 2.6); and
- 12.1.3. Shipowners' liability (Regulation 4.2)

12.2. A P&I Club "Certificate of Entry" issued by any of the 13 members of the International Group of P&I Clubs or other P&I Club who has obtained approval from this Administration shall be accepted as evidence of financial security as required by Section 12.1 above.

13. Confidentiality

RO inspectors, or other authorized inspectors, shall treat the source of any grievance or complaint alleging a danger or deficiency in relation to seafarers' working and living conditions or a violation of laws and regulations as confidential, and give no intimation to the shipowner, the ship owner's representative or the operator of the ship that an inspection was made as a consequence of such a grievance or complaint.

14. Flag State Contact for MLC matters

PIC: Technical Officer

Tel: +65-6224-2345

Fax: +65-6227-2345

Email: technical@tvship.com

Address: 10 Anson Road, #25-16 International Plaza, Singapore 079903

Yours sincerely,

Deputy Registrar
Tuvalu Ship Registry

Appendix I

Declaration of Maritime Labour Compliance – PART I



GOVERNMENT OF TUVALU

TUVALU SHIP REGISTRY

MARITIME LABOUR CONVENTION, 2006

Declaration of Maritime Labour Compliance – Part I

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

Issued under the authority of the Government of

TUVALU

With respect to the provisions of the Maritime Labour Convention, 2006 (also referred to below as "MLC 2006"), the following referenced ship:

Name of Ship	IMO Number	Gross Tonnage

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

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

- (a) the provisions of the MLC 2006 are fully embodied in the national requirements referred to below;
- (b) these national requirements are contained in the national provisions referenced below; explanations concerning the content of those provisions where they differ from the MLC 2006 are provided where necessary;
- (c) the details of any substantial equivalencies under Article VI, paragraphs 3 and 4, are provided in the section provided for this purpose below;
- (d) any exemptions granted by the competent authority in accordance with Title 3 are clearly indicated in the section provided for this purpose below; and
- (e) any ship-type specific requirements under national legislation are also referenced under the requirements concerned.

1. Minimum age (Regulation 1.1)

- (1) *The minimum age to be employed or hired and able to work on board a Tuvalu flagged vessel is 16 years old.*
- (2) *The employment, engagement or work of seafarers under the age of 18 is prohibited where the work is likely to jeopardize their health or safety. Refer to Marine Circular MC-9/2012/1.*

2. Medical Certification (Regulation 1.2)

- (1) Seafarers employed on a Tuvalu flagged vessel must undergo a medical examination prior to employment aboard a vessel (not more than 12 months prior to the date of making application) and normally (unless a shorter time is specified for specific duties or required by STCW) every two (2) years thereafter (unless the seafarer is under the age of 18 where an annual exam is required) to obtain a valid medical certificate/report showing medical fitness for duty. The scope of the medical exam for both pre-sea and periodic assessments is identical. Refer to Marine Guidance MG-2/2012/1.*
- (2) Medical certificates issued in accordance to the requirements of the STCW Convention 1978, as amended, shall be accepted by Tuvalu for the purpose of this requirement. Similarly, a medical certificate meeting the substance of those requirements, in the case of seafarers not covered by the STCW Convention 1978, as amended, shall also be accepted.*
- (3) Permits can be requested for urgent cases when the medical certificate has expired provided that the medical certificate has not expired for greater than 6 months. Such permit shall not exceed a 3 month period.*

3. Qualifications of Seafarers (Regulation 1.3)

- (1) Seafarers shall have the appropriate training and qualifications, as well as certificate(s) accrediting their professional competences and other qualifications to perform their functions duly issued or endorsed by the Competent Authority in accordance to the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended and revised from time to time.*
- (2) If any seafarer forges or fraudulently alters or procures the forgery or fraudulent alteration of any such official document he shall forfeit to his employer all wages above the amount payable to an ordinary seafarer for the period during which he was employed in reliance upon such forged or altered document and shall be subject to the penalties provided for in Section 77 of the Tuvalu Merchant Shipping Act.*

4. Seafarers' Employment Agreements (Regulation 2.1)

- (1) Seafarers working on board a Tuvalu flagged vessel shall have an employment agreement signed by the seafarer and the ship owner / operator, or a representative that guarantees decent working and living conditions on board the ship, and each shall retain an original copy of the signed agreement for the duration of its term. All seafarers shall have the opportunity to review the conditions stated on the employment agreement and, if necessary, seek advice before signing.*
- (2) Ship owners / operators must ensure that clear information as to the conditions of employment can be easily obtained on board by the seafarers concerned, including the ship's master, and that such information, including a copy of the seafarers' employment agreement, is also accessible for review by officers of a competent authority, including those in ports to be visited.*
- (3) A seafarer employment agreement shall continue to have effect while a seafarer is held captive on or off a ship due to acts of piracy or armed robbery against the ship.*

5. Use of any Licensed or Certified or Regulated Private Recruitment and Placement Service (Regulation 1.4)

- (1) Private seafarer recruitment and placement of services (SRPS) operating in Tuvalu shall be issued licences or certificates or granted similar authorization.*
- (2) Ship owners / operators using services of SRPS that are not located in countries or territories where the MLC 2006 applies are required to demonstrate, as far as practicable, that such services meet the relevant requirements set forth in Regulation 1.4 of Title 1 of the MLC 2006, and shall be solely responsible for any detention, as well as any penalties imposed by such detention, by Flag State or Port State, that is the result of the use of a SRPS located in a State where MLC 2006 does not apply.*

6. Hours of Work or Rest (Regulation 2.3)

- (1) *Ship owners / operators must ensure that the minimum number of hours of rest shall not be less than:*
 - *10 hours in any 24-hour period, which may be divided into no more than two (2) periods – one of which shall be at least six (6) hours in length, and no more than 14 hours between any consecutive periods; and*
 - *77 hours in any 7-day period.*
- (2) *Every vessel shall have a record of hours of rest in order to serve as documentary evidence that the seafarer's minimum resting hours are met. Refer to Marine Circular MC-11/2012/1 for forms for the Table of Working Arrangements and for the Records of Hours of Rest.*
- (3) *The daily records of the resting hours shall be written in the working language or languages of the ship and in English. Each seafarer shall receive a copy of the records pertaining to her or him, which shall be endorsed by the master, or a person authorized by the master and the seafarer. Nonetheless, in passenger ships, the daily records of resting hours can be electronically sent to seafarers, as long as these had been approved by the master or by the person that he authorizes.*

7. Manning levels for the ship (Regulation 2.7)

All Tuvalu flagged vessels shall have a sufficient number of seafarers on board to ensure that vessels are operated safely, efficiently and with due regard to security. Every vessel shall be manned by a crew that is adequate, in terms of size and qualifications, to ensure the safety and security of the vessel and its personnel, under all operating conditions, in accordance with minimum safe manning certificate issued by the Tuvalu Ship Registry or the equivalent document issued by the same.

8. Accommodation (Regulation 3.1)

- (1) *Ship owners / operators shall ensure that Tuvalu flagged vessels are provided with decent accommodations for seafarers working or living on board, or both, and maintained consistent with promoting the seafarers' health and well-being.*
- (2) *The provisions of the Merchant Shipping (Maritime Labour Convention 2006) Regulations relating to ship construction and equipment apply only to ships constructed after the date in which the MLC 2006 enters into force.*
- (3) *Ship construction and equipment for ships constructed before MLC 2006 entered into force shall comply with the provisions set out in the Accommodation of Crews Convention No. 92, and the Accommodation of Crews Convention (Supplementary Provisions) No. 133 of the ILO to the extent as they were applicable and practicable.*
- (4) *The master or the person designated by him shall conduct frequent inspections on board ships to ensure that the accommodation of seafarers is clean, decently habitable and maintained in a good state of repair. The results of each inspection shall be recorded and available for review.*

9. On-board recreational facilities (Regulation 3.1)

Ship owners / operators shall ensure that Tuvalu flagged vessels are provided with recreational facilities for seafarers working or living on board, or both, and maintained consistent with promoting the seafarers' health and well-being. Refer to Marine Circular MC-7/2012/1.

10. Food and catering (Regulation 3.2)

- (1) *Ship owners / operators shall maintained on board the following minimum standards:*
 - *food and drinking water supplies, having regard to the number of seafarers on board, their religious requirements and cultural practices as they pertain to food, and duration and nature of the voyage, shall be suitable in respect of quantity, nutritive value, quality and variety;*
 - *the organization and equipment of the catering department shall be such as to permit the provision to the seafarers of adequate, varied and nutritious meals prepared and served in hygienic conditions; and*
 - *catering staff shall be properly trained or instructed for their positions.*
- (2) *Seafarers living on board a vessel shall be provided with food free of charge during the period of engagement.*
- (3) *Refer to Marine Circular MC-7/2012/1 (Sections 1, 15, 16 and 17) and Marine Guidance MG-1/2012/1.*

11. Health and safety and accident prevention (Regulation 4.3)

- (1) *Ship owners / operators have the obligation to:*
- *adopt policies and programmes relating to occupational safety and health management that includes risk evaluation as well as training and instruction of seafarers with the purpose to prevent occupational accidents, injuries and diseases, including measures to reduce and prevent the risk of exposure to harmful levels of environmental factors and chemicals substances, as well as the risk of injuries or diseases that may arise from the use of equipment and machinery on board ships;*
 - *to provide seafarers with protective equipment or other accident prevention devices accompanied by provisions on the use of such equipment or protection devices;*
 - *to ensure that the machineries used on board are properly guarded and that its use without appropriate safety guards is prevented; and*
 - *to ensure that a Safety Committee is established on board a ship that has five or more seafarers.*
- (2) *Refer to Marine Guidance MG-3/2012/1 for Guidance on the Basic Elements of a Shipboard Occupational Health and Safety Program and Marine Circular MC-9/2012/1 for Health & Safety Issues for Seafarers under the Age of 18.*

12. On-board medical care (Regulation 4.1)

- (1) *Ship owners / operators shall ensure that health protection and medical care (including essential dental care) are provided for seafarers working on board vessels taking into consideration cultural and religious backgrounds are maintained which:*
- *ensures the application to seafarers of any general provisions on occupational health protection and medical care relevant to their duties, as well as of special provisions specific to work on board vessels;*
 - *gives health protection and medical care 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;*
 - *gives seafarers the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable;*
 - *ensures that, to the extent consistent with the national law and practice, medical care and health protection services while a seafarer is on board a vessel or landed in a foreign port are provided free of charge to seafarers;*
 - *are not limited to treatment of sick or injured seafarers but include measures of a preventive nature.*
- (2) *Refer to Marine Circular MC-2/2007/12/2 (Sections 1, 3 and 4)*

13. On-board complaint procedures (Regulation 5.1.5)

- (1) *There shall be on board complaint procedures that allow for the fair and effective handling of seafarer complaints alleging violations of the provisions of MLC 2006.*
- (2) *Seafarers shall be provided, together with a copy of their seafarers' employment agreement, a copy of the on board complaint procedures applicable to the ship as prescribed in Marine Circular MC-10/2012/1.*
- (3) *Utilization of on board compliant procedures shall not prejudice a seafarer's right to seek redress through conciliation and mediation, arbitration or legal means.*
- (4) *Any victimization of a seafarer for filing a complaint is strictly prohibited. Victimization is understood to mean any adverse action taken or threatened by any person with respect to a seafarer for lodging a complaint which is not manifestly vexatious or maliciously made.*

14. Payment of Wages (Regulation 2.2)

- (1) *Ship owners / operators shall ensure that all seafarers are:*
- *paid at no greater than monthly intervals and in accordance with their seafarers' employment agreement and any applicable collective agreement;*
 - *given a monthly account of the payments due and the amounts paid, including wages, additional payments and the rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to; and*
 - *allowed to, at the time of their entering employment or during it, to allot, if they so desire, a proportion of their wages for remittance at regular intervals to their families by bank transfers or similar means. Allotments must be remitted in due time and directly to the person or persons nominated by the seafarers.*
 - *provided wages and other entitlements under their seafarers' employment agreement or collective bargaining agreement if held captive on or off a ship due to acts of piracy or armed robbery against the ship.*
- (2) *Refer to Marine Circular MC-12/2012/2 for Provisions for Seafarers Wages.*

15. Financial Security for Repatriation (Regulation 2.5)

- (1) *Ship owners / operators shall ensure that all seafarers are covered by a financial security provider for repatriation even in the event of abandonment, and the financial security shall cover:*
- *Outstanding wages and other entitlements due from the ship owner to the seafarer in accordance with their seafarers' employment agreement and any applicable collective agreement, limited to four (4) months of any such outstanding wages and four (4) months of any such outstanding entitlements;*
 - *All expenses reasonably incurred by the seafarer, including the cost of repatriation which shall cover travel by appropriate and expeditious means; and*
 - *The essential needs of the seafarer which includes items such as: adequate food, clothing where necessary, accommodation, drinking water supplies, essential fuel for survival on board the ship, necessary medical care, passage and transport of personal effects, and any other reasonable costs or charges from the act or omission constituting the abandonment until the seafarer's arrival home.*
- (2) *A certificate or other documentary evidence of financial security issued by a financial security provider shall be posted in a conspicuous place on board and easily available to the seafarers and shall be in English or accompanied by an English translation. If there is more than one financial security provider providing the cover, then the certificate or other documentary evidence of each provider shall be carried on board.*

16. Financial Security relating to Shipowners' Liability (Regulation 4.2)

- (1) *Ship owners / operators shall ensure that all seafarers are covered by a financial security provider for contractual claims which refer to any claim relating to death or long-term disability of a seafarer due to an occupational injury, illness or hazard as set out in the seafarers' employment agreement and any applicable collective agreement.*
- (2) *A certificate or other documentary evidence of financial security issued by a financial security provider shall be posted in a conspicuous place on board and easily available to the seafarers and shall be in English or accompanied by an English translation. If there is more than one financial security provider providing the cover, then the certificate or other documentary evidence of each provider shall be carried on board.*

Name : _____
Title : _____
Signature : _____
Place : _____
Date : _____

(seal or stamp of the authority, as appropriate)

Substantial Equivalencies

(Note: Strike out the statement which is not applicable)

The following substantial equivalencies, as provided as provided under Article VI, paragraphs 3 and 4, of the Convention, except where stated above, are noted (*insert description if applicable*):

.....
.....

No equivalency has been granted.

Name : _____
Title : _____
Signature : _____
Place : _____
Date : _____

(seal or stamp of the authority, as appropriate)

Exemptions

(Note: Strike out the statement which is not applicable)

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

.....
.....

No exemption has been granted.

Name : _____
Title : _____
Signature : _____
Place : _____
Date : _____

(seal or stamp of the authority, as appropriate)

Appendix II

Declaration of Maritime Labour Compliance – PART II



GOVERNMENT OF TUVALU

TUVALU SHIP REGISTRY

MARITIME LABOUR CONVENTION, 2006

Declaration of Maritime Labour Compliance – Part II
(Measures adopted to ensure ongoing compliance between inspections)

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

(State below the measures drawn up to ensure compliance with each of the items in Part I – please attach additional sheets of paper if space below is insufficient)

1.	Minimum age (Regulation 1.1)	<input type="checkbox"/>
2.	Medical Certification (Regulation 1.2)	<input type="checkbox"/>
3.	Qualifications of Seafarers (Regulation 1.3)	<input type="checkbox"/>
4.	Seafarers' Employment Agreements (Regulation 2.1)	<input type="checkbox"/>
5.	Use of any Licensed or Certified or Regulated Private Recruitment and Placement Service (Regulation 1.4)	<input type="checkbox"/>
6.	Hours of Work or Rest (Regulation 2.3)	<input type="checkbox"/>
7.	Manning levels for the ship (Regulation 2.7)	<input type="checkbox"/>
8.	Accommodation (Regulation 3.1)	<input type="checkbox"/>
9.	On-board recreational facilities (Regulation 3.1)	<input type="checkbox"/>
10.	Food and catering (Regulation 3.2)	<input type="checkbox"/>
11.	Health and safety and accident prevention (Regulation 4.3)	<input type="checkbox"/>
12.	On-board medical care (Regulation 4.1)	<input type="checkbox"/>
13.	On-board complaint procedures (Regulation 5.1.5)	<input type="checkbox"/>
14.	Payment of Wages (Regulation 2.2)	<input type="checkbox"/>
15.	Financial Security for Repatriation (Regulation 2.5)	<input type="checkbox"/>
16.	Financial Security relating to Shipowners' Liability (Regulation 4.2)	<input type="checkbox"/>

I hereby certify that the above measures have been drawn up to ensure ongoing compliance, between inspections, with the requirements listed in Part I.

Name of shipowner¹ : _____
Company address : _____

Name of the authorised signatory : _____
Title : _____
Signature of the authorised signatory : _____
Date : _____

(seal or stamp of the shipowner¹)

The above measures have been reviewed by _____
(name of competent authority or duly recognized organization)

and, following inspection of the ship, have been determined as meeting the purposes set out under Standard A.5.1.3, paragraph 10(b), regarding measures to ensure initial and ongoing compliance with the requirements set out in Part I of this Declaration.

Name : _____
Title : _____
Address : _____

Signature : _____
Place : _____
Date : _____

(seal or stamp of the authority, as appropriate)

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