

PORT STATE CONTROL COMMITTEE INSTRUCTION 57/2024/05

Certification of Seafarers and Manning Requirements according to the STCW Convention, MLC and SOLAS

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1 INTRODUCTION

1.1 General

This document is intended to provide guidance for port State control inspections in compliance with Chapter V, Regulation 14, paragraph 2 of SOLAS and Regulation I/4 of the STCW Convention, as amended and the requirements for manning in MLC, 2006 Regulation 2.7

1.2 Application

SOLAS regulation V/14.2 on ships' manning only applies to ships covered by chapter I of SOLAS 1974. The STCW 1978 Convention as amended applies to seafarers serving on board seagoing ships. The MLC, 2006 applies to seafarers as defined in the convention. Both STCW and MLC are divided into a mandatory part A and a non-mandatory part B. The Part Bs are not applicable during the inspection.¹

Any new or single deficiency which is either a deficiency related to SOLAS 1974, STCW 1978 or other IMO Conventions, should preferably be registered with these conventions references. When the deficiency is only MLC, 2006 related, please refer to the appropriate PSCC instructions.

2 INSPECTION OF SHIP

The PSCO should also identify if the flag State is a Party to the STCW 1978 Convention, as amended. If the flag State is not a Party to the Convention or is a Party but not listed in MSC.1/Circ.1163, as amended, a more detailed inspection should be carried out.

2.1 Initial inspection

Seafarer certificates and documents

1. The inspection should be limited to verification that seafarers serving on board, who are required to be certificated, hold the appropriate Certificate of Competency (CoC), Certificate of Proficiency (CoP), and documentary evidence issued in accordance with chapters II, III, IV, V, VI and VII of the STCW 1978 Convention, as amended, as well as their relevant flag State endorsement, valid dispensation, or documentary proof that an application for an endorsement has been submitted to the flag State Administration, where applicable. These documents are evidence of having successfully completed all required training and that the required standard of competence has been achieved.
2. Further guidance regarding certificates and endorsements and a list of certificates or documentary evidence required under the STCW Convention can be found in STCW Code Part B / Section B-I/2
3. During the verification of the seafarers' certificates and documents, the PSCO should confirm that they are applicable to the ship's characteristics, operation and their position on board.

¹ PSCO cannot enforce a Part B, but should accept anything on board which is in line with Part B.

4. The PSCO should be aware that the requirement for radio operators contained in STCW Reg I/4.2.4 and II/1 may be different from the minimum requirements specified in the MSMD and/or in the Passenger Ship Safety Certificate, Cargo Ship Safety Radio Certificate or in the record of equipment of Cargo Ship Safety Certificate. In this case the requirements of the MSMD should be accepted.
5. In accordance with the provision of article VI paragraph 2 of the STCW 1978 Convention, certificates for masters and officers shall be endorsed by the issuing Administration in the form prescribed in regulation I/2 of the annex to the convention. The requirement in Article VI also covers CoC for masters and officers and CoP issued in accordance with the provisions of regulations V/1-1 and V/1-2 to masters and officers.
6. The certificates may be issued as one certificate with the required endorsement incorporated. If so incorporated, the form used should be that set forth in section A-I/2, paragraph 1 of the STCW Code.
7. The endorsement may also be issued as a separate document. If so, the form used should be that set forth in section A-I/2, paragraph 2 of the STCW Code.
8. However, Administrations may use a format for certificates and endorsements different from those given in section A-I/2 of the STCW Code, provided that, at a minimum, the required information is provided in Roman characters and Arabic figures. Permitted variations to the format are set out in section A-I/2, paragraph 4 of the STCW Code.
9. Certificates of competency, endorsements and endorsements attesting to the recognition of a certificate issued as separate documents should each be assigned a unique number, except that endorsements attesting the issuance of a certificate may be assigned the same number as the certificate concerned, provided that number is unique.
10. Certificates of competency, endorsements² and endorsements attesting to the recognition of a certificate issued as separate documents should include a date of expiry. The date of expiry on an endorsement issued as a separate document should not exceed 5 years from the date of issue and may never exceed the date of expiry on the certificate. Endorsements attesting the issue of a certificate and endorsements attesting the recognition of a certificate (Reg I/10) shall include a date of expiry which can not be more than five years after the date of issue. An endorsement expires as soon as the certificate endorsed expires or is suspended, cancelled or withdrawn³.
11. A CoP issued to a master or an officer in accordance with regulation V/1-1 or V/1-2, as well as a CoC that has been issued by a State other than the flag State of the ship in which the seafarer is engaged, is required to be recognized by the ship's flag State. If the PSCO identifies that the flag State has recognized a CoC or CoP from a Party not listed in MSC.1/Circ.1163, as

² Certificates of proficiency and documentary evidence do not have to have an expiry date but may do so.

³ If an application for revalidation is made within six months before the expiry of the certificate endorsed, the certificate may be revalidated until the fifth anniversary of the date of validity, or extension of the validity of the certificate (STCW Code B-I/2)

amended, clarification should be sought from the flag Administration.
According to regulation I/10, paragraph 4 of the STCW Convention, certificates issued by or under the authority of a non- Party shall not be recognized by the ship's flag State Administration.

12. An Administration which recognizes under regulation I/10 a CoC or CoP issued to masters and officers should endorse that certificate to attest to its recognition. The form of the endorsement should be that found in section A-I/2 paragraph 3 of the STCW Code.
13. Incorrect wording or missing information may be a cause for suspicion regarding fraudulent certificates or endorsements. In this case, the PSCO should act and investigate according to the procedure defined in section 3.4.
14. The capacity in which the holder of a certificate is authorized to serve should be identified in the form of endorsement in terms identical to those used in the applicable safe manning requirements of the Administration. This may result in slight variations of terminology between the original CoC and the endorsement to the recognition.
15. Seafarers must have their original certificates on board as well as any original endorsements to the recognition, all of which may be in an electronic format⁴. An endorsement attesting the recognition of a certificate should not entitle a seafarer to serve in a higher capacity than the original CoC.
16. If circumstances require it, a flag State Administration may permit a seafarer to serve for a period not exceeding three months on ships entitled to fly its flag while holding a valid CoC issued by another party and valid for service on that party's ships. If such a situation exists, documentary proof must be readily available that an application for endorsement has been made to the Administration of the flag State. This is often referred to as the confirmation of receipt of application (CRA). This provision allows Administrations to permit seafarers to serve on their ships while the application for recognition is being processed.
17. If an endorsement to attest recognition or certificate of competency has expired or has not been issued or documentary proof of application for endorsement is not readily available, the PSCO should consider whether or not the ship can comply with STCW 1978, regulation I/4.1.2 regarding the numbers and certificates on board being in compliance with the applicable safe manning requirements of the flag State. This may be considered a deficiency in accordance with regulation I/4.2.4 and rectified before departure or detention may be applied. The officer carrying out the control should forthwith inform, in writing, the master of the ship and the Consul or, in their absence, the nearest diplomatic representative or the maritime authority of the State whose flag the ship is entitled to fly, so that appropriate action may be taken.
18. In cases of suspected intoxication of masters, officers and/or other seafarers while performing designated safety, security and marine environmental protection duties, the appropriate Authorities of the port and flag State should be notified before the inspection is completed.

⁴ STCW Regulation I/2 (11)

19. Seafarers should have a valid medical certificate and have completed applicable familiarization on board the ship. If such crew members are assigned to any designated safety, security or environmental prevention duties, they must be trained and qualified for such duties in accordance with the applicable chapter of the STCW Code. Their assigned duties must also be in accordance with any limitations on their certificate of medical fitness (for example “no lone watchkeeping”).
20. In accordance with section A-VI/1, paragraph 5 of the STCW Code, the flag State Administration may exempt the seafarers engaged on ships, other than passenger ships of more than 500 gross tonnage on international voyages and tankers from some of the requirements of that section.
21. If seafarers employed or engaged in any capacity on board on the business of the ship as part of the ships complement are assigned to any designated safety or pollution duties, they must have received basic training and be trained and qualified for such duties in accordance with the STCW Convention (Certificate of Proficiency).

Manning

22. The PSCO should examine the Minimum Safe Manning Document (MSMD) and the Muster List
23. The guiding principles for port State control of the manning of a foreign ship should be:
 - a. verification that the numbers and certificates of the seafarers serving on board are in conformity with the applicable minimum safe manning requirements of the flag State; and
 - b. verification that the vessel and its personnel conform to the international provisions as laid down in SOLAS 1974 and STCW 1978 Conventions.
24. If a ship is manned in accordance with an MSMD or equivalent document issued by the flag State, the PSCO should accept that the ship is safely manned unless the document has clearly been issued without regard to the principles contained in the relevant instruments, in which case the PSCO should consult the flag State Administration before the inspection is completed.
25. If the flag State Administration has not issued a minimum safe manning document or equivalent due to the ship's size the PSCO should examine the CoC, CoP and their relevant flag State endorsement for the crew and compare with the requirements of the STCW 1978 Convention and the requirements of the flag State Administration which is obliged to determine the minimum safe manning for the ship (MLC 2006, Reg.2.7). Regarding the number of seafarers on board, the PSCO should then use their professional judgement, taking into account chapter VIII of the STCW 1978 Convention and Code and the duration and area of the next voyage, to determine if the voyage can be undertaken safely. The PSCO can also check the number of seafarers on board during the previous voyage as another indicator of standard manning levels for the ship. If necessary the PSCO should consult the flag State

Administration to verify that the numbers on board are sufficient for the next voyage.

26. If the flag State does not respond to the request before the inspection is completed this should be considered as clear grounds for a more detailed inspection to ensure that the number and composition of the crew is in accordance with the principles laid down in paragraph 24 above. The ship should only be allowed to proceed to sea if it is safe to do so, taking into account the criteria for detention indicated in section 3.3. In any such case, the minimum standards to be applied should be no more stringent than those applied to ships flying the flag of the port State.

Hours of rest

27. All persons who are assigned duty as officer in charge of a watch or as a rating forming part of a watch and those whose duties involve designated safety, security and environmental protection duties shall be provided with rest periods. Refer to a PSCC Instruction Guidelines for the Port State Control Officer on the Inspection of Hours of Work / Rest and Fitness for Duty
28. The PSCO should examine the table of ship working arrangements and/or watch schedule as well as the records of daily hours of rest .
29. The watch schedule shall be in a standardized format, easily accessible to the crew and posted in the working language or languages of the ship and in English.
30. Daily hours of rest shall be maintained in a standardized format, in the working language or languages of the ship and in English.

2.2 More detailed inspection⁵

Composition of the crew

The PSCO should verify:

1. a sufficient number of certificates from all departments to demonstrate that the vessel and the composition of the crew complies with the MSMD and requirements of the STCW 1978 Convention; and
2. that navigational or engineering watch arrangements conform to the requirements specified for the ship in the MSMD by the flag State and the requirements of STCW 1978 Convention regulation VIII/2, and STCW Code section A-VIII/2.

Assessment

An assessment of seafarers can only be conducted by the port State if there are clear grounds for believing that the ability of the seafarers of the ship to maintain watchkeeping and security standards, as appropriate, as required by the STCW 1978 Convention is not being maintained because any of the situations mentioned in Annex 8 and Annex 9 of the MoU text have occurred:

⁵ Refer to a PSCC Instruction for guidelines relating to the inspection of hours of work/rest and fitness for duty.

1. the assessment procedure provided in the STCW 1978 Convention regulation I/4, paragraph 1.3, should take the form of a verification that members of the crew who are required to be competent do in fact possess the necessary skills related to the occurrence;
2. it should be borne in mind when making this assessment that onboard procedures are relevant to the International Safety Management (ISM) Code and that the provisions of the STCW 1978 Convention are confined to the competence to safely execute those procedures;
3. control procedures under the STCW Convention should be confined to the standards of competence of the individual seafarers on board and their skills related to watchkeeping as defined in part A of the STCW Code. Onboard assessment of competency should commence with verification of the certificates of the seafarers;
4. notwithstanding verification of the certificate, the assessment under the STCW Convention regulation I/4, paragraph 1.3 can require the seafarer to demonstrate the related competency at the place of duty. Such demonstration may include verification that operational requirements in respect of watchkeeping standards have been met and that there is a proper response to emergency situations within the seafarer's level of competence;
5. in the assessment, only the methods for demonstrating competence together with the criteria for its evaluation and the scope of the standards given in part A of the STCW Code should be used. In cases where doubt of knowledge on operational use of equipment exist, the relevant officer or crew member should be asked to perform an operational control. Failure to satisfactorily perform an operational control could indicate the lack of familiarization or competency; and
6. assessment of competency related to security should be conducted for those seafarers with specific security duties only in case of clear grounds, as provided for in chapter XI-2 of SOLAS, by the competent security Authority. In all other cases, it should be confined to the verification of the certificates and/or endorsements of the seafarers.

3 FOLLOW-UP ACTION

3.1 Possible action

Possible action to be considered by the PSCO for the control in compliance with STCW 1978 or SOLAS 1974 Conventions may be dealt with in the following ways:

1. exercise of control with regard to the documentation concerning the ship; and
2. exercise of control with regard to the documentation for individual seafarers on board.

3.2 Possible deficiencies

The following is a non-exhaustive list of possible deficiencies:

Seafarers' documentation

1. no CoC, CoP, flag State endorsements or proof that an application for an endorsement has been submitted (STCW 1978, regulations I/4.2.1 and I/10);
2. special training requirements: mandatory basic or advanced training or endorsement not presented;
3. no evidence of basic training, or other certificate of proficiency, if not included in a qualification certificate held (STCW 1978, regulations VI/1, VI/1.2, VI/3, VI/4 and VI/6); and
4. information or evidence that the master or crew is not familiar with essential shipboard operations relating to the safety of ships or the prevention of pollution, or that such operations have not been carried out.

Manning

1. no minimum safe manning document (MSMD) or equivalent or the manning (number or qualification) not in accordance with the MSMD or equivalent (STCW 1978, regulation I/4.2.2 and SOLAS 1974, regulation V/14); and
2. unqualified person on duty (STCW 1978, regulation I/4.2.4).

Hours of rest

1. shipboard working arrangement/watch schedule not posted or not being followed (STCW 1978, regulations I/4.2.3 and I/4.2.5 and STCW Code A-VIII/1.5);
2. the absence of records of rest of seafarers (STCW Code A-VIII/1.7);
3. the records of hours of rest are inaccurate or incomplete (STCW Code A-VIII/1.7); and
4. the watchkeeper is receiving less than 10 hours rest in any 24-hour period (i.e. working in excess of 14 hours) or 77 hours rest in any 7-day period (STCW Code A-VIII/1).

3.3 Deficiencies that may warrant detention

Deficiencies which may be deemed to pose a danger to persons, property or the environment as specified in paragraph 2 of regulation I/4 of the STCW 1978, Convention, as amended:

1. failure of seafarers to hold a certificate, to have an appropriate certificate, to have a valid dispensation or to provide documentary proof that an application for an endorsement has been submitted to the flag State in accordance with regulation I/10, paragraph 5;
2. failure to comply with the applicable safe manning requirement of the flag State;
3. failure of navigational or engineering watch arrangements to conform to the

requirements specified for the ship by the flag State;

4. absence in a watch of a person qualified to operate equipment essential to safe navigation, safety radio communications or the prevention of marine pollution; and
5. inability to provide, for the first watch at the commencement of a voyage and for subsequent relieving watches, persons who are sufficiently rested and otherwise fit for duty.

Failure to correct any of the deficiencies, in so far as it has been determined by the PSCO that they pose a danger to persons, property or the environment, shall be the only grounds under the STCW 1978, Convention, as amended, on which a ship may be detained. In such cases of detention, only convention references STCW Regs I/4.2.1 to 4.2.5 should be used.

Examples of detainable deficiencies according to STCW 1978 and SOLAS 1974 are listed below:

Ship-related

1. MSMD or equivalent not presented (SOLAS 1974, regulation V/14.2); and
2. records of daily hours of rest are not on board (STCW Code A-VIII/1.7); and Seafarers' documentation:
3. not available or serious discrepancy in the CoC (STCW 1978, regulation I/4.2.1);
4. absence in watch of a radio operator (general/restricted GMDSS); certificates and endorsement not available (STCW 1978, regulations I/4.2.1, I/4.2.2, I/4.2.3, I/4.2.4 and II/1.2.1);
5. documentation for personnel with designated safety, security and marine environmental duties not available (STCW 1978, regulation I/4.2.1, I/4.2.2, I/4.2.3 and I/4.2.4);
6. expired certificates (STCW 1978, regulation I/4.2.1), and for medical certificates also refer to STCW 1978, regulation I/9.6 and I/9.7; and
7. evidence that a certificate has been fraudulently obtained or the holder of a certificate is not the person to whom that certificate was originally issued.

3.4 Actions to be considered

Ship-related

1. If a valid safe manning document or equivalent is not presented or if the actual number of crew or composition does not conform to the manning document, the port State should request the flag State for advice as to whether or not the ship should be allowed to sail with the actual number of crew and composition of crew. Such a request and response should be by the most expedient means

and either party may request the communication in writing. If the actual crew number or composition is not brought into compliance with the MSMD or the flag State does not advise that the ship may sail, the ship may be considered for detention after the criteria set out in section 3.3 have been taken into account.

2. Before detaining the ship the PSCO should consider the following:
 - a. length and nature of the intended voyage or service;
 - b. whether or not the deficiency poses a danger to ships, persons on board or the environment;
 - c. whether or not appropriate rest periods of the crew can be observed;
 - d. size and type of ship and equipment provided; and
 - e. nature of cargo.

Deficiency-related

When the manning is not in accordance with the MSMD and no flag State endorsements or no "documentary proof of application" can be presented, the port State should consult the flag State whenever possible taking into account time differences or other conditions. However, if it is not possible to establish contact with the flag State, the port State should forthwith inform, in writing, the master of the ship and the Consul or, in their absence, the nearest diplomatic representative or the maritime authority of the State whose flag the ship is entitled to fly, so that appropriate action may be taken.

In cases where an unqualified seafarer has been on duty and/or the watch schedule has not been followed, the flag State should be informed and this could be considered as an ISM related deficiency on vessels where such can be applied (i.e. vessels holding an SMC which is not an interim SMC).. Due account should be taken of any onboard procedures or navigational situations that might require a change to the schedule – such as when a manoeuvre or other action to avoid a hazard is taking place and it would be unsafe to change the watch at that time. An unqualified seafarer might be on duty with a qualified seafarer for training purposes.

In cases where there is a seafarer on duty who is not qualified to carry out an operation, that particular operation should be stopped immediately.

In assessing if a suspected fraudulent certificate is truly issued by a Party or a flag State Administration, the Port State should consult the STCW Parties involved asking for a verification of the authenticity and validity of certificates produced by seafarers.

Proper point of contact to obtain certificates verification via e-mail have been given to IMO by some of the certificate-issuing authorities and are available for consultation on the IMO GISIS website Some helpful information is also provided by EMSA STCW Information System - STCW-IS (<https://portal.emsa.europa.eu/web/stcw>).

4 NOTE ON REPORTING DEFICIENCIES

The PSCO should be aware that more than one relevant instrument (STCW, SOLAS, or MLC 2006) could be applicable. For hours of rest STCW only applies to watchkeepers and some seafarers with specific duties. For others seafarers only MLC is applicable. In addition, STCW regulates hours of rest where MLC gives the choice between hours of rest or hours of work.